

College Fields Nursing Home

Wednesday, 12 July 2017

Dear Ms Warren and Mr Baker,

Mary Wimbury of Care Forum Wales has asked me to look at your Parliamentary Care Homes Market Survey Review for Wales and respond to you. I have been a provider of a nursing home, College Fields Nursing Home in Barry since 1989 and have seen changes in regulations etc and a major increase in the dependency of our residents. I suspect that in certain areas of England the needs and wishes of residents will be significantly different to those we care for.

Also, I have worked with Mary as part of the team dealing with Welsh Government on the various changes to Acts and Regulations concerning social care in Wales. I am concerned that we in Wales are subjected to excessive regulation and penalties and would not welcome duplication of responsibilities. I am mindful that the Jasmine enquiry and Flynn Report in Wales have made the Welsh government very conscious that they wish to ensure that every opportunity to safeguard people in care is taken. Welsh Government have recently not been content with this but are embarking on a journey to higher standards without recognising that these standards have to be afforded and resourced with appropriately trained people. I am far from certain that there is the political will to fund the sector adequately and certainly the human resources are not there for certain proposals that have been suggested in the draft regulations.

I am mindful that these proposals will discourage people from investing in the Principality when they can invest in parts of England where returns are so much better. Furthermore, these high ideals are likely to result in some people withdrawing from the market and so deny the population any chance of choice of care homes.

Mary asked me to address the question of contracts and, in my opinion, they should be clear about respective responsibilities and not become dated by changes in legislation, regulations or guidance.

One way to cope with this is not to identify individual Acts but use a clause in the contract as existing in the Vale of Glamorgan, Cardiff, RCT and Merthyr. It is set out in paragraph 12 where it states

OBSERVANCE OF STATUTORY REQUIREMENTS

The parties to this Contract shall comply with all statutory and other provisions to be observed and performed in connection with the commissioning and provision of the services under this Contract including assessment and placement of Service Users, the Specification and any relevant Codes of Practice, Codes of Conduct, Regulations and Guidance.

This was in the 2004 version of the contract and has been reviewed in the last month or so by both Vale of Glamorgan and Cardiff Councils, Cardiff and Vale UHB and providers. It has been agreed to remain.

If you want to see the entire contract it can be found at

<http://collegefieldsnursinghome.co.uk/VOG%20Final%20Version%20December%202004.pdf>

We must be mindful of differing legislation between England and Wales. Some of the issues raised in the report will apply to one or more countries but not others as they are already covered in local legislation.

With regard to the summary:

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1.2(a) For this market to work well, prospective care home residents and their families need to be able to make informed choices. The initial results from the Competition and Markets Authority's (CMA) consumer research suggest that many people find it challenging to make decisions about care under the stressful and time pressured circumstances which generally apply. Even when good information is available people rarely seek it or engage with it. Many people do not seek more information and in many cases they are confused by the social care system and funding arrangements, and do not know how to find and choose between homes

I agree with this but there is an excellent My Home Life booklet that gives people ideas of what questions to ask. Supporting people to choose the right home is in my view better than putting onus on providers or commissioners or CSSIW's individual inspector's opinion. I recall going a home in north Wales and witnessing how the residents were cared for. People with mental health needs. I followed this a while later to judge a similar home for the Wales Care Awards. This home followed the David Sheard's Butterfly approach to caring for people with similar problems. Whilst we recommended the Butterfly for a gold award I would have put my loved one in the other home. I had this conversation with David Francis, the deputy Chief Inspector of CSSIW, who was passionate that the 'David Sheard' home was by far the better. One man's meat is another poison applies to care homes. People should feel comfortable in the home they are selecting and everyone who comes to College Fields is encouraged to look around other homes.

I also know that people will say they choose to stay at home, in ignorance of not knowing how good a care CAN be and how they can have a better quality of life. [✂] I do not believe a single person there would have had as good a quality of life if they had lived in their traditional family home. More likely they would have been lonely.

(b) Where a resident is dissatisfied with their care home, it is generally not realistic to expect them to move to another one. Once settled, the upheaval of moving from a familiar environment can be extremely disturbing, and can adversely impact on the resident's health. It is therefore essential that effective mechanisms are in place for residents to express their views and, where necessary, have them acted upon. Our findings, however, indicate that complaints and redress systems often do not work well, as residents often find it very challenging to make complaints.

b. I agree with this comment. However, once a relationship has broken down, and often it will be apparent quickly, the sooner someone moves then the better the outcome for the person involved.

