

# An introduction to social work law



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## Introduction

In this free course, *An introduction to social work law*, you will consider the role of social workers and the values that shape social work practice. You will be asked to examine some of your preconceptions about social work and the law and reflect upon your own views.

The course will explore the relationship between social work practice and law and will be of relevance to people interested in social work internationally, although it will draw on legislation from a UK context.

So why do social workers need to study law? That's a question many people studying social work ask. Some may even have a preconceived idea that the law is all about courtrooms and people in wigs.



**Figure 1** Judgement

Whilst this is partly correct, we are all governed by the law in both our personal and professional lives. The aim of this course is to help you to understand the importance of law in social work practice. As you progress through this course you will discover that the law provides social workers with the power to make great changes in people's lives, and that with that power comes great responsibility.

This OpenLearn course is an adapted extract from the Open University course [K271 Social work law](#).

# Learning Outcomes

After studying this course, you should be able to:

- recognise what social work is and what a social worker does in their role
- reflect critically on the ways the law can support social work values of anti-oppressive and anti-discriminatory practice.

# 1 What is social work?

In this section you are going to think about what a social worker is and what they do. You will then think about perceptions of social work and why it is important to challenge preconceptions, both your own perceptions and those of the people you work with, including other professionals and service users and carers.



**Figure 2** What is the role of a social worker?

## 1.1 Perception(s) of social work

The first step in your studies is to understand what is meant by 'social work' and 'social worker'. You may already have an idea of what these terms mean, but are your ideas shaped by preconceptions, perhaps misconceptions?

In Activity 1 you will explore your own and others' preconceptions about social work. This activity will help you to identify some of the attitudes you and others may have towards social workers and their role in society.

### Activity 1 Exploring attitudes to social work

 15 minutes

Write up to five words or phrases, or draw images that come to mind when you hear the term 'social worker'. Try to put down words or phrases that you associate with social workers; or you could ask a friend or family member for their response.

A social worker ...

*Provide your answer...*

Now separate your responses into positive and negative attributes. Ask yourself what may have influenced your observations and note this down in the last column.

**Table 1** Your positive and negative observations of social workers

| Positive                      | Negative                      | Influence                     |
|-------------------------------|-------------------------------|-------------------------------|
| <i>Provide your answer...</i> | <i>Provide your answer...</i> | <i>Provide your answer...</i> |

Finally, what impact do you think each perception might have on social work practice?

*Provide your answer...*

### Comment

A person's view of social workers may be affected by their own experiences of working with social workers or of having come into contact with a social worker as a service user or carer.

Your own perceptions may be influenced by stories in the media or the experiences of friends and family when they have come into contact with the social work profession. It is important to ask yourself whether any of these experiences or opinions can be seen as objective, and what impact this lack of objectivity may have? For example, would negative stories in the press lead people to want to avoid asking a social worker for help?

If people have a negative image of social workers, this may lead to difficulties in establishing a relationship between the social worker and the service user or carer, who may be reluctant to involve social workers in their lives. Reflecting on these points should also promote an understanding of the source of these negative perceptions and help a social worker to reflect on whether a service user is being uncooperative, frightened or a little of both.

It may be less obvious, but positive perceptions of social work can also undermine good practice. An unquestioned belief in a helpful and caring profession can lead to the raising of unrealistic expectations, possible over-intrusion into people's lives and, potentially, an abuse of professional power.

## 1.2 Role of a social worker

Having considered what your perception of a social worker is, you are now going to consider the role of a social worker and the work that they do on a day-to-day basis.

### Activity 2 What does a social worker do?

 45 minutes

#### Part 1

Visit the [British Association of Social Workers \(BASW\)](https://www.basw.co.uk/) website. To avoid losing your place in the course, if you are studying on a desktop you should open the link in a new tab or window by holding down Ctrl (or Cmd on a Mac) when you click on it. If you are studying on a mobile device hold down the link and select to 'Open in New Tab'. Return here when you have finished.

BASW is the representative body for social work and produces a Code of Ethics for members. It is not, however, the legal regulator of social work.



Explore the types of roles that a social worker can do and the organisations where social workers are employed. Are there any particular roles that you are attracted to?

Now having considered the range of roles that a social worker might undertake, watch the two videos in Part 2 to explore the actual work of a social worker in more depth.

## Part 2

Watch the following two videos from the Social Care Institute for Excellence, an organisation that provides training and resources for social care and social workers across the UK. While these videos explore the work of social workers in England, the role is broadly similar across the UK, except that in Scotland there is a third key area that social workers may work in, and that is as a Criminal Justice Social Worker.

