



October 2008

Key Points:

- Replaces previous version dated November 2007
- Contains information about CSCI's new star rating system for care homes.

Finding care home accommodation

This factsheet is aimed at people aged 60 and over and seeks to advise people who are thinking about going to live in a care home. It will also be useful if someone is helping another person to find a home. It looks at the different types of homes, and the questions you might want to ask when finding a suitable home.

Those living in Scotland, Wales or Northern Ireland may wish to contact:

The Scottish Helpline for Older People – Age Concern Scotland, tel: 0845 125 9732 (local call rates) Monday to

Friday, 10am – 4pm; website:
www.olderpeoplescotland.co.uk;

Age Concern Cymru, Ty John Pathy, Units 13/14 Neptune Court, Vanguard Way, Cardiff CF24 5PJ, tel: 029 2043 1555 (national call rate); website:
www.accymru.org.uk.

Age Concern Northern Ireland, 3 Lower Crescent, Belfast BT7 1NR, tel: 028 9032 5055 (national call rate) Monday to Friday 10am - 12pm and 2pm – 4pm, website:
www.ageconcernni.org.

Contents

1. Using the factsheet.....	3
2. Making a decision about going into a home.....	4
2.1 Social services assessments.....	4
2.2 NHS assistance with care home costs.....	5
2.3 Hospital discharge.....	6
2.4 Assistance in your own home.....	6
2.6 Making a decision.....	7
3. Types of care home.....	8
3.1 Ownership of care homes.....	8
3.2 Inspection and Registration.....	9
4. How to find a care home.....	10
5. Questions to ask when choosing a home.....	11
6. Financial considerations when choosing a care home.....	14
6.1 If you will be paying for your care yourself.....	15
6.2 Paying for yourself - if you subsequently need financial support.....	17
6.3 When the local authority makes the arrangement.....	19
6.4 When the NHS makes the arrangement.....	21
6.5 Other services from the NHS.....	22
7. Contracts.....	23
8. Respite and convalescent care.....	25
9. When care needs change.....	25
10. Problems or complaints.....	27
10.1 Self funding residents.....	27
10.2 When the local authority arranges or provides the care...28	
10.3 When the health authority makes the arrangement.....	28
11. Further information.....	29
11.1 The Commission for Social Care Inspection (CSCI).....	29
11.2 Organisations offering information about homes for older people.....	29
12. Further information from Age Concern.....	31

1. Using the factsheet

In this fact sheet we consider a number of issues relevant to seeking and successfully finding suitable care home accommodation, including types of homes, how to identify the right home for you and funding of care home placements. Details are provided of other Age Concern factsheets where these may be useful.

This factsheet refers to a number of authorities and organisations. Their contact details should be in the telephone directory. Local libraries or the town hall may have further information. The following may be of assistance:

Social services department: found under the name of your local authority (the Council) County Council or Metropolitan or London Borough, or a Unitary Authority in some areas.

Housing department: under the name of your Metropolitan or London Borough, or Unitary Authority; or if you live in a County Council area, under the name of your local district council.

Department for Work and Pensions (DWP) - formerly known as Department of Social Security (DSS) - or Benefits Agency: under 'social security' or 'Benefits Agency'.

Local Citizens Advice Bureau and Age Concern organisations: under those names.

Primary Care Trust (PCT): The local Primary Care Trust (PCT) is responsible for providing and commissioning health services in your area. You can find out the name of your local PCT by telephoning NHS Direct on 0845 46 47 (lo-call rate).

PALS (Patients Advice and Liaison Services); can provide advice and support to patients and carers using services arranged or provided by PCTs or other NHS services. For information on the role of your local PALS and how to contact it, call NHS Direct on 0845 46 47 (lo-call rate).

2. Making a decision about going into a home

Before making any final decision whether to move into a care home, it is important to establish that this is the best way of meeting your needs. The majority of older people do not require permanent care in a care home and it may be that your needs could be met in another way, or by a combination of other kinds of assistance.

2.1 Social services assessments

The local authority has a wide-ranging duty under the *NHS and Community Care Act 1990* to assess the needs of individuals who might be in need of community care services. An assessment of this kind can help to identify what your needs are, whether they might best be met by entering a care home and if so, what type of home. If you will be seeking local authority assistance with the cost of your care, a needs assessment is essential as the local authority will not financially assist you unless it has established that you need to move into a care home. Once it has established that you require care in a care home the local authority will carry out a means test to determine whether you are eligible for assistance with the cost of your care.

It is advisable to request an assessment of your needs even if you will be funding your care without local authority assistance. It can help to identify what type of home will be suitable for you. If you will need local authority assistance later on it is useful to have an indication of how the authority may view your needs in the future. Even if you will be self funding, the local authority may have a duty to arrange suitable care if it is not otherwise available to you, for example if you do not have the capacity to make your own arrangements.

The local authority should publish information about how to ask for an assessment, and about how it will carry it out. Further information about local authority assessment procedures can be found in Age Concern Factsheet 41, *Local authority assessment for community care services*. Factsheet 10, *Local authority charging procedures for care homes*, explains the rules governing financial eligibility for assistance.

2.2 NHS assistance with care home costs

The NHS is responsible for meeting the full cost of care in a care home for residents whose primary need for being in care is health based. This is called NHS continuing healthcare and is often described as 'fully funded care.'

This has been a controversial issue and previous legal judgements and reports by the Health Service Ombudsman have highlighted that in many areas eligibility criteria for this funding were set too narrowly and assessment procedures were inadequate. The Department of Health issued new guidance to the NHS and local authorities regarding the assessment for NHS continuing healthcare on 1 October 2007.

It is very important to check that you have been properly assessed for 'fully funded care' under the new guidance if you may be eligible for it. This issue should be addressed before the local authority carries out an assessment for means tested assistance. For further details on how to check whether you have been properly assessed for NHS funding see *Factsheet 20, NHS continuing healthcare, NHS-funded nursing care and intermediate care.*

The NHS is also responsible for meeting the cost of care provided by registered nurses to residents in all types of care homes. Local authority funded and self funding residents who need to move into care homes that provide nursing care (previously known as nursing homes) should have a comprehensive assessment which will identify any nursing needs. This should include the possible need for NHS funded continuing healthcare or for NHS-funded nursing care.

