Legal Advice and Rights
As a carer it is useful to know that you have rights, what your rights are and which government documents relate to these rights. This booklet aims to give a brief background of the main pieces of legislation affecting carers. If you require the information in full you can contact Trafford Carers Centre on 0161 848 2400.

Carers Legislation and Policy

Carers (Recognition and Services) Act 1995
The Carers (Recognition and Services) Act 1995 was implemented in April 1996. This Act puts a duty on the local authority social services department to carry out a carer’s assessment if a carer "provides or intends to provide a substantial amount of care on a regular basis". The carer can request an assessment before the person they care for is assessed, if they wish. The local authority must take this into account when deciding on the services to be offered to the cared-for person. A carer’s assessment looks at the impact of the caring role on a carer’s life. In Trafford all carers’ assessments for the carers of an adult with a disability are carried out by staff at Trafford Carers Centre. To arrange a carer's assessment contact us on: 0161 848 2400.
Carers and Disabled Children Act 2000

This Act gives rights to all carers, including those caring for a disabled child. The document covers:

- Right of carers to an assessment of their own needs even where the person they care for refuses their own assessment or services. This applies to people over 16 providing regular and substantial care to someone over 18.
- Local authorities have to look at the satisfaction of carers and if they need any support in their role.
- Gives local authorities the opportunity to run short-term break voucher schemes. To find out about the voucher scheme in Trafford contact the Carers Centre on 0161 848 2400.
- Direct payments are cash payments to allow individuals to buy their own community care services rather than using local authority services. The Act extended direct payments to parent carers, carers support services and young disabled people aged 16 or 17.
- Gives local authorities the power to charge carers for the services they receive.
- A right for parents caring for disabled children to request a carers’ assessment.

Trafford’s Direct Payment Team can be contacted on 0161 912 1812.
The Carers (Equal Opportunities) Act 2004

Local authorities need to ensure that carers:

- Are given information about their right to their own carer’s assessment
- Have their wishes to remain in or return to work and education, and access leisure activities, taken into account when decisions are made about support given to the person they care for
- Have better information about their rights
- Benefit from more emphasis on joint working between statutory services

National Carers Strategy

The strategy sets out a ten-year vision for supporting carers. The principles are that by 2018:

- Carers will be treated with dignity and as experts in the care of the person they look after
- Carers will have access to the services they need to support them in their caring role
- Carers will be able to have a life of their own
- Carers will not be forced into financial hardship by their caring role
- Carers will be supported to stay mentally and physically well
- Children and young people will be protected from inappropriate caring roles
New Deal For Carers

This programme is aimed at making carers’ lives easier and is part of the national carers’ strategy. It aims to ensure that:

- Carers have reliable up to date information
- Carers have access to emergency respite if they become ill themselves
- Carers are provided with training to enable them to cope with their caring role

To make sure this is achieved a national carers helpline has been set up called the Carers Direct Hotline and can be contacted on **0808 802 0202**.

The government has also given money to local authorities for emergency services and has started a training programme for carers called Caring With Confidence.

For more information see: [www.nhs.uk/carersdirect/carers-learning-online](http://www.nhs.uk/carersdirect/carers-learning-online)

Young Carers Assessment

Young people (aged under 18) providing care to adult family members are also entitled to an assessment of their needs. Under the Provisions of the childrens act 1989 this should normally be carried out by a local children’s department. However under the Carers and Disabled Childrens Act 2000, in certain circumstances children aged 16 and 17 can have a carers assessment. or if they are under 16 in special circumstances under the Carers Recognition and Services Act 1995.
Employment Rights

The Employment Act 2002 states that working parents of children with disabilities under 18 have the right to request flexible working arrangements. Since 2007 you also have the right to ask for flexible working if you are a carer of an adult who is a relative or lives at the same address as you.

While you have the right to ask for flexible work in these circumstances, it is important to know that employers are not bound to grant these requests. However they must give business reasons for refusing a request for flexible working.

Carers also have the right to take unpaid leave for the cared for in case of emergency.
Community Care (Delayed Discharges etc) Act 2003
This Act gives local authorities the power to fine the hospital for the provision of intermediate care, community equipment and minor adaptations up to £1,000 if the person is delayed in hospital when they are medically ready for discharge.

