

# Policy Position Paper

## Care homes (England)

April 2016

**Care home residents must be full members of society, able to maintain their personal identity and contacts with family and community, with rights to security of tenure and the protection of the Human Rights Act, and protection against poor care and abuse.**

### Key issues

Living in a care home is not just about receiving care. In some cases, particularly for people with dementia, a residential care setting will be their home for many years. It is also be a place where people go through major life changes. Going into residential care can involve the loss of home, possessions, social contacts and pets. Many care home residents will eventually die in the care home so need compassion and specialist support to end their life in comfort and with dignity.

About half of care home residents are funded by local authorities, but local authority funding may be insufficient to provide good quality care and guarantee the quality and security to which residents should be entitled. Many operators have faced financial pressures and residents have little protection against a home going out of business. People with dementia make up a majority of residents in almost all care homes, so residents are often not in a position to act as informed consumers. Inspection and regulation, and service user rights are essential in order to compensate for these shortcomings. We therefore welcome the extension, under the Care Act, of the coverage of the Human Rights Act to care home residents (and other care and support users) whose care is funded or arranged by a local authority. However self funders are still excluded from this protection.

It is now accepted that local authorities have a duty of care towards self funders when homes close, and it should also be clear that a duty of care applies where abuse is suspected.

People who purchase their own care home places frequently have to pay higher rates than local authority clients. This differential creates considerable resentment, and is also creating the potential for a market collapse as providers seek to target better paying self funders, or if they are unable to do this, exit from the market. The result is likely to be that some existing residents will lose their homes whilst people who are looking for good quality residential care will be unable to find it unless they

are paying a considerable premium, and in many areas places will cease to be available at local authority fee rates.

The Care Act gives self funders a right to ask the local authority to arrange their care. This is welcome as it means that people who do not qualify for local funding because of means-testing will be able to benefit from care purchased at the local authority rate and from having the local authority arrange their care. However implementation of this entitlement has been delayed till 2020 .

Where local authorities fund care home places they must pay the full cost unless the person chooses a home that is more expensive than the local authority would pay. However this system is widely abused with many people being asked to 'top up' local authority funding even though they have not chosen a more expensive place. The Care Act is intended to make it easier to challenge such abuses by requiring the local authority to fund care, not at a 'usual cost' but at the individual rate specified in the person's personal budget. This would make it easier for people to challenge inadequate local authority rates..

### **Public policy proposals**

- Local Authority funding for care homes should be sufficient to enable the provision of high quality care and sufficient availability of places.
- 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.
- Care homes should not make up for shortfalls in local authority funding by charging higher fees to those who pay privately. The Care Act right for self funders to request that the local authority arranges care must be implemented.
- Self funders in care homes should, like local authority clients, enjoy the protection of the Human Rights Act.
- A greater variety of care and accommodation alternatives is needed. This could include new types of extra care sheltered housing.
- Inspection and regulation of care homes must be robust, transparent and properly funded.
- Care home residents must have the same right to NHS care as anyone else, and should not have to pay for NHS primary care. People with continuing healthcare needs, including dementia patients, should receive full NHS funding.
- Work in a care home should be treated as a skilled occupation, with caring staff required to reach high professional standards, and receiving the pay this requires.
- 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 quality care home does not just provide good care; it also 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,
- Good quality meals and mealtimes, and adequate nutrition and hydration, should be a priority.

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