On 1 October 2007 a single rate for the provision of NHS-funded nursing care was introduced. This replaced the existing three band system for NHS funded registered nursing care. All individuals moving into a care home with nursing after that date receive a single rate payment if they have nursing needs.

In August 2008, the Department of Health announced that the single rate for the provision of NHS-funded nursing care had been increased from £101 to £103.80 per week, backdated to 1 April 2008. The high rate payment for certain residents who were already in a care home on 1 October 2007 was increased from £139 to £142.80 per week at the same time.

This system is explained in detail in Age Concern Factsheet 20, *NHS continuing healthcare, NHS-funded nursing care and intermediate care*. See also Section 6.4.

2.3 Hospital discharge

If you are a hospital in-patient, prior to being discharged you should be assessed by both the NHS and social services to establish whether either ought to arrange any ongoing care once you leave hospital. This can include care in a care home.

You have the right to refuse to be discharged to a care home. If you do, the health and social care agencies should consider whether your needs can be met in another way. You do not have the right to remain in hospital indefinitely though. If you are being placed in a home by the local authority and your preferred home has no vacancy and is unlikely to have one in the near future, you may have to be discharged to another home until a place becomes available. Any interim arrangement should still meet your assessed needs though.

See Age Concern Factsheet 37, *Hospital discharge arrangements* for further information.

2.4 Assistance in your own home

The majority of older people do not enter long term care and you may be able to remain at home with suitable care and support services.

Age Concern Factsheet 6, *Finding help at home*, suggests a number of possible sources of assistance, including personal care and domestic help in the home. The local Age Concern group may be able to provide further information about what is available in your area.

Adaptations and equipment may make it easier to manage at home. Age Concern's Factsheet 13, *Older home owners: financial help with repairs and adaptations* explains what help might be available with arranging and funding this type of work. The first step is usually to contact social services.

Age Concern's Factsheet 18, *A brief guide to money benefits*, gives an overview of the main state benefits which may be available to people living in their own homes.

If you are not able to remain in your own home, sheltered housing may offer an alternative to entering a care home. Further information on sheltered housing can be found in Factsheet 2, *Buying retirement housing*, and Factsheet 8, *Looking for rented housing*.

Age Concern Factsheet 44, *NHS services* contains information about some of the services available from the NHS.

2.5 Trial Periods

The *National Minimum Standards for Care Homes for Older People* (see Section 3.2) state that prospective residents should be invited to visit homes and to move in on a trial basis before they and/or their representatives make a decision about whether to stay there. The local authority may also arrange a trial period for you if it will be helping to arrange this care. This provides an opportunity to see whether moving to a care home is the right choice for you. Any steps to sell or terminate the tenancy on your existing accommodation should be deferred until it is agreed that your move will be permanent. If you are a homeowner and your home is included in the means test its value should not be taken into account in the local authority means test until 12 weeks after it is confirmed that your care home placement is permanent.

2.6 Making a decision

Choosing to go into a home should be your decision. You can only be forced to go into a home against your will in exceptional circumstances. These include detention and provision of aftercare under the *Mental Health Act 1983*, where you are subject to a guardianship order or removal from your own home in your own interests or to prevent injury to others under the *National Assistance Act 1948*. These account for a small proportion of older people entering care homes.

However, your needs may be such that it is no longer feasible to remain in your own home, even with a package of care and support services. There can also be positive advantages to living in a care home which attract you to this option. The most important factor should be that your decision is an informed one.

3. Types of care home

The Commission for Social Care Inspection (the Care Quality Commission from April 2009) is responsible for the inspection and registration of care homes. The term 'care home' covers any establishment providing accommodation with personal or nursing care.

Not all care homes are registered to provide nursing care. Those which are, (which were formerly known as nursing homes) are sometimes referred to as 'care homes which provide nursing care' to differentiate them from those homes which are not registered to provide such care (which were formerly known as residential homes).

A home should not provide nursing care if it is not registered for that purpose. Some homes may have some beds registered as providing accommodation and personal care only and other beds registered for nursing care to be provided as well.

Specialist homes for older people with some kind of mental frailty are often called 'EMI' homes. 'EMI' generally stands for 'Elderly Mentally Infirm', or 'Elderly Mentally Ill'. These homes specialise in care for older people with a mental illness or disorder - including dementia, although not all residents with dementia live in EMI homes.

3.1 Ownership of care homes

Care homes are sometimes described as being 'private' or 'voluntary' sector homes. Private care homes are run for profit by private organisations and individual proprietors.

Voluntary homes are non-profit making and run by registered charities, religious organisations, and housing associations, sometimes for particular groups of people. Both types of home can choose to whom they offer accommodation.

Some care homes are run by the social services department of the local authority.

Each home should produce a statement of purpose, setting out its aims and objectives, the range of facilities and services which it offers to its residents and the terms and conditions on which it does so in its contract of occupancy. This should be made available to prospective residents along with copies of the home's most recent inspection reports (see below).

3.2 Inspection and Registration

All care homes are required to be registered and then inspected by the Commission for Social Care Inspection (CSCI). The Government's *National Minimum Standards for Care Homes for Older People* form the basis for the judgements made by the CSCI in deciding whether or not a care home should be registered or not, or have its registration cancelled.

CSCI is required to keep a register of all care homes which it has registered. Each care home should be inspected on a regular basis. The regularity and type of inspection depends on: the initial or previous inspection outcome, the quality rating of the care home within CSCI's rating system, and any other information received from care home residents, the public or local authorities. An edited version of the inspection reports are available for consultation on the CSCI website to help you locate registered providers and make an informed choice. It can also be viewed at local CSCI offices.

