

# Annexe I

## Complaints procedures

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# 1 COMPLAINTS PROCEDURES

1.1 This Annexe looks at the redress mechanisms available to older people who wish to complain about their care home. These are via:

- the care home itself
- to the body that regulates care homes in each of the administrations in the UK
- the relevant Authority
- the appropriate Ombudsman
- judicial review; or
- private legal action.

1.2 A country by country overview is provided of the National Minimum Standards that relate to care homes' responsibilities to have an appropriate complaints procedure in place and the remit of the regulators to investigate complaints. This is followed by a summary of the process of taking a complaint to the Authority and the further steps that can be taken if a complainant is dissatisfied with the decision made.

## England

### Care homes

1.3 Regulation 22 of The Care Homes Regulations 2001 requires care homes to establish a complaints procedure for considering complaints made to it by residents or persons acting on residents' behalf. Care homes are required to fully investigate complaints made to it under the complaints

procedure<sup>1</sup> and within a maximum of 28 days, inform the complainant of the action (if any) it is to take.<sup>2</sup>

- 1.4 The National Minimum Standards<sup>3</sup> set out care homes' responsibility to have a 'simple, clear and accessible' complaints procedure in place.<sup>4</sup> The intended outcome of this requirement is that 'Service users and their relatives and friends are confident that their complaints will be listened to, taken seriously and acted upon.'
- 1.5 To meet the National Minimum Standards, a care home's procedure must set out how a complaint can be made, the stages involved and the timescales. The care home's 'Statement of Purpose' must set out the arrangements the home has made for dealing with complaints<sup>5</sup> and the care home is required to make a copy of this available on request to residents and their representatives.<sup>6</sup> Also, the 'Service User's Guide', which the home is required to provide to each resident<sup>7</sup> (and make available to other persons who request it) must include a summary of the complaints procedure.<sup>8</sup>
- 1.6 A record must be kept of all complaints along with details of the subsequent investigations and any action taken with homes ensuring that complaints are responded to within 28 days. The National Minimum

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<sup>1</sup> Regulation 22(3).

<sup>2</sup> Regulation 22(4).

<sup>3</sup> The National Minimum Standards in England are set out in the *Department of Health Care Homes for Older People National Minimum Standards 2003*.

<sup>4</sup> Ibid, Standard 16, paragraphs 16.1 – 16.4.

<sup>5</sup> Care Homes Regulations 2001, Regulation 4(1)(c) and Schedule 1, paragraph 14.

<sup>6</sup> Ibid, Regulation 4(2).

<sup>7</sup> Ibid, Regulation 5(2).

<sup>8</sup> Ibid, Regulation 5(1)(e).

Standards also oblige care homes to provide people with written details of how to refer their complaint to the regulator.<sup>9</sup>

- 1.7 National Minimum Standard 17 covers the legal rights of older people in care homes and states that where a person lacks capacity, the care home should provide assistance to enable them to access available advocacy services.

### **The regulator**

- 1.8 The National Care Standards Commission (NCSC) was established under the Care Standards Act 2000<sup>10</sup> to regulate specific types of social care and private and voluntary health care services in England. On 11 March 2004, The Health and Social Care (Community Health and Standards) Act 2003 abolished the NCSC<sup>11</sup> and transferred its functions to The Commission for Social Care Inspection (CSCI).<sup>12</sup> Section 5B of the Care Standards Act 2000 sets out the general duties of the CSCI.
- 1.9 People can make a complaint to their local CSCI office where they will receive an acknowledgement and information on how the CSCI will investigate their case. Anonymous complaints are also accepted but the CSCI are not always able to follow up on such complaints.
- 1.10 The CSCI may choose to investigate a complaint before or after it has been through a care home's own procedure and, depending on what the complaint it about, may refer it to another more suitable party.<sup>13</sup>

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<sup>9</sup> Ibid, Standard 16.

<sup>10</sup> Care Standards Act 2000, Section 6.

<sup>11</sup> Section 44(2).

<sup>12</sup> Health and Social Care (Community Health and Standards) Act 2003, Section 42 and Schedule 7.

<sup>13</sup> For example, if someone complains about the standard of hygiene in a care home's kitchen, the CSCI may refer the matter to the local environmental health officer.

