



The Ombudsman's Nursing Home CASEBOOK

Office of the Ombudsman, Ireland.

Nursing Home Special Edition 2017

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Nursing Home Complaints: The Ombudsman's Experience

DURING 2015, my Office's jurisdiction was extended to allow for independent oversight of private nursing homes. As Ombudsman, I could already examine complaints about public nursing homes and HSE schemes such as the Nursing Homes Support Scheme ('Fair Deal'). However, from 24 August 2015 my Office could accept complaints from, or on behalf of, residents in private nursing homes, about actions that occurred on or after that date. There are over 450 such homes in Ireland.

The legislation provides that I can examine complaints in relation to the administrative actions of private nursing homes in receipt of public funding. Almost all private nursing homes are in receipt of public funding either under subvention or through the Nursing Homes Support Scheme. However, as is the case with public nursing homes I am currently legally prevented from examining complaints where the action complained of is a 'clinical judgement' decision in relation to the diagnosis or treatment of a patient.

Preparations for Private Nursing home complaints

My Office had a lead-in period of two months to prepare for the extension of jurisdiction. Practical structures were put in place to support the extension. A **Model Complaints Procedure** for use in the sector was developed.



Ombudsman Peter Tyndall

We also produced a public information **Factsheet**, which is included in this Casebook. Both are also available on my Office's website.

There was a strong focus on working with all the stakeholders involved in the sector. Staff from my Office held a number of information seminars in Dublin and around the country to inform private nursing home providers of the Ombudsman processes and procedures.

I met with HIQA, the National Treatment Purchase Fund, the HSE and the Department of Health to discuss the importance of working in cooperation and sharing information, in order to promote a 'no wrong door' approach to complaints.

In June 2015 my Office signed a memorandum of understanding with the Health and Information Quality

Authority (HIQA) which has resulted in closer working relations and ensures among other things, that when appropriate, individual complaints submitted to HIQA about a private nursing home, will be passed to my Office for examination.

Issues Arising

At present there are 122 public nursing homes and 458 private and voluntary nursing homes providing accommodation for around 30,000 residents. In 2016 the HSE allocated €890 million to the Nursing Homes Support Scheme. This year the HSE expects to spend €370 million on homecare services.

In light of my Office's experience in dealing with nursing home complaints to date and in looking at the current wider regulatory and public policy landscape a number of issues emerge which demand the attention of our legislature and our policy-makers.

In relation to the current day to day operation of private nursing homes the areas of concern I would highlight are the issue of **contracts of care** for residents and **additional charges**, which is already the subject of some considerable public debate, and the question of **security of tenure** for residents. In relation to the broader public policy front we really need to see a more considered debate as to how we fund and deliver care for older people.

Contracts of Care

Entry into a nursing home is not always the result of long term planning. Many residents enter a nursing home straight from an acute hospital setting where it has become clear that their care needs are such that they require long-term residential care. In some instances there may be considerable time pressure when planning to move a loved one from an acute setting into a residential setting.

It can be an emotional and challenging experience for the older person and family members and sometimes contracts are not fully read and understood. Yet a contract is an important legal agreement which should be available before admission to a nursing home. It includes the conditions of residence and fees to be paid. It is of the utmost importance that contracts are clear and detailed and that persons lacking in capacity have independent support and advice available to them before entering into a contract.

In this regard the Assisted Decision Making (Capacity) Act 2015, when fully enacted, will provide an added safeguard for intending nursing home residents.

Security of Tenure

I am aware of a number of cases where the contract of care for a resident has been terminated by a proprietor due to the behaviour or actions of family members, rather than due to anything the resident themselves has done. I realise that often relatives can display challenging behaviours but it is wrong that the solution to the problem should affect the resident themselves.

One such case brought to my attention was of a man with dementia whose contract was terminated due to a breakdown in the relationship between the nursing home and his wife. His family had to relocate him to another nursing home. Moving residence can be particularly stressful and damaging for older vulnerable people.

I understand that this is a difficulty that arises from time to time for proprietors but whatever solution is arrived at, I am firmly of the view that the resident should not be adversely affected by the actions of their relatives.

I accept the contractual right of the proprietor to terminate the contract for specific reasons. However, I believe that if a clause is included that allows a proprietor to terminate a contract at its sole discretion without discussion or consultation, it fails to afford any protection to a resident. This leaves the resident in a vulnerable and exposed position and a better balance needs to be struck. Residents in nursing homes should enjoy proper security of tenure.

Additional Charges

Nursing Home providers are obliged to provide certain services that fall outside what is covered by the Nursing Homes Support Scheme and nursing homes may charge for these additional services.

My main concern is that there is clarity, transparency and fairness around any additional charges levied. All additional charges must be laid out clearly in the contract of care and agreed upon when signing the contract. The additional services should also be separately itemised and costed. This is not always the case in practice.

I can understand the administrative difficulties in organising a varied and engaging social programme for residents. I can also see the unfairness to a resident, who is already paying 80% of their pension towards their nursing home care and who has to use the remaining 20% to pay for social activities which they may have no inclination or may be physically unable to participate in.

