

Chapter 13: Managing adult social care

Legal Action Group publishes two very useful and up-to-date practitioner orientated books on this area of law:

- L. Clements, *Community Care and the Law* (Legal Action Group, 2019).
- S. Knafler, *Adult Social Care Law* (Legal Action Group, 2019).

Wellbeing

Suzy Braye and Michael Preston-Shoot have edited a very interesting collection of essays looking at the wellbeing principle within the Care Act 2014. Published by Sage in 2020 it includes essays on assessing need, service user's experience and caring.

Resource allocation systems

L. Clements and L. Series, 'Putting the cart before the horse: resource allocation systems and community care' (2013) *Journal of Social Welfare and Family Law* 35(2): 207. The English Care Bill provides for all eligible community care service users to have a personal budget—and councils were required to ensure that 70 per cent of such users had one by April 2013. Almost all English authorities are experimenting with resource allocation systems (RASs) as a way of calculating these budgets. The article describes and critically analyses the nature of the RASs being used and the increasing body of case law they are attracting—in particular, the Supreme Court's 2012 judgment in *R (KM) v Cambridgeshire County Council*. The article draws on research involving 20 local authorities concerning their use of RASs and represents the first in-depth legal examination of the claims made by proponents of the use of RASs. It challenges many of the claims made concerning such systems—in particular that they are 'more transparent', 'more equitable', 'simpler', and less discretionary than the traditional social work-led community care assessment process.

The *KM* and *Barry* cases are also considered in '*R (KM) v Cambridgeshire—care and confusion: thinking legally*' at <https://thinkinglegally.wordpress.com/2012/06/11/r-km-v-cambridgeshire-care-case-carers-rights>.

Independent living

T. Collingbourne, 'Administrative justice? Realising the right to independent living in England: power, systems, identities' (2013) *Journal of Social Welfare and Family Law* 35(4): 475. Under Article 19 of the UN Convention on the Rights of Persons with Disabilities, disabled people have a right to live independently and to be included in the community. This article considers the potential for realization of that right through the English administrative justice system.

Personal Budgets

A. Tarrant (2020) Personal budgets in adult social care: the fact and the fiction of the

Care Act 2014, *Journal of Social Welfare and Family Law*, 42:3, 281-298. This article examines how a particular rhetoric has developed in social care policy around personal budgets. It concludes that the policy rhetoric around personal budgets directly appropriates the language and ideas of the disabled people's movement while promoting a wholly distinct agenda of public sector marketisation.

Complaints procedures

Age UK has produced a very useful leaflet on how to complain about adult social care provision [https://www.ageuk.org.uk/globalassets/age-uk/documents/factsheets/fs59 how to resolve problems and complain about social care fcs.pdf](https://www.ageuk.org.uk/globalassets/age-uk/documents/factsheets/fs59%20how%20to%20resolve%20problems%20and%20complain%20about%20social%20care%20fcs.pdf)

J. Gulland, 'Independence in complaints procedures: lessons from community care' (2009) *Journal of Social Welfare and Family Law* 31(1): 59. This article looks at internal complaints procedures and considers the role of independent elements in procedures that are designed to be simple, informal, and low cost. Taking the example of local authority community care services as a case study, it discusses research which looked at the views of complainants, potential complainants, and those who run the procedure. Most people do not make formal complaints at all and very few people seek an independent review of their complaint. When they do seek such a review, they expect it to be transparently independent of the body complained about. The article concludes that the current system of local authority complaints review panels or committees does not provide the independent element that complainants seek.

Ensuring quality

A. Stewart, 'Choosing care: dilemmas of a social market' (2005) *Journal of Social Welfare and Family Law* 27(3-4): 299. This article uses the lens of a personal experience of caring to reflect upon the provision of care services in England. It does so within the wider context of recent debates on the potential for a human rights culture within community care. The concept of independence, expressed as user choice in a social market of care, is central to government policy. The author, however, argues that this is a flawed approach and concludes that the starting point for policy and legal development should be the necessary interdependence of individuals.

The Care Act easements

There is relatively extensive commentary on the Care Act easements. Particularly useful are BASW's ethical guidance available <https://www.basw.co.uk/covid-19-pandemic-%E2%80%93-ethical-guidance-social-workers>