

Legal Literacy

What is legal literacy?

Legal literacy in social care is about identifying the legal basis for intervention alongside key principles such as Human Rights. It requires sound knowledge of relevant legislation as well as Policies, Procedures and Guidance.

Which pieces of legislation are crucial to health and social care?

- [The Care Act 2014](#)
- [The Human Rights Act 1998](#)
- [The Mental Capacity Act 2005](#), including the [Deprivation of Liberty Safeguards](#)
- [The Housing Act 2004](#)
- [The Homelessness Reduction Act 2017](#)

Plus – A good understanding of case law and professional standards.

Consider inherent jurisdiction when an adult appears to have capacity but is subject to coercion, control or undue influence, and statutory safeguarding routes are insufficient.

The Mental Capacity Act has been in force since 2005 and is still not fully understood by practitioners. Some recent examples from the National Mental Capacity Forum:

What would you say, TRUE or FALSE?

1. Under the MCA a person's next of kin has specific rights and responsibilities in circumstances where a best interests decision needs to be made (more than a third answered true, it's false)
2. If a Health and Welfare Deputy arranges a residential placement for someone, a DoLS authorisation is not needed (19% didn't know and 3% thought this was true, it's **false**)
3. A Health and Welfare Deputy must ensure that a professional assesses the person's mental capacity, regularly (31% thought this was true, it's **false**)
4. A 17-year-old can make a Lasting Power of Attorney (17% thought this was true, it's **false**)
5. If a care plan is proposed for someone, and there is a Health and Welfare Deputy in place, the Local Authority is still the decision maker (13% said this was true, it's **false**)

Three key points:

1. **Do things right**
2. **Do right things**
3. **Think about Rights**

Three components of legal literacy:

1. Sound Knowledge of relevant law and application to practice.
2. Strong engagement with professional ethics.

Respect for the principles of Human Rights, equality and social justice.

A legally literate organisation:

- Understands the nature and importance of legal literacy, especially knowledge of legal rules, professional ethics and a commitment to upholding rights.
- Recognises that it takes time to develop confidence in understanding and applying complex legal knowledge, and that this is an ongoing, career-long undertaking.
- Recognises that training alone is unlikely to be enough to secure and embed legal literacy.
- Is committed to protecting space for practitioners to explore legal issues within supervision and offering opportunities for discussion of complex cases with specialist expertise input.
- Considers the need for training, ongoing guidance and support, in particular aspects of legal intervention where professionals identify such a need.
- Is committed to embedding legal literacy through a whole system approach.
- Recognises that legal literacy is applicable to many organisations and people in many roles need to be familiar with the powers and duties held by organisations.
- Has leaders who, in the face of organisational pressures recognise their vital role in supporting practitioners to remain resilient, creative and resourceful.

(Adapted from Managing and supervising legal literacy in adult social work. An Evidence Scope - Executive Summary).

[Making Safeguarding Personal practice tool: legal literacy \(local.gov.uk\)](#)

With thanks to WM ADASS for sharing their document.