

Press release: CMA outlines emerging concerns in care homes market

The [market study](#) was launched in December 2016 to examine whether the residential care homes sector is working well for elderly people and their families. Having reached the halfway point of the study, the Competition and Markets Authority (CMA) today published emerging findings and announced that, as a result of information received during this work, it has opened a [consumer protection case](#) to investigate its concerns that some care homes may be breaking consumer law.

This is focused on concerns about certain care homes charging families for extended periods after a resident has died, and homes charging large upfront fees.

The [initial findings](#) of the market study highlight wider concerns about the sector, which will form the focus of the next phase of its work. These include:

- People are struggling to make decisions about care: Prospective care home residents and their families need to be able to make informed choices, often under stressful and time-pressured circumstances. However the CMA's initial findings suggest that many people find it difficult to get the information they need, are confused by the social care system and funding options, and do not know how to find and choose between homes.
- Complaints procedures are not functioning well: It is not realistic for many residents to move home if they are dissatisfied with the care they are receiving, as to do so would be distressing and harmful to their health. It is therefore essential that effective systems are in place for them to be able to complain and, where necessary, have these concerns acted upon. Our initial findings, however, indicate that redress systems often do not work well, and residents can find it very challenging to make complaints.
- While many care homes offer a good service, there are concerns that some might not be treating residents fairly and that certain practices and contract terms might break consumer law. As well as the issues on large upfront fees and fees charged after death, which we are investigating in the consumer protection case, we are concerned about other consumer protection issues such as a lack of information about prices on care home websites, and care homes' contracts giving homes wide-ranging discretion to ask residents to leave, at short notice.
- The sector is not positioned to attract the investment necessary to build greater capacity needed for the future: Demand for care home services is expected to increase substantially, with the number of people aged 85 and over projected to more than double by mid-2039. The level of care they require is also expected to increase as, having spent longer in their own homes, they will be more frail when they do move to a care home. At present, short-term public funding pressures and

uncertainty mean the sector is not incentivised to undertake the investment necessary to meet future demand.

Acting Chief Executive, Andrea Coscelli, said:

Some of the most vulnerable people in our society use care homes, often moving to them under extremely difficult circumstances. It's therefore essential they are able to make informed choices, understand how services will be paid for, and be confident they will be fairly treated and able to complain effectively if they have any concerns.

We also have particular concerns that some care homes might be breaking consumer law and have opened a consumer protection case to investigate further.

Demand for care home places is expected to surge over the next 2 decades. To make sure the additional capacity this requires is available, it needs to be built in good time. At present, short term funding pressures and uncertainty mean that the sector is not attracting investment. We will be focusing on finding ways to deal with these, and other concerns identified.

The CMA has already begun to develop recommendations to protect residents and their families, which will be expanded over the next half of the market study. These include examining how:

- People can be actively supported in making choices
- Complaints and redress systems can be significantly improved to help people feel more comfortable reporting concerns
- Residents and their families can best be protected, and how to encourage fair treatment by care homes
- Local authorities can be encouraged to share best practice in procuring care home services and planning, and developing provision in their areas
- To encourage investment for the future

The next phase of the CMA's study will focus on developing and refining these recommendations to ensure they are robust and practicable, and can help make real improvements to the way the sector works. CMA will be seeking views from national and local government, as well as regulators and the industry in each country of the United Kingdom, to ensure these recommendations can be effectively implemented.

The CMA will continue to look at the consumer protection issues identified during the first half of the market study and will consider how best to address these, including by extending the scope of its consumer protection case.

Notes to editors

1. The CMA is the UK's primary competition and consumer authority. It is an independent non-ministerial government department with responsibility for carrying out investigations into mergers, markets and the regulated industries and enforcing competition and consumer law. For more information on the CMA see our [homepage](#), or Twitter account [@CMAgovuk](#), or [Flickr](#), [LinkedIn](#) and [Facebook](#) pages. Sign up to our [email alerts](#) to receive updates on markets cases.
2. Read the full text of the CMA's [update report](#).
3. The CMA [announced](#) on 1 June 2017 that it would not make a reference under section 131 of the Enterprise Act for a market investigation (an additional 18 month in-depth examination).
4. The CMA has now [opened a case](#) into a number of care homes providers whose contract terms and/or practices, in relation to charging large upfront fees or requiring the payment of fees for an extended period after a resident's death give, in its view, rise to compliance concerns under consumer law. Currently, the CMA is issuing Information Notices under consumer protection legislation requiring information from some care homes in order to decide whether enforcement action is required. The fact that the CMA is seeking information from a number of care homes, does not mean that the CMA has reached a final view that these care homes are in breach of consumer protection law and that enforcement action is required. In any event, ultimately only a court can decide whether particular conduct breaches the law.
5. Market studies may lead to a range of outcomes, including:
 - clean bill of health
 - actions which improve the quality and accessibility of information to consumers
 - taking consumer or competition law enforcement action
 - making recommendations to the government to change regulations or public policy
 - encouraging businesses in the market to self-regulate
6. The size of the UK care home market is estimated at £15.9 billion, and there are currently more than 430,000 elderly people in care or nursing homes across the UK (Source: LaingBuisson, 'Care of Older People UK Market Report', 27th edition, September 2014).
7. The CMA isn't able to resolve individual complaints or provide individual help or advice. Go to the [reporting page](#) for information on which organisations to contact if you need advice about an issue with a care home.
8. Enquiries should be directed to Vikki Buxton-Helyer (vikki.buxton-helyer@cma.gsi.gov.uk 020 3738 6790).