CSCI's quality rating system was introduced in January 2008 as part of the general inspection regime. Results have been published on CSCI's website since May 2008, with the aim of making judgements about the quality of a care home as straightforward as possible. A star rating for each care home indicates the following inspection outcome when judged against national minimum standards:

- 3 stars - this means it is excellent
- 2 stars - this means it is good
- 1 star – this means it is adequate
- 0 star – this means that it is poor

The ratings are established following a 'key inspection', which is the major inspection of the quality of a care home by a CSCI inspector. Information is gathered from a number of sources in this type of inspection. This includes: interviews with residents, their families and staff, surveys completed by residents and their families, information provided by the home in its annual quality assurance assessment and the CSCI inspector's own observations. To ensure that ratings are as consistent as possible, CSCI inspectors follow a set of guidelines.

There are 7 categories, or 'outcome groups', regarding the national minimum standards: choice of home, health and personal care, daily life and social activities, complaints and protection, environment, staffing and management and administration. The more of these that are graded 'excellent', the more chance the home has of gaining 3 stars.

A care home is awarded an 'excellent' rating if at least half the outcome groups are rated 'good' or 'excellent', all the safety and management areas are 'good' and at least one is 'excellent' and no outcome group is rated as poor. A sustained track record of good performance and managing improvement is also taken into account.

If a home receives a zero star rating, it will have to draw up and carry out an improvement plan. The home will also receive another inspection within 6 months. If CSCI has serious concerns about a home, it can close it down.

As part of the new inspection regime, instead of all care homes receiving one inspection per year, homes judged as 'poor' will now receive at least two inspections per year to encourage rapid improvement. Care homes rated 'excellent' will now only have a 'key inspection' by an inspector once every 2-3 years.

See Section 11.1 for details of how to contact CSCI.

4. How to find a care home

You may already know which home you would like to enter, perhaps through personal experience or a recommendation from a friend.

If you do not already have a home in mind and are unsure of how to find one, the following suggestions may be of assistance:

- the Commission for Social Care Inspection can provide you with details of registered homes in your area. You can also see copies of their inspection reports for homes you are interested in on their website. See Section 11.1 for details of how to contact CSCI;
- social workers at your local authority social services department or the hospital may also be able to provide a list of homes;

You can raise any questions you have about going into a home with them;

- information from charities and placement agencies. Some charities and placement agencies help people to find homes. While you may be able to locate a home by other means, some people who wish to find a place quickly, or who live some distance away, find these agencies helpful (see Section 11.2);
- the Yellow Pages or the telephone directory will contain addresses of homes.

Once you have identified possible homes, it is advisable to visit the home in advance in order to meet the staff and residents and find out more about the care that will be provided, wherever possible. (See Section 8).

You may have difficulty finding a vacancy in a home that is suitable to meet your needs. If so, ask the local authority to carry out an assessment of your needs if this has not already been done. If the local authority assesses you as needing a particular type of care, it has a responsibility to arrange that care if it is not otherwise available to you, even if you will have to meet the full cost of your care.

5. Questions to ask when choosing a home

Choosing the right care home is important. It will, after all, become your home. Moving into a care home can be difficult and any disruption will be increased if you subsequently have to move on to another care home. It can be tempting to accept the first vacancy which arises, particularly if there is a shortage of care home places in your area. It is worth taking time to find the right home. If possible consider and compare more than one home.

Try to visit the home to have a look round and to talk to the staff and person in charge. Some homes may invite you to spend the day at the home, or perhaps to visit to share a meal - ask if this is possible.

If you have difficulties travelling to visit homes, contact your local Age Concern group or Citizens Advice Bureau to see if they have details of any transport schemes in your area.

Talk to the residents and see what they are doing. Are they involved in activities and the running of the home? Is there a homely, warm and busy environment? Do staff seem interested and caring?

The home must produce a brochure or service users' guide setting out its aims and objectives, the range of facilities and services offered to residents and the terms and conditions of residents' contracts of occupancy. Make sure, however, that the reality of the home matches the brochure and check that you know about all the charges, including those for any additional services.

Using your care assessment if possible, identify all the personal, practical or nursing tasks that will be needed, together with any important equipment, and ask the home if it will be able to meet these needs. Aim to collect the fullest possible information on a prospective home and then make a decision.

Many people considering moving to a care home are concerned at the possibility of having to share a room with someone else. The National Minimum Standards state that residents should only have to share rooms where they have made a positive choice to do so.

Everyone will have different views about what they think is a 'good' home, and each person's needs will differ. Here are some questions to consider. Some may be more important to you than others:

- does the home encourage residents to do as much as possible themselves and to make choices about as many aspects of their daily lives as they can?
- can residents bring personal possessions - pictures, plants, furniture?
- can the home meet the resident's communication needs - for example, through a language other than English, or non-verbal method such as sign language or large print?

- do residents choose what and when they will eat? How are special diets catered for? Can residents eat privately with guests from time to time? Can residents prepare any food and drinks for themselves?
- are residents free to see visitors when and where they choose? Can visitors stay overnight at the home, if they have travelled long distances?
- can residents use a telephone in privacy, for incoming and outgoing calls?
- do residents rise and go to bed when they choose? If not, do you consider the arrangements to be reasonable?
- what provisions does the home make for taking residents out - on outings, to the shops, to the theatre, place of worship, or entertainment?
- what physical activities are available for residents?
- is there more than one living room, so that there is a quiet room as well as one with a television?
- are there books, newspapers available for residents? Do residents visit the library, or does a mobile library come?
- do the managers of the home ask about how the resident would like to handle money or medicines?
- how does the home ensure valuable items are kept secure?
- do residents have their own GPs?
- how will the home let relatives or friends know if a resident is taken ill?
- is there a residents' committee?
- does the home encourage residents to say how they feel about living there, and provide written information to residents and/or their families about how to discuss a problem or make a complaint?
- are toilets available in all parts of the home, fully equipped with handrails and other helpful equipment?
- can wheelchairs go everywhere within the home, and easily in and out? Is there a lift?

- if the resident needs help bathing, does the home have suitable facilities? Who will help with bathing, and can the resident choose how often they have a bath or shower?
- do you have to pay extra for toiletries?
- are there areas for smoking and non-smoking?
- what happens if residents require more or less care than they currently have? Might they have to leave? What arrangements are made for funerals and for payment if the resident dies?
- can residents help in ordinary activities of the home - cleaning, cooking, gardening?
- are residents allowed to bring their pets with them to the home?
- What arrangements are in place if the resident needs to access services such as an optician or a dentist?

