**Who’s looking after Mum? :** The increasing need for advice on care funding

Not a week goes by without the national media running stories about the current plight of social care. This impacts not only on state supported clients but those who are fully funding their care from their own resources.Since 2010, local authorities have cut social care funding by a third: 300,000 fewer people receive council-funded help than four years ago. Either those people have to rely on others to meet their needs or their needs are unmet. The Local Government Association estimates the gap between what they need and what they get will be about £4bn by the end of the decade. The financial gap continues to grow.

Since the Care Act came into force in 2015, local authorities have the task of not only commissioning care but stimulating and maintaining a market for care. Yet with limited money offered by the State, the Care Providers Alliance (an umbrella organisation representing numerous care associations) have warned the Government that many of their members will go out of business unless urgent money is invested in the system. They estimate that 75% of providers are very concerned about their ability to continue in business. If these estimates prove true, trying to find (let alone fund) care in the future will present a challenge for anyone needing care- regardless of whether or not the local authority are financially contributing towards the cost. Who will provide care if there are few regulated care providers?

This lack of money is having a direct impact not only on choice of care but on the quality of care. According to Care Quality Commission (CQC) data, more registered care providers are providing inadequate care or care that requires improvement, than providing good care.

60% of care beds are funded by the State, with most care homes taking some local authority funded residents. For care homes to survive they must charge self-funding residents a significantly higher rate for care than they charge local authorities. Research by Knight Frank for the 2014-15 financial year (2015 Care homes trading performance review) indicates that the average weekly fee for a nursing home in the south east is £893 with residential care home fees being £718. Local authorities commission care at a significantly lower rate. The local authority is only obliged to find one care bed, which is suitable to meet a person’s eligible needs- leaving many families feeling they have no option but to make additional payments (“top up”) to get their relative into an acceptable care home.

Research in 2015 from Independent Age, the older people’s charity found that 43% of councils did not comply with at least one of the requirements to have a written agreement in place for all top-up fee arrangements in their area; carry out annual reviews of top-up agreements as a matter of course; and ensure all top-ups in their area were arranged with the involvement of the local authority. This concern was replicated by the Local Government Ombudsman, who in September 2015 published a report about common complaints, which raised the concern that families across England may be paying more than they need to because they have not been given accurate information about the costs of care available in their area. Crucially families need advice at this time to avoid later complications- particularly if funding cannot be sustained.

This chronic underfunding is having a knock on effect on the NHS: a recent report by the National Audit Office found delays in discharging patients from hospitals in England had risen by nearly a third over the last two years. NHS England has warned delays in discharging elderly patients from hospital could continue for up to five years and blames social care pressures for the problem. Older people in hospital who need either to move into a care home or arrange for home care via an agency are struggling to find good quality affordable care themselves or via a local authority commissioning arrangement.

Increasingly families are wondering whether it’s a good idea to pay high charges for poor quality care or whether it would be financially better to pay a family member, who will be trusted to provide good care in a family environment. Where the cared for family member has lost mental capacity, it may be necessary for the Court of Protection to authorise such arrangement. The Office of the Public Guardian has recently published a practice note on ‘Family Care Payments’ which sets out the legal framework and the Office of the Public Guardian’s view of how Court of Protection deputies should approach family care payments, including factors for them to consider when deciding on the level of such payments. It has equal application to attorneys acting under financial Enduring or Lasting Powers of Attorney.

This is just one issue where older clients and their families need legal advice on care funding. Professionals who act as, or advise deputies or attorneys play a vital role in ensuring older clients care meet their needs, is affordable, sustainable and appropriately authorised to avoid conflict and problems.

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