

research
in practice
for adults

Highlights and Implications of the Law
Commission Adult Social Care report:
support from research in practice *for adults*

A full overview of the Law Commission report is available in our [Research and Policy Update published in May](#). This briefing details what we consider to be the top twenty highlights, identifies their implications and the support and resources that [research in practice for adults](#) can provide to address them.

Highlight 1: Recognises need to identify the purpose of social care. The overarching principle is that it will promote or contribute to the well-being of the individual. The starting point is person's own views, wishes and feelings and there will be a need to ensure that decisions are based on individual circumstances and that service users and carers are involved. Requirement of safeguarding where practicable from abuse and neglect and as far as possible.

Implication: Need evidence of how to promote and contribute to well-being. Need to measure progress, which requires a person-centred approach and service user and carer involvement. *Evidence-informed practice is key to making progress. It supports you to know, and to evidence, what works in what situations for which people.*

ripfa support: [Working Together Change Project](#) is taking evidence from service users and carers to inform practice about how best to involve them; [Balancing Safeguarding and Personalisation](#) knowledge exchanges focused on balancing choice and control and managing risk; new Research and Evaluation Service to be launched in Autumn.

Highlight 2: Scope to include people not eligible for services. Local authorities will have a general duty to provide advice, information and assistance and a duty to shape the market.

Implication: Need to manage expectations, provide good universal information, signpost effectively, innovate and develop new services. *Providing evidence to customers is key here.*

ripfa support: Forthcoming resources from Working Together including a Customer Guide due in the Autumn that will share knowledge around universal information and provide support for partnership working; Our [Key Issue on User-Led Organisations](#) and the learning from our recent workshops may also be of use.

Highlight 3: Statutory guidance for key elements of adult social care such as assessment, eligibility, support and care plans.

Implication: Need good evidence from research, practice, service users and carers about what works well, need to be clear about the distinction between policy and guidance.

ripfa support: Knowledge exchange events, learning from practice and disseminating this via our practice resources and our monthly [Research and Policy Updates](#).

Highlight 4: Clarity over assessment. There will be a duty to assess where it appears that a person may have needs that could be met by provision of services. Assessment can be refused and duty discharged unless capacity issues or safeguarding concerns. The focus of the assessment should be on care and support needs and outcomes. Assessment should be proportionate and take into account other sources of support.

Implication: Need good analysis skills, an outcomes-focus and good risk assessment.

ripfa support: Opportunities to develop analysis and intervention skills through the forthcoming [Analysis and Critical Thinking in Assessment Change Project](#); support also available on managing risk through our [Personalisation and Safeguarding work](#).

Highlight 5: Duty to determine eligibility. Need to decide whether needs are eligible using criteria and provide or arrange services to meet eligible needs. Section 21 duty will remain to ensure that people who need accommodation because of 'any other circumstances' but are not eligible for other services can get support e.g. intentionally homeless, asylum seekers.

Implication: Need good assessment of risk, effective use of resources and diverse services.

ripfa support: To appraise and plan and provision of information about what works via our publications, knowledge exchanges and one-to-one support e.g. forthcoming work on reablement, market development work.

Highlight 6: Duty to assess carers to be on same footing as for 'service users' where it appears they may have needs that could be met by provision of such services to carer or cared for person. The requirement to be providing 'substantial and regular' care is removed, discretion to assess paid carer if relationship is not primarily commercial. Call for proportionate assessment and eligibility and provision of services as for service users.

Implication: Carers have more equal status. There is a greater awareness of carers and consequently a need to collate information about carers needs to ensure appropriate services.

ripfa support: Support for assessment skills through forthcoming [Analysis and Critical Thinking in Assessment Change Project](#); evidence of what makes for good experience and outcomes for carers through the [Working Together Change Project](#); evidence-informed approaches to making decisions about [commissioning and decommissioning services](#).

Highlight 7: Services (for service users and carers) to be defined in law and to include residential accommodation; community and home-based services; advice, social work, counselling and advocacy services; or financial or any other assistance. Services to be for outcomes of health and emotional well-being; protection from harm; education, training and recreation; the contribution made to society; and securing rights and entitlements. Power to provide services before assessment if urgent.

Implication: Need for an outcome-focus. Need to establish whether services meet outcomes and if so, how.

ripfa support: Support for evidence-informed approaches to making decisions about commissioning. Support for evaluation. Support for market development. Support for [working with an outcomes focus](#).

Highlight 8: Duty to provide care and support plan that includes recording of eligible needs and how they will be met and recording if not eligible needs. Requirement to record how needs will be met. Power to give direct payments, including for residential care and to give personal budgets. Power to charge for services.

Implication: Good recording needed and clear, defensible decision making.

ripfa support: Support to manage risks. Support to develop skills required for recording through forthcoming [Analysis and Critical Thinking in Assessment Change Project](#).

Highlight 9: Adult protection investigation to be a duty. Local Authorities to have the lead role. Duty to investigate or cause an investigation to be made.

Implication: Need for ongoing partnership work. Investigation skills need to be clear.

ripfa support: Support to share practice experience, to manage risk, and clear evidence about good partnership working.