- 1.11 If the CSCI finds that there has been a contravention or failure to comply with any of the relevant regulations, as set out in the Care Homes Regulations 2001,<sup>14</sup> it can take proceedings against the person who registered the care home. Depending on the seriousness and outcome of a complaint, the CSCI can take several actions.
- 1.12 These include 'statutory notices' which are issued where the CSCI considers that a service has contravened, or failed to comply with, regulations and committed an offence.<sup>15</sup> If the care home does not remedy the problem within the time period allowed, further enforcement action can then be taken. Prosecutions are used when previous actions have not been acted on or where a serious offence has been committed.<sup>16</sup>
- 1.13 Other actions are 'urgent cancellations',<sup>17</sup> issued where a service is posing such a threat that immediate closure of the care home is considered the only option; for example where there is a history of poor management, or where service in the home worsens despite the care home having been given time to improve the situation.
- 1.14 Should someone be dissatisfied with the outcome of their complaint, they can take their case through the CSCI's internal three-stage process which requires the CSCI to look at how the case was handled.<sup>18</sup> A complainant can also take their case, via their MP, to the Parliamentary Ombudsman at any stage during this process.<sup>19</sup>

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<sup>14</sup> Care Homes Regulations 2001, Regulation 43.

<sup>15</sup> Ibid, Regulation 43(3).

<sup>16</sup> Abuse and neglect of residents would fall under this category.

<sup>17</sup> Care Standards Act 2000, Section 20.

<sup>18</sup> The CSCI is currently reviewing its internal complaints procedure.

<sup>19</sup> *Complaining about the CSCI*, page 2, paragraph 1.5.

## Scotland

### Care homes

- 1.15 Regulation 25 of the Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002, requires care homes to establish a complaints procedure, ensure that complaints made under that procedure are fully investigated and inform the complainant within 28 days of the action (if any) that is to be taken.
- 1.16 Under the National Care Standards,<sup>20</sup> care homes must provide residents with an introductory pack that contains details of their complaints procedure. Care homes should 'deal with concerns and complaints quickly and sympathetically' and provide 'full information about what will happen as a result of the complaint'.<sup>21</sup>
- 1.17 To complement this, Standard 11 states the 'you are encouraged to express your views on any aspects of the care home at any time'. People have the right to discuss any concerns they have with their social worker, other residents or the home's management. They should be informed of the care home's complaints procedure, be allowed to contribute to the regulator's inspections if wished and are encouraged to make use of an independent advocacy service.

### The regulator

- 1.18 The Scottish Commission for the Regulation of Care (Care Commission) has a responsibility to deal with complaints under the Regulation of Care (Scotland) Act 2001. This states the Care Commission must 'establish a procedure by which a person, or someone acting on a person's behalf, can make complaints (or other representations) in relation to the care service they are receiving or about the provision of a regulated care

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<sup>20</sup> Standard 1, *National Care Standards; Care homes for older people*, 2003, Scottish Executive.

<sup>21</sup> *Ibid*, Standard 11, *Expressing Your Views*.

service generally.<sup>122</sup> In dealing with complaints it may involve other bodies such as the Health and Safety Executive and environmental health department.

- 1.19 As in England, people do not have to first go through a care home's complaints procedure and, in certain serious cases, a fast-track procedure can be used.<sup>23</sup> Complaints can be made by a variety of means such as visiting one of the Care Commission's offices, email, in writing or by calling a dedicated phone line.
- 1.20 Once a complaint has been investigated, there are three main outcomes – not upheld, partially upheld and upheld. Where it is one of the two latter outcomes, the Care Commission can take various actions depending on the seriousness of the matter. This can range from requiring a home to demonstrate how and when a service will improve to serving a formal 'improvement notice' that may result in home's registration being cancelled if they fail to comply.<sup>24</sup>
- 1.21 The Care Commission must also provide people with the ability to complain about the way in which it has carried out, or failed to carry out, any of its functions under the Act. In addition, it has an obligation to keep complaints procedures under review and can make changes, subject to seeking consultation.<sup>25</sup>

## Wales

### Care homes

- 1.22 Regulation 23 of the Care Homes (Wales) Regulations 2002, requires care homes to prepare and follow a complaints procedure, ensure that

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<sup>22</sup> Section 6(1).

