



Living in a Care Home

The contract

All residents should have a written agreement. This is a requirement of the Care Home Regulations. The agreement should detail what can be expected from the care home and what the care home expects in return. Usually this will be in the form of a contract however if the local authority arranged the place and contributes towards the fees the resident should still be given a statement of terms and conditions covering the same elements.

Who is signing?

If you are a relative signing a contract on behalf of a resident, make sure it is clear in what capacity you are signing. Are you signing as an appointee or as an attorney using the resident's money to pay the fees or are you taking on personal liability for the fees?

It should be clear

The language used in contracts and the terms and conditions should be plain. The meaning should be clear without the resident needing legal advice. There should be no legal jargon without a clear explanation of what it means. A copy should be given to the resident and another should be available, ideally kept in the care home.

Liability

Contracts should not include clauses that exclude the care home from liability if it fails to use reasonable care and skill in carrying out its duties relating to the care of the resident or their possessions.

Fairness

All clauses in contracts must be reasonable and fair. Notice periods and terms should be the same on both sides. The only exceptions are what are known as 'core' terms such as how much the fees are and how much is charged after the resident dies. These are exempt from the test of fairness because they are the sorts of terms that make up the main subject matter of the contract.

Fees and what they cover

The contract should be clear about

- the date from when fees are due
- the period the fees are charged for

There are services and items supplied in care homes that are not always included in the fees. Check what you will have to pay for. Which charges are compulsory? Which charges may be covered by the NHS?

Examples of services you may have to pay extra for

- hairdressing
- newspapers
- telephone calls
- transport and staff accompaniment to appointments
- trips
- incontinence supplies
- optician's visits and spectacles
- dentistry

Deposits and refunds

Deposits should be refunded if the contract is ended in accordance with the terms of the contract. Homes should not treat deposits as non-refundable. If the contract has been cancelled because the care home is in breach of the contract, the resident has a right to a refund. If a trial period is ended at very short notice on either side, the resident should receive a refund of any prepaid fees.

Absences

The contract should make it clear what happens if the resident is away from the home for any period. If the home continues to charge the resident, it should be clear that the home will not re-let the room temporarily in their absence.

Death

The contract should state for how long fees remain payable after the death of a resident. If the home continues to charge fees for a period after the resident's death it is reasonable to expect that the home would try to re-let the room as soon as possible and refund the deceased resident's estate.

Based on Care Management Matters *Model Contract* and the Office of Fair Trading *Guidance on unfair terms in care home contracts*

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