

# businesscompanion

## trading standards law explained

### 'Important additional information': A detailed guide

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The important, additional information should be given to a potential resident and their representatives in 'good time' before you make them an offer of a place in your home. This means that it must be provided (at the latest) by the time they agree to have a care needs assessment.

What is included in your important, additional information is explored below.

#### **Trial periods**

Where you require residents to complete a trial period, you should provide the following information:

- the length of the trial period
- the circumstances in which the trial period can be ended early by you or the resident
- notice requirements
- arrangements for the refunding of prepayments and any deposit

It is important that you make clear to a resident and their representatives that the use of ADR is voluntary and does not restrict their rights in any way to seek independent redress to the relevant Ombudsman service, once your internal complaints handling procedure has been exhausted.

#### **Funding arrangement changes**

- a resident becomes eligible for local authority funding during their stay in your home. For instance, you should explain what may happen if the local authority's funding rate doesn't cover your charges, or a third party top-up payment cannot be arranged through the local authority, and in particular

whether you can:

- ask the resident to move to a less expensive room in your home
- terminate the resident's contract and ask them to leave, in which case the local authority will move them to another home
- an existing resident who is funding their own care becomes eligible for Continuing Healthcare (CHC) funding during their stay at your home. For example, you should explain:
  - whether your home accepts residents who are funded by CHC
  - if so, whether you have the option of asking the resident to move to a less expensive room, or to leave the home if the CHC funding does not cover your charges, or the NHS-funding body decides to move them to a less expensive home that can meet their assessed clinical needs

### **Additional sector-specific requirements in Scotland**

Under the National Care Home Contract, you are required to tell a resident who is funding their own care whether you will accept them if they become eligible for further local authority funding, and how their charges will change (See clause B.8.4)

## **Complaints handling**

You should provide information about your complaints handling procedure and also give the name and contact details of any alternative dispute resolution (ADR) provider that you use. This could include:

- local mediation or conciliation services
- a trade association mediation
- arbitration scheme

You should also state the circumstances in which you will submit to an ADR procedure (for example, if a resident has exhausted all avenues through your internal complaints procedure) and the contact details and role of the relevant Ombudsman service.

## **Terminating a contract**

You should provide information about the reasons for which you or the resident may terminate the contract, and any conditions for ending the contract. This includes:

- the notice period required
- how the contract can be terminated - for example, in writing/by email
- who should receive this notification - for example, care home manager

## **Pre-contract information**

Under consumer law, you are also required to provide certain pre-contract information to potential residents (unless already apparent from the context). This includes your:

- trading name
- address at which you are established
- phone number
- email address

## Regulator information

You should also supply details of how your home is regulated and by whom. Each nation in the UK has its own regulator for the care homes sector.

### When NHS funding applies

Continuing Healthcare (CHC) is a package of care arranged and funded solely by the NHS for individuals who are not in hospital but who have complex, ongoing healthcare needs.

To avoid misleading residents, you should make it clear that any NHS body that is arranging and funding the package of care has a duty to consider the merits of paying a higher than usual cost - for example, where the need is for identified clinical reasons. This could involve an individual:

- with challenging behaviour who requires a larger room because this behaviour is linked to feeling confined
- already residing in a care home who becomes eligible for CHC funding, because their frailty, mental health needs or other relevant needs pose a significant risk to their health and wellbeing if they are moved to other accommodation

For more information on CHC, read the CMA's latest guidance, *UK Care Home Providers for Older People: Advice on Consumer Law* (pages 46 and 105-107), which is available from the [Competition and Markets Authority website](#).

## Registered person

Details of who is registered as running your care home should be given, and whether a registered manager is currently in post. If there isn't one, you should explain what alternative management arrangements are in place.

## Hygiene

Your latest food hygiene rating should be provided to any potential resident and their representatives.

## Contents insurance

You should make it clear whether a resident must arrange their own insurance cover for personal belongings.

Where you do supply contents insurance for residents' belongings, you should explain:

- the value of your insurance cover
- details of what items are (and are not) included under your policy
- the amount of any excess payable by the resident

## Contract / terms and conditions

Information about where potential residents and their representatives can find a copy of your standard (proforma/sample) contract/terms and conditions for self-funded residents.

Note that it is vital that a copy of your standard (proforma / sample) contract/terms and conditions for

residents who pay for their own care has been provided to potential residents, their representatives and anyone else who will be party to the contract (at the latest) by the time they agree to have a care needs assessment, so that they can make an informed decision about whether or not your home is right for them. Your terms should therefore be easy for people to find. For example, a copy of your standard contract or resident's agreement for those who pay for their own care should be:

- clearly signposted on your website
- included in information packs you send to enquirers

Where you accept residents who are part or fully funded by any public body, there will be a 'placement contract' between you and the public funding body, which will set out the terms of a resident's placement. However, potential residents and their representatives will still need to understand the terms and conditions of their stay. For example, they should be given a pro-forma copy of any 'residency agreement' that they may be required to sign before agreeing to a care needs assessment. This should include (among other things) clear information about:

- who is responsible for payment of fees
- the parties' rights and obligations
- the terms and conditions of your service

This will enable them to make informed decisions about their care. To find out more about fair terms, see the *Fair trading for care homes* booklet on the [Business Companion website](#).

Where residents and their representatives have not had a real opportunity to become familiar with, or understand, your terms and conditions before being asked to agree to them, they may not be incorporated into the contract, and may be unenforceable. Where you try to enforce these terms against a resident, this may infringe consumer law.

## Information about residents' individual needs

You should also provide certain information that addresses people's individual needs. This may include information about:

- whether residents can bring their pets
- if they can choose a male or female carer
- whether you can meet certain dietary or religious requirements

You should also provide any other information specifically required by sector-specific regulations, rules or guidance to help people make informed decisions - for example, if you are based in Wales, you should also provide the information set out in the Regulated Services (Registration) (Wales) Regulations 2017.

Under consumer law, the information you provide about your complaints handling policy will be binding on you as a term of the contract, where the resident accepts an offer of a place in your home. If this information changes before the contract is agreed, you must get the resident's express agreement to the change. This is a requirement of the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. You can read more about these regulations in the *Fair trading for care homes* booklet on the [Business Companion website](#).

## **Negotiating and entering into a contract 'at a distance'**

Where you negotiate and enter into contracts at a distance without the resident being physically present (that is, when the negotiating happens via email or phone, or away from your business premises, such as in the resident's home or in a hospital) you must give them any other information required under consumer law, including the resident's right to cancel the contract within the statutory cancellation period. Typically, this will be 14 days after the day on which the contract was entered into. The relevant consumer legislation that covers these points is the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013. For more information, see the *Fair trading for care homes* booklet on the [Business Companion website](#).

### **Getting it right**

Here's a good example of how to supply information about your contents insurance:

*Our insurance policy offers cover for the personal belongings of a resident for up to a maximum value of £1,000 at any time, except for cash.*

*A £50 excess is payable by the resident for each claim made under the policy.*

*If personal belongings or effects of greater value are kept in the home, they should be covered by the resident's own insurance. For example, furniture, cash, credit cards, deeds and important documents.*

*Further details of our insurance cover are included in our service user's guide.*

### **Sector-specific regulations in Wales**

Welsh sector regulations require care homes to prepare a 'written guide' to their service, which must be given to all individuals receiving care and support, and be made available to others on request in an appropriate language, style, presentation and format.

This falls under Regulation 19 of the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017.

[\*\*< Introduction to 'Important, additional information'\*\*](#)

[\*\*> Website development advice\*\*](#)

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