Whilst you are watching think about your preconceptions of what social workers do and whether that is consistent with the social workers in these videos.

Video content is not available in this format.

**Video 1** Social work in an Emergency Duty Team



Video content is not available in this format.

**Video 2** Social work with older people



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## Comment

You will see from the British Association for Social Work website and the videos that the role of the social worker is extremely wide-ranging and covers everything from

work with young offenders to work with older people or those with mental health issues.

You will have seen that working with older people has many challenges. It is regularly the case that work with older people includes providing support so that they can remain in their home and also helping them to transition into residential care when it is not possible to remain at home.

Working in the emergency duty team requires an ability to make decisions based on limited information. It also requires a wide-ranging knowledge, as the duty team deals with all aspects of social work.

It is important to understand that while the types of social work roles vary greatly, having professional values is the crucial element of social work practice. In the next section you will consider some of the key professional social work values and how they impact on practice.

## 2 Social work values and ethics

Throughout this course you will reflect upon social work values, their meaning, their impact on practice and the legal framework relating to them.

The values that you will consider are based on the following concepts:

- rights and responsibilities
- partnership
- accountability
- empowerment and anti-oppressive practice
- respecting diversity and responding appropriately to difference.

Social work values are core to practice. The following sections and activities will help you to start thinking about what these values mean for social work practice.

### 2.1 Rights and responsibilities

You will see that often rights and responsibilities are linked. For example, with the right to a free education in the UK comes the responsibility of a local authority to provide schools and a responsibility placed upon parents to ensure their children attend school.

#### Rights


'Rights' is a word that can be used in many ways. Lawyers use it to indicate that a person has a specific entitlement – for example, the right not to be dismissed unfairly from their job, or the right to sue for damages if they have been injured in an accident that was not their fault.

Other professionals talk about rights in a more general sense. For example, many celebrities claim that they have a 'right' to privacy; such 'rights' may be recognised in law, but often are not. Another example might be an adult believing that they have a 'right' to inherit property or possessions from their parents; in law, however, no such right exists. In this section, you will find that the idea of rights is used primarily in the sense of legal claims that people can make. For example, people have the right to a private and family life by virtue of Article 8 of the European Convention on Human Rights (ECHR), which was brought into UK law by the Human Rights Act 1998.

However, there are significant debates about whether other 'moral' rights should be enshrined in law. Social workers need to be careful when using the language of 'rights': as it must be clear in their practice with people whether they are talking about a legal right that can be enforced by using the law or a moral right which cannot.

As social workers have to protect rights and promote the interests of service users, they are concerned with both legal and moral rights.

#### Activity 3 Rights

 15 minutes

Consider the following scenario and answer the questions that follow. You are not expected to know about the legal issues. The purpose of the activity is to help you to start thinking about the language of rights and how rights rarely exist without corresponding responsibilities.

A concerned neighbour has contacted social services about Callum, a 45-year-old man. Callum has recently lost his partner following a lengthy illness and is known to suffer from depression. Callum has told his neighbour that he has nothing to live for and wants to die in peace.

A social worker visits Callum at home but he refuses to let them in.



**Figure 3** Right to enter?

1. Does Callum have the right to end his life?
2. Does the social worker have responsibilities towards Callum, for example to ensure Callum does not end his life?
3. Does Callum have the right to refuse to talk to the social worker, or even allow them into his home?

*Provide your answer...*

### Comment

There is no easy answer here, but it is the type of scenario that social workers will often encounter.

1. Suicide is not a criminal offence. There is a general legal principle that Callum has the right, if he has the relevant mental capacity, to make his own decisions, and that includes the right to decide when he should die. However, this principle is not absolute. There are legal powers that can be used when a person has the relevant capacity, including certain mental health legislation.
2. Once the social worker has been made aware of Callum's struggles, they may well consider him as someone with mental health issues and, as such, they have a social work practice responsibility to ensure his welfare and offer help and support. But does this mean preventing him from ending his own life or does it mean empowering him to make his own decisions, even if that means he will end his own life?
3. The question that needs to be addressed here is does the existence of such a responsibility afford the social worker the right to enter Callum's home against Callum's will? This will, to some degree, depends upon how Callum's mental capacity is assessed.

One point to note is that you did not have enough information to make a full assessment of the situation, this was deliberate. For now, the activity and scenario

demonstrate why issues of rights and responsibilities are central and also why it is important to understand the language of rights, and to know the difference between a legal right and a moral right. There is no 'correct' answer here; the outcome will depend upon the individual circumstances of the case, and sometimes the decision may need to be referred to a court. The outcome may be that Callum has a right to make his own decisions, no matter how much you may disagree or even disapprove of his decisions.