(c) While many care homes offer a good service, we have identified concerns that some might not be treating residents fairly and that certain business practices and contract terms might break consumer law. Many of these consumer protection concerns relate to how some care homes treat self-funded residents, including for example issues around the lack of indicative pricing information on websites, the charging of large upfront fees and deposits, care homes having a wide discretion to ask residents to leave, and requirements to pay fees for an extended period after a resident's death.

c. It must be realised that indicative pricing is only that. We assess each resident's needs and particularly if they need extra care then it has to be priced. The publicising of indicative fees may cause more concerns than they solve. I agree about up front costs, I find these abhorrent as I have heard of some being in £,000s. I can understand that set up fees could be legitimate as all the care plans and research is front loaded. It needs to be clearly stated if there is one. We don't charge one.

(d) There is evidence of competition between care homes to provide care home placements to local authorities. However, some providers have told us of instances where they have found local authority and NHS (Health and Social Care (HSC) in Northern Ireland) procurement processes are complex,

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inflexible, and insufficiently person-centred . Some providers have also argued there is inadequate provision to encourage and reward quality.

d. This accords with my experience

e) Whilst the possibility for families and friends to make top-up payments can give residents greater choice of accommodation, some providers have told us that top-ups are not always encouraged or facilitated. In addition, it appears that in some areas, making a top-up payment may be the only way a prospective local authority-funded resident will have a choice of care homes to go to.

e. I agree with that statement.

(f) Demand for care home services is expected to increase very substantially in the coming years. The number of people aged 85 and over is projected to more than double by mid -2039 , and the level of care needed for people moving into a home is increasing over time because, having spent longer in their own homes, people are more frail when they do move into a care home.

The accords with all the research I have seen regarding demographic projections. Our experience also confirms the increased frailty of new residents

(g) Building additional care home capacity takes time, and investment therefore needs to take place in good time for places to be available when they are needed. Our initial analysis of recent financial performance suggests that returns to the sector overall are sufficient to cover current operating costs. But they are insufficient overall to attract adequate investment in new care homes. There is likely to be a lot of variability; investment will be attractive in some local areas and particularly where there are expected to be substantial further numbers of self-funding customers.

g. This is a point that we have been drawing to the attention of a number of Ministers and senior civil servants for a number of years. It is heartening to see it appearing in this independent review.

h) In contrast, short- term funding pressures, in the forms of current fee rates, the number of placements local authorities make in care homes (rather than meeting needs through other means such as domiciliary care) and uncertainty over future funding, mean that there are at present weak signals and incentives for the sector to undertake future investment necessary to grow capacity primarily intended to serve state-funded residents. Our initial results suggest homes primarily serving local authority-funded residents have lower margins than those with higher proportions of self-funded residents. It seems likely that the incentives to attract investors to build new capacity will be lowest where it is aimed at primarily serving state-funded residents. Our analysis is ongoing.

h. This trend has been seen to be the case generally in Wales. The situation is even more concerning when we look at good quality homes with waiting lists. The construct an extension, that will attract VAT on the build cost, to include rooms with en-suites with showers and extra communal space, together with the difficulties of recruiting qualified staff has deterred a number of providers (including myself) from progressing a programme of supplying extra rooms to accommodate people who are currently occupying a hospital bed.

(i) We have, however, heard from some local authorities who have adopted long-term perspectives to shape the market, provide improved clarity both to investors and prospective residents, and encourage appropriate investment focused on the areas of greatest need (eg dementia and nursing care). Local authorities are well placed to understand the market, predict needs, assist operators and

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shape outcomes. They are also well placed to assist and guide prospective residents, and so they have the opportunity to greatly improve outcomes. We are keen to explore ways of increasing long-term planning in the sector as a whole.

i. I am not aware of initiatives described. There are certainly opportunities to achieve this objective. This can be achieved by developing trust that the Commissioning Guidance will be reasonably followed and also by block booking beds. In the case of nursing homes there are opportunities for joint block booking by both local authorities and local health boards.

