

Community Care Law and Local Authority Handbook

Third Edition

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PREFACE TO THE THIRD EDITION

When I wrote the first and second editions of this book there were approximately 20 statutes which governed the area of law that fell to be considered. The starting point for almost all of them was described thus by Baroness Hale thus:

‘The National Assistance Act 1948 was part of the package of measures which created the modern welfare state. It stood alongside the Children Act 1948, which is the origin of our modern child care services, the National Insurance Act 1946, which laid the foundations of the modern social security system, and the National Health Service Act 1946, which created the National Health Service. The Education Act 1944 had already led the way in the fight against what Sir William Beveridge had called the “five giants on the road of reconstruction” – Want, Disease, Ignorance, Squalor and Idleness (*Social Insurance and Allied Services*, Report by Sir William Beveridge (1942) (Cmd 6404)). The education and health services were universal, in the sense that they were available to all, and originally without any charge, irrespective of ability to pay. But people who could afford to do so remained, and still remain, free to make their own arrangements if they so wish. The social services were more limited, in that it was expected that families would continue to look after their children and their elderly or disabled relatives.’
(*YL (by her litigation friend the Official Solicitor) v Birmingham City Council* [2007] UKHL 27 [49]).

In 2007, the Mental Capacity Act 2005 came into force, and is still finding its feet as a separate jurisdiction (within the Court of Protection). In addition, the Care Act 2014 came into force on 1 April 2015, and which was intended to codify and simplify what was described as some of the ‘worst drafted ... legislation ever encountered’ (The Law Commission (Law Com No 326) *Adult Social Care* (May 2011)). Most of the recommendations of the Law Commission have been followed, and so the task facing judges, lawyers, and those whose lives are more directly affected by these legislative provisions should be made much easier. In the meantime, as another barrister reported Samuel Johnson as having said: ‘Knowledge is of two kinds: we know a subject ourselves, or we know where we can find information upon it’ (*Boswell’s Life of Johnson*, 17 April 1775). I can only hope that this book continues to fulfil the second function.

His Honour Judge Jonathan Butler
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