<sup>23</sup> These include allegations of abuse or neglect, criminal offences and serious malpractice.

<sup>24</sup> Regulation of Care (Scotland) Act 2001, Section 10.

<sup>25</sup> Regulation of Care (Scotland) Act 2001, Section 6.

any complaint made is fully investigated and within 28 days from receipt of a complaint, inform the complainant of the action (if any) that is to be taken.

- 1.23 Standard 31 of the Welsh National Minimum Standards<sup>26</sup> sets out homes' responsibility to provide a 'simple, robust and accessible complaints procedure' under which complaints are dealt with 'promptly and effectively' and is very similar to Standard 16 of the English National Minimum Standards.
- 1.24 Under Standard 1, a copy of the home's complaints procedure must be included in the 'Service User's Guide'. Care homes must also provide written information on how to contact the Care Standards Inspectorate for Wales (CSIW) and local health and social service authorities.

### **The regulator**

- 1.25 The CSIW was created in 2002 under powers given to the Welsh Assembly under the Care Standards Act 2000. The CSIW may deal with a complaint if it has been previously been unresolved by a care home or if a person wishes a formal investigation to take place immediately.
- 1.26 Complaints are referred to the Senior Inspector who decides on the appropriate course of action. If the complainant is Authority funded, the CSIW will inform the Authority and agree on who is best placed to deal with the complaint. An acknowledgement is sent to the complainant within three working days along with details of how the CSIW's complaints procedure operates.<sup>27</sup>
- 1.27 The outcome of each investigation is sent to the complainant, normally within 42 days, giving reasons for any decisions made and the proposed action. Complainants are then given the opportunity to discuss the

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<sup>26</sup> *National Minimum Standards for Care Homes for Older People*, revised March 2004, Welsh Assembly.

<sup>27</sup> *The Care Standards Inspectorate for Wales, Complaints Procedure and Guidance*, version 1.2, July 2002, paragraph 3.9.

findings with the Regional Director if they are dissatisfied with the outcome.<sup>28</sup>

- 1.28 The CSIW's 'Complaints Procedure and Guidance' states that 'A range of regulatory requirements or recommendations may be made to a service as a result of a complaint investigation.'<sup>29</sup> Serious complaints may result in prosecution and/or cancellation of a care home's registration.
- 1.29 Complainants who are dissatisfied with the way in which the CSIW has conducted an investigation can make a complaint to the National Assembly for Wales and, ultimately, to the Parliamentary Ombudsman.

## Northern Ireland

- 1.30 Until April 2005, regulation of the registration and inspection process of care homes in Northern Ireland fell under the Registered Homes (Northern Ireland) Order 1992. Care homes had to abide by directions set out by one of four Registration and Inspection Units which were part of the regional Health and Social Services Boards.<sup>30</sup> These directions were broadly similar and all Boards were required by legislation to ensure that care homes had a complaints procedure in place.<sup>31</sup>
- 1.31 However, this system has since been superseded and the primary legislation governing the regulation and inspection process is now the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.

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<sup>28</sup> Ibid, paragraphs 4.14 and 4.15.

<sup>29</sup> Ibid, paragraphs 4.18 and 4.19.

<sup>30</sup> Northern Ireland was divided into four areas: northern, southern, eastern and western, each of which has its own registration and inspection unit operating as part of the Health and Social Services Board.

<sup>31</sup> The Registered Homes (Northern Ireland) Order 1992, Statutory Instrument No 3204 (N.I. 20)

- 1.32 As a result of this, and as part of a series of initiatives aimed at improving the quality of health and care services, the four inspection units have been replaced by a single independent organisation: The Health and Personal Social Services Regulation and Improvement Authority (HPSSRIA). Its main aim is to achieve a more extensive and consistent registration and monitoring process, including the handling of consumer complaints, across Northern Ireland as a whole.
- 1.33 The (HPSSRIA) will do this, in part, by issuing new minimum standards for residential and nursing homes for older people.<sup>32</sup> At present, these standards are still in draft form and have been published for formal consultation.<sup>33</sup>
- 1.34 The draft standards are similar to those already in place in England, Wales and Scotland, covering issues such as choice, residents' rights and how to seek redress. For example, Draft Standard 1 includes a requirement that care homes provide all residents with a copy of the complaints procedure. Draft Standard 9 states that 'All complaints whether written or otherwise are taken seriously and dealt with.'
- 1.35 A written record must be kept of all complaints and subsequent communication with complainants, the results of investigations, the action taken and the satisfaction level of complainants with the outcome.<sup>34</sup>

