



Response from the Care Provider Alliance (CPA) to the Competition and Markets Authority consultation on draft consumer laws guidance for care homes for the elderly

1. The Care Provider Alliance (CPA) sets out below a number of key principles that reflect the overarching views of CPA members. Individual associations represented on the CPA will respond as appropriate and in greater detail on behalf of their provider members.
2. CPA welcomes an open and transparent framework within which people using services and their families can work with care providers to plan and deliver high quality personalised care.
3. With this in mind, the CPA considers:
 - Provider/self-funder relationships should not be dealt with in isolation and seen as an answer to system issues and failures. Care home providers are only one element of adult social care (ASC) provision, and ASC provision is only one element of a wider health and social care system, which an individual might use/engage with.
 - We regret therefore that the current consultation does not address:
 - The rights of the person funded under a local authority (LA) or Clinical Commissioning Group (CCG) contract.
 - The rights of the care home provider in respect of a publicly funded resident under a LA or CCG contract.
 - How funded nursing care (FNC) operational issues are addressed e.g. where FNC might not be agreed or payable until 3-6 months after admission or whether FNC is paid gross or net between LAs and CCGs.
 - How continuing healthcare (CHC) operational issues are addressed e.g. where assessment and agreement are delayed and subsequent contracts/ payments are delayed.
 - How consistency of approach between benefit payments, FNC payments, CHC payments and LA payments are dealt with during hospital admission or death.
 - The fact that complaints are, in many cases, treated (largely inappropriately) by LAs as safeguarding concerns, is not reflected in the consultation.
 - The proposals from CMA should be split into a service user guide, which would address the majority of points, and a smaller contract terms document.
 - Nothing in the consultation aligns the proposals on prices and price increases for self-funders with the practices of LAs and CCGs in this space. Whereas homes must give notice on such to self-funders, LAs and CCGs do not usually inform providers of the fees they will pay for state funded residents until well beyond the start of the financial year. This in turn impacts on the ability of the provider to budget accordingly and inform self-funders of their fees appropriately within the timeframe suggested by the CMA.

4. The CPA is prepared to provide support for providers by working to draft model clauses for both a service user guide and a contract. The CPA feel that this should be done in co-production with the CMA to ensure it is not developed in isolation by providers and subject to lengthy correspondence and debate with CMA after drafting has taken place.
5. The CPA aims to start work on model clauses once the CMA has finalised its guidance in the autumn, following this consultation. This process could however be started earlier if co production between the CPA and CMA can be agreed.
6. The CPA wants to see DHSC set out how it will address and action the recommendations in the CMA care home market study report that pertain to LA funding and Care Act information requirements, as a matter of urgency. It should not be expected that providers meet CMA recommendations at a different and faster pace than those relating to LA funding and information provision. As we have already stated, providers, and care home providers specifically, are not responsible for, or the answer to the wider system problems identified by CMA and many other independent commentators on health and social care.

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