

Comments on Update Paper – Andrew Dodds

Thank you for a copy of the Updated Paper regarding your Care Homes Market Study and the questions you have posed.

In my response below I mainly address the issues relating to my original contribution titled “Andrew Dodds” in February 2017.

My main issue relates to the unfair treatment of Self Funders in Care Homes in Scotland. I recognise that, within the political rules today, Self Funders are expected to fund their own Care in Care Homes be they Private or Publicly operated.

However, my experience with my relative has indicated serious failings of the current system. Self Funding Residents pay significantly more for their Care than those funded by Local Authorities in the same Care Home. In my relative’s case (see original paper “Andrew Dodds”) circa £15,000 per annum extra is paid. This is a subsidy, or as some would call it today, a significant “Dementia Tax” that Self Funders in Care Homes have to endure. Those Self Funders have contributed significantly to national and local taxes throughout their lives and it is grossly unfair to ask these elderly people, in their last few years, to contribute significant funds towards the Care of Local Authority funded Residents in Private Care Homes.

Response to Specific Questions :-

Section 10.1 & Section 10.2

Question 2, 15, 16, 18, 19, 20, 22

Proposition and Remedial Action

With particular regard to “Question 2 & 16” I propose that in Scotland the Route 3 Option available to Self Funding residents be made mandatory as part of the “National Care Home Contract” (NCHC) (Page 9 refers) negotiated annually between Scottish Local Authorities (COSLA) and Private Care Homes (Scottish Care). This Option entitles Residents to use their Local Authority to organise their Care using the “NCHC” contract.

This Route 3 Option was originally produced in the Scottish Government 2002 “Free Personal & Nursing Care in Scotland” Guidance documents (Page 14 & 15 refer) to give strong direction to Local Authorities and Care Homes and how they should proceed. This is mentioned in the Scottish “NCHC” contract as an Option for Self Funding Residents. However, it is not mandatory.

“Route 3 Contract” means a contract created through the issue and acceptance of an Individual Placement Agreement in the form of, or as near as practicable to, Appendix 3 when a Self-funding Resident has opted to be placed under this Contract and where the Provider has agreed to accept such placements;”

The last statement “and where the Provider has agreed to accept such placements” is used by Care Homes to block Self Funding Residents from using this Route. In West Lothian I am aware of only one Private Care Home out of 14 Private Care Homes accepting Self Funding Residents using the local authority to arrange Care under the “NCHC” Route 3. All of these Private Care Homes continue to accept local authority funded residents using the Scottish “NCHC” contract but not Self Funders who try to use Route 3 Option, only Route 2.

Question 3

Local Authorities should be mandated to maintain a complete list of ALL Care Homes in their area. They should not be able to exclude Private Care Homes that do not enter into a contract with them.

Question 21, 22, 23

In the absence of a fair marketplace and to ensure the future of Private Care Homes an independent body would be useful in determining reasonable fees for Care. This would ensure that Private Care Homes continued to be viable and Self Funding Residents would not be subsidising local authority funded Residents. It is also important that Care Homes and Local Authorities cannot find ways around contracts without some sort of redress i.e. Private Care Homes can avoid accepting Self Funding Residents due to the weak statements regarding the Route 3 Option in the Scottish “NCHC” contract.

General Comments regarding the CMA Update Paper

Unfortunately, it does not address Competition or Market issues with regards to the unfair “Dementia Tax” elements that apply to Self Funding Care Home Residents.

The Paper mentions the issue without addressing it or identifying it as a Competition/Market issue.

The Sections on Scotland and Self Funding should have been given more focus.

Scottish Local Authorities (through COSLA) negotiate with the Private Care Homes (Scottish Care) organisation in Scotland to agree the contractual and pricing for Local Authority funded Residents which accounts for circa 70% of Residents in Private Care Homes. The other 30% are individuals who have to negotiate individually. In addition, Local Authorities control access to Private Care Homes since they have almost total control of the admittance procedure. It is no surprise that very few Private Care Homes admit only Self Funding Residents since, if they did so, these Care Homes would not feature on the Care Homes list created and administered by Scottish Local Authorities.

Not surprisingly, Local Authority funded Residents pay £559 (Standard Care)/£649(Nursing Care) and Self Funders pay only one rate, be it Standard or Nursing Care, typically being £800 to £1,200.