## Authorities

- 1.36 People who receive Authority funding for their care, or those wishing to complain about an aspect of a service provided by an Authority, can

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<sup>32</sup> Article 38 of The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 establishes the power for the DHSSPS to issue a common set of regulations based on minimum standards for care homes that apply across Northern Ireland.

<sup>33</sup> *Residential Homes Registration & Inspection Standards*, A Consultation Document, September 2004, DHSSPS, Northern Ireland.

<sup>34</sup> Further details can be found in Annexe J.

make a complaint to that Authority so long as they are considered a 'qualifying individual'.<sup>35</sup>

1.37 While Authorities have a legal responsibility to provide a complaints procedure, the actual systems in place varies by Authority.<sup>36</sup> Most Authorities provide a link on their website and many produce leaflets or other written information on how to make a complaint.

1.38 There are usually three stages to the Authority complaints procedure. The first is an informal, problem-solving stage where an attempt is made

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<sup>35</sup> This is where the Authority has the power or duty to secure the provision of services for the individual and the need, or possible need, for such services has come to the attention of the Authority. In addition, the complaint must relate to the Authority's discharge or failure to discharge its social services functions in respect of the qualifying individual. The 1990 policy guidance also states that 'complaints of a general nature which are not concerned with an individual case are likely to fall outside the statutory definition, as are anonymous complaints (paragraph 6.5). However, Authorities do appear to have some discretion when dealing with complaints.

<sup>36</sup> England & Wales: Local Authority Social Services ACT (LASSA) 1970 s7B gives to the secretary of state the power to require social services to establish a complaints procedure. Complaints Procedure Order 1990 (required complaints procedures to be in place by 1991). Complaints Procedure Directions 1990 and the DH guidance, *The Right to Complain*, HMSO 1991.

Northern Ireland: Statutory Directions to Health and Social Services Bodies on Procedures for Dealing with Complaints - the most recent being made on 29 March 2000 to come into operation on 1 April 2000. This amended earlier directions given on 19 and 26 March, 13 November 1996 and 21 December 1998 which implemented the present HPSS Complaints Procedure.

Scotland: Section 5B into the Social Work (Scotland) Act 1968 gives Scottish Ministers powers to require local authorities to establish procedures for considering complaints with regard to the discharge of their social work functions. CIRCULAR NO SWSG5/1996 The Social Work (Representations Procedure) (Scotland) Directions 1996 Annex B Local Authorities Complaints Procedures

From April 2005, Authorities in England will be bound to follow the Social Services Complaints Regulations 2005. New guidance will become mandatory, meaning Authorities will be able to vary their complaints procedures only in exceptional circumstances.

to resolve complaints by discussion with the relevant person or department within the Authority. If this is unsuccessful, it goes to the second stage which involves submitting a formal complaint in writing, often to a nominated Complaints Officer within the Authority. The Authority then carries out an investigation within a set time period before presenting the complainant with their decision. Finally, if someone is dissatisfied with this decision they can use the third stage which involves their case being considered by an independent review panel.<sup>37</sup>

## Next steps

- 1.39 If an Authority is unable to resolve a complaint to someone's satisfaction, they make take their complaint to the relevant Local Government Ombudsman (LGO).<sup>38</sup> Normally this must be within 12 months of the original issue arising but occasionally complaints are considered after a longer period.
- 1.40 The LGOs look at cases where it is alleged that maladministration by the Authority has caused consumers injustice. Maladministration covers a number of areas such as avoidable delay, a failure to follow the correct procedures or giving misleading advice.
- 1.41 LGOs are unable to consider certain complaints such as those relating to contractual matters or concerning the content of legislation. They may refer complaints to an alternative Ombudsman service or other organisation if they feel it would be more appropriate for them to deal with.<sup>39</sup>

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<sup>37</sup> In England, responsibility for this final review stage is due to be transferred from Authorities to the CCSI in 2005.