6. Financial considerations when choosing a care home

Most older people in care homes pay towards the cost of their care; either paying in full themselves from income or capital, or contributing towards the costs according to nationally set means-test rules.

The NHS is responsible for meeting the cost of nursing care provided to all residents in care homes. This is limited to the work done by a registered nurse in carrying out or supervising care. Any tasks undertaken by a nursing assistant or care assistant, as well as all other costs such as food, housing and cleaning, are still means-tested. On 1st October 2007, a single rate for NHS-funded nursing care of was introduced to replace the existing three bands. In August 2008, notification was provided by the Department of Health that this rate had been increased from £101 per week to £103.80 per week for 2008-2009. See Section 2.2 for further details.

Some residents in care homes, usually those providing nursing care, may qualify to have their fees paid in full by the NHS. More details are contained in Factsheet 20, *NHS continuing healthcare, NHS-funded nursing care and intermediate care*.

Section 6.5 explains about other services from the NHS for those who pay towards - or all - of the cost of their care in a home.

6.1 If you will be paying for your care yourself

Some people will have adequate resources to pay for their own care in full. The families of care home residents are not required to contribute towards the cost of care but may do so if they wish to. If you have more than £22,250 in capital, you will be expected to pay the full cost of your accommodation and personal care in a home. This is the capital limit in England in 2008-2009. You may also be expected to pay in full if you have a very high income, regardless of how much capital you have; for example, if your income is much higher than the home's fees.

You can choose which home you move into if you will be making private arrangements; although it will be up to the home whether or not it will offer you a place.

If you subsequently require local authority assistance and your chosen accommodation costs more than the local authority is usually willing to pay for that type of care, a third party might have to make up the shortfall. This only applies if the authority is able to demonstrate that your care needs can be met at its usual price. If not, the authority should agree to meet any extra amount necessary to do so (see Section 6.3).

If you are paying for your own care you may be eligible for Attendance Allowance. Age Concern's Factsheet 10, *Local authority charging procedures for care homes*, and Information sheet (IS/13), *Care home funding and Attendance Allowance* contain further information on this subject.

Make sure the contract with the home clearly states what the fees include. Certain information should be contained in your contract with the home - see Section 7. See Section 6.5 about services from the NHS for those who pay for their care in a home. Here are some questions you might ask about fees:

- is a deposit required? Is this returnable? What is it for?
- what is the weekly fee, and what does it cover?
- how is any NHS contribution towards registered nursing costs accounted for?

- what services are charged for as ‘extras’? How much do they cost? Should the NHS provide any of these? The NHS should provide continence products for all residents meeting its criteria for needing them. Services such as chiropody and physiotherapy may also be arranged by the NHS if you meet the local criteria. If you need specialist care from a chiropodist, ensure it is included in your care plan;
- **Note:** that you will be expected to pay for your own personal items, such as toiletries, clothes etc;
- how much notice will the home give if it has to raise the fees?
- who is required to sign the contract? (If relatives are asked to sign, they should seek legal advice about what they are committing themselves to);
- what fees do you have to pay if you are away for a short time, say on holiday, or in hospital?
- how much notice do you need to give the home in order to move?
- how much notice would you be entitled to if the home closed?

Even if you are going to be self funding you can ask that the local authority carry out an assessment of your needs. If your capital is likely to fall below the limit for funding (£22,250 in England in 2008-2009) fairly quickly, it is reassuring to know that the local authority agrees that you need the type of care being provided with regard to requesting help with funding your care in the future. If you will be paying for your care in full but are unable to make your own arrangements for a place in a home, and there is no-one else who is willing or able to do this on your behalf, then the local authority has a duty to arrange suitable care for you. Government guidance makes it clear that the authority cannot refuse to assess you or say that care is otherwise available to you just because you have more than the upper capital limit.

Care homes often charge self funding residents more than the local authority pays for the residents which it supports.

You may like to request a copy of an Office of Fair Trading (OFT) publication “Fair Terms for Care” which aims to help you decide whether the terms of a care home contract are fair.

Regulations require care homes to specify the fees payable for the standard services they offer; the arrangements for paying such fees; and the arrangements for charging and paying for any additional services.

These regulations also require them to:

- announce changes in fee levels, if it is practicable, at least one month in advance, together with a statement of reasons for any increase;
- specify whether services, terms and conditions and fees vary according to the source of funding for a person's care. The aim being to alert prospective residents to seek further information – for instance whether fees paid by those funded by the local authority differ from those paid by people funding their own care.

In the case of care homes that provide nursing, the information about fees should relate to the total fees payable before account is taken of any nursing contribution paid by the PCT.

If you are arranging and funding your own care home place, you may be eligible to claim attendance allowance - see Information Sheet 13, *Care home funding and Attendance Allowance*.

It is worth establishing at the outset what the care home's requirements are upon the death of a resident. Some homes may continue to charge for a short period after death or until the room is cleared.

6.2 Paying for yourself - if you subsequently need financial support

Once your capital has reduced below the capital limit you may become eligible for state financial support towards the cost of your care. Apply to your local authority social services department for assistance.

There may be a delay between your asking for a care assessment and this being carried out. Ask the local authority if there are delays in your area. If so, it is advisable to approach your authority a few months before your capital reduces beneath the limit.

A Local Authority Circular, *LAC (98)19*, states that the local authority must be prompt in assessing your needs under these circumstances. Another circular *LAC (2001)25*, states that 'any undue delay in undertaking an assessment and providing accommodation if necessary would mean that the council has not met its statutory obligations. Consequently, the council could be liable to reimburse the resident for any payment he has made for the accommodation which should have been met by the council pursuant to its statutory duties'. The resident should not be penalised financially because of delay on the local authority's part. Details about getting a care assessment are contained in Age Concern Factsheet 41, *Local authority assessment for community care services*.