## Responsibilities

Social workers have legal powers and responsibilities to protect certain individuals. For example, a mental health social worker has the power to make an application to detain those with a 'mental disorder' for the protection of their own health or that of others. This power is often provided by mental health legislation. So, in certain circumstances, mental health workers may have a duty to enquire into the mental health and welfare of individuals and have the power to obtain access to a person's property and to take them to a place of safety without their consent.



**Figure 4** Responsibility to protect the vulnerable

There may be times, therefore, when there is a tension between a person's autonomy and the need to protect the person. Deciding what action is necessary may also be contested. For example, social workers may have a responsibility to ensure that the welfare of adult service users is protected, while also respecting their rights to autonomy, privacy and self-determination.

An example might be a person who has dementia. While they may struggle to make decisions about complex issues such as financial matters, it cannot be assumed that they do not have the capacity to make any decisions, such as where they should live. The social worker has a responsibility to ensure that the person's right to make decisions they are capable of making is protected and enforced. If the social worker does have to make a decision for or on behalf of a person with dementia (this is called a 'best interests decision'), they have a responsibility to ensure that they make the decision without being influenced by other factors, such as resources or funding.

The social worker will normally be accountable for the decision they make, in that they will have to explain the reasons for making it and can be held to account if they do not exercise their responsibilities in the proper manner.

## 2.2 Rights and responsibilities in conflict

The issues of rights and responsibilities are central to the social work task, and understanding how the law frames social work practice can be important in resolving the

dilemmas that arise in practice. Social workers often have key responsibilities for the welfare of children and adults, but they are also required to respect their rights. These responsibilities may coincide where people ask for help; but they can also conflict, where a service user's interpretation of their own needs does not coincide with the professional's view. For example, a person with dementia who wants to remain living at home when the professionals feel it is not safe.


It is in these situations that the duties and powers of social workers to intervene in a person's life are very apparent. Social workers need to think about how to take into account the rights of service users at the same time as working with them to protect their interests. Working with service users in a way that promotes partnership and empowers them is therefore a crucial aspect of social work practice, and you are going to examine these values next.

## 2.3 Partnership

Good practice demands that work takes place on the basis of partnership. 'Partnership' means, as far as possible, respecting the fact that service users, their advocates, and carers and other stakeholders may have a legitimate interest in the decision-making processes that affect their lives. Sometimes there can be a legal requirement to work in partnership with service users (e.g. working with the parents of children being provided with accommodation by the local authority) and with other professionals and agencies (e.g. the police or education authorities).

The social worker is often in a position of authority: a position that is inherently powerful. For example, a social worker who is working with an adult who has mental health issues has the power to take action, which will lead to the service user being admitted to hospital against their will. It could be argued that working in partnership with service users in such a situation is more about ensuring that the service users have the opportunity to voice their views and have the necessary knowledge to hold social workers and their agency accountable if their views are not actively sought and, at the very least, taken into account.

### Activity 4 Conflict and partnership

 25 minutes

In this activity you are going to hear from Marina, a family-support worker who works with families in which the parents are drug users.

Listen to the interview with Marina and then consider the following questions.

Audio content is not available in this format.



**Audio 1** Interview with Marina

1. What are the main challenges for Marina in working in partnership with children and families where the parents abuse drugs or alcohol?
2. How does Marina deal with those challenges on a daily basis?

Provide your answer...

### Comment

From the outset you may feel that people who use drugs and alcohol should not be allowed to look after their children. You may judge drug users negatively because of the negativity associated with addiction.

This is a challenge to working in partnership. People who are feeling judged and perhaps feel that the social worker looks down upon them may not work with that social worker, so little will be achieved. The social worker would first need to challenge their own preconceptions, and perhaps those of other professionals such as teachers or the police, about people who use drugs.

Marina also talks about the difficulties of working with such families when the parents may share information that she has a responsibility to pass on to the authorities, for example the police. Marina also talks about the conflict between her responsibility to the parents and to the child who has to be her priority.

You will have heard Marina describe how she attempts to tackle these challenges by being open and honest from the outset. Marina does this by making it clear that abusing drugs is not automatically a bar to parenting safely and successfully, but it may be, and if it is and the parent is unable to tackle their addiction, then that may lead to the child being removed from their care.

Marina explains that, for her, the key to working in partnership with families is to be honest and open from the outset about why you are there and what your responsibilities are in terms of information-sharing and the safety of the children.