Recommendations that are being considered include

1.3(a) Making choices easier through better information and support. We are considering how greater support can be provided to prospective residents and their families and representatives to help them to make good choices and to access comprehensive and comparable information. We are also considering whether people's awareness and consideration of social care options could be raised earlier.

I agree with the sentiments but sadly, people only seem interested when there is a crisis. Many people find it difficult to recognise that this time is coming until the very last moment. Hospitals and GPs also tend to shy away from this until the last moment.

(b) Improving complaint and redress systems. We will be looking at recommendations which make it easier for care home residents and their families or representatives to raise and escalate complaints, and to support providers to improve their complaints and redress systems.

b. I suspect regulations under the Registration and Inspection Social Care Act (RISCA) will be addressing this so please don't duplicate their proposals.

(c)

Improving consumer protection. We have opened a consumer protection case to investigate concerns that some care homes may be breaking consumer law – this is focused on concerns about certain care homes charging families for extended periods after a resident has died, and homes charging large upfront fees. We are also considering how other issues we have found can best be addressed using our range of tools (for instance, as appropriate, through consumer enforcement action, guidance on consumer law, codes of practice and/or recommendations to government, regulators or the industry). More generally, we are looking at whether the protections afforded by existing consumer law (and relevant 5 sector regulations) are sufficient to ensure good outcomes for residents and their families.

c. The contract should explain how long after death needs to be paid for. (see 4 days in Vale contract) Upfront fees should be discussed initially and set down in writing before placement. Every responsible care home provider finds such practices totally abhorrent. If you can find a way to limit the charges once families have cleared the room, (and this can be a problem having had one residents belonging not being collected by solicitors for two years) then any reasonable time would be welcomed by most providers.

(d) Public sector procurement. We are considering opportunities for the sharing and monitoring of good practice, eg. on procurement by local authorities of care home services and on how top-ups are explained to care home residents and their families and used by them.

d. Local authorities should commission quality services not procure at the cheapest price. There is no guidance for health boards at the moment on commissioning so they still procure

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services. I sit on the Welsh Government Good Practice Workstream Group and I have sat on the advisory panel of My Home Life Cymru for the last decade as such there are already established endeavours to share good practice. Both CSSIW inspectors and local authority monitoring officers already have the tools to achieve these desired outcomes. I would agree that anything that can encourage them to achieve these aims will be appreciated.

(e) Investing for the future. We wish to address how the sector will develop in the long term to address the changing levels and types of needs. We are considering how potential barriers to investment can be addressed and how the sector can be incentivised to respond to demand. In doing so, we will look at measures which could provide a framework that incentivises future investment. So, for example, we will consider fee rates and whether guidance on appropriate fees would be beneficial, and whether there may be a role for an independent body in planning and facilitating the development of appropriate capacity.

The days when people fell into care industry have gone. Most new people to the industry now are hard headed businessmen who will follow the money. They will also follow their legal obligations but are not the predominately caring people who used to come into the market. The exception to this rule will be a few people who take over an existing, generally a small home, that they can afford. If you want to attract major investment there is a need to show that there will be a reasonable return and a reward for high standards. Currently, these rewards are by being full all of the time but no financial fee related encouragement except in a very few regions.

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.

It seems fairly accurate. I have attempted to address the issues as they have arisen.

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

I am not sure that the steps are shown to be - 7.23 onwards does not make it clear. Here I would you to link to Steve Vaughan's market overview report. It should be remembered in Wales that this is a particularly heavily monitored and inspected service with a huge amount of red tape already and we should not add to it. People need support to ask the right questions and providers need to be honest in their replies.

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?

This Las and Health Boards are aware of availability here but sometimes people benefit from waiting for a care home that is full at that moment. Yes, compare fee rates by all means, quality ratings in Wales really mean that a home may have real issues or that the paperwork in in good order. Our

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nurse director went to do an assessment in the last week where the care in that home was poor but the paperwork was in apple pie order. I'd choose a home with the other priorities. We put our contract on our website. Perhaps everyone should.

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?

Education, education, education. Unfortunately, people are not minded to consider the option until the last moment as they often live in hope that it will not be necessary.

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?

