



Citizens Advice response: CMA care home market study update paper

Summary

Citizens Advice welcomes the CMA's decision to carry out a market study of the care home sector. In 2015/16, Citizens Advice supported people with nearly 27,000 advice queries relating to social care, around a third of which were about the care home sector. In addition, Citizens Advice received nearly 200 additional calls through the Consumer Helpline concerning residential or nursing care. More broadly, social care is an issue of importance to Citizens Advice. 41% of our clients have a long-term health condition or disability.

As a consumer champion, Citizens Advice works with government, regulators and competition authorities, to spot problems and identify when markets are not working well for consumers. As a service, in 2015/16, we helped 2.7 million people face to face, by phone, email or webchat, and handled 36 million visits our website to get advice. The unrivalled real-time data this work generates has huge value, particularly when joined with other data sources, allowing new ways to spot detriment early, guide enforcement, and scrutinise consumer outcomes.

We have limited our response to the CMA's care home market study update paper to the areas which best align with our expertise and evidence base.

Key questions

General

1. Do you agree with our analysis of the issues affecting the care homes market? Please provide evidence in support of your views.

2. Do you have any comments on our proposed next steps and remedial action, including any suggestions for other remedial action?

Citizens Advice research highlights similar concerns to those identified by the CMA through their focus on choice, complaints and consumer protections concerns as part of their care home market study. Our research published in December 2016, based on a survey of 510 people with experience helping an older person arrange and pay for a care home place in the past 3 years, highlighted the following problems with the market:

- First, people are often under extreme time pressure when deciding on a care home and are bewildered by their context. Over half (55%) of the respondents to this research said that the entire process of arranging a care home place took under a month, and nearly 1 in 10 (8%) said it took less than a week. Just under half (49%) said they found the process of arranging a care home place distressing.
- Second, older people and their families are both underwhelmed and overloaded by choice in the care home market. Families were overwhelmed by the number of variables to consider when choosing a care home and the lack of accessible information. Only 7% were provided with information about care home fees, for example through marketing materials or the website, prior to making direct contact. But they were also underwhelmed by the range of care homes. Almost 4 in 10 respondents (39%) said they did not have enough choice.
- Third, charging practices in care homes can be confusing and unexpected. Over a third (36%) of respondents to this research were either not given a copy of the care home contract until after the resident had moved in, or not given a contract at all. Looking at billing practices specifically, the research finds that 1 in 5 (20%) people have experienced an unexpected additional charge, such as a back-bill or unexpected top-up fee, and over a third (37%) have put down a deposit for their room, despite the fact that care home residents lack the protections typically associated with this practice in the private rented sector.
- Fourth, people lack options to make their views known to care homes, even when they have concerns. Over a quarter (26%) of respondents to this research have had concerns about a care home provider, but only 1 in 5 (21%) of those who had concerns subsequently made a complaint. The most common reason for not complaining (highlighted by 37% of respondents) was the worry that this would result in negative treatment from the care home. But moving care homes is also not a realistic option for many - fewer than 1 in 10 (9%) moved care home as a result of their concern.

Our research combined with evidence from our clients suggests that some care homes are not complying with consumer law and there could be need for enforcement action. Current protections offered by consumer law and other measures address some of the issues raised above, but we believe that some of these protections should be strengthened. We set out further details in our response below.

Choosing care homes

3. What could be done to make information about care homes more useful and easily accessible so people can see which care homes have availability and compare factors such as fee rates, quality ratings and contractual terms or whatever other information they may find useful and can engage with?

Many people begin their journey looking for a care home online, but currently the information available online is highly fragmented and there is no common standard for online content. NHS Digital, local authorities and care providers should work together to

agree a common set of standards for online care content to improve people's online navigation of the care sector and allow more effective comparison tools to develop. Establishing a common standard is preferable to attempting to build a one-stop-shop for people's care needs - given the number of agencies involved in people's care journey, attempting to do this is unlikely to be suitable or feasible.

Nevertheless, there is an opportunity for NHS Digital to improve its content. It should continue to develop its care home directory and expand the range of variables it records information on, including the care home fee range and any extra charges. As part of this, it will be crucial to examine ways to incorporate insights and feedback from families of current residents. NHS Digital will also need to look at ways to extend online improvements so that those with low digital capacity can benefit. An assisted digital option is crucial to ensure the digitally excluded can also navigate the care market.

4. How could people be encouraged to consider, and plan ahead, for care needs away from an immediate crisis or circumstances arising that trigger a decision to move into a care home at short notice?

Local Authorities, health professionals and civil society organisations should encourage people to consider care plans at appropriate moments in their lives.

Most people do not plan in advance for how they will pay for their care. This lack of preparation can contribute to the confusion and pressure people face when they are deciding and making arrangements. There are times in people's lives when they may be particularly receptive to prompts about planning for future care costs, such as during a Pension Wise appointment.

There are also more pressing times where people would greatly benefit from an enhanced advice and support offer, for example, ahead of an older relative being discharged from hospital. Citizens Advice is currently piloting a new face-to-face money guidance service as part of the MAS 'What Works' Fund. The service offers tailored money guidance to people experiencing life events such as a recent diagnosis of a long-term illness or changes in employment. The pilot will help us learn at what point, and in what way money advice can improve financial capability.

