

# Care Homes

(England)

May 2019

Care home residents must be able to maintain their personal identity and contact with family and community, and be protected against abuse, poor care and breaches of their consumer rights.



## Life in a care home

Living in a care home is not just about receiving care. For many older residents, particularly those with dementia, a residential care setting could be their home for several years. Moving into residential care can involve the loss of home, possessions, social contacts and pets. The majority of residents will eventually die in their care home so need compassion and specialist support to end their life in comfort and with dignity.

There are various types of care home, including nursing homes and homes that cater for people with dementia. However, residents are not always able to act as informed consumers with

*"I asked my staff to consider whether every service they were inspecting was good enough for their mum or anyone they loved. Most of the sector is meeting the Mum Test...However there is still too much poor care"*

Andrea Sutcliffe, Former Chief Inspector of Social Care at the Care Quality Commission

## Key statistics

**400,000**

Number of older people in care homes across the UK<sup>1</sup>

**£44,000**

Average annual fee paid by residential care self-funders in England<sup>2</sup>

**6 in 10**

Older people in care in care homes with dementia (57.9%)<sup>3</sup>

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nearly six in ten (57.9 per cent) living with dementia<sup>4</sup>, so inspection, regulation and the protection of service user rights are essential to protect vulnerable residents. The Human Rights Act can help preserve dignity and provide protection against abuse and poor practice but there is an inconsistency in its application as local authority-funded residents are protected under the Act whilst self-funders are not.



## Paying for residential care

In England, nearly half (46 per cent) of care home residents are part or fully funded by their local authority<sup>5</sup>. The market is weighted toward the block commissioning power of councils who often pay below the market rate of what it costs to provide a bed in a home. Providers will therefore seek to make up costs from private payers who are constrained by limited information and who often choose a home at a time of crisis. The Competition and Markets Authority (CMA) estimate that in England, there is an average 43 per cent fee differential between private and publicly funded residents for the cost of a bed in the same home<sup>6</sup>. This average price differential amounts to £245 a week or over £12,500 a year<sup>7</sup>. Across England, there are large regional differences in average fees for self-funders with older people in the South East paying nearly £400 a week more than those in the North East<sup>8</sup>.

Where councils fund care home places, they must pay the full costs unless the person chooses a home that is more expensive than what the council would pay. However, this system is widely abused with an estimated quarter of council-funded residents being asked to 'top-up' their care fees<sup>9</sup> even though they have not chosen a more expensive home. Anecdotally, top-ups range from £25-100 a week and in 2015/16, council-funded residents contributed £1.6 billion to their costs of care<sup>10</sup>.

## Funding for residential care

Local authorities have a statutory duty to assess and plan care that meets eligible needs but a requirement in the Care Act for them to arrange a self-funder's care on request was never implemented, leaving older people open to higher self-funding rates. The CMA concluded that the current council-funded market is unsustainable as the fees paid by councils are 'below the

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full cost in serving these residents'<sup>11</sup>. The CMA estimate that if local authorities were to pay the full cost of care for all residents they fund, the additional cost to them of these higher fees would be a billion pounds a year<sup>12</sup>. Long-standing financial and political uncertainty, caused by delays in social care reform, has exacerbated this situation and affected providers' ability and willingness to modernise their facilities and invest in new assistive technology.



## Quality of care homes

The Care Quality Commission (CQC) are the regulatory body responsible for the monitoring, inspecting and rating of residential care services. The CQC have reported the challenges in maintaining high-quality care in the face of increasing demand, financial pressures and workforce shortages<sup>13</sup>. Their 2018 annual report shows that 20 per cent of residential homes were rated as requiring improvement or inadequate<sup>14</sup>. This compares with 28 per cent of nursing homes, which are also affected by the shortage of qualified nurses within social care<sup>15</sup>. Providing and maintaining high-quality care is not just due to demand, funding and staffing factors but also depends on local commissioning practices and residents' funding arrangements as well as strong organisational leadership, governance and a positive working culture.

