



Care & Dementia Show

Come and see us at the Care & Dementia Show on Tuesday 3 November & Wednesday 4 November at NEC Birmingham.

We will be located in Hall 3 Stand L66.

Click here to confirm register your attendance.



Change in Approach to the Assessment Process

Following the initial checklist, Continuing Healthcare teams are now wanting to combine the last 2 stages of the assessment process which can be a huge ordeal for families.

Clinical Commissioning Group are required to ensure that there is a fair and efficient process and a good quality assessment to reflect an individual's needs and therefore families should not feel pressured to agree to this.

Latest guidance issued by NHS England acknowledges the NHS needs to improve the individual and family experience of the assessment and commissioning of NHS Continuing Healthcare.

In our experience, families are often overwhelmed by the process and feel frightened to speak out or object in case this goes against them. Anyone who is being considered for Continuing Healthcare should be advised they are entitled to nominate an advocate to represent their views or speak on their behalf. Despite suggestions to the contrary, that can be a solicitor – we would be acting as an advocate and not as a legal representative and are often asked to support the family throughout the process.

Here at QualitySolicitors Moore & Tibbits we have a dedicated specialist Health and Community Care Team who have a wealth of knowledge in this complex area of law. The team offer tailored and comprehensive support to clients and their families to help assist them through any processes.

Meet our Health and Community Care Team:



Debbie Anderson
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Judy Timson
Clinical Advisor
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Welcome to the newest member of our team.

Our team is delighted to welcome Judy Timson to our ever growing Continuing Healthcare team. Judy has been a nurse for over 30 years and more recently has acquired a huge amount of experience completing Continuing Healthcare assessments, appeals and retrospective claims for a local Clinical Commissioning Group. Judy will be an integral part of the expansion of our service and will be out and about at a care home near you!

NHS Continuing Healthcare 'checklists' – Time is money!

The delays in completing checklists are costing families thousands of pounds. A checklist is the first stage in the NHS Continuing Healthcare (CHC) process and is designed to 'screen' individuals to establish whether they will qualify for the full Continuing Healthcare assessment.

Families are encountering two main problems:

- If they are funding care privately, they are not told that Continuing Healthcare funding might be a possibility

- When they request an assessment, there can be significant delays in getting one done

The checklist is important not only for triggering the process but also where someone is found eligible for Continuing Healthcare, funding starts 29 days after the checklist referral to the Clinical Commissioning Group (the NHS organisation responsible for CHC). A timely referral could therefore save thousands of pounds. Each Clinical Commissioning Group has slightly different rules about who can complete

the checklist – particularly in relation to whether Nurses employed at a care home can - and if you are faced with delays getting one completed we advise contacting your local Clinical Commissioning Group directly to request action.

Worried that you should have requested a checklist months ago? If your loved one has never been assessed for CHC you can lodge a retrospective claim, going back as far as April 2012. Please contact the team for more information.

Social Care Institute for Excellence

The SCIE (Social Care Institute for Excellence) have recently published an interesting article on the relationship between solicitors and social care professionals. To view [click here](#).

SCIE provide a wealth of information aimed at informing and raising standards across social care. They highlight how relationships between legal and social care professionals can improve understanding of legislation and enhance services to clients.

Checkout the Alzheimer's Society Guidance

For those of you who support families through the Continuing Healthcare process checkout the latest guidance produced by the Alzheimer's Society that provides helpful tips as to how to assess the psychological and emotional needs of someone suffering from Alzheimer's or dementia. Often when someone scores a severe in cognition, the psychological domain is down played – the thought process being that as a result of the significant cognitive impairment the person is unlikely to have a high level of needs in this area. The guide is very clear that such a sweeping approach goes against current research and confirms behavioural and psychological symptoms can in fact be evidence that someone is experiencing depression or anxiety and should not be dismissed as simply an inevitable part of cognitive impairment.

For more information please [click here](#).

Alzheimer's Society | Leading the fight against dementia

NHS Continuing Healthcare Statistics

As at the end of the first quarter of 2015/16

61,900

patients were eligible for NHS Continuing Healthcare (NHS CHC) in quarter 1. This equates to 68.4 patients per **50,000** population aged 18 or over.

24,881

patients were newly eligible for NHS CHC in quarter 1. This equates to 27.5 patients per **50,000** population aged 18 or over.