## 2.4 Accountability

Anyone who is in the privileged position of being able to provide assistance to someone who needs it can be said to be in a position of power or authority over that person. As a consequence of having such authority, the social worker is said to have professional accountability for their actions and has to account for them.

Accountability can be defined as a commitment to working in an open way so that actions taken can be justified to others. This could be described as being obliged to give an explanation or being held to account for one's actions or inactions. Social workers have to act within the law and the policies and procedures derived from it. Social workers can also be called upon to justify their actions to courts, as well as to service users and carers, their employer and their regulator.

Service users also have the right to complain and, if necessary, to take legal action in the interests of accountability. Accountability is regularly talked about in the context of responsibility, but where we talk about responsibility we are often then talking about 'blame'. Talking about accountability and responsibility in the same conversation can therefore lead to accountability being viewed by social workers as negative and burdensome.

## 2.5 Empowerment and anti-oppressive practice

'Empowerment' may be defined as the power that enables people to take action to improve their lives. From the point of view of service users, practitioners are often in positions of considerable power, particularly where decisions are being made about the delivery of services and intervention in people's lives. Empowerment means that social



workers need to focus on engaging service users in the problem-solving process in a meaningful way. Empowerment is linked with anti-oppressive practice in that the social worker can work with service users to enable them to overcome barriers to solving problems – whether located in the attitudes and practices of professionals, in social institutions (for example, health and education authorities) or in the beliefs of the service user or the public.

The social worker's knowledge of service provision and the law can be critical in empowering service users. Anti-oppressive practice is 'about a process of change which leads [service users] from feeling powerless to powerful' (Dalrymple and Burke, 2006). Empowerment can take the form of challenging a service user to take responsibility for their actions or it can be supporting a service user to challenge discrimination, for example by using a complaints procedure or the law. Simply put, empowerment can help people to help themselves.

## 2.6 Respecting diversity and responding to difference

Social workers need to recognise that respecting diversity and valuing people, which is also about working in a way that counters the unfair or unequal treatment of individuals or groups on the basis of their age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, and pregnancy and maternity. This is referred to as 'anti-discriminatory practice'.

There is a growing body of law that seeks to prohibit and punish a range of discriminatory behaviours in various kinds of social settings, for example in the provision of services and in employment opportunities. For social workers, valuing diversity entails more than this: there is a professional obligation to challenge discrimination of any kind, whether legislated against or not. You will not find legislation protecting people against discrimination on the grounds of class, culture or income, but such discrimination does exist. You may have heard comments such as 'they're a problem family' or 'another one from the local council estate' or 'they are part of the 'underclass''. Such terms and language are discriminatory in nature because they are generalist and derogatory, and social workers should challenge the use of this kind of language.

### Activity 5 Discrimination

 30 minutes

In this activity you will consider how you would deal with discrimination when it is not specifically legislated against. We all have bias, whereby we react in certain ways to certain situations.

You will consider whether or not the social workers in the video below were discriminating in their approach to working with Roma families.

Watch the BBC programme 'Gypsy kids taken from home' (Stacey Dooley *Investigates*, 2018), then answer the following questions.

Video content is not available in this format.

**Video 3** 'Gypsy kids taken from home'





1. Do you think that the social workers discriminated against the Roma families?
2. If yes, do you think that this was deliberate?
3. Were the social workers aware of their bias?
4. If you were working in this situation, how would you approach the families?

*Provide your answer...*

### Comment


It is clear from the clip that the social workers had set views about Roma families in general. Their starting point appeared to be that the Roma people would lie and that they should not therefore believe anything they were told. You may have also got the feeling that the social workers believed that the children were better off away from their parents.

The social workers were aware that they held these beliefs, they were a common belief, and all were comfortable in sharing their views, not only with one another but with Stacey Dooley and the viewers. The views of the social workers were discriminatory, they had formed a judgement based upon characteristics they believed *all* Roma people have rather than basing their views on the facts. They also began their work with the families with this mind set which would make it very difficult for the Roma families to be able to show the social workers that they were capable of looking after their children. It could be said that the families were prejudged and were found lacking.

The difficulty is that whilst the social workers were clear about their own views, they appeared to lack insight into how discriminatory their stance was and the impact that it would have upon their decision making. As social workers you have to be aware that you will have conscious and unconscious bias. This means you will have prejudices that you are aware of and those that you are not. An open relationship with colleagues and supervisors is crucial in bringing the unconscious bias to your attention and an ability to reflect upon your own views and practice is crucial in identifying and addressing the cognitive bias. It is important that practicing in a non-discriminatory way does not mean treating everyone the same. Differences in values and cultures must be addressed and acknowledged in order to work in a fair and non-discriminatory role.

