Moving to a care home?
Every year 75,000 people move to stay in a care home for the first time. Of those, only 6,000 take advice on financial issues – most other issues are addressed as they arise. There is no obvious source of information and advice relevant to help avoid things becoming a problem.

The purpose of this handbook is to ‘point the way’ to things that are helpful to know about, think about – and to act on.

Whether you (or a loved one) are staying in a care home for temporary respite care, or on a long term basis, it can be difficult to know what arrangements you need to make. This handbook is not an exhaustive list of things to think about and ‘do’. Further information can be found on our website (www.hcrlaw.com), and at websites such as Age UK and the Alzheimer’s Society.

Initially, you should consider immediate matters, such as practical issues relating to your home, the basis on which you are staying in the care home, financial issues and arrangements to allow you to choose who can assist you if your health should deteriorate.

This information is organised under the following headings:

- Your Home
- Assessing Care Needs
- Care homes and Contracts
- Funding
- Benefits
- Future decision making
- Useful contacts

YOUR HOME

If your stay in the care facility is not permanent at the outset, you need to take steps to secure your home. You should notify your insurers and perhaps have post re-directed for a limited period of time to enable you to stay on top of bills and correspondence. It is sensible to ask family and neighbours to help you by checking the property.

If your stay becomes permanent, you will need to make a decision either to retain your house and let it out, or to sell it. You may be able to defer a decision over a sale if you have sufficient cash or investments to pay your care fees. The value of your home is an assessable capital resource and if other investments fall in value, you may need to sell the house.

If you have insufficient funds to pay for your care and the sale of your house has still not been completed, the Local Authority may agree to pay your fees for you under a deferred payment agreement. In effect, the Local Authority will loan you the money to pay the fees and in return they would want a charge over your house. The charge is repayable when the house is sold or within a certain specified period following your death.

Different rules may apply if your house is owned jointly by you and another member of your family, or if a dependent partner or relative over 60 continues to live in the property.
ASSESSING CARE NEEDS

A formal assessment of your care needs should be made before you move to a care home as, until your needs are accurately identified, it is not possible to say a particular care home is able to meet those needs.

An initial care needs assessment will be especially important if the new care funding rules (based on the Dilnot Commission proposals) become law, since payments you make towards care fees will only be counted towards your total maximum contribution when they are formally assessed by the Local Authority as being higher than ‘moderate’.

The following steps should be undertaken separately, although it can sometimes be difficult to distinguish between each stage.

What is a care needs assessment?

If you (or a loved one) are finding it difficult to cope at home, you can have an assessment of your care needs. Normally, this assessment will be carried out by a Social Worker, a Hospital Multi-Disciplinary Team coordinated by a Discharge Liaison Nurse or within the community by a member of the Primary Care Team. This assessment is typically known as a Community Care Needs Assessment but may also be referred to as a ‘care assessment’ or ‘needs assessment’.

The assessment should consist of four parts:

1. An assessment of all the presenting needs and circumstances
2. A decision as to whether any of the assessed needs should be met by Social Services
3. If so, the nature and extent of services to be provided (confirmed in a care and support plan) and
4. A financial assessment

Who has the right to be assessed?

The right to an assessment is one of the few clear cut rights in Community Care Law. An assessment must be carried out if:

- A person appears to the Social Services to be in need of a community care service;
- A person is disabled or
- A person is providing care for someone else

How to obtain an assessment?

There are a number of ways in which your situation can be brought to the attention of Social Services including a self referral, a referral from a carer, family member or a professional such as your doctor.

The assessment

In order to carry out the assessment, someone from Social Services will visit you and your family or carer (if appropriate) to talk about your needs, and what kind of help you would like. They will establish what you can and cannot do for yourself and speak to your doctor, Occupational Therapist or other medical professionals, if you agree to this.

