

Are your resident contracts fit for purpose?

2017 saw the Competition and Market's Authority (CMA) conduct a survey of care homes to determine whether residents are being treated fairly by providers.

Late 2018 saw the issue of an open letter to providers, coupled with short form and more detailed advice, reminding providers of care homes of their responsibilities under consumer law and urging providers to review their contracts urgently. Changes may be necessary to contract terms and business practices otherwise the CMA, working in conjunction with trading standards, may look to take action against providers if they are found to be treating residents and their families unfairly and are breaking the law.

The CMA has already taken action against providers who charged compulsory upfront fees or continued to charge for extended periods after a resident's death.

The new guidance sets out:

- What upfront information to give to potential residents and when, including an indication of likely fees and highlighting any special important or surprising terms – do you require a deposit? Do you charge extra for a member of staff to accompany a resident on a hospital appointment?
- How to ensure contract terms are fair – do you have a trial period? How often do you review your fees? Are fees payable when a resident is absent from the home? How long are fees payable for after death / how quickly must a room be emptied?
- How to ensure residents and families are treated fairly – what notice periods apply (on both sides)? In what circumstances can you ask a resident to leave?
- How to handle complaints fairly and ensure your complaints procedure is easy to use

Hempsons specialist social care team can review your contracts and business practices and ensure you don't get caught out.



FAISAL DHALLA, PARTNER

f.dhalla@hempsons.co.uk

Faisal specialises in corporate and commercial law and advises a wide range of private, public and third sector organisations on mergers and acquisitions, joint ventures and collaborations, commercial contracts and banking and finance law.

Faisal's main industry focus is the health and social care sector. Within that sector, he specialises in the sale and purchase of health and social care businesses, in particular, care homes and dental practices. Faisal acts for private equity and venture capital backed businesses, practitioners (dentists and GPs), NHS bodies, social enterprises and charities and a variety of private limited companies.

PHILIPPA DOYLE, PARTNER

p.doyle@hempsons.co.uk