## Care home closures

The CQC says the capacity of adult social care continues to be 'very constrained' and this creates challenges for the market to offer meaningful choice for older people, particularly if they require more specialist services<sup>16</sup>. There is a trend for nursing homes to re-register as residential homes, leaving the local population ill-served for more intensive care support. Across the sector, in the five years to 2018, there was a 2.4 per cent fall in care home beds in locations registered with CQC<sup>17</sup>. This amounts to some 5,852 beds. Ensuring that local care markets are meeting the needs of residents will remain a particular challenge for the sector without the reform and funding needed to manage growing demand.

## Protection for residents

Local authorities in England and Wales have a 'market shaping' duty to ensure adequate provision, that conditions are right for investment and plan and project future needs, resources

and infrastructure<sup>18</sup>. Local authorities also have a duty of care towards self-funders when homes close. Since April 2015, the CQC has had powers of Market Oversight to ‘oversee and monitor the financial health of difficult-to-replace providers of adult social care services in England’<sup>19</sup>. The implementation of this regulatory power was in part motivated by the 2011 collapse of Southern Cross which was, at the time, the UK’s largest social care provider.

Alongside protection from poor quality and abuse, care home residents need adequate consumer protection both when choosing a home and whilst they are resident. Some care homes pass on charges to residents that GP practices levy on them to visit the home but the NHS long-term plan has pledged to ‘upgrade support to all care home residents who would benefit by 2023/24’<sup>20</sup>. Improving the level of upfront information homes have to provide, protection of residents’ deposits in the event of home insolvency, a stronger complaints handling culture and better advocacy and signposting were all recommendations the Government accepted from the CMA’s enquiry. The CMA also recommended that care homes should be able to charge fees for no longer than three days after the death of a resident<sup>21</sup>. However, further regulatory change has been delayed until after the publication of a social care green paper.

## Public Policy Proposals

- Public funding for care homes should be sufficient to enable the provision of high quality care and availability of places. Funding should be sufficient to avoid the widening of a two-tier market in the quality, access and cost of care between privately and publicly funded provision
- Older people funding their own care should not face paying higher fees to make up for any shortfalls in local authority funding of care homes
- The previously legislated duty under the Care Act for self-funders to request that their local authority arranges care on their behalf must be implemented
- Care home residents need greater clarity about access to NHS primary care services and must have the same rights to it as anyone else. There should be no instances of residents having to pay for standard GP services which would be available for free in the community. People with Continuing Healthcare needs should receive full NHS funding
- Care home residents are still citizens with legal rights and protections. This means that residents should be assured of security of tenure, respect for dignity and human rights,

freedom from abuse, and support to take action if these rights are infringed. Care home residents and their carers must have a say in how a home is run

- Local authorities must support all perspective residents and their families with information and advice around options for residential care. Advocacy support should be available, particularly for those without family members to support them
- Self-funders in care homes should, like local authority residents, be entitled to protection under the Human Rights Act
- Inspection and regulation of care homes must be robust, transparent and properly funded.
- Care home residents also need appropriate consumer protection. The government should consider the introduction of an industry code of practice as well as granting sector regulators or a newly created body, the power to directly enforce consumer law.
- A greater variety of affordable care and accommodation alternatives is needed. This could include new types of extra care sheltered housing as an alternative to low dependency residential care
- Work in a care home should be treated as a skilled occupation, with caring staff required to reach high professional standards, and receiving the necessary training and pay to ensure this.
- Care homes should meet the needs of minority groups, and it should be part of the role of care home managers to promote inclusiveness
- A good care home enables residents to have a good quality of life, including being able to go out and to be as mentally and physically active as possible, with appropriate support
- Care homes need to provide high quality meals, protect mealtimes from all non-urgent clinical activity and ensure that sufficient staff are available to support adequate nutrition and hydration, particularly when residents are or at risk from malnutrition



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## Want to find out more?