Once the assessment has been completed the Local Authority has a legal duty to meet the needs you are identified as ‘eligible for’. Please be aware that each Local Authority sets its own eligibility requirements.
The assessor will look at how you manage with day-to-day living and make recommendations as to how life can be made easier for you. Such recommendations can include but are not limited to:

- Assistance in the home
- Respite care
- Day care
- Night-sittings
- Care in a care home
- Provision of aids and equipment to help with day to day tasks
- Adaptations to the home
- Pre-prepared meals
- Rehabilitation services
- Physiotherapy services
- Services to meet psychological, social and cultural needs
- Community transport

Social Services can provide services themselves or make arrangements for private or voluntary sector organisations to provide care on their behalf. They can also provide direct payments to enable you to buy in your own community care services.

**Means testing**

Once your needs have been identified, Social Services will conduct a financial assessment known as a “means test” to ascertain how much you should contribute towards the services of which you are assessed as being in need. If you have capital exceeding £23,250 you will be expected to meet the full cost of your care.

Once all of this has been completed a care and support plan should be discussed, agreed and recorded in writing. Social Services should review this within three months of assistance being provided and annually thereafter.
Many care homes will allow you to take some personal effects (such as pictures and ornaments) to furnish your room as well as the clothes and other day to day items you require. You must speak to the home to find out what they will allow – some will allow you to bring some furniture from your home to your room, if space allows.

Most do not like you to have valuable items (including jewellery) or large sums of money in your room. Most will offer a facility for valuations and money to be stored securely.

Most care homes would like you to put a name tag in your clothes to help avoid them from being lost.

Sadly, while many homes do have ‘home’ pets, few will allow you to take your own pet in with you.

All homes must offer facilities for those who smoke, but are entitled to refuse to allow you to smoke in your room.

Many homes will allow you to access satellite TV services and will provide a phone, but these may attract additional charges.

There are a wide range of issues you may want to consider and discuss, and it may be helpful to use a checklist which can be downloaded from various internet sites, or sent to you in the post.

Care home Contracts

Before or shortly after you move into your chosen home, you will be asked to sign a contract. The contract is a legal agreement between you and the care home owner. You need to read through the contract carefully before you sign it. If you wish to, you are entitled to take advice before signing. The contract should cover the following matters, but may cover other matters as well:

- The services that are to be included in the contract, and which of these attract extra charges
- Payment of fees: please check whether the fees are payable weekly or monthly, (in advance or arrears), the billing date and the methods of payment. The contract will also confirm the fee you should be paying immediately and how and when any increases will be calculated and notified to you
- Personal possessions and furniture
- Complaints procedures

You and your family should also be wary of a family member being asked to act as guarantor for the fees. Only the resident and the Care Home Manager should sign the contract. Any family member signing should do so only under the authority of a Power of Attorney.
FUNDING

In some circumstances, the Local Authority may contribute towards the cost of the care you are receiving. There are rules which govern when the Local Authority should contribute, how they assess the value of your home and when it is permissible for you and/or your family to "top up" the contribution the Local Authority makes.

In some circumstances, the NHS (through the local GP Commissioning Group) may be responsible for paying care fees, or for contributing towards the Care home charges.

There are some financial products that are available to guarantee future fee payments, and it may be prudent to consider these, although there is no commitment to purchase the product once the costs are clarified.

Local Authority Funding

Care home funding is available to those who have less than £23,250 capital ("the upper threshold"). The Local Authority will carry out a means test to establish whether there is eligibility for funding. If someone has capital of under £14,250 ("the lower threshold") the Local Authority will fund all their fees up to their maximum funding figure. For those with capital between £23,250 and £14,250 the means test will establish the amount that the person will need to contribute towards their fees with the Local Authority meeting the balance. When capital drops to £14,250 they will be entitled to full funding.

The assessment process follows a set of rules known as CRAG (Charging for Residential Accommodation Guide) – the Local Authority does not always get the rules right, so check all assessments carefully.