If the care home where you live is in a different local authority area to where you lived previously and you have been funding your own care, the local authority which covers the area where the home is situated will probably be responsible for helping you. However, if you are paying the full fees but the local authority where you previously lived arranged the home for you, and still has a contract with the home, then it is still responsible for meeting your needs.

The local authority must first assess your care needs and agree these meet its criteria for care in a care home before it will consider helping you financially.

You should be able to remain in your current care home provided that it is suitable to meet your assessed needs. The local authority will enter into a contract with the home.

If the care home where you live costs more than the local authority usually pays for the sort of care you need, a 'third party' - such as a relative, friend or charity - may have to meet the difference in order that you can stay in the home. In some circumstances the local authority may have to vary its usual limit and meet the extra cost. See Section 6.3.

Age Concern Factsheet 10, *Local authority charging procedures for care homes*, explains how the local authority will calculate the amount which you should contribute towards the cost of your care.

Whether or not you qualify for means-tested help with funding your care, you may still be entitled to some NHS services - see Section 6.5.

6.3 When the local authority makes the arrangement

Once the local authority has assessed your care needs (as described in Section 2) and identified that you need care in a care home according to its eligibility criteria, it has a duty to arrange suitable care for you if this is not otherwise available (ie, you are unable to arrange suitable care without the authority's assistance). Suitable care is assumed to be otherwise unavailable to individuals with less than the upper capital limit. If you have sufficient capital or income to fund your own care but are unable to arrange care yourself, and do not have anyone who is willing to do it for you, the local authority should still make arrangements for you. You will still have to pay the full cost yourself.

If the local authority enters into a contract for your care with the care home, it will be responsible for paying the fees and collecting your contribution, the level of which is assessed using national rules. Alternatively, you and your local authority can each pay your respective contributions directly to the home if you, your authority and the home all agree to this arrangement.

If the local authority makes the arrangements for you to move into a home, it should make all reasonable efforts to offer you a choice of placements. This could be in one of its own homes, or in a private or voluntary home. Some local authorities will have a list of 'preferred providers' which they will usually recommend.

If you do not like the home suggested, or you have a particular home in mind, you can ask the local authority to arrange a place which you choose, under guidance on choice of accommodation contained in the circular *LAC (2004)20*. This is called your 'preferred accommodation', and it can be anywhere in England or Wales or, by special arrangement, in Scotland.

The authority must arrange a place there, provided:

- it is suitable for your assessed needs;
- a place is available;
- the home is willing to enter into a contract with the local authority on its terms and conditions;
- it does not cost more than the authority would usually expect to pay for a place for someone with your assessed needs.

If your 'preferred accommodation' *does* cost more than the authority would usually pay, it still must arrange a place there if you can find someone else (a 'third party') to pay the difference. You are not allowed to pay the difference yourself, except where the local authority is paying your fee under a 'Deferred Payment Agreement' or if you are only eligible for local authority support because you have just entered the home and the value of your former home has been disregarded for 12 weeks.

If the authority is unable to make an arrangement for a place in a suitable home at its usual cost it should agree to pay any extra amount necessary to secure suitable care and should not try to pass the extra costs on to a third party or the resident. If the local authority can show that the person's needs can be met in a less expensive home then it can request a third party top-up payment.

If the local authority does not agree to pay the increased fee, it might suggest that you move to a less expensive home. Before doing so however, it must show that less expensive homes are available, and should also carry out an assessment of your needs. Psychological and social needs (which might include remaining in the home) and the likely risks involved in moving a settled resident should be taken into account.

The Local Government Ombudsman has stressed that since local authorities have discretion to exceed the normal amount they are willing to contribute to the costs of residential care, they must have regard to the particular circumstances of each case¹. If the prospective resident has needs that can only be met in homes that are more expensive than the local authority is usually prepared to pay, the local authority should meet the extra cost. These considerations may include issues such as geographical location and religious and cultural requirements.

An individual's human rights under the *Human Rights Act 1998* may also be relevant in these types of cases. For example, there is the qualified *Article 8* right to respect for private, family and home life that a public authority must observe in order to carry out its duties legally. The *Article 3* prohibition on inhuman or degrading treatment may also be relevant in these types of cases.

¹ Complaint no 97/A/3218 against Merton LBC, 23 October 1999

The requirement of a top-up may also be challenged where there are arbitrary cost ceilings imposed by the local authority. The local authority must be able to show that there are suitable care homes in the area with vacancies at the designated price. Local authorities should not request top-ups from either residents or their families simply because they have failed to agree fees that reflect the actual cost of care provision in their area. If the local authority is unable to show a choice of residential accommodation at their designated usual cost they could be open to challenge for setting arbitrary cost ceilings.

Sometimes top-ups start to be required from existing residents because local authority fee ceilings increase at a lower rate than the fees of the care homes. In such cases the resident has not chosen to move into more expensive accommodation; instead the home has become more expensive than the local authority is prepared to pay. Such residents would appear to be entitled to rely on the same arguments that are outlined above, namely there should be a proper risk assessment regarding any proposed move and that there should be alternative suitable home available to meet the needs of the resident at the local authority price.

Homes should not make arrangements for a payment from a third party without involving the local authority, which may remain liable to meet the full cost of care should the third party fail to keep up the payments. If this does happen you should contact the social services department.

Age Concern Factsheet 10, *Local authority charging procedures for care homes*, explains the local authority charging rules in more detail.

6.4 When the NHS makes the arrangement

Your PCT may arrange a place for you in a care home which provides nursing care (previously known a nursing home) if your assessed needs meet its criteria for NHS continuing healthcare. In this situation you will be treated as if you are a hospital in-patient and will not be expected to pay towards the cost of your care. You will continue to receive the state pension but will lose Attendance Allowance after 28 days if you are receiving it. If you are receiving Disability Living Allowance, you will be able to retain the mobility component but not the care component after the 28 day period. You will not be expected to pay towards the costs from other income and capital.

Unlike residents being funded by the local authority, those receiving fully-funded NHS continuing healthcare in care homes that provide nursing care do not have the right to choose where this care is to be provided; although in practice health organisations are encouraged to accommodate choice as far as possible. See Age Concern Factsheet 20, *NHS continuing healthcare, NHS funded nursing care and intermediate care*, for further information.