In the next activity you will do an interactive online quiz which will help you to reflect on the meaning of social work values from different perspectives.

## Activity 6 What do social-work values mean to social workers and service users?

 10 minutes

Interactive content is not available in this format.



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### Discussion

Understanding the different ways in which people define or interpret values is crucial to effective social-work practice. How the values are defined may depend on the individual's experiences and will vary from person to person. There may be multiple and conflicting definitions. While undertaking this activity you will have gathered that there are different ways of thinking about each of these values, which may depend on whether you are considering the view of a service user or a practitioner. In order to apply these values in practice, social workers need to have an awareness of the different meanings of values to different people. Social workers can then discuss these meanings with service users, their colleagues, so as to reach an understanding of how they can apply these values in practice.

### 3 Interplay between values, ethics and the law


The values that you have considered so far are interconnected in a number of ways. For example, a commitment to working in partnership, empowering service users and respecting their rights requires a commitment to valuing diversity and to anti-oppressive practice. Anti-oppressive practice involves working positively to challenge myths and stereotypes and speaking out and combatting discrimination against certain groups of people that occurs through social practices, and the law itself (Braye and Preston-Shoot, 2016).

You should be aware from the outset, however, that social work values are not necessarily reflected in the law. For example, you will find law preventing discrimination, but you will not find legal duties to promote anti-oppressive practice. Nonetheless, good social work practice and professional responsibility go beyond fulfilling the obligations in law.

This is a course about both law and social work: it aims to introduce you to the legal framework and to consider its implications for practice, which can be affected both negatively and positively by how you apply the law. For instance, people who work in social work need to be able to reflect on the impact of their decisions to use legal powers and intervene in an individual's or family's life.

Social workers often have to resolve a tension that may arise between the compulsory interventions they make and the values they espouse. The following activity is an example of how the interaction between law and social work values can be fraught with tension.

#### Activity 7 Parents Against Injustice PAIN

 30 minutes

Listen to the interview with Sue Amphlett, who, at the time, was the chairperson of Parents Against Injustice.



**Figure 5** Parents Against Injustice logo (PAIN)

In the interview, Sue, who was herself a professional, talks about the effect of compulsory intervention in her family's life. It is clear that the intervention was carried out in accordance with the statutory framework, under which the social workers had the power to intervene; however, listen to Sue talk about the impact of that intervention. Then answer the following questions.

Audio content is not available in this format.



**Audio 2** Interview with Sue Amphet

- How did Sue view the intervention of the social worker?
- Was it enough to say 'the children haven't been abused, we will withdraw'?

Provide your answer...

---

### Discussion

Listening to Sue highlights the tensions between the law and social work. Arguably the intervention in the family was justified in law, but the fact that the family were left so bruised by the experience, even after the adults were cleared of any wrongdoing, suggested that the process itself can be damaging and perhaps the intervention was based upon the law and the social workers lost sight of social work values? It is important to remember that at the end of the social worker's intervention or input there is a family who have to pick up the pieces and try to carry on with their lives.

Social work is a responsible and demanding job. Practitioners work in social settings characterised by enormous diversity, and they perform a range of roles, requiring different skills. Public expectations, agency requirements and resources, and the needs of service users all create pressures for social workers. The public receives only a snapshot of a social worker's responsibilities; and, against a background of media concentration on the sensational, the thousands of successful outcomes and years of hard work in childcare and with vulnerable adults are never considered.

## Conclusion

In this course, you have explored your initial perceptions of social workers and then learned about the diverse social work role. The course has introduced you to the core values of the social work profession and begun to demonstrate how applying these values can be complex and challenging in practice.

There are three other courses that build on this learning. If you choose to study these you will go on to consider how law is made across the UK; how the social work profession is regulated across the four nations; and how legislation influences social workers in their day-to-day practice with the people that use social work services.

- [Social work law and UK regulation](#)
- [Applying social work law with children and families](#)
- [Applying social work law to asylum and immigration](#)

This OpenLearn course is an adapted extract from the Open University course [K271 Social work law](#).

## References

### Legislation

Human Rights Act 1998

### International instruments

European Convention on Human Rights 1950

### Books, articles, reports and other sources

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## Acknowledgements

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### **Audio-visual**

Video 1: Social Care Institute for Excellence (SCIE)

Video 2: Social Care Institute for Excellence (SCIE)

Video 3: The Connected Set

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