

Your Voice Matters response to the Interim CMA Market Study Report on Care Homes

Your Voice Matters welcomes the opportunity to comment on some aspects of the CMA care homes market study update.

Our suggested solutions are given in our initial submission. For this interim report, we are particularly concerned with 4 Complaints and Redress, 5 Consumer Protection 5 and 8 Funding.

3.18 Moving Between Care Homes

Many families choose not to move their loved one when they are unhappy with the standards of care because they do not know of anywhere better. People have come to us and other campaigners, asking if we know of any good care homes. Sadly rarely we can say yes. Families often decide there is no point in a move, as it will mean upheaval for their loved one, and they feel there is no point in that only to be faced with another set of problems, or indeed the same, so they are forced to select the 'best of a bad lot'. That does not mean they are happy or accepting of this, it means they have no choice.

Care homes change the rules to suit themselves. If a family wants to move care homes, some are told no, as it is not good to cause upheaval to their elderly relative, and are told it could escalate a deterioration in their health. However, this rule doesn't come into play when a care home want a pro-active family who raise concerns 'out of their hair'. Any possible distress caused by a move is not even discussed. The interests of the providers influence this decision, and some families we know have been prevented from moving their loved ones, even though they are unhappy with the standards of care.

3.22 Implications for Competition

'Providers have told us that emphasising quality is the main way they attract residents'. Many care providers, in particular the large corporate groups consider presentation of a building to represent 'quality'. Sadly, for many families who have no experience of looking for care, this is exactly what many judge a care home on, combined with well-rehearsed words from the person showing them around and the web site/glossy brochures.

3.27 Emerging findings, next steps and potential remedial action

'the upheaval of moving from a familiar environment can be extremely disturbing, and can adversely impact the resident's health' This does not feature in discussions when a care home provider want a pro-active family who raise concerns 'out of their hair'. We also know of residents whose family moved their loved one due to poor care, and received an aggressive verbal attack from the care home manager, blaming the family for causing distress to their loved one. It is because they care about them they made the difficult decision to move them, yet providers often say they are to blame in these situations, or relating to changes of behaviour, in particular dementia.

4. Complaints and Redress

4.4. *'Care homes must also maintain a log of any complaints they receive'* We know of care home managers who have written in care notes that a family had no concerns, yet the family can evidence the emails to and from CQC senior managers to prove this statement is untrue. CQC continue to rely on care

home providers to 'do the right thing', but many do not and there is currently no way of monitoring this effectively. No one is concerned, including the CQC.

4.5 Escalation of Concerns

When a family raise a reasonable concern, they are often met with a defensive, even aggressive attitude. This causes the relationship to break down between them and the provider. Often the same concern has to be raised repeatedly because the provider has not addressed it. The family member has now been labelled a Vexatious and Habitual Complainant.

'advocacy groups, which are sometimes available, to support claims.' Without evidence, or as proven even with evidence, CQC or local authorities do not take action.

It is clear from our evidence and that shared by Citizens Advice, that residents and their families are not always confident in raising concerns and complaints due to the possible fear of retaliation towards the resident if a complaint is made.

We feel strongly that there needs to be amended legislation to act as a deterrent and this was highlighted at our Parliamentary event in January 2017. It may well be that even more legislation is needed, not only amendment.

The Ombudsman already has made found several cases proved that both care home providers/management and local authorities had acted contrary to existing regulation. Care providers keep their contractual conditions in respect of Banning and Restricted Visiting and Evictions, but Your Voice Matters re-iterates, we strongly believe they must be forced to apply to an independent panel or magistrate and cannot make the decision themselves.

We feel it would be very helpful to introduce a model complaints process specifically designed for care homes, to be used by ALL providers as standard.

It would also be of benefit to have an advocate or similar attached to care homes who could assist residents/families to formulate written complaints/concerns in an appropriate fashion and monitor progress. In our experience across a wide range of care homes we have found very little information given regarding the Ombudsman service which, in our opinion, should be signposted by providers. Again, an advocate assigned to care homes could assist residents/families to progress issues via the Ombudsman.

We are concerned that advocates are not protected from care providers who lie to protect themselves. Until legislation is in place to protect those who raise concerns, we foresee issues arising if an advocate challenges a provider, they could be banned, have restrictions or conditions placed on their visits, or the resident evicted when the care home can 'no longer meet their needs. We welcome advocacy, but there needs to be protection for them when they challenge poor care. We do not wish to see advocacy being used by care home providers as a way to keep reported concerns 'in house'.

Your Voice Matters believe there should be a system in place, to closely monitor all complaints made by residents and their family members, for complaints not to be kept 'in house' even if an advocacy service involved, and a method of cross checking complaints have been dealt with satisfactorily and in a timely fashion created.

8. Funding

CRESC Manchester financial paper by a group of Economic academics, shows clearly that the major real cause of financial problems of the care sector lies in a type of economic system employed, rather than Government to Council cutbacks. This credible report has not been referred to in debates about austerity and funding to the private care sector.

