



Legal update — July 2017

# Corporate CMA outlines emerging concerns in care homes market



**The Competition and Markets Authority (the CMA) launched a care homes market study in December 2016 and is now half way through the study; due to findings the CMA has opened a consumer protection case to investigate concerns that some homes might be breaking consumer law.**

### Concerns

Consumer law concerns relate to certain homes:

- charging families for extended periods after a resident has died; and
- charging large upfront fees.

Initial findings highlight wider concerns which include:

- residents and families find it hard to get the information they need to make the best decision about which home is best for them;
- complaints procedures are not sufficient, making it difficult for residents to make complaints;
- 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;
- local authority and NHS procurement processes have been found to be complex, inflexible and insufficiently person-centred, and it has been found that there is inadequate provision to encourage and reward quality;
- top-up payments are not always encouraged or facilitated and in some areas this may be the only way a resident will have a choice of care homes; and
- short-term public funding pressures and uncertainty mean the sector is not incentivised to undertake the investment needed to meet future demand (with the number of people

aged 85+ predicted to more than double by mid-2039).

### What next?

The CMA has already started developing recommendations to protect residents and their families, which 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 families can be best protected and how to encourage fair treatments by homes;
- local authorities can be encouraged to share best practice in procuring care home services and planning, and developing provision in their areas; and
- to encourage investment for the future.

The next phase of the study will focus on developing and refining these recommendations in order to make real improvements to the sector. The CMA will seek views from national and local government, as well as regulators and industry in each country of the UK. The final report will be issued by 1 December 2017.

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