Final report of the Law Commission's review of adult social care law  
(Launched 11th May 2011)

The Law Commission's review began in 2008 to consolidate the "confusing patchwork of legislation" around adult social care. The Government intends to introduce a Bill based on this report in 2012. The main new developments of the proposed system would be:

• a greater degree of consistency across England in who is eligible for social care and what they receive
• better coordination in the support for carers, including an enhanced duty to assess their needs
• Greater portability of social care services for people who move area
• Better integration with other systems, such as NHS continuing healthcare and young people's services.

The features of the report in detail include:

**Personalisation principles written into law**- The Commission recommends that from the 2012 Bill downwards, person-centred care services should be legally enshrined. For example, all decisions should assume (unless proved otherwise) that the person is the best judge of their own wellbeing, that their wishes should be followed wherever practicable, and that they should be given the opportunity to be involved in the decisions, planning and reviewing of their care.

**Universal provision for prevention**- The report recommends two levels of provision of adult social care. First, a universal tier of services to prevent or delay the need for more intensive support. This would include a duty on local authorities to provide information and advice for everyone in their community. Tier two would be targeted individual support services, following an assessment.

**Eligibility**- The Secretary of State would set a (national) eligibility framework, which LAs would then use to set (local) eligibility criteria according to a (national) code of conduct. The code of conduct would effectively establish a national minimum eligibility standard for adult social care provision across the country. However, the Commission also recommends keeping the option open for Government to directly mandate local eligibility criteria, if it wished to.

**Assessment**- The low bar for assessment would remain, whereby local authorities have a duty to assess anyone whom they think might have needs that could be met by community care services. However, there is an attempt to make assessment less 'service-centric' through regulations requiring assessments to focus not just on needs, but on the outcomes
the person themselves wishes to achieve. LAs would be able to authorise health professionals to carry out these assessments.

**A new carers’ assessment** - Regardless of whether someone is not eligible or refuses an assessment, they recommend that LAs are given a duty to assess carers who they feel have, or will have, needs which they could meet. This would replace the current vague and erratically interpreted duty on carers needing to 'provide a substantial amount of care on a regular basis'.

**Care support plans** - These would be mandatory in their suggested Bill and have their content prescribed by the Secretary of State. Personal budgets would be integrated in this process, and the Secretary of State would have the power to require LAs to allocate them. Direct payments would be made more flexible, including a potential requirement for LAs to accommodate a person anywhere in England and Wales that they choose.

**Safeguarding** - Local authorities will have the lead responsibility for adult safeguarding, and would be given a new duty to investigate where they believe someone may be at risk of any harm. They can request the co-operation of other agencies in conducting investigations, which the agency must consider.

**Portability** - New mechanisms will be put in place to increase the geographic flexibility of adult social care. There will be a duty to cooperate between local authorities where one makes a request of another when a person moves area. A new duty to assess any service user that is moving into an area and justify any significant changes in their services. Until the receiving LA undertakes an assessment, they must provide the same level of service as the previous council.

**Integrating with continuing healthcare** - The Commission recommends that Government be given a power to set national regulations and a national eligibility framework for NHS continuing healthcare, and to specify exactly what constitutes a 'health need' that makes someone eligible for continuing care. There will be an enhanced duty to cooperate with the NHS and police in certain circumstances, such as assessments and investigations.

**Improving transition** - To improve the transition of non-adult service users into the adult system, 16 and 17 year olds, and their carers, will be given the right to request an assessment under the adult system and LAs will have powers to provide services to them as such.