The House

The Local Authority cannot include a person’s house in assessing their liability to meet care home fees if any of the following criteria apply:

1. Their spouse/partner lives at the property
2. There is a relative aged over 60 living at the property
3. There is a dependent child under the age of 18 living at the property
4. There is a disabled relative living at the property

The house cannot be taken in to account if the person is receiving temporary care.

If the person needs care on a permanent basis, when applying the means test, their property should be disregarded for a 12 week period. If their capital excluding the house falls below the upper threshold figure of £23,250 then they will be entitled to Local Authority assistance with their care fees for those 12 weeks.

Deferred Payment Agreements

The Local Authority has a discretion to enter into a "deferred payment agreement" if, after the 12 weeks disregard period has ended, the house has not been sold. This is in effect a loan for the fees incurred, which is usually given on an interest-free basis. The loan is repayable on sale of the property or in the event of the person’s death. Interest charges will be incurred from 56 days after either event. A deferred payment agreement will be secured by the Local Authority taking a charge against the property.
Top Ups

As mentioned previously, Local Authorities have a maximum sum they will pay towards care home fees. If a person wishes to live in a care home whose charges exceed the maximum the Authority will pay, this may only be possible if a third party, usually a family member, is willing to pay the difference to “top up” the fees.

NHS Funded Care

NHS Funded Nursing Care is available if someone has been assessed as needing a level of nursing care (either in a nursing home or in their own home). It is a non-means tested allowance currently paid at £108.70 per week.

NHS Continuing Healthcare Funding

NHS Continuing Healthcare Funding is available where someone has “a primary health need”. A detailed assessment is carried out to assess someone’s care needs and whether they fit the criteria for eligibility. In order to qualify the person will have complex medical needs requiring specialist treatment and care. The assessment covers: behaviour, cognition, psychological and emotional needs, communication, mobility, nutrition, continence, skin including tissue viability, breathing, drug therapies and medication, and altered states of consciousness. Each matter is assessed and a score applied. If eligible for funding, the care home fees will be met by the NHS. The NHS should automatically carry out an assessment but if not, this can be requested.

Immediate Care Needs Plans

An Immediate Care Plan can be a useful way of funding care home fees. A lump sum is paid which will generate income to meet some or all of the care home fees for the remainder of the person’s life. Various Financial Institutions offer such plans and the one off premium is calculated by taking into account a variety of factors including age, gender and health.

Such plans can offer peace of mind by ensuring that care home fees will be paid and that someone’s capital is not eroded entirely by fees over their lifetime. Proper advice should be sought from a specialist Financial Adviser.
BENEFITS

Both Central and Local Government offer a range of benefits to those who are in need, or elderly, or both. Unravelling an individual’s entitlement can be complicated and confusing. Quite apart from the fact that entitlement to one benefit may reduce, or even exclude an individual’s right to another, the whole benefits system is undergoing radical change.

In the long term a single payment that encompasses several of the present benefits will be easier to understand and manage, but for the time being many benefits paid to existing claimants will continue unchanged, and it is only new applicants who will be brought within the new unified system.

Some of the benefits that ought to be considered are listed below. In some cases they are not awarded automatically, but have to be claimed.

- Pocket Money
- The State Pension
- Attendance Allowance
- Carer’s Allowance
- Council Tax Benefit
- Council Tax Single Person’s Discount
- Housing Benefit
- DLA or PIP
- Pension Credit

Different Types of Benefit

Some benefits are means-tested (meaning that, an individual’s financial circumstances are considered when a decision is made as to whether he or she is eligible to receive the benefit in question) and others are not.

Certain benefits are taxable (meaning they are not taxed at source but they are included when assessing liability to pay income tax). Other benefits are ignored for the purposes of income tax.
**FUTURE DECISION MAKING**

Just because you are staying in a care home, you do not automatically lose control over how you are looked after and who makes decisions for you. However, it is sensible to accept that the time may come when you need someone to help you manage your finances, or to make decisions about how you are cared for. If you want to decide who will help you when the time comes, you need to make the arrangements whilst your health is still good.