Encouraging local authorities, GPs, hospitals, local Citizens Advice to work together and explore advice care advice needs at the point of hospital discharge, as well as other trigger points how will enhance our understanding of the best possible approach. Alongside planning for care costs, people should also be encouraged to set up a power of attorney.

5. Do people need greater support in considering the care options available to them and in choosing a home, and if so what are the best ways to ensure this is delivered effectively, eg giving greater personalised assistance through 'care navigators' and other advocacy services?

Older people and their families should have access to advocacy throughout the care journey. Local Authorities need to assess whether all those who need support are receiving it.

Access to independent advocacy support should be available throughout the care journey. Local Authorities have an obligation under the Care Act to provide an independent advocate to facilitate the involvement of those who have substantial difficulty being involved in the process, but this is not reaching all those who need help. Local authorities should examine whether there is a need to relax the 'substantial difficulty' condition so that all those who need support can access it.

Care Navigators play a crucial role in supporting people to access services they might not know are there. As part of the holistic assessment of need, assessing care information, advice or advocacy requirements could be a meaningful way for care navigators to offer support. However, it is important to acknowledge that the care navigator model is built on local infrastructure and local support organisations, including local Citizens Advice, and is not a stand alone solution to deliver greater support.

Under question 3, we explain that information online is fragmented and presents a barrier to those seeking support on care options. Easily accessible and navigable information online is important for those seeking information in order to make good decisions about access to care.

Complaints and redress

6. How can people be helped so that they feel more comfortable in making a complaint about a care home, eg through advocacy or support services?

7. Would it be helpful to introduce a model complaints process specifically designed for care homes in each of the four nations?

8. To what extent would better signposting and access to the ombudsman improve the complaints processes?

9. What role should regulators play in relation to complaints systems and complaints from individuals?

There is low awareness of the Local Government Ombudsman and its role as an ombudsman for social care complaints. Self-funders, in particular, can have a lack of knowledge about its role. This is understandable given that they may have had no previous engagement with the local authority about their care home place and therefore are unlikely to consider turning to its ombudsman. The role of the CQC can add to this complexity and our qualitative research suggested families were more likely to consider turning to this regulator. Whilst the CQC registers concerns from family

members, it doesn't investigate individual complaints. Our qualitative research suggested that families are not necessarily aware of this distinction.

As we have mentioned earlier in this response, easy access to information online could help people to make decisions, including how to make a complaint. It is important that any online information available, addresses the concerns of potential complainants e.g. their rights, how to combat fear or realised retaliation as a result of making a complaint. Online complaints tools, including easy to follow 'decision trees', accompanied by 'top tips' of how to make a complaint are also necessary. This guidance should also be available to those who prefer support over the telephone or face to face.

But information remedies alone are likely to be insufficient. Advocacy support should also be offered to all those with concerns about care. The most common reason people said they did not raise a formal complaint was because they were worried about how the provider would subsequently treat either them or the older person concerned. Access to an independent advocate is crucial to enabling some people to speak up.

Consumer protection

10. Are there any other consumer protection concerns in relation to care homes that we have missed and which we should be looking at?

Two other potential consumer protection concerns emerged through our research:

- Terms and conditions when older people were staying in a care home as part of a trial period - for example, the notice period for cancelling the contract was longer than the trial period itself
- Concerns about charges whilst older people were in hospital - a lack of clarity about financial savings for families when older people were in hospital for a long period of time.

11. Would it be helpful to produce further guidance for care home providers on their obligations under consumer law and, if so, what should it cover?

13. What role might sector regulators play in helping to further 'embed' compliance with consumer law and best practice across the sector?

Citizens Advice thinks there is an opportunity for the regulators to do more in terms of providing guidance on good practice in the care homes market. This would make it easier for care home providers to understand their obligations to older people and their families. Consumer law can be complex and the implications for the care home market are not always obvious - updated guidance could help address this. The CMA and CQC should work together to explore which organisation is best placed to develop this guidance and how they could inform CQC inspections.

There are opportunities for the guidance to outline good practice for a range of issues, including:

- Upfront information about pricing, including for additional services
- Provision and design of contracts
- Notice period for fee increases
- Complaints handling
- Care home deposits
- Notice period after care home resident moves out or passes away

14. Are there any areas where additional consumer protections may be necessary beyond those provided by consumer law, existing sector legislation and national care home standards, eg in relation to ensuring clear, timely and comprehensive information for people when choosing care homes and to safeguard residents' deposits in full?

There are a number of opportunities to strengthen consumer protections. Care home providers should include information about care home fee ranges online and in marketing materials to help families understand their options and narrow down their search more easily. Care home providers should summarise the most important terms and conditions and include this on contracts and on care home webpages. Providers should also offer a clear breakdown of costs in care home bills. As a minimum, this should include a breakdown of additional charges for services not included in weekly care home fees.

Unlike in other markets, such as energy, there is no minimum notice period for increases in care homes fees. At the very least, there is a case to extend this to 4 weeks because it is unrealistic to expect older people and their families to make alternative arrangements with less notice. And given that 45% of people surveyed through our research said it took over a month to arrange a care home place, there is a case to explore a longer notice period.

There is currently no deposit protection scheme for care home residents. The research shows that over a third of care homes currently request a deposit. But the motives for this can be unclear and families can find it difficult to monitor whether or not they are entitled to their full deposit back. Just as there are deposit protection schemes in the private rented sector, comparable securities should be introduced for the care home market.

Submitted by:

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