The Act promotes the independence of older people so when they are ready for discharge from hospital there is a speedy return to a community setting. The Act does not apply to those patients receiving mental health treatment.

The Act also empowers local authorities to provide certain community care services free of charge. This includes intermediate care, which is a short-term structured programme to assist a person to regain the ability to live in his/her own home. It also includes certain community equipment, namely minor aids and adaptations costing less than £1,000 to assist daily living.

Fair Access to Care Services (FACS)
This guidance provides local authorities with the framework for setting their eligibility criteria for adult social care. For more information on FACS see our booklet on Social Services.
Government Strategies
There are also a number of government strategies explaining how services should be improved for individuals with specific conditions like stroke, dementia, life-limiting diseases, mental health or learning disabilities. Please see our booklets on these specific areas for further details.

Putting People First
This sets out the government’s vision for transforming adult social care services, enabling people to live their own lives as they wish, whilst being confident that services are of high quality, are safe and help them to be as independent as possible. Trafford Council has its own plan on how it is going to make these changes and more information can be obtained from the Carers Centre on 0161 848 2400.

Our Care, Our Health, Our Say
This sets out a new direction for the whole health and social care system confirming a vision set out by the Department of Health. It states that services should be provided in a more personalised way to fit into people’s busy lives.
Human Rights Act 1998

Anyone who is in the UK for any reason has fundamental human rights which government and public authorities are legally obliged to respect.

These rights not only impact on matters of life and death, they also affect the rights you have in your everyday life including what you can say and do, your beliefs, your right to a fair trial and other similar basic entitlements.

The Employment Equality (Age) Regulations 2006

Equality Act 2006

The regulations protect against age discrimination in employment, training and adult education, for people of all ages. However, there is limited protection for people over 65, particularly regarding recruitment and forced retirement.

It is unlawful for someone to discriminate against you because of your religion or belief, or because you have no religion or belief:

- In any aspect of employment
- When providing goods, facilities and services
- When providing education
- In using or disposing of premises
- When exercising public functions
Disability Discrimination Act

The Disability Discrimination Act aims to end discrimination which many disabled people may face. It gives disabled people rights in the areas of:

- Employment
- Goods, facilities and services
- Goods, facilities and services - including larger private clubs and land-based transport services
- Education
- Buying or renting land or property, including making it easier for disabled people to rent property and for tenants to make disability-related adaptations

It also requires public bodies to promote equality of opportunity for disabled people.

Sex Discrimination

Unlawful sex discrimination happens when someone is treated unfairly because of their gender. Women, men and transsexual people can all experience sex discrimination. Sex discrimination also includes treating someone less favourably because they are married or in a civil partnership.
Racial Discrimination

It is unlawful to treat someone less favourably than another person because of their race. Racial discrimination includes discrimination on the grounds of colour, ethnic or national origin, nationality or race.

Sexual Orientation

It is illegal to treat someone differently on the grounds of sexual orientation. This includes if:

- You are lesbian, gay, bisexual or straight
- People think you are lesbian, gay, bisexual or straight
- You are associated with someone who is lesbian, gay, bisexual or straight, for example a friend, relative or colleague

The law applies to direct and indirect discrimination as well as to harassment and victimisation. The law applies to the private, public and not-for-profit sectors.

You can find out more about age, disability, gender, race discrimination, discrimination based on religions or beliefs and human rights from the Equality and Human Rights Commission on 0845 604 6610.

Website: www.equalityhumanrights.com
Mental Health Act 1983

The Act is split into different parts, some of the most important sections for carers are listed below.

**Section 2:** Compulsory admissions to hospital and guardianship, which covers the rules surrounding non-voluntary admissions. This is often referred to as being ‘sectioned’ and happens when it is believed that a person is at risk of harming themselves or someone else.

**Section 3:** This involves admission for treatment and lasts up to six months. It is similar to section 2, but the nearest relative has the right to order that the patient be discharged.