Glimmer of hope!

Due to the back log of appeals that the Clinical Commissioning Groups have received, we are only now beginning to hear the outcome of appeals submitted in 2013. Many clients have been in touch asking whether it's worth the wait. The NHS received over 60,000 appeals when the appeal deadline date of March 2012 was introduced and we have only recently recovered over £56,000 worth of wrongly paid care fees for an individual whose appeal was submitted in May 2013. If you have taken the time to submit an appeal, hang on in there – it should be worth the wait!

Also bear in mind that the Clinical Commissioning Group's are advised to apply the Retail Price Index for calculation of compound interest when considering retrospective appeals. The index is calculated monthly, with an average for each calendar year. The Clinical Commissioning Groups are advised to apply the average rate for the year for which costs are being reimbursed.



Deprivation of liberty update

The Law Society has now produced a comprehensive guide which should be read by all front line staff.

The guidance covers the legal framework relevant to deprivation of liberty in a wide range of specific care settings:

- Hospitals
- Psychiatric settings
- Care Homes
- Supported living
- Deprivation of liberty at home
- Under 18's

The guidance provides case scenarios which show the subtle differences – it really is a good read.



Secured the funding? What about the hotel costs?

Last summer it was assessing joint assets and this year the bone of contention seems to be third party top ups when Continuing Healthcare is awarded. Families that were previously self-funding are being asked by the Care Home to pay an additional fee to ensure the Home then receives its contractual rate. We have several current cases where this is an issue. One client for example was originally paying £1250 a weeks. He has been awarded Continuing Healthcare funding but the rate the Clinical Commissioning Group will pay is only £885. The Care Home are requesting that the client or his family make up the short fall and suggest these costs

are for extra "Hotel Services" such as en-suite facilities, a garden view or a larger room.

The current Practice Guidance states that the Clinical Commissioning Group should ensure sufficient funding is provided to meet all of the individual's needs set out in the care plan. Unless it is very clear that the person has expressed a desire to pay higher-than-usual costs for a particular room, the whole of the fees should be met and it will not usually be permissible for individuals to pay higher cost services and / or accommodation costs. Despite this clear statement the Clinical Commissioning Groups

clearly have parameters as to what they will pay and do not appear to be considering funding on a case by case basis.

If you are supporting someone who is being asked to pay a top-up, the matter should be raised with the Clinical Commissioning Group and an explanation sought as to why the correct level of funding is not being paid.



Care cap shelved until 2020!

Notwithstanding the Government's explicit manifesto commitment to drive forward its flagship policy to cap social care costs, we were disappointed to learn of the decision to delay the reforms to until 2020. Alongside concerns raised within local government about the challenges they faced implementing Part 2 of the Care Act we understand the £1 billion extra cost of the national minimum / living wage introduced in the summer budget was also an influencing factor.

So whilst the Government has ring-fenced £8 billion of new investment for the NHS, worryingly social care is once again put on the back burner.

Are you supporting someone who may have an outstanding claim for NHS continuing health care?

You can still apply retrospectively for a claim period after April 2012.



Book a talk or training session:

We offer:

- Free bespoke talks
- Free resident group seminars
- Staff training
- Consultancy

To book training or a talk, please contact Esme Hill: esmeh@moore-tibbits.co.uk

To sign up to receive our free legal updates and newsletter, please email esmeh@moore-tibbits.co.uk

Newsletter



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Social Care complaints to the ombudsman increase by 10%

The Local Government Ombudsman (LGO) has published a review of the complaints that it dealt with in 2014-15. **To view this click here.**

Whilst the number of complaints it handles has remained fairly static, there has been an increase of 10% in those relating to social care.

The report highlights the Ombudsman's concerns that complaints are taking longer for councils to resolve at a local level and that people are not being given the appropriate information about how they can take their complaint further.

Perhaps most worryingly however is the small "yet unprecedented" rise in the number of councils who have not accepted the Ombudsman's decisions or implemented their recommendations. This includes a social care case where an individual could potentially lose out on refunds of substantial amounts paid in care fees. The council involved is currently considering a second report

Social care complaints – the local picture:

Local Authority Social Care Complaints 2014/15

Coventry	13
Solihull	15
Warwickshire	41
Northants	24
Leicestershire	16
Worcestershire	24