Highlight 10: New definition of who will have investigation. *Adults at risk* rather than *vulnerable adults*. Defined as someone with health or social care needs, at risk of harm, unable to safeguard themselves due to health or social care needs. Harm to include ill treatment (including sexual abuse, exploitation and forms of ill treatment which are not physical); the impairment of health (physical or mental) or development (physical, intellectual, emotional, social or behavioural); self-harm and neglect; or unlawful conduct which adversely affects property, rights or interests (financial abuse).

Implication: Need for Local Authority to be clear about alerts. Awareness of emerging risks needed.

ripfa support: Support to implement effective safeguarding practice and to manage new risks through sharing practice and evidence. We plan to revise and update [Safety Matters: developing practice in safeguarding adults](#) over the next twelve months to further share emerging evidence in this area.

Highlight 11: Section 47 compulsory removal power to disappear. Evaluation of use of this to determine if new power needed.

Implication: Need for Local Authority to monitor effect of removing power.

ripfa support: We can provide support to evaluate and monitor this change.

Highlight 12: Adult Safeguarding Boards to be on statutory footing. Local Authorities will have lead role in establishing and maintaining them. Safeguarding Adult Board (SAB) to review procedures and practices, give information and advice, improve skills and knowledge. Report required every two years and the SAB will commission Serious Case Reviews. Duty to co-operate between key agencies.

Implication: Need clarity about how SABs can be effective. Need to evaluate SAB. Need to share learning from Serious Case Reviews. Need for agencies to work effectively together.

ripfa support: Support to share learning via knowledge exchanges and learning events. These provide support to increase skills, to evaluate effectiveness and to meet practice needs identified from SCRs. The discussion forum provides a network to disseminate learning from SCRs and safeguarding practice. One-to-one support available to support the development of effective practice and partnership working.

Highlight 13: Ordinary residence to remain the same and include carers. Duty to provide services where someone is ordinarily resident, power to provide them where not. The Local Authority where the cared for person lives to have primary responsibility for providing carers' services. Enhanced duty to co-operate when person moving areas and responsibility on Local Authority to provide an explanation if significantly different package offered when person moves across a border.

Implication: Continued importance of cross-boundary working.

ripfa support: Ongoing support for the promotion of partnership through network.

Highlight 14: Clarity over what is health and what is social care required. NHS to continue *not* to provide social care; review of wording of how this works. *Quantity and quality test* to remain from Coughlan judgement. Enhanced duty to co-operate when continuing health care assessment required. Consider whether direct payments can continue when someone has continuing health care or provide continuity of service if not. Calls for review of whether continuing healthcare disputes should be resolved in court.

Implication: Continued importance of partnership working. Need for increased professional understanding.

ripfa support: Ongoing support for the promotion of partnership working through evidence of what works well and support to bring different agencies together.

Highlight 15: Clarity over what is social care and what is housing. Local Authority Social Services cannot provide housing if this is provided under other legislation.

Implication: Continued importance of partnership working. Need increased professional understanding.

ripfa support: Ongoing support for the promotion of partnership working through evidence of what works well and support to bring different agencies together.

Highlight 16: Need to work with Children's Services. Adult social care statute only to cover people over 18. Power to provide transitional services and enhanced duty to co-operate in transitions. Need to consider support for young carers either to be consolidated under adult's services or to move under children's services. Need to consider support for parent carers either to be consolidated under adult's services or to move under children's services.

Implication: Requirement for closer working between adult and children's services.

ripfa support: Evidence of what works well in transitions. [Support to network and share knowledge across adult and children's services.](#) Opportunity to work together with [research in practice](#) to provide support for the use of evidence-informed practice across adult and children's services.

Highlight 17: Consistency for after-care under Mental Health Act and other community care. Power to make regulations requiring or authorising local authorities to accommodate a person at the place of their choice to apply to people receiving after-care. Power to make top-ups to apply to people receiving after-care. Ordinary residence rules to apply to people receiving after-care. Joint duty for after-care to be divided into health and social care, one may continue after the other finishes. Clarity that social services can commission care from other providers for people receiving after-care. Clarity over relationship between after-care and eligibility criteria to be made in Code of Practice.

Implication: Continued importance of partnership working. Increased professional understanding required.

ripfa support: Support for the promotion of partnership working through evidence of what works well and support to bring different agencies together.

Highlight 18: Delayed Discharge provisions to continue, alongside reimbursement for delayed discharges.

Implication: Continued importance of partnership working. Increased professional understanding required.

ripfa support: Support for the promotion of partnership working through [evidence of what works well](#) and support to bring different agencies together.

Highlight 19: Co-operation with key agencies to be mandatory. General duty to co-operate with other adult social services authorities; NHS public bodies; housing authorities, and bodies which provide housing on the nomination of housing authorities; education authorities; children's social services; the police; and subject to Government policy on prisons, the National Offender Management Service. Enhanced duty to co-operate when assessment happening for service user or carer (and in other circumstances as above). Written reasons to be provided if co-operation is refused.

Implication: Need for proportionate requests. Evidence for why co-operation required and what it will bring and evaluation of impact of co-operation needed.

ripfa support: Support for the promotion of partnership working [through evidence of what works well](#) and support to bring different agencies together. Support for evaluation also available.

Highlight 20: Disabled Persons' provisions to be continued including the right to advocacy. Review of the complaints and redress system.

Implication: Need for clarity over outcomes from advocacy and disability registers. Need to understand how effective complaints system is and how it is used.

ripfa support: Support for evaluation available.