**Section 4:** This is occasionally used in an emergency and lasts up to 72 hours.

**Section 7 and 10:** These enable someone, usually a Local Authority, to act as a ‘guardian’ to a person with severe and enduring mental health problems.

**Section 37:** This is sometimes used by the courts to order a mentally disordered person who has committed an offence to be detained in hospital at sentencing.

**Section 45a:** This is similar to 37 but with the option that the person can be transferred back to prison from hospital.

**Sections 47 and 48:** These allow for someone in prison with a mental disorder to be transferred to a hospital.
Sections 135 and 136: These involve the police and allow for someone to be taken from a public place or their own home to a place of safety for 72 hours.

Supervised Discharge is where someone is discharged under special supervision to ensure they do not lose touch with mental health services.

Mental Capacity Act 2005
The Act affects everyone aged over 16 and aims to empower and protect people who may not be able to make some decisions for themselves. This may include people with dementia, learning disabilities, mental health problems, stroke or head injuries.

It makes clear who can take decisions when someone is unable to make their own, in which situations this should happen and how they should go about it.

It also enables people to plan ahead for a time when they may lose capacity.

There are five key principles which are:

- Every adult has the right to make decisions and must be considered to have the capacity to make decisions until proven otherwise
- A person must be given all practical help to make decisions before anyone treats them as if they cannot make decisions
MENTAL HEALTH LEGISLATION

- Just because a person makes an unwise decision it must not be assumed they are unable to make decisions
- When making decisions or taking action on behalf of someone who lacks capacity it must be done in his/her best interests
- Anything done on behalf of someone who lacks capacity should be done in a way that has as little impact as possible on his/her freedom

Mental Health Act 2007
The main purpose is to amend the 1983 Act. The main changes to the Act are:

- The definition of mental disorder has changed to a single definition rather than categories of disorder
- The ‘Treatability Test’ will be changed to an “Appropriate Medical Treatment” test. This will mean that patients will no longer be compulsory detained unless the suitable medical treatment is available
- Broadening the group of practitioners who can take on the functions of a social worker
- It gives the patient the right to displace their nearest relative if they do not act as such, through an application
- It gives the patient the right to displace their nearest relative if they do not act as such, through an application to the county court. The nearest relative now includes a civil partner
MENTAL HEALTH
LEGISLATION

- Introduces supervised community treatment, to allow for a small number of patients to be discharged from hospital but continue with their treatment
- No electro-convulsive therapy can be given to a person who has refused other than in an emergency
- Requires hospital managers to ensure that patients under the age of 18 are accommodated in an environment suitable for their age
- It will place a duty on the appropriate local authority to make arrangements for help to be provided by independent mental health advocates

For more information see www.dh.gov.uk

Care Programme Approach
The Care Programme Approach Assessment (CPA) National Service Framework for Mental Health Standard 6 states that where a carer is caring for an individual who is on an enhanced CPA, the needs of the carer should be assessed, a written plan compiled and should be reviewed at least once a year.
Data Protection Act 1998
The Data Protection Act 1998 gives you the right to see, or get a copy of, your health records. This includes records held by GPs and hospitals. There may be a charge.
The Act also gives you the right to see any personal information about you held by any public body or private company. There are also responsibilities on people holding information about you, including making sure it is accurate and secure. You can find out more information about your rights under the Data Protection Act from the Information Commissioner’s Office on 08456 30 60 60 / 01625 545745.
Website: www.ico.gov.uk

Freedom of Information Act
The Act allows you to have the right to access official information, such as minutes, research and reports, that is held by public authorities and requires the public authorities to make this information available. It differs from the Data Protection Act in that it gives you the right to access official information rather than personal information. The authority must inform you if they hold the requested information and release it in 20 working days. For more information contact the Information Commissioner on 08456 30 60 60 / 01625 545745 Website: www.ico.gov.uk
Lasting Powers of Attorney (LPA)
The Mental Capacity Act 2005 allows you to choose someone you trust to make decisions for you if you lose capacity in the future. LPAs replace Enduring Powers of Attorney (EPAs) and cover major decisions about someone’s property and affairs, healthcare, treatment and everyday decisions about personal care. The Centre can provide you with further information on LPAs. If you already have an EPA it is still valid.