Age UK has agreed policy positions on a wide range of issues, covering money matters, health and wellbeing, care and support, housing and communities. There are also some crosscutting themes, such as age equality and human rights, age-friendly government and information and advice

### Further information

You can read our policy positions here;  
[www.ageuk.org.uk/our-impact/policy-research/policypositions/](http://www.ageuk.org.uk/our-impact/policy-research/policypositions/)

Individuals can contact us for information or advice here;  
[www.ageuk.org.uk/informationadvice/](http://www.ageuk.org.uk/informationadvice/) or call us on 0800 169 8787

**Other relevant policy positions:** *Consumer vulnerability, Nutrition and hydration, Living with dementia, Dignity in health and social care, Social care assessment and eligibility*

<sup>1</sup> Care homes for older people – Market Report – LaingBuisson – July 2018

<sup>2</sup> <https://assets.publishing.service.gov.uk/media/5a32947be5274a1fee16bb9b/appendices-and-glossary-care-homes-market-study-final-report.pdf>

<sup>3</sup> [http://eprints.lse.ac.uk/59437/1/Dementia\\_UK\\_Second\\_edition\\_-\\_Overview.pdf](http://eprints.lse.ac.uk/59437/1/Dementia_UK_Second_edition_-_Overview.pdf)

<sup>4</sup> [http://eprints.lse.ac.uk/59437/1/Dementia\\_UK\\_Second\\_edition\\_-\\_Overview.pdf](http://eprints.lse.ac.uk/59437/1/Dementia_UK_Second_edition_-_Overview.pdf)

<sup>5</sup> Care homes for older people – Market Report – LaingBuisson – July 2018

<sup>6</sup> <https://assets.publishing.service.gov.uk/media/5a1fdf30e5274a750b82533a/care-homes-market-study-final-report.pdf>

<sup>7</sup> <https://assets.publishing.service.gov.uk/media/5a1fdf30e5274a750b82533a/care-homes-market-study-final-report.pdf>

<sup>8</sup> <https://assets.publishing.service.gov.uk/media/5a1fdf30e5274a750b82533a/care-homes-market-study-final-report.pdf>

<sup>9</sup> <https://assets.publishing.service.gov.uk/media/5a1fdf30e5274a750b82533a/care-homes-market-study-final-report.pdf>

<sup>10</sup> <https://assets.publishing.service.gov.uk/media/5a1fdf30e5274a750b82533a/care-homes-market-study-final-report.pdf>

<sup>11</sup> <https://assets.publishing.service.gov.uk/media/5a1fdf30e5274a750b82533a/care-homes-market-study-final-report.pdf>

<sup>12</sup> <https://assets.publishing.service.gov.uk/media/5a1fdf30e5274a750b82533a/care-homes-market-study-final-report.pdf>

<sup>13</sup> [https://www.cqc.org.uk/sites/default/files/20171011\\_stateofcare1718\\_report.pdf](https://www.cqc.org.uk/sites/default/files/20171011_stateofcare1718_report.pdf)

<sup>14</sup> [https://www.cqc.org.uk/sites/default/files/20171011\\_stateofcare1718\\_report.pdf](https://www.cqc.org.uk/sites/default/files/20171011_stateofcare1718_report.pdf)

<sup>15</sup> [https://www.cqc.org.uk/sites/default/files/20171011\\_stateofcare1718\\_report.pdf](https://www.cqc.org.uk/sites/default/files/20171011_stateofcare1718_report.pdf)

<sup>16</sup> [https://www.cqc.org.uk/sites/default/files/20171011\\_stateofcare1718\\_report.pdf](https://www.cqc.org.uk/sites/default/files/20171011_stateofcare1718_report.pdf)

<sup>17</sup> [https://www.cqc.org.uk/sites/default/files/20171011\\_stateofcare1718\\_report.pdf](https://www.cqc.org.uk/sites/default/files/20171011_stateofcare1718_report.pdf)

<sup>18</sup> <https://www.gov.uk/government/publications/adult-social-care-market-shaping/adult-social-care-market-shaping>

<sup>19</sup> <https://www.cqc.org.uk/guidance-providers/market-oversight-corporate-providers/market-oversight-adult-social-care-your>

<sup>20</sup> <https://www.longtermplan.nhs.uk/wp-content/uploads/2019/01/nhs-long-term-plan.pdf>

<sup>21</sup> [https://assets.publishing.service.gov.uk/media/5b0fe9f7ed915d2cddac8268/death\\_fees\\_advice.pdf](https://assets.publishing.service.gov.uk/media/5b0fe9f7ed915d2cddac8268/death_fees_advice.pdf)