<sup>38</sup> In England, Wales and Northern Ireland, this is called the Local Government Ombudsman. Each country operates its own organisation, each with an individual Ombudsman. In Scotland, complaints go to the Scottish Public Services Ombudsman.

<sup>39</sup> For example, the Health Services Ombudsman if the complaint relates to the care a person received from the NHS.

- 1.42 Where it upholds a complaint, the Ombudsman will make recommendations to the Authority and can suggest that the complainant receives compensation. Although Authorities do not have a duty to accept the decision, they generally do so and implement the recommendations.
- 1.43 In certain circumstances consumers can apply to a Court to seek judicial review of the lawfulness of the decisions of an Authority. Only decisions made by public bodies, such as the departments of state, Authorities and NHS bodies are open to judicial review.
- 1.44 A Court cannot judicially review the decisions of private or voluntary care homes. In order to apply for judicial review, an applicant must have a sufficient interest in the matter to which his application relates. Also, judicial review will not be available where the applicant has failed to pursue an equally convenient, expeditious and effective remedy. If a Court finds that an Authority has failed to act lawfully in making a decision it may quash that decision and require the Authority to consider it again without the contaminant of unlawfulness or unfairness
- 1.45 It is also possible for consumers to take private legal action against the Authority or the private or voluntary care homes. However, this can be a lengthy process and, where Legal Aid is not available, can be extremely costly. As a result, taking action in this manner is not common.

## 2 ACRONYMS

|                |  |
|----------------|--|
| <b>ADSS</b>    | Association of Directors of Social Services                              |
| <b>ADSW</b>    | Association of Directors of Social Work                                  |
| <b>ASA</b>     | Advocacy Safeguards Agency   |
| <b>CCH(S)A</b> | Community Care and Health (Scotland) Act 2002                            |
| <b>CHAI</b>    | Commission for Healthcare Audit and Inspection                           |
| <b>CSA</b>     | Care Standards Act   |
| <b>CSCI</b>    | Commission for Social Care Inspection                                    |
| <b>COSLA</b>   | Convention of Scottish Local Authorities                                 |
| <b>CRAG</b>    | Charges for Residential Accommodation Guidance                           |
| <b>CSIW</b>    | Care Standards Inspectorate for Wales                                    |
| <b>DH</b>      | Department of Health   |
| <b>DHSSPS</b>  | Department of Health, Social Services and Public Safety                  |
| <b>EAC</b>     | Elderly Accommodation Counsel  |
| <b>ECCA</b>    | English Community Care Association                                       |
| <b>EMI</b>     | Elderly Mentally Impaired  |
| <b>FAC</b>     | Fair Access to Care  |
| <b>FPNC</b>    | Free Personal and Nursing Care   |
| <b>HPSSRIA</b> | Health and Personal Social Services Regulation and Improvement Authority |
| <b>LASSA</b>   | Local Authority Social Services Act                                      |

|               |  |
|---------------|--|
| <b>LGA</b>    | Local Government Association                   |
| <b>LGO</b>    | Local Government Ombudsman                     |
| <b>NCSC</b>   | National Care Standards Commission             |
| <b>NHS</b>    | National Health Service                        |
| <b>NI</b>     | Northern Ireland                               |
| <b>OFT</b>    | Office of Fair Trading                         |
| <b>OPAAL</b>  | Older People's Advocacy Alliance               |
| <b>OPRSI</b>  | Older People Researching Social Issues         |
| <b>PEA</b>    | Personal Expenses Allowance                    |
| <b>POVA</b>   | Protection of Vulnerable Adults                |
| <b>PSSRU</b>  | Personal Social Services Research Unit         |
| <b>RHA</b>    | Registered Homes Act                           |
| <b>SAGE</b>   | Senior Action Group Edinburgh                  |
| <b>SAP</b>    | Single Assessment Process                      |
| <b>SPAIN</b>  | Social Policy Ageing Information Network       |
| <b>SSA</b>    | Single Shared Assessment                       |
| <b>SSIW</b>   | Social Services Inspectorate for Wales         |
| <b>UTCCRs</b> | Unfair Terms in Consumer Contracts Regulations |

### 3 GLOSSARY

#### **Advocacy**

There are many different definitions of advocacy and various models in operation at present, but this outline from the Older People's Advocacy Alliance (OPAAL) is the most appropriate in the context of our recommendations: '*A one-to-one partnership between a trained, independent advocate and an older person who needs support in order to secure or exercise their rights, choices and interests. The three key principles are independence, inclusion and empowerment*'.