6.5 Other services from the NHS

Whether you are paying the full cost of your care yourself or receive financial help from your local authority, there are many services which you may be able to receive from the NHS.

Your rights to a GP and for NHS dentistry are not affected by living in a care home. You will still be entitled to free prescriptions and a free NHS sight test if you are aged 60 or over.

In addition, if you live in a care home and your capital is less than the upper limit, £22,250 in 2008-2009, you may be entitled to help from the NHS towards the costs of glasses and NHS dentistry under the NHS Low Income Scheme. (For those not in a care home, the NHS Low Income Scheme capital limit is £16,000.) Your entitlement is also dependent on the amount of income you receive, as well as any capital you have.

See Department of Health leaflet, *HC11 Help with health costs* available from Department of Health, PO Box 777, London SE1 6XH, tel: 08701 555 455, fax: 01623 724524. Copies of this leaflet may be available at your GP's or dentist's surgery or from the local post office.

In addition, chiropody, physiotherapy and specialist equipment may be available from the NHS if you meet the local eligibility criteria that have been set for these services. Further information about these services is in Age Concern Factsheet 44, *NHS services*. You will be eligible for NHS continence supplies if you meet the local eligibility criteria for this service.

7. Contracts

Residents who are purchasing their care privately should be provided with a contract. This should be clear and comprehensive, and you should ask to see a copy in advance of signing any agreement. As well as standard clauses, it should set out what care will be provided to meet your particular needs. You should ask for a statement from the home in writing about what care and services you will receive, and about what will be required from you in return.

Care homes are required to provide residents who are being assisted by the local authority with a statement of terms and conditions. The contract for your care will be between the local authority and the home. You can request a copy of the contract too.

In this way, you and the home will be clear about what is expected. You might like to seek advice from the Citizens Advice Bureau or a solicitor before signing a contract.

The National Minimum Standards for Care Homes for Older People require contracts and statements of terms and conditions to describe:

- the room to be occupied;
- care and services covered by the fee;
- the fee payable and by when;
- any additional services not covered by the fees;
- rights and obligations of the service user and the home; **and**
- terms and conditions of occupancy, including period of notice.

The Office of Fair Trading has produced guidance on potentially unfair terms and conditions in agreements made between care homes and residents. Among the main areas of concern are lack of clarity with regard to residents' financial obligations including what fees are due and what these cover; use of legalistic language and overly long contracts; and the use of terms excluding care homes liability for failures relating to care of residents and their possessions.

Copies of the *Guidance on Unfair Terms in Care Home Contracts* can be obtained free from: Office of Fair Trading Publications, EC Group, Swallowfield Way, Hayes, Middlesex, UB3 1DQ, tel: 0800 389 3158 (free call), or from the OFT's website at: www.oft.gov.uk. A further leaflet, *Fair terms for care*, offering a shorter overview of the guidance for members of the public is available from the same source.

In June 2005, the OFT published a study of the care homes market which raised concerns about how easily prospective residents can obtain clear and accurate information about homes' fee structures and what those fees cover, and whether contracts offer sufficient transparency and protection against unreasonable price increases.

In a response to the report, the Government noted existing requirements for the provision of information and indicated that it would seek to promote greater clarity in this area. The *Care Standards Act 2000 (Establishments and Agencies) (Miscellaneous amendments) Regulations 2006* were subsequently introduced. These made changes to the *Care Home Regulations 2001* intended to increase price transparency for residents in care homes.

In October 2007, the Commission for Social Care Inspection (CSCI) produced a report entitled *A Fair Contract with Older People?* This report is based on the findings of research aimed at assessing whether prospective care home residents receive adequate advice and support at each stage of the process of moving into a carer home. Also whether they are provided with clear contracts or agreements about what the care home will provide and who is expected to pay for each aspect of the services provided. The report focuses on the differing experiences of prospective care home residents who are self funding and those who are funded via their local authority.

In conclusion it is noted in the report that, although there have been some improvements in the system, there are a number of areas that are still unsatisfactory. Areas that are of ongoing concern include:

- differences in charging and lack of clarity regarding charging;
- the vulnerability of self-funding residents who do not receive a local authority assessment;
- the varying types and amount of information available to those intending to move into residential care, both from the care home and from the local authority;

- concerns amongst residents, their families and carers about the complaints process and also their rights in general whilst in the care home.

The full report can be viewed on the CSCI website: www.csci.org.uk

8. Respite and convalescent care

It is common for older people to go for a short stay in a care home to give themselves, or their carers, a break from their usual routine. This is known as respite care.

The process of arranging and funding respite care is largely similar to that for permanent care. There are some differences. If you enter respite care for a period of up to eight weeks and are being funded by the local authority, the authority does not have to carry out a full means test and can instead ask you to pay a 'reasonable amount'. After eight weeks the means test must be applied.

For periods of respite in a care home registered to provide nursing care, the NHS will fund the cost of care provided by a registered nurse employed by the care home.

In certain circumstances respite health care may be available from the NHS in which case you will not be asked to pay towards this. Care to help you recover after hospital treatment maybe referred to as 'recovery' or 'recuperation' rather than 'convalescence'. Another form of care is intermediate care, intended to help people regain their confidence and abilities after leaving hospital. Intermediate care is normally limited to a maximum of 6 weeks and is free. Further information is contained in Age Concern Factsheet 20, *NHS continuing healthcare, NHS-funded nursing care and intermediate care*.

9. When care needs change

Many people are able to remain living in one home for a long time. However, sometimes care needs can change and the home in which someone has been living may no longer be able to provide appropriate care. Sometimes the resident's GP or the manager of the home may suggest that the resident needs to move to a more suitable home; sometimes relatives or the resident may feel different care is needed.

On occasions, the suggestion may come from the Commission for Social Care Inspection, particularly if the resident lives in a care home which is not registered to provide nursing care but is reaching the point of needing that type of care. The home may risk breaking the conditions of its registration if it tries to provide you with that care.

