

The Competition and Markets Authority  
Victoria House  
37 Southampton Row  
London  
WC1B 4AD

19<sup>th</sup> July 2017

Dear CMA,

### **Care Homes Market Study – Update**

We are writing on behalf of the Consumer Codes Approval Board in reference to the questions on page 50 of the above document. The Consumer Codes Approval Scheme (CCAS) approves codes of practice that go over and above the requirements of consumer law. Previously operated by the Office of Fair Trading (OFT), the Chartered Trading Standards Institute (CTSI) now runs the scheme which has 24 approved codes of practice in operation and covers over £51 BN of consumer spending. We are well placed to address gaps in consumer protection and feel that an approved consumer code should be a highly recommend output of this study.

It should be noted that our comprehensive consumer code criteria covers many of the areas of concern that this study has raised. In summary our consumer codes must demonstrate that they are contributing to reducing consumer detriment by:

- Providing clear, accurate pre-shopping information
- Providing fair terms and conditions
- Addressing specific issues of concerns in their industry
- Giving consumers clear routes of redress and expectations of customer service

**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?**

We feel that the circumstances surrounding the choice of a care home means that people are likely to be vulnerable when making important decisions. Vulnerability means that they are more likely to be exposed to the risk of an inappropriate or poorly informed choice. In such circumstances it is important that consumers can not only compare factors such as price, availability and terms, but that they are aware of the key factors that they should consider in order for them to make a good choice.

In particular, we believe that people will want to know more about upfront and ongoing service costs.

A useful way of getting this information out would be through an independently run comparison site. This would be of particular benefit if it helped consumers understand how to navigate the complexity of choice, service and funding mechanisms.

**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?**

The CMA may consider whether pension planning advice could be a particularly beneficial opportunity for those who may 'plan' for the prospect of care home provision. The pension wise service provided by Citizens Advice and others may be one way of signposting consumers to other more detailed sources of information. Similarly, it may be an area of best practice for workplace schemes helping employees to prepare for retirement.

**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?**

The question assumes that people have a lot of choice. This will depend largely on their financial circumstances and local area.

Generally, while we believe that formal regulation is vital in this market, our experience is that a voluntary codes scheme is able to provide consumers with a simple way to focus on a core set of factors, providing that the benefit of voluntary or formal regulation is known and consumers have confidence in it. The amount of information to be absorbed, combined with the nature of the decision, will be overwhelming for many. Consumers should be able to trust that they will be treated fairly and helped to make a good choice. Membership of a strong, approved code scheme is one way to provide consumers with that confidence.

## **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?**

Unless there is a serious care issue people might be nervous of complaining in case it gets held against them – because they are vulnerable and a captive audience in the place they may wish to complain about. They may not even be equipped to make a complaint because:

- They do not know there is an issue which is not working for them (breach of contract or overcharging)
- They are too incapacitated to complain
- Fear of being seen to be causing trouble

Complaints may come through supportive relatives or those able to act in their best interests. Many elderly people may not have someone like this they can turn to, and they may not know who they can turn to. For this to be effective we suggest that there needs to be proactive independent auditing of contracts, service quality etc so that issues can be identified and addressed.

## **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 believe that a strong consumer code with independent third party proactive audit would help consumers to navigate this complex market and make better choices. The CCAS scheme is robust and well established and could easily work with the CQC as well as link to ombudsman/independent redress schemes to make the consumer journey seamless.

It is essential that navigation of the options and hidden details in this market are important for everyone, but vital for more vulnerable consumers. Whatever remedies are identified, we would strongly urge that the end-to-end consumer journey is considered and the links between consumer protection, clinical standards and redress mechanisms are seamless and effective.

The CCAB believe that it is right to give priority to ensuring that existing care home regulation is improved, and made more effective and consistent. Providers must be made fully aware of their legal obligations and have systems in place to ensure that they meet them.

That being said, we strongly believe that an approved consumer code would be the solution, for raising standards and improving transparency in the sector, and can be an alternative to the introduction of legislation. Codes, when implemented properly, make markets work well for both consumers and business, and play a major role in reducing consumer detriment.

In preparing this response we have considered the recent CQC reports 'Quality Matters' and 'The State of Adult Social Care Services 2014 to 2017' and will be happy to work alongside the CQC to raise standards. We would like to make it clear to Government that as we are a Community Interest Company with limited resources we would seek Government support if we were to be involved in shaping and developing policy in this area.

We are currently engaged in discussions with the CMA around how we can implement voluntary codes in markets where there is no well-established trade association. We would be happy to engage with CMA, or any of the current regulators, around how we can help improve the operation of the care home sector for consumers by helping to implement an approved consumer code.

Yours sincerely,

**Consumer Codes Approval Board**