

HC-One response to CMA (via Care England)

Care Homes Market Study paper dated 26th June 2017

General

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

We are encouraged by many of the initial findings and future lines of enquiry, especially in relation to the future sustainability of local markets dependent on state funding and the lack of investment incentive. While there are some isolated examples of local commissioners working closely with providers to understand cost pressures and barriers to future investment, our experience is that the majority of commissioners are failing to adequately plan for the future and show little understanding of the relationship between their own fee levels, the real cost of care and providers ability to invest. Providers have seen very little evidence that the new funding announced in the spring budget has had an effect on market stability as commissioners do not appear to be employing the new funding within the residential care market. This is disappointing as we understood that the new BCF guidance had suggested that commissioners had to take account of local market sustainability. As we recently heard from one council in the North East, some council commissioners are under the impression that the presence of some spare capacity in their local market is evidence of a strong and healthy market. Clearly this doesn't take into account the relative health of local provider's finances or their willingness to invest in their current and future provision.

In addition to the above, we have a number of specific reflections on the interim report summary;

1. Indicative pricing on websites is something we accept can be helpful when people are shopping around for local care solutions however it must be noted that price is often dependent on the

specific care needs of the resident and the type of room available at any given time. Often council information portals do not carry fee information for this reason. When people make contact with our homes our staff do offer some guidance in likely price however make it clear that it will be dependent on the councils financial assessment in the majority of cases.

2. As you point out, whilst financial performance may be 'sufficient to cover current operating costs' in a number of area's this is very much dependant on the specific market conditions present at any given time and most importantly on the level of fees that CCGs and Local Authorities pay under the terms of their standard framework contracts. Where the local self-pay market is small and providers are reliant solely on state funded placements, there is little or no incentive to invest further in new stock.
3. Some Local Authorities adopt a policy of placing self-funders (people with assets and savings about £23,250 in England) under a Local Authority contract and this further restricts and distorts the local care home market.
4. There report could be strengthened perhaps with an analysis of how the shortage of qualified nursing staff is impacting on provider's ability to break even and further hampers our ability to invest.
5. The report could be strengthened by analysing of how the extra resources earmarked for social care (such as the BCF, Spring budget funding, ability for councils to raise a higher precept etc.) are actually helping care market stability. We have seen very little evidence of this additional resource being used to stabilise or strengthen local markets.

Note: Obviously this report covers a large number of providers from which you have drawn your conclusions. It would be useful to understand how you have drawn those conclusions (for example did you need to see specific issues evidenced in over 50% of providers to be able to state that something is an issue?).

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

1. Fee setting practice varies dramatically between local authorities and would benefit from tight guidance. Some authorities such as Leeds have committed to an open book cost of care analysis through a 3rd party where as others, such as Northumberland, have put it on record that they “do not believe” in cost of care analysis and would rather set their fee by inflation linked calculations alone. This risks misunderstanding the local market, workforce and makes investment less likely.
2. Guidance on how to set a local care fee should be formulised to bring greater certainty to the market.
3. Consideration should be given to how spare capacity in care homes can be better utilised. For example the barriers to reducing DTOC's through the placement of people into residential short term care tend to perversely be funding driven despite the obvious cost saving of having someone in a care home vs a hospital.

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?

Carehome.co.uk is a good source of information and could be promoted more widely. Local Council information portals could be made more uniform and accessible. It is important that these are kept up-to-date.

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?

There needs to be a national conversation on how this can be done and it has to involve councils, groups such as Age UK, the NHS, providers etc. Greater transparency on the financial needs assessment needs to be encouraged and more financial products are needed to encourage people to insure themselves against future costs.

In addition the question regarding steps that can be taken to encourage people to plan ahead for care needs with a forward looking point of view can be reframed to think about how care homes will evolve to become a more vital part of the care continuum helping to reduce hospitalisation and rehospitalisation. When we enter into partnerships with hospitals, where we serve as a stepdown, intermediate care or rehabilitation alternative, this creates a tremendous opportunity for us to reinvent and demonstrate best practices that in the big picture point of view drive down the cost of healthcare in the face of the booming aging population.

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?