In these situations, some homes have in the past been willing to explore with the registration authorities the possibility of registering one place in a care home for nursing care; this would involve the home being able and willing to meet the registration requirements for homes providing nursing care for that one place.

If you are in this situation, you might want to ask the home if this is a possibility; but do bear in mind that, eventually, you may still need to move if your care needs increase in the future.

In other cases, moving to a different, perhaps more specialised home, will mean you receive more appropriate care. If there are difficulties, contact your local authority social services department to see if it can help identify a home.

Ask the current home if it will agree the resident can remain there in the meantime. It is important to check the contract to see whether the home requires any period of notice before a move takes place.

Residents in care homes registered to provide nursing care should have an annual re-assessment to confirm that their NHS-funded nursing care is still required. This should also identify residents whose needs have changed and who should be assessed against eligibility criteria for NHS funded continuing healthcare or other continuing NHS health care services, such as palliative care. If at any time you think you may now meet the eligibility criteria for NHS-funded continuing healthcare, you should discuss this with your relative's, your GP or the care home manager and request an assessment. Each PCT will have a person with responsibility for continuing health care who can arrange the assessment.

Age Concern Factsheet 20, NHS continuing healthcare, NHS-funded nursing care and intermediate care, has more information.

If you are admitted to hospital from a care home, make sure that the appropriate discharge procedures are followed once your treatment has been completed.

In particular, you may want to make sure that a multi-disciplinary assessment has been carried out before you leave the hospital, in order to make sure that the home in which you have been living will still be able to meet any new care needs - which may have arisen whilst in hospital - on your return. See Age Concern Factsheet 37, *Hospital discharge arrangements*.

10. Problems or complaints

10.1 Self funding residents

After someone has entered a care home, it is important to know what to do if any problems arise. The home should provide information in writing to all residents about how to make a complaint, and you should ask for this.

Make sure you tell someone about your problem, as only in this way will you be able to begin to sort it out. If possible, any problems should be discussed informally with the staff of the home in the first instance. You should not be penalised for raising any concerns that you have. Some homes have a Residents' Committee, or a 'suggestion box' through which concerns can be raised.

You can contact the Commission for Social Care Inspection CSCI if you have a complaint concerning the standard of care being provided in the home. CSCI is responsible for standards in care homes and for registering and inspecting care services in England. If you are unhappy with the response of a regulated care service to any concern or complaint raised with them, you can share this information with the Commission who will decide what action may be necessary.

The Commission can use its powers of inspection to undertake enquiries into information shared with it about regulated services, and works with providers to ensure they meet their legal obligations where matters of complaint are concerned.

Further advice and support may be available from the Citizens Advice Bureau or Age Concern locally, or Counsel and Care - see Section 11.2.

You should have a written contract setting out your rights and responsibilities. This may make it easier to resolve disagreements. If you do not have a written contract your relationship with the home is likely to constitute an 'implied contract'. It may be necessary to take legal advice to establish what your rights under an implied contract are.

As a customer of the home, you also have consumer rights. In the past care home residents have often been overlooked as consumers but this is now starting to change.

10.2 When the local authority arranges or provides the care

If a problem arises with a local authority funded placement, you can still raise the issue with the home and with CSCI. You will also have access to the complaints procedure of the local authority, because the local authority has arranged the care. You can also use the local authority's complaints procedure if you are living in a residential home which the local authority owns.

Ultimately, you may be able to take your complaint to the Local Government Ombudsman. Once again, it is important to make sure that someone knows how you feel, so that the problem can be dealt with as soon as possible.

Further details about making a complaint to the local authority and contacting the Ombudsman, are contained in Age Concern Factsheet 41, *Local authority assessment for community care services*.

10.3 When the health authority makes the arrangement

If your care is being funded by the NHS, and a problem arises with the care being provided in a home, you can use the NHS complaints procedure. The NHS is also responsible for any free nursing care which it arranges and possibly for fully funded NHS continuing healthcare. The complaints procedure can be used in this context. In addition, you can consider complaining to the Health Service Ombudsman.

Further details about the NHS complaints procedure and the Health Service Ombudsman are contained in Age Concern Factsheet 20, *NHS continuing healthcare, NHS-funded nursing care and intermediate care*.

11. Further information

11.1 The Commission for Social Care Inspection (CSCI)

The Commission for Social Care Inspection is a non-departmental government body responsible for regulating a wide range of social care and private and voluntary health services which became responsible for inspecting and registering care homes in April 2004.

The head office of CSCI is in Newcastle and there are a further 9 regional and 71 area offices around the country.

Details of your local office should be available from the head office. Contact the Commission for Social Care Inspection (CSCI), St Nicholas Buildings, St Nicholas Street, Newcastle-upon-Tyne, NE1 1NB, helpline tel: 0845 015 0120 (lo-call rate), website: www.csci.org.uk.

The regulation of health and adult social care in England is currently carried out by the Healthcare Commission and the Commission for Social Care Inspection. The Mental Health Act Commission has monitoring functions with regard to the operation of the Mental Health Act 1983. The Health and Social Care Act 2008 will create a single integrated regulator for health and adult social care, called the Care Quality Commission, which will replace these three existing bodies. The Care Quality Commission will begin operating in April 2009 as a non-departmental public body.

11.2 Organisations offering information about homes for older people

Association of Charity Officers (The), Five Ways, 57-59 Hatfield Road, Potters Bar, Hertfordshire EN6 1HS, tel: 01707 651777, website: www.aco.uk.net. Over 200 member funds including some which run care homes for professional, commercial and occupational groups: The Occupational Benevolent Funds Alliance.

If you need financial help from a charity fund, contact the Association's Helpline on 01707 651777, giving details of your family background and career pattern. The Association can signpost enquirers to funds which might be able to help them.

Association of Independent Care Advisers (AICA), Orchard House, Albury, Guildford GU5 9AG, tel: 01483 203066, website: www.aica.org.uk. An association with a code of practice whose agency members offer advice about staying at home, or about short or long-term stays in care homes, **and help identify the most suitable care homes and care providers**. Individual members may charge for this service. Details of the member agencies are available free from AICA.