You can appoint people to help you manage financial matters, to make health and care decisions that affect you, and you can also record details of any medical interventions you do or do not find acceptable. It may also be sensible to review your Will, and ensure the beneficiaries and executors are those who you choose.

You should consider:
- Powers of Attorney
- Living Wills
- Your Will

**Powers of Attorney**

You can choose to appoint an individual or individuals to make decisions on your behalf. You may already have set up arrangements which will enable friends or relatives to operate bank accounts through third party mandates or joint accounts. The issue with these arrangements is that they do not cover all your finances and certainly not the major asset of the family home. A Lasting Power of Attorney will enable individuals to make decisions on your behalf in respect of both your finances and health and welfare, even if you no longer have mental capacity. The person or persons appointed are known as your Attorneys and, unless their authority is restricted, they can make decisions over the entirety of your finances. This will enable them to deal with decisions in relation to all your property and this will extend to the ability to sell your home.

Attorneys can also be separately appointed to make health and welfare decisions. They can only act if you are mentally unable to make the decision yourself. The Power can cover all care and treatment decisions from day to day care, including diet and dress, consenting to or refusing medical treatment and having rights of access to your personal information. You can also authorise your Attorney to consent to or refuse life sustaining treatment.

**Living Will/Advance Decision**

An alternative to setting up a Lasting Power of Attorney for health and welfare matters is to set up an Advance Decision (or Living Will), so that you can specify your wishes in relation to future medical treatment.

**Deputyship**

Where a person has lost capacity before putting a Power of Attorney in place, a family member or friend may need to make an application to the Court of Protection to be appointed a Deputy. A Deputy can make decisions about health and welfare and/or property and finances.

**Financial Advice**

It is important that you (and your attorneys) invest your money in a way that is suitable for your age and circumstances. Not all Financial
Advisers have the relevant expertise, so ask friends and other Advisers for their recommendations. SOLLA (Society of Later Life Advisers) and Symponia are examples of organisations that vet their advisers for their expertise in this field, and they have help lines and internet searches which can help you locate someone in the area where you live.

**Funeral Arrangements**

If you know whether you wish to be buried or cremated, or if you prefer a particular funeral director to arrange your funeral, it is worthwhile leaving a written record.

If can be beneficial to pay for your funeral in advance. The cost of the funeral reduces your assets before the Local Authority carry out their means assessment leaving more money to pass under your Will.

**Your Will**

A Will is necessary to ensure that your estate passes to your chosen beneficiaries. If you do not have a Will then your estate passes in accordance with the Intestacy rules which were drawn up in 1925 and which may not reflect your wishes. If you have a Will then it is sensible to review your Will periodically to ensure that it still adequately reflects your wishes.

Your Will can also be restructured to protect your estate from the cost of care. Attempts are often made to put assets out of the Local Authority’s reach by people giving away their assets during their lifetime. However, these types of gifts are usually caught by legislation designed to take account of gifts when an individual has deliberately deprived themselves of an asset to avoid paying for care.

**USEFUL CONTACTS**

Both your family and your care home may find it helpful to know who you want them to contact if you are seriously ill.

**Action on Elder Abuse**  : 080 8808 8141

**Adult Safeguarding**

Gloucestershire : 01452 426 868 (office hours) 01452 614 194 (out of hours)

Herefordshire : 01432 260 715 (office hours) 0330 123 9309 (out of hours)

Worcestershire: 0845 607 2000

**Age UK**  www.ageuk.org.uk 0800 169 6565

**Alzheimers Society**  www.alzheimers.org.uk 020 7423 3500

Gloucester : 01542 525 222

Stroud and District : 01453 791 830

Hereford : 01432 371 137

**Care Quality Commission (CQC)**  www.cqc.org.uk

**English Community Care Association**  www.ecca.org.uk

**National Care Association**  www.nationalcareassociation.org.uk

**SOLLA - Society of Later life Advisers**  societyoflaterlifeadvisers.co.uk 0845 303 2909

**Symponia**  www.symponia.co.uk 01789 774 595