People need greater support for choosing the right care package! At the moment, social workers here have been known to say you cannot go into a care home until a home care package has failed! People may well need help to understand what to look for.

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?

A lot will depend on the home owner or manager. You won't get anywhere with some whilst others will bend over backwards to help. You should get a feeling for the owner or manager when you go around. The system has failed if concerns have not been addressed early and a complaint is necessary.

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

No preferable to Talk, talk and talk again if no progress no complains procedure will make any difference. Sometimes no matter what a provider does will satisfy a family or resident. There are cases where there are two sides to a problem.

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

If it gets to this stage pack up and move is the best option. If there is nowhere else to go complain that that is the case to local authority because they should have commissioned in such a way that there is a choice.

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

Our regulators don't want to know! A contract matter I suggest. If there is a good contract matters can be resolved more easily.

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?

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How about protection for providers from unreasonable demands from families and protection for providers from unscrupulous commissioners and procurers.

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?

The local authorities have contracts those people who are publicly funded. These should be adequate to comply with these laws. There could be cases where neither local authorities nor local health boards contracts will be in place for self funders in residential homes and there could be an opportunity to insist that any differences from local authority contracts should be explained in writing before the service is provided.

12. Could self-regulation play a greater role in this sector to drive good practice eg through the development of voluntary consumer-facing codes of practice?

We already have to have customer and family reports. These should highlight issues that should lead to better practice.

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

In fairness to them they have a difficult enough task in ensuring the safety of residents without burdening them further. It should follow contract compliance as described early in my response.

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?

Surely the new RISCA will address that here in Wales

State procurement

15. Are there any areas in relation to the procurement of places in care homes where more sharing of good practice amongst public bodies would be useful, eg in relation to offering choice to people and facilitating top-up payments?

In Wales local authorities and health boards speak to each other and exchange views in my experience

16. What factors should we take into account in our further work exploring price differentiation between publicly funded care home residents and self-funders?

Get local authorities to pay a fair price for care and there should be no differential to worry about.

Investment in future capacity

17. What are the barriers to providers responding to future needs for care home beds and how are these best addressed?

Make going into the industry financially worthwhile and secure by better commissioning including block booking.

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18. Can local authorities and other commissioning bodies effectively 'shape' how local care home markets develop and, if so, what are the indicators that this is working well?

Yes they can. They have been successful in closing homes in Wales by not paying adequately. If they want more then they need to pay more or encourage those providers who have a redundant client base to change to another that is in need. Government also needs to realise that changing the goal posts relating to premises etc is a deterrent to investing in Wales.

19. What is the potential to promote long-term considerations through better sharing between local authorities and other commissioning bodies of good practice on care home 'market shaping' and planning and procurement?

Great potential but commissioners are not supported to achieve this.

20. What is the scope to establish an independent body or bodies with a duty to provide support and guidance to local authorities and other commissioning bodies in relation to long- run planning and facilitating development of care home capacity?

The national commissioning board is there in Wales to do this.

Funding and staff challenges

21. Would there be merit in establishing an independent body (or bodies) to develop a framework to estimate reasonable fee rates, which will take account of the full cost of care, to advise local authorities and other commissioning bodies, and to adjudicate on disputes between local authorities and providers?

There is one, L&B but it is ignored. The Welsh Local Government Association with Care Forum Wales established a 'toolkit' to arrive at 'a fair price for care – Wales' in about 2004. Sadly it has not been respected by local authorities as they have not wished to adequately fund its results.

22. Would there be merit in local authorities being required to be more transparent in relation to the fee rates they pay for care home places and how these fees are determined?

Yes although in my area the officers will recommend a fee level and members will decide how far they are prepared to allocate and the fee level is set.

23. How should the challenges of recruitment and retention of care home staff be addressed, including by local authorities, in particular are there any regulatory barriers to the labour market?

Pay them fairly. They should get job satisfaction if there is a decent manager. Make the recruitment of foreign nurses easier as sadly we don't have enough home-grown ones. We may need to go down a similar route for care assistants. Don't make the registration of care workers difficult Social Care Wales!!!

I hope you find these comments helpful. Should you wish to discuss any matters you are welcome to contact me.

Yours sincerely

Mike Kemp

College Fields Nursing Home