Calculating the cost of care

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What does care cost?

No doubt many providers we meet would say that the cost local authorities will pay is often at odds with the actual costs faced by providers. It is perhaps, therefore, not surprising that the news over recent weeks has reported an increase in the number of care services falling into insolvency.

However, in a recent publication by the Local Government and Social Care Ombudsman, Wiltshire Council was reminded of its responsibilities under the Care Act. An issue had arisen during an assessment in the level of care provided to a person which had resulted in his carer's support being cut 'significantly'. The LGO took the opportunity to remind councils that they cannot set maximum budget levels when calculating the cost of people's care.

Wiltshire Council stated that the error had arisen due to the use of an outdated matrix tool which was based on banding levels which do not take a person's 'needs' into account. Michael King, Local Government and Social Care Ombudsman, stated that, '*Councils cannot put a cap on people's budgets: the Care Act says eligible needs must be met, regardless of the cost.*'

Councils are required to act in accordance with the Care Act 2014. Its guidance states "*It is important to have a consistent method for calculating personal budgets ..... Local authorities should ensure that the method used for calculating the personal budget produces equitable outcomes to ensure fairness in care and support packages regardless of the environment in which care and support takes place"* and "*Local authorities should not have arbitrary ceilings to personal budgets that result in people being forced to accept to move into care homes against their will.*" Sadly, we have come across cases where care provided has been dictated by cost, rather than to meet the needs of the individual.

Of course, this is only one part of a wider issue in care funding: Unlike the NHS, care and support by local authorities is not a free service at the point of use. This has been likened to an illness lottery by Mr Hunt, Secretary of State for Health and Social Care. The distinction drawn by many is that of the difference between those who receive cancer treatment from the NHS and those who suffer with conditions such as dementia. Clearly, under the current system, the personal costs to the individual in those two scenarios differ significantly.

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Within the current system, to determine what a person can afford to pay in relation to social care, the local authority will carry out a financial assessment. At present, only those with assets less than £23,250 in England will receive any help from the State. Those who own assets worth more than this face substantial care costs under the current framework – felt by many to be unjust.

Of course, there has been talk of a cap on care costs for several years now, as part of a reform to alter how people pay for their care and support. This means that a cap will limit the amount people have to pay towards the cost of their care and support. When a person reaches the cap, the local authority will then be responsible for the person's care and support needs. However, publicity in respect of the early proposals by Dilnot did not highlight that the cap related only to care costs, not accommodation costs. Following the last General Election, the Government is now reconsidering proposals to reform the future funding of care and we await details of the new proposals in the Green Paper due to be published before the summer.

If you have any concerns about this topic and wish to speak to a specialist team of solicitors on the south coast, please contact our Healthcare Solicitors.

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