These additional charges can effectively wipe out the remaining income, leaving little for extras such as taxis for hospital visits or services such as hairdressing and chiropody. In some cases they can be an additional burden on families.

I have observed that there are no benchmarks or guidelines in place generally against which additional charges can be set, for example the range and level of additional services to be provided and what could be considered to be a reasonable charge for such services.

Additional charges have already been considered as part of the 2015 review of the Nursing Homes Support Scheme and I understand that the Minister for Health has tasked a working group with examining this issue as part of a review of pricing under the NHSS. In the meantime residents and their representatives need to be aware that the time to agree these additional charges is when the contract of care is being finalised. For residents to be left with no disposable income is unacceptable.

Alternate Care Models

Both home care services and nursing home care play a much needed role in meeting the changing needs of older people. As a society we need to ensure that the most appropriate care for older persons is available and resourced to meet their requirements. Alternate care models are required alongside high quality residential care for those who choose it.

However it is generally accepted that community care is completely underfunded resulting in a lack of choice for older people. At present the thrust of public policy means that nursing home care is being prioritised over the kinds of community services that could enable older people to stay at home.

The budget is tilted in such a way that there is a proportion of older people who may be directed towards nursing home care, but who would prefer to remain in their own homes with appropriate support. Older people

who need support should be able to receive it in their own homes, if that is where they want to continue to live.

Therefore we need to ensure that our public services do not discriminate against people who want to stay at home. It is time that our services and funding mechanisms were re-focused to ensure that older people can continue to enjoy their homes for as long as they are reasonably able to and for as long as they choose to, if that is their preference.

The concept of ageing at home in the community is recommended everywhere but the right organisational structures, investment, and commitment are vital for delivering widespread home care services. To this end I am aware that the Department of Health is actively working to improve home care services in Ireland and has just completed the public consultation stage of the process.

It is clear that improvements that encompass community based services and vital supports such as respite care, aids and appliances, housing adaptation grants and transport assistance, also need to be considered. Older people should be supported to enjoy engaged, valued lives within their own communities.



Peter Tyndall November 2017

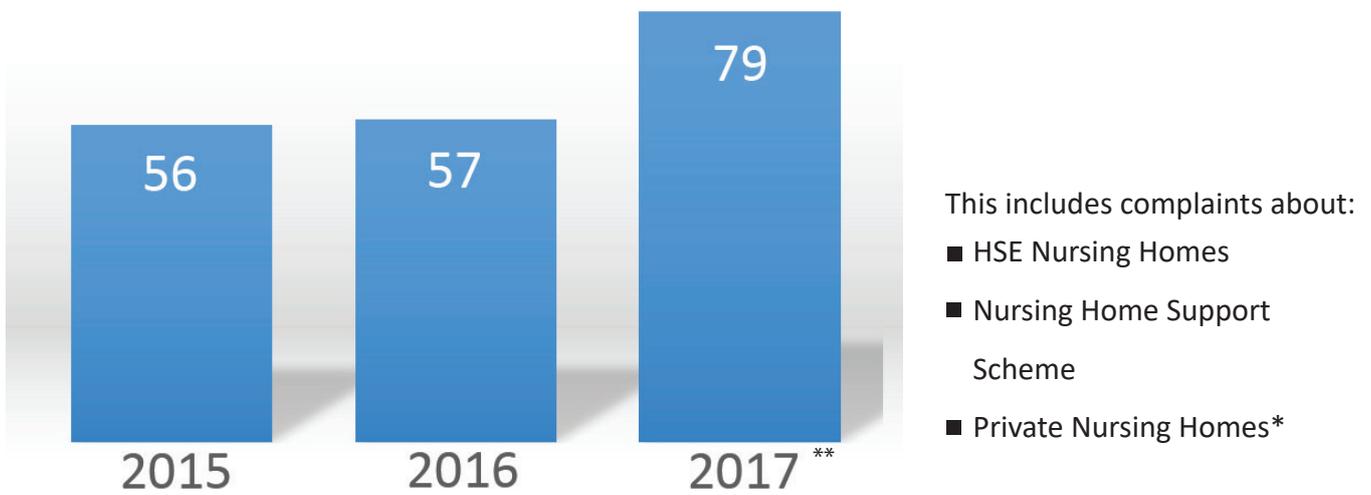


The Nursing Homes Factsheet and Model Complaints System, available at www.ombudsman.ie