Advance Decisions
The Mental Capacity Act 2005 makes it possible for you to make an advance decision to refuse treatment should you lack capacity in the future.

You can get more information about the Act from the Office of the Public Guardian on 0845 330 2900.
Trafford’s Carers Strategy
This strategy is a document that all local organisations working with carers have agreed to. It was formed with the views of many carers who helped to write the document. The strategy sets out a vision of what local carers and organisations would ideally like to see in place for carers. There is an action plan that sets out a plan to change, improve and expand services. Each year there is an annual plan setting out specific tasks for organisations to complete. For a copy of these documents contact Trafford Carers Centre on 0161 848 2400.

Civil Legal Advice
Tel: 0845 345 4345 or text phone 0845 609 6677.
Website: www.gov.uk/civil-legal-advice
Civil Legal Advice is a free government funded confidential advice service. If you are on a low income or receive benefits you can get independent advice about debt, education, benefits and tax credits, employment and housing problems by calling their helpline on:
Legal Advisers
To find a local solicitor or legal adviser, you can telephone the Carers Centre who hold a book with details of specialist solicitors.

Contact 0161 848 2400 or visit www.lawsociety.org.uk
www.gov.uk/civil-legal-advice or
www.solicitorsfortheelderly.com

Liberty Advice Line
Tel: 0845 123 2307
Website: www.yourrights.org.uk
Provides free advice on human rights issues to members of the public and voluntary organisations. They also run a website helping people to understand their rights under the Human Rights Act 1998. Their phone line is open Monday and Thursday 6.30pm-8.30pm and Wednesday 12.30pm-2.30pm.

Mind
Tel and text phone: 0300 123 3393
Website: www.mind.org.uk
Mind are able to give legal information on mental health issues. Mind also produces a range of information about legal issues available on their website.
Mencap
Tel: 0808 808 1111
Website: www.mencap.org.uk

This organisation has a list of specialist solicitors with experience in disability and wills and trusts. Mencap’s own solicitor has checked all of the solicitors on the list. Mencap can also manage discretionary trusts set up for people with a learning disability. Leaflets about wills and trusts, including information for people with learning disabilities, is available from Mencap.

Citizen’s Advice Trafford
Tel: 0844 499 4103
Website: www.traffordcab.org.uk

With a number of offices offering free and confidential advice, Citizen's Advice can help you with a range of issues including benefits, legal issues, consumer rights, housing and debt. The offices are situated in:

Altrincham: Altrincham Library, 20 Stamford New Road, Altrincham WA14 1EJ
Partington: Community Centre, Central Road, Partington, Manchester M31 4FE
Sale: 73 Chapel Road, Sale, Manchester M33 7EG
Stretford: Stretford Library, Kingsway, Stretford, Manchester M32 8SG
Urmston: 9d Crofts Bank Road, Urmston, Manchester M41 0TZ
This is an independent voluntary organisation that offers free legal advice and representation on employment, mental health, immigration and housing law.

Trafford Law Centre is unable to provide advice to anyone who is not eligible for legal aid. If you are planning to attend a drop in session it is important that you take evidence of your income and savings. Trafford Law Centre also has information on the areas of law mentioned above on their website.
Disability Law Service
Tel: 020 7791 9800. Textphone: 020 7791 9801
Website: www.dls.org.uk

This service offers free advice about the following areas of law: consumer, community care, disability discrimination, education, employment and welfare benefits. They also provide factsheets on their website with more information. The phone line is open Monday to Friday 10.00am-5.00pm.

Consumer Direct
Tel: 08454 04 05 06 Textphone: 08451 28 13 84
Website: www.adviceguide.org.uk

For practical advice on all kinds of consumer issues.

Dignity in Dying
Tel: 020 7479 7730
Website: www.dignityindying.org.uk

Provides information on rights at the end of life, including your rights under common law and the Mental Capacity Act as well as the End of Life Care Strategy.
Age UK
Tel: 0800 00 99 66
Website: www.ageuk.org.uk

Age UK publishes a Help With Legal Advice information guide. It can be obtained by phoning the above number (seven days a week 8.00am-7.00pm) or from the website.