Cinnamon Trust (The), 10 Market Square, Hayle, Cornwall TR27 4HE, tel: 01736 757 900, website: www.cinnamon.org.uk. A charity that helps elderly and terminally ill people when any aspect of their pet's care poses a problem, eg by providing help with dog-walking, or short-term fostering of pets, when people go into hospital. If advance notice is given, the Trust can accept animals on their owner's death and provide lifelong care. To help people going into a care home the Trust also maintains a register of homes and sheltered housing schemes throughout the UK that accept residents with pets. For a copy of the 'Pet Friendly Homes Register' please write to the charity enclosing a SAE, stating the county or counties you are interested in. The charity makes no charge for its services and relies on donations to fund its work.

Counsel and Care, Twyman House, 16 Bonny Street, London NW1 9PG, tel: advice line: 0845 300 7585 (lo-call rate), website: www.counselandcare.org.uk. A charity which provides general advice for older people, their families and professionals on community care and other issues.

Elderly Accommodation Counsel, 3rd Floor, 89 Albert Embankment, London SE1 7TP, tel: 020 7820 1343, website: www.housingcare.org, and www.eac.org.uk. A registered charity which maintains a nationwide database of all forms of specialist accommodation for older people - sheltered housing for sale and rent, care homes providing personal or personal and nursing care. It also gives guidance, advice and detailed information to help enquirers choose and pay for the accommodation most suited to their needs.

National Association for Providers of Activities for Older People

(NAPA), Bondway Commercial Centre, Unit 5.12, 5th Floor, 71

Bondway, London SW8 1SQ, tel: 020 7078 9375,

website: www.napa-activities.co.uk.

A membership organisation providing information and advice, support and education for those responsible for the provision of activities for older persons in establishments which provide services or care. NAPA holds regular themed 'Sharing Days', has a newsletter, and organises appropriate training opportunities.

Relatives and Residents Association (The), 24 The Ivories, 6-18 Northampton Street, London N1 2HY, tel: 020 7359 8148, advice line: 020 7359 8136, website: www.relres.org. The Relatives and Residents Association gives advice and help to older people in homes, their relatives and friends. The Association is committed to improving the standards of care homes through the active involvement of relatives. Its aim is to promote a common understanding between relatives, residents, home providers and staff. Local groups exist throughout the country; contact the Relatives and Residents Association for more details.

12. Further information from Age Concern

The following factsheets/information sheet may be relevant:

Fact sheet 2	<i>Buying retirement housing</i>
Fact sheet 8	<i>Looking for rented housing</i>
Fact sheet 6	<i>Finding help at home</i>
Fact sheet 10	<i>Local authority charging procedures for care homes</i>
Fact sheet 13	<i>Older home owners: financial help with repairs and adaptations</i>
Fact sheet 18	<i>A brief guide to money benefits</i>
Fact sheet 20	<i>NHS continuing healthcare, NHS-funded nursing care and intermediate care</i>
Fact sheet 37	<i>Hospital discharge arrangements</i>
Fact sheet 41	<i>Local authority assessment for community care services</i>
Fact sheet 44	<i>NHS services</i>
Info Sheet IS/13	<i>Care home funding and Attendance Allowance</i>

The following books may be useful:

Find the Right Care Home: a step-by-step companion. Price £9.99

Choices in Retirement Housing: your guide to all the options. Price £9.99

Choices in Retirement. £9.99

Your Rights to Money Benefits 2008-2009. Price £5.99.

To order, please telephone our hotline (9am-7pm Monday to Friday, 10am-5pm Saturday): **0870 44 22 120** (national call rate), or visit our **website: www.ageconcern.org.uk/bookshop** (secure online bookshop).

If ordering by post, please send a cheque or money order, payable to Age Concern England, for the appropriate amount plus p&p to Age Concern Books, Linhay House, Linhay Business Park, Ashburton, Devon TQ13 7UP.

(Postage and packing: mainland UK and Northern Ireland: £1.99 for the first book, 75p for each additional book up to a maximum of £7.50. Free on orders over £250. For customers ordering from outside the mainland UK & NI: credit card payments only; please telephone the hotline for international postage rates or **email: sales@ageconcernbooks.co.uk**).

If you would like:

- to find your nearest Age Concern
- any additional factsheets mentioned (up to a maximum of 5 will be sent free of charge)
- a full list of factsheets and/or a book catalogue
- to receive this information in large print.

phone 0800 00 99 66 (free call) or write to Age Concern FREEPOST (SWB 30375), Ashburton, Devon TQ13 7ZZ.

For people with hearing loss who have access to a textphone, calls can be made by Typetalk, which relays conversations between text and voice via an operator.

Age Concern factsheets and other information materials can be downloaded free from our website at: www.ageconcern.org.uk. To receive free notification of factsheet updates and all information resources, subscribe to our monthly email *Your Information Update* at www.ageconcern.org.uk/infoupdate.

Age Concern provides factsheets free to older people, their families and people who work with them. If you would like to make a donation to our work, you can send a cheque or postal order (made payable to Age Concern England) to the Personal Fundraising Department, ACE Freepost CN1794, London SW16 4BR.

Find out more about Age Concern England online at www.ageconcern.org.uk

Please note that the inclusion of named agencies, companies, products, services or publications in this factsheet does not constitute a recommendation or endorsement by Age Concern. Whilst every effort is made to ensure accuracy, Age Concern cannot be held responsible for errors or omissions.

No factsheet can ever be a complete guide to the law, which also changes from time to time. Therefore please ensure that you have an up to date factsheet and that it clearly applies to your situation. Legal advice should always be taken if you are in doubt. (*Age Concern England is unable to give financial or legal advice*).

All rights reserved. This factsheet may be reproduced in whole or in part in unaltered form by Age Concern Organisations and Groups with due acknowledgement to Age Concern England. No other reproduction in any form is permitted without written permission from Age Concern England.

Communications Division, Age Concern England, Astral House, 1268 London Road SW16 4ER. Registered charity no. 261794.

MR/LAE
FS29/08/10/01