Surely it is clear from this evidence that the Private Care Home Market is not working and that the main contributory factor is the 70% dominance of the Market by Scottish Local Authorities. This is a monopolistic (Oligopoly) position and the CMA should seek redress of this situation so that all Residents can be treated fairly.

In my experience [X] has contributed £45,000 plus towards the Care of the Local Authority funded Residents in her Care Home in addition to her own Care over the last three years. This to me is a far worse situation than the “Dementia Tax” touted recently in the General Election. The situation will continue to get worse for Self Funders as long as Local Authorities fix the rate for Private Care Homes.

The Update Paper has failed to investigate evidence out there. I have produced a good example (“Andrew Dodds”) which is replicated throughout Scotland.

I suggest more in-depth analysis is required. Don’t take the general hearsay evidence put forward by interested parties that understate the particular issues with regard to the differences between Local Authority Funded Residents and Self Funders Residents’ fees.

Go through the process in Scotland and you will see that my experience is not unique.

I have responded to individual paragraphs in your report below.

Regards

Andrew Dodds

Specific Comment which also contain response to questions you have raised :- Care Home Market Study – Update Paper

Section 3.1, 3.7,

No explanation as to why there is not a “competition” issue when Scottish Local Authorities engage with Care Homes. No mention of the excessive influence of Scottish Local Authorities in controlling admittance to Care Home for Self Funders.

Section 3.8

Not true in Scotland. Local authority advised that a Care Home would be excluded from their lists if they did not accept Local Authority Funded residents.

Section 3.13

This misses the point that fees are important. It is just that Self Funders starting point is much greater than fees paid by Local Authority Funded residents.

Section 3.20

This section on competition fails to address the major competition issue. It is not a fair process. The Scottish Local Authority "Cartel" (COSLAS) negotiates with the Care Home "Cartel" on behalf of 70% of Private Care Home residents, therefore totally dominating the Private Care Home market. This results in aggressive terms for the Private Care Homes with Local Authorities achieving prices which I believe are below cost. This results in the remaining 30% being Self Funders who negotiate individually at a significant disadvantage to the contract agreed for the 70%. This is borne out by the much higher prices that Self Funders have to pay for care. The result is that typically £15,000 per annum of Self funders "costs" are subsidising the Local Authority funded residents. This is an effective "Dementia Tax" on Self Funders.

Section 5.11 & 5.12

Good points.

Section 6.3, 6.13, 6.14, 6.15, 6.16 & 6.17

The Scottish model contract is used by Private Care Homes and most conditions are used for Self Funders, however, not the pricing. This procurement process is seriously flawed since the full contract does not apply to Self Funders. With the procurement process dominating 70% of the market this is unfair competition and is an oligopoly.

There is complete failure to realise the significance of the procurement by Scottish Local Authorities and the impact on Self Funders (i.e additional £15,000 per annum for my relative). I absolutely fail to understand why it is not obvious that competition has failed and there is not an open market place with the total dominance of the local authority in procuring 70% of Care Home business. Further work requires to be done to identify the true impact of the differing rates paid by Local Authorities and Self Funders. My personal experience of my own relative is not unique. I can only assume that you do not feel competent to criticise government bodies who are acting as an oligopoly.

Section 8.2

Yes, I agree.

Section 8.3

Totally agree. This statement supports my argument regarding competition and an open market.

Section 8.15

Yes I agree with most of this paragraph. However, do not agree that this statement has any major impact on costs differences "although there may also be some differences in relative costs".

Section 8.18

Yes much more work is required in this area. You need to also understand why there are very few Private Care Homes that only accept Self Funders. As I explained in my initial input to your study this is due to the controlling influence of local authorities in the process of admission of all Residents. Private Care Homes who do not accept local authority funded residents are omitted from local authority

Private Care Home lists. This would mean that Self Funders would have limited visibility of the existence of these Private Care Homes. Consequently, very few Private Care Homes refuse to accept local authority funded residents. In such situations the Private Care Homes have to accept circa 70% of residents at low prices (negotiated between local authority organisation (COSLA) and Private Care Homes (Scottish Care). For Private Care Homes to make a reasonable financial return they charge much greater fees for self funders.

Section 9

I cannot understand with all the evidence available that you cannot see the serious failure of the Market place. The Oligopoly that Scottish Local Authorities operate in Scotland is totally unacceptable.

Your statements in this section are just plain wrong.