Advicenow
Website: www.advicenow.org.uk

This is an independent, not-for-profit website providing accurate, up-to-date information on rights and legal issues.

Adviceguide
Website: www.adviceguide.org.uk

This is the main public information service from Citizen’s Advice. Provides information on a range of issues including benefits, housing, employment and debt.

Employment Rights
Tel: 08457 47 47 47 Text phone: 18001 08457 474747
Website: www.acas.org.uk.

If you need advice about your employment rights as a carer or disabled person you can contact ACAS (Advisory, Conciliation and Arbitration Service) Monday to Friday 8.00am-8.00pm and Saturday 9.00am-1.00pm or visit their website.
Trading Standards  
Tel: 0161 912 1377

This organisation promotes a fair, safe and just market place through advice, education and regulation. This is done by providing advice to consumers on their rights and advice to businesses on the law relating to the sale and supply of goods and services. For advice on choosing a trader, ring Trafford Trading Standards on the above number.

Trafford Carers Centre  
Tel: 0161 848 2400  
Website: www.traffordcarerscentre.org.uk

For advice, information or a listening ear to carers. The Centre also has caseworkers who can meet with you in your home or elsewhere to chat about how caring affects your life. The Centre can also obtain further information on legislation for you and can attend meetings with you or advocate on your behalf.
Age UK Factsheets
Tel: 0161 746 3940
Website: www.ageuk.org.uk/trafford

Age UK provide the following factsheets:
- Advance decisions, advance statements and living wills
- Dealing with someone’s estate
- Help with legal advice
- Making your will
- Planning for a funeral
- Putting your affairs in order
- What to do when someone dies

The Alzheimer’s Society Factsheets
Tel: 0300 222 1122
Website: www.alzheimers.org.uk

The Alzheimer’s society provide the following factsheets:
- Advance decisions
- Enduring Power of Attorney and Lasting Powers of Attorney
- Mental Capacity Act 2005
- Mental Health Act 2007 and Guardianship

Lawnet
Tel: 01926 886 990
Website: www.lawnet.co.uk

A network of independent, quality-assured law firms throughout the UK who have a wide ranging experience in legal and financial matters for people with dementia.
Solicitors for the Elderly
Tel: 0844 567 6173
Website: www.solicitorsfortheelderly.com

This is a national organisation of lawyers providing legal advice to older and vulnerable people, their families and carers regarding wills and powers of attorney.

GLP Solicitors
Tel: 0161 764 1818 (Contact Paula)
Website: www.glplaw.com

Provides guidance on topics such as Lasting Power of Attorney, Wills, Statutory Wills, Court of Protection matters and claims for criminal injuries compensation. Advice is also offered on nursing home fees for carers helping elderly clients as well as those in full time care.
The Advocacy Service at Trafford Council for Voluntary Services
Tel: 0161 976 2448
This service can assist with any stage of a complaint or situation against Trafford Council where you may require an advocate. They provide trained volunteer advocates who will write letters and make telephone calls on your behalf.

Carers UK
Carers Line: 0808 808 7777
Lines are open Wednesday and Thursday 10.00am-12.00pm and 2.00pm-4.00pm.
For advice about your situation as a carer.

Carers Direct
Helpline: 0808 802 0202
Email: CarersDirect@nhschoices.nhs.uk
Free, confidential information and advice
Displayed and distributed both in print and digital format, our E-books are used by carers and health and social care professionals across the borough of Trafford. Advertising with us is a fantastic, low cost way of reaching out to your audience, while also supporting the Carers Centre and carers in Trafford.

Six monthly contracts are available across our information E-books, covering a range of topics. If you would like to advertise your business or organisation with us, or would like more information, contact us:

Fundraising Team: 0161 848 2402

E-mail: fundraising@traffordcarerscentre.org.uk
Carers Helpline: 0161 848 2400
Fax: 0161 848 2408

E-mail: info@traffordcarerscentre.org.uk

www.traffordcarerscentre.org.uk

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