Internal council procedures needs to be made more streamlined and efficient so people thinking about entering long-term care are able to access the care assessment and the financial assessment earlier in this process. Confusion can reign if people start making arrangements with a care home without knowing in what basis they are entering the home. In an ideal world councils would be able to offer an initial assessment of financial situation and care eligibility within a week of contact in order people can then engage with care homes in full knowledge of what

category they are likely to fall. (*i.e.*, self-funder or state supported / needs residential care or dementia care for example)

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?**

At HC-One we offer a tablet PC's in the entrance to each care home which offers staff, residents and family the opportunity to leave any feedback they wish, this can be done anonymously if they desire and is reviewed centrally by an independent team rather than at a home level.

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

Potentially helpful for smaller providers. At HC-One we feel that our current process is fit for purpose.

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

The ombudsman should be used as an escalation if the local complaints and disputes process is unable to resolve. It's always preferable to resolve dispute as close to the local level as possible.

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

There doesn't appear to be a join-up approach to complaint resolution and lesson learning amongst commissioners and regulators. Guidance on

best practice multi-agency and multi-organisation partnerships might help here.

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?

Local Authorities can be slow to offer current self-funders a financial reassessment when their circumstances change. This results in arguments about when a self-fund contract ceases and when an LA contract commences. Providers and residents should not be penalised due to delays in financial reassessments given by Local Authorities. Standard sector wide rules might benefit this.

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?

Absolutely, providers are always keen to ensure that they are complying with all legal requirements.

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?

Seek views of other Car England members.

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

Seek views of other Car England members.

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?

Consideration should be given to residents who enter into Deferred Payment arrangements with both the Authority and the provider and how these are generally governed and monitored.

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?

Best practice guidance and standard contract terms would make the procurement process more efficient. Co-production of new service specifications and creating of genuine partnerships would lead to better commissioned services.

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

First and foremost the fair cost of care needs to be considered properly in each commissioning area. We believe the current private rate better reflects the real cost of care, especially when future investment is taken into account. It might be of benefit to compare the cost of providing in-house council and NHS residential care to the independent sector fee rates set by these commissioner/providers. It can't be fair in an open market to expect the independent providers to accept one rate and for councils and CCGs to pay NHS and Council in-house rates that can be twice as high.

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?

- Local Authority/ CHC fees being below the cost of care
- Onerous procurement and tender exercises
- Lending prohibitions given the tight margins in the industry
- Available and affordable land
- Concerns around staffing and lack of central government workforce planning.

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?

Absolutely. A good sign of a market working well is that all residents have access high quality residential and nursing care. This requires a commissioner to be very active in the marketplace and aware of the actual cost of providing good quality care.

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?

This is something that should be happening already. Where it does happen and works well is where there is a provider presence in these discussions.

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?

Commissioners clearly need some help in understanding their market shaping duties and how to intervene in a market to ensure future supply. Often the quality of commissioning can be an issue as well as the resources at their disposal for future proofing. Commissioners often operate in the here and now

and make short term decisions on fees and capacity and facilitate an “annual cycle” approach which doesn’t help future planning. Some strategic facilitation from central government through the LGA/ADASS etc. would help but it would have to be more than voluntary guidance or it may be ignored.

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?

Absolutely. If this did occur it would need the input of providers who know the true cost of providing care. Other bodies such as Lang and Buisson are already aware of the costs and publish them, the problem being that they are ignored by commissioners who do not want/ nor have the resources to pay a fair fee.

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?

Very much so.

Setting fees based on previous year plus inflation isn’t a fair way to set fees a risks stability and sustainability in local markets. Some commissioners have used their domination to starve providers of much needed resources which has a symbiotic effect and relationship with quality.

Providers are facing ever increasing scrutiny from the regulator but there seems to be no account taken of this by the commissioner who continue to squeeze their local fees.

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?

This is a very wide ranging and crucial question and line of enquiry;

- Brexit / Immigration rules deterring recruitment of overseas carers and nurses
- Lack of workforce planning at local and national level.
- Less nurses in training in the UK
- Agencies and the high premiums they charge
- National Living wage and the fact that some Authorities refuse to compensate providers for the increase in cost.
- Clarity needed in relation to independent providers training their own nursing staff.
- Regulator needs to look at innovative solutions to deployment of nursing staff.