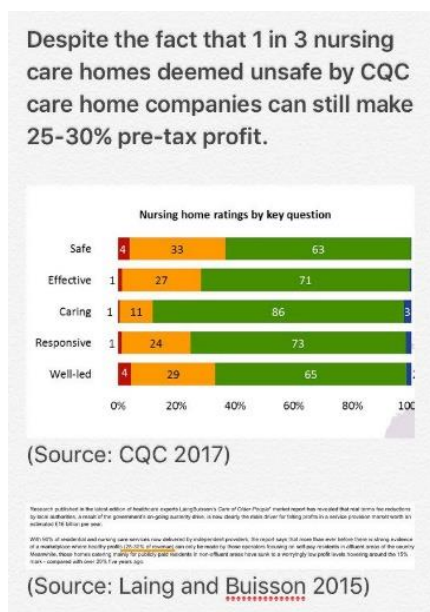
<http://hummedia.manchester.ac.uk/institutes/cresc/research/WDTMG%20FINAL%2001-3-2016.pdf>

The Neoliberal Market Driven Economy.

Its very nature is geared to excess profits by cutting back on outgoings, including adequate staffing levels deterrent to quality delivered care including one to one care.

The constantly occurring refinancing because of debt is inevitable when one makes unrealistic financial targets, including capital return.

July 2017 CHPI Think Tank asked the question 'Is it ok for private care homes to make 25-30% pre-tax profit if 1 in 3 are unsafe?'



8.4 'The sector has also been facing increasing staff costs, mostly because of the rising minimum wage/living wage requirements'

Care home providers should have already been paying staff their worth. Much blame is being placed on the introduction of the Minimum Wage requirements by all. For many care homes they can comfortably afford this increase, but choose to cut corners instead, exploiting care staff and placing vulnerable peoples' lives at risk, the focus being to maintain and maximise their profits. This is not being acknowledged in Parliament or by various organisations including the CQC, Care England and the National Care Association.

'Providers have also reported significant challenges in recruiting carers, managers and especially nursing staff, thus increasing their reliance on costly agency staff or even limiting their ability to operate. We have been told that this has been driven by challenging work conditions, lack of a structured career path and pay levels in the care homes sector.'

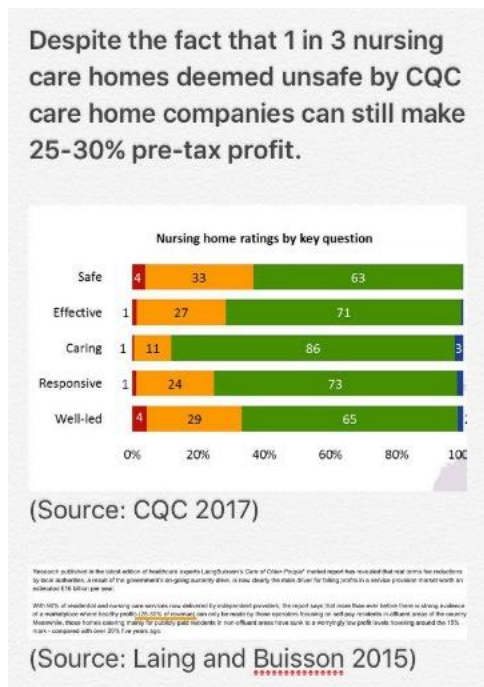
The main reason good care staff are leaving the sector is because of the way they are treated by their employers. Exploited, unsupported, underpaid and under-valued. For many, although they would like a higher wage to reflect this challenging work. They do the job because it is a vocation to them, because they care and want to make a difference. Sadly it is these very people who we are losing. There is no shortage of staff in the sector. They are leaving, vowing never to return because of the reasons stated. We can supply evidence to the CMA to back up our claims.

8.13 *‘These preliminary results suggest that the average levels of profitability in the sector are not particularly high’*

Elderly care is viewed as a good investment and events held to attract new investors. [✂]. No money in care home sector? We disagree.

<http://www.carehomeprofessional.com/health-plus-care-healthcare-sexy-says-knight-frank/>

July 2017 CHPI Think Tank asked the question ‘Is it ok for private care homes to make 25-30% pre-tax profit if 1 in 3 are unsafe?’



5. Consumer Protection

It is heartening to find that Age UK support our findings regarding termination clauses, which can be used unfairly by care homes to evict residents who have made complaints, alongside imposing other measures such as visitor restrictions or bans. We are disappointed that The Relatives and Residents Association and Compassion in Care have not submitted their evidence on the matter of evictions and visitor restrictions.

At Your Voice Matters we regard these practices as wholly unfair, and have witnessed how such actions impact on residents and families, ultimately causing considerable distress. We consider this is a serious matter and have been working on this particular campaign since 2010, and continue our efforts for legislation changes.

We believe the Regulator should look at altering the Regulations in such a way that it would become mandatory for providers to notify of proposed bans, evictions and restrictions to visitors.

In England, for example, this would require a minor change to Regulation 18: - Notification of other incidents. However, we cannot rely on the word of the care home provider. There needs to be a method of cross referencing, as providers are highly unlikely to inform the CQC if they are imposing unfair conditions on innocent people, and there would be no way of the CQC finding out unless the family reported it. Many would not. Even they did report it, what would happen if they did? Nothing. CQC have no power to take action against the provider and their guidelines on this area of concern mislead the public into believing they have protection in these situations.

Your Voice Matters

4 July 2017