#### **Authority**

The **care needs assessment** and the **financial assessment** are carried out by the individual's Local Authority, Primary Care Trust or in Northern Ireland the Health and Social Services Board. These bodies should also provide information and support through the process of choosing a care home, for example by providing a list of care homes in the areas. We refer to these bodies collectively as 'Authorities'.

#### **Care home**

The term 'care home' generally refers to a home registered under the Care Standards Act providing personal and residential care for older people. We use the term to also include homes that provide nursing care (**nursing homes**). Generally, care homes provide day to day care and support for older people that are unable to manage at home.

#### **Care home directory**

A list of all the care homes in the local area provided by the relevant Authority.

## **Care needs assessment**

An assessment carried out to establish a person's need for long term care. It considers the person's ability to perform activities of daily living such as moving about, eating and drinking, using the toilet, getting washed and dressed and preparing snacks and meals. The availability of support and the existing home environment may also influence the assessment.

## **Choice of Accommodation Directions**

The rights of individuals to choose their care home accommodation are set out in various acts of Parliament. In October 2004, the Department of Health issued new guidance to local authorities explaining the implication of these regulations as Local Government Circular LAC (2004)20. In simple terms, the guidance sets out that where someone has a preference for a particular care home, the Authority should arrange for accommodation in that home subject to certain conditions being met. Those conditions are that the home is suitable to meet the individual's assessed needs; that it does not cost more than the Authority would pay to accommodate someone with those assessed needs, that it is available and that the care home is willing to enter into a contract on the Authority's usual terms.

## **Consumer groups**

Organisations that represent the interests of consumers in this sector, for example Which? and the Relatives and Residents Association.

## **Devolved administrations**

The executive bodies of the three devolved regions of the UK: the National Assembly for Wales, the Scottish Executive, and the Northern Ireland Department of Health Social Services and Public Safety ('DHSSPS'). Care for older people is a devolved matter, which means that policy in this area is set by the relevant devolved administration.

## **Domiciliary care**

Care provided in the individual's own home. For example, a care worker may visit the person's home to help them wash and dress, carry out housework and grocery shopping.

## **Extras**

Additional services provided by care homes that are not covered by the fee for accommodation and care. For example, a care home may offer to arrange for a hairdresser or chiropodist to visit the residents for an additional fee.

## **Financial assessment**

This is the process that is used to determine, based on means testing criteria, the individual's ability to pay for their care needs and what, if any, level of contribution they should pay towards their care. The basic process of the financial assessment is the same across the UK, although the upper and lower limits for financial assets differ. Individuals with capital below the lower limit are fully funded by their Authority, while those with capital above the higher limit are liable to pay the full rate for their care. Those with a level of financial assets between the two limits will be expected to pay a varying contribution towards the cost of their care.

## **Government Actuary's Department**

The United Kingdom Government Actuary's Department is a government department providing actuarial consultancy within the public service, and advising on a comprehensive range of topics. The Government Actuary produces the official national 'population projections' for the UK and its constituent countries. The primary purpose of the projections is to provide an estimate of future population which is used as a common framework for national planning in a number of different fields. The projections, especially for older age groups, have relevance to future demand for long term care.

## **Intermediate care**

Intermediate care is a short term intervention to preserve the independence and establish the best long term care solution for people who might otherwise face unnecessarily prolonged hospital stays or inappropriate admission to hospital or residential care. Intermediate care places great emphasis on rehabilitation and maximising independent living, but also seeks to find the most appropriate care solutions for individuals.

