

By email: carehomes@cma.gsi.gov.uk

4th July 2017

Norcliffe House,
Station Road,
Wilmslow, Cheshire
SK9 1BU

T: +44 (0) 1625 417 800
F: +44 (0) 1625 417 827
E: fourseasons@fshc.co.uk
www.fshc.co.uk

RE: COMPETITION AND MARKETS AUTHORITY (CMA)

Care Homes Market Study

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.

In general, we agree with many of your conclusions and indeed our current practice is in line with what you seem to be suggesting. We know that many people find it challenging to make decisions about care under the stressful and time pressured circumstances, which often (but not generally) apply. We are committed to making the pre-admission and admission process as reassuring and comfortable as possible and for this reason are implementing a new process, called 'Me and My Care', across the FSHC business.

We would highlight that we agree with your comments that there is some unnecessary regulation: the very high English language requirement for overseas nurses.

However, there are a number of areas where we are not sure of the evidence on which you have reached your conclusions: unwillingness of residents to seek information; inability of residents to choose between homes; lack of price transparency by providers. Our view is that both self-funded and publicly funded residents can only really understand the price-quality relationship in terms of care when they have visited the home and have had time to discuss in depth with our home manager the needs of the resident and the offering of the home in terms of facilities and services. This face to face engagement often provides a safe and secure setting to discuss any concerns or areas where residents or their relatives feel uncertain. Specifically, pricing will be dependent on an assessment of individual care needs and room choice.

We (and the CQC in their recent report) recognise that the sector is at a tipping point whereby continuation of current commissioning approaches suggests that significant further capacity will be lost.

We believe the CMA has the opportunity to recommend an independent body with real teeth to establish a "fair cost of care" for publicly funded residents. Absent of such a recommendation and fair funding, we

believe that the sector will likely pass the capacity tipping point identified by the CQC – and that it would take many years at very large public cost to restore the needed capacity.

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

We would want to make sure that any steps to improve price transparency are well informed and appropriate in order to actually help prospective residents. We don't recognise a demand from prospective residents for there to be a publicly available price list.

Equally, any independent body on fees must have real teeth to intervene with local authorities in order to enforce a fair cost of care in the same way that HMRC enforces the national living wage or the NHS implemented the Funded Nursing Contribution via the Mazars study.

We look forward to identifying with the CMA best practice in terms of the admission process in general where FSHC is implementing its new approach, 'Me and My Care'.

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?

Our view is that most of this information can best be communicated as part of a face to face discussion with the home manager. We believe we have good materials available for prospective residents to view, but it needs human interaction from a well experienced person to really help in the admissions process.

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

In our view the critical role of feedback has been overlooked in the care home sector in terms of the positive promotion of a culture where individuals are facilitated to impact and influence the way in which care is provided. We would suggest that reliance on an annual survey of residents' feedback does not reflect the evolution of technology to support live feedback and action where appropriate – as is the case with the "Quality of Life" Programme available in all FSHC homes through ipads.

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?

We believe that top ups are crucial in offering residents choice and driving investment in the sector. In many areas, regulators or commissioners seek to make top ups more difficult to achieve and this should be changed. There needs to be a mind-set change of how can we get the cheapest possible care for as

many people as possible to one where a range of different services are offered by the market and the resident exercises choice. Higher fees and resident choice are a good thing that encourage the market to respond by offering higher quality and greater capacity.

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

In our view, the price differential is accounted for by the different price level required to encourage investment in quality and greater capacity (self funder price) and the minimum cost to keep existing capacity open. We believe that the CMA should be clear on this and can easily model the economics of a typical home in each market to demonstrate this, e.g. a new build “private” home operating at an AWF of £1,000 and an EBITDARM >£15k/bed versus a “public” 90s purpose build home with AWF of £600 and a EBITDARM/bed of £7k or less. Typically where the self-funder market operates above these levels, capacity will be added whilst where public funding is below these levels capacity will continue to fall out.

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?

Levels of public funding.

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?

Shaping should occur through LA’s paying a fair price for care. Without this, what does “shaping” mean?!

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?

We are sceptical here but would await CMA views.

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?

We believe that an independent body should assess and set the public rate for different levels of care (nursing versus residential, dementia, higher care needs) in the same way that the Mazars report did so for NHS in England deliberating on the Funded Nursing Care (FNC) increase. This can be regionally based but any body must have real powers and regulatory teeth to enforce a fair cost of care. Why should we not enforce a fair cost of good care in the same way we enforce a national living wage?

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?

(Same answer as for Q.20) We believe that an independent body should assess and set the public rate for different levels of care (nursing versus residential, dementia, higher care needs) in the same way that the Mazars report did so for NHS in England deliberating on the FNC increase. This can be regionally based but any body must have real powers and regulatory teeth to enforce a fair cost of care. Why should we not enforce a fair cost of good care in the same way we enforce a national living wage?

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?

There would be merit in this, yes. We have continually requested that ADASS, LGA and the DH develop a universal and standard approach to calculating the cost of care for providers of adult social care for both residential and nursing care for older people and people with dementia. It should also be a requirement for all local authorities to publish a standard and transparent tariff for care homes and to provide information regarding the fees paid to all providers in their locality.

When calculating an annual inflationary uplift, local authorities should be required to publish transparently their methodology and process for calculating uplifts, and there should be more robust oversight at DH level to prevent local authorities from applying arbitrary or unsubstantiated uplifts.

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?

A regulatory barrier is the new assessment of English language for overseas nurses, which in our mind is too cumbersome and set at too high a level, such that it deters potential candidates. Overseas recruitment process typically takes in excess of 12 months from start to finish.