## **Local Government Ombudsman**

The Local Government Ombudsmen investigate complaints about maladministration by Authorities and certain other bodies. They investigate complaints about most Authority matters including housing, planning, education, social services, consumer protection, drainage and council tax. The Ombudsmen can investigate complaints about how the Authority has done something, though they cannot question the decision the Authority reached unless the process followed was flawed.

## **National Minimum Standards**

Under the Care Standards Act 2000 (CSA), care homes for older people must operate to a set of standards set out by the governments of each country in the UK. The standards are used by the regulatory and inspection bodies to determine whether registered care homes in their regions are providing adequate care, are meeting the needs of the persons who live there and are otherwise being operated and run in accordance with regulatory requirements. The governments of each country are able to review standards, and may publish amended standards when appropriate.

## **Nursing home**

The term nursing home generally refers to a home registered under the Care Standards Act providing nursing care for older people, in addition to personal residential care.

## **Protection of Vulnerable Adults**

Protection of Vulnerable Adults (POVA) is a scheme designed to provide a workforce ban on care workers who have harmed vulnerable adults in their care. The POVA scheme covers both registered providers of care homes and domiciliary care agencies, and employment agencies and businesses who supply care workers to these providers.

The POVA scheme gives protection to vulnerable adults by placing care homes under a statutory duty to check that potential new care workers are not on the POVA list before allowing them to work in a care position. Care homes also have a responsibility to refer care workers to the POVA list where such workers have harmed vulnerable adults in their care.

## **Regulation and inspection bodies**

These are the four bodies in the UK responsible for the registration of care homes for older people, and subsequent inspection under the Care Standards Act to ensure they comply with National Minimum Standards. They are respectively

Commission for Care Standards Inspection (England)

Care Standards Inspectorate for Wales

Social Services Inspectorate: Registration and Inspection Units Northern Ireland

The Care Commission (The Scottish Commission for the Regulation of Care)

## **Self funding**

An individual who does not receive funding for their care from their Authority and who therefore pay their fees in full from their own income or other resources.

## **Care Plan**

Under the National Minimum Standards each service user's health, personal and social care needs, are set out in an individual plan of care. Such a plan should be drawn up with each service user to provide the basis for the care to be delivered. The plan sets out in detail the action which needs to be taken by care staff to ensure that all aspects of the health, personal and social care needs of the person are being met. It should be regularly reviewed by care staff in the home, and updated to reflect any change in the needs and objectives for health and personal care.

## **Single assessment processes**

This describes efforts under which agencies responsible for assessing older people's care needs work together to minimise duplication of efforts. In England, this is known as the Single Assessment Process for Older People or SAP. In Wales, there is a unified assessment process and care management system for older people. In Scotland, there is a Single Shared Assessment (SSA) which seeks to achieve the same goals, and extends to both older people and other community care groups. In Northern Ireland, a comprehensive assessment of health and social care needs takes place within the context of an integrated health and personal social services.

## **Statement of terms and conditions**

For individuals who have their care funded by their Authority, the contract for care will exist between the care home and the Authority. The individual should receive a written record of the relevant terms of the contract, so that they are clear about the roles and responsibilities of the care home, the Authority and the resident. This written record is known as a Statement of Terms and Conditions.

## **Statutory notification**

Where a home has contravened or failed to comply with regulations, the regulator may issue a statutory notification setting out the regulations that have not been complied with, what actions need to be taken and the period within which the action needs to be completed.

## **Super-complaint**

A super-complaint is a complaint about how a market works in general rather than about the operation of one or more individual companies in the market. Under the Enterprise Act such complaints may be brought to the attention of the OFT by a number of designated bodies, including *'Which?'* (formerly the Consumers Association), the body responsible for the super-complaint about the care homes sector considered in this report.

## **Top up or third party contribution**

Some care and nursing homes have fees that are higher than the rate the Authority would usually expect to pay for an individual's assessed need. If an older person eligible for Authority funding wishes to stay in such a home, they need to find a third party willing to pay the cost above the Authority's funding level. This contribution is known as a third party contribution or more commonly as a 'top up'. In Wales, the top up may be paid for by the resident as well as a relative, whereas in England, Scotland and Northern Ireland the top up cannot be paid by the resident themselves. Charities may make a grant towards a top up.

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