Statistics

Nursing Home Sector complaints January 2015 to October 2017

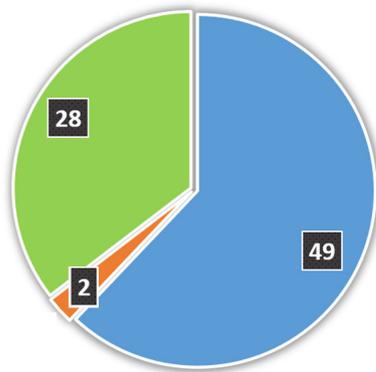
Complaints received in last three years



*Under remit since August 2015 ** 2017 figures until 31 October

All Nursing Home Sector

Complaints received 2017

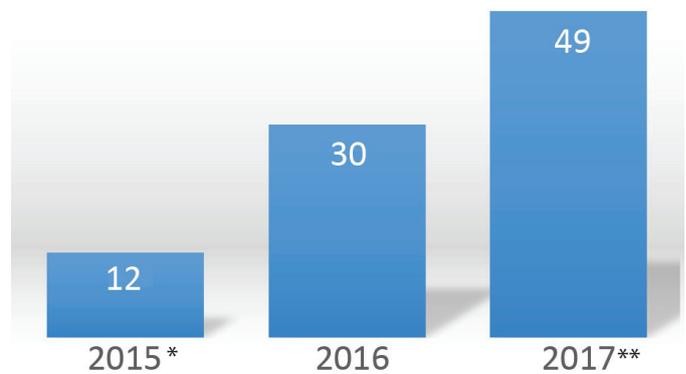


- Private Nursing Homes
- HSE Nursing Homes
- Nursing Home Support Scheme

Total Complaints 79

Private Nursing Homes

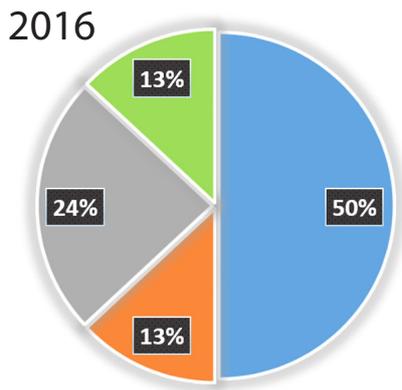
Complaints received



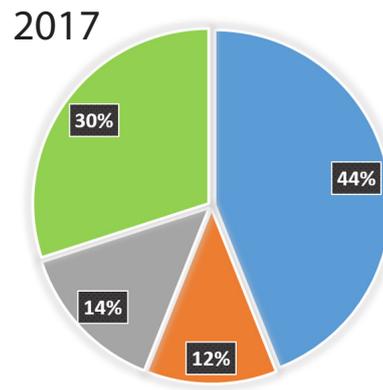
*Under remit from August 2015
 ** 2017 figures until 31 October

Private Nursing Homes

Type of Complaints Received

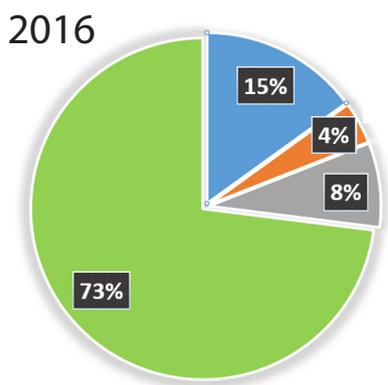


- Care and Treatment
- Complaint Handling
- Charges
- Other

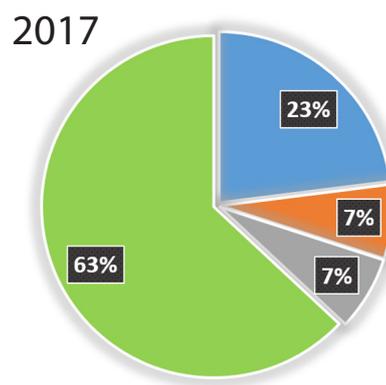


- Care and Treatment
- Complaint Handling
- Charges
- Other

Outcome of Complaints - Private Nursing Homes



- Upheld / Partially Upheld
- Assistance Provided
- Not Upheld
- Withdrawn / Outside Remit / Discontinued Premature



- Upheld / Partially Upheld
- Assistance Provided
- Not Upheld
- Withdrawn / Outside Remit / Discontinued Premature

Private Nursing Homes

Increase in social programme charges

N43/16/0206

Upheld

Background

A man made a complaint on behalf of his parents about a substantial increase in the social charge in the nursing home where they lived. The charge for the social programme was increased from €86.66 each per month to €173.33 each/ per month. The man complained that there was no explanation or breakdown of the charge, residents were given no choice about the charge and their ability to engage in activities was not taken into account.

Examination

Under the Regulations that govern nursing homes, The Health Act 2007 (Care and Welfare of Residents in Designated Centres for older People) Regulations 2013, nursing homes are required to provide facilities for recreation for residents, but no payment for these activities is included in the Nursing Home Support Scheme (NHSS or 'Fair Deal' Scheme). Nursing homes are allowed to agree charges with residents for additional services that fall outside what is covered by the NHSS.

The Regulations require however that these additional services and charges must be set out and agreed upon under a 'contract of care' between the resident and the nursing home. In addition residents in a nursing home should also be allowed to exercise choice, where reasonably practical and have their needs and preferences taken into account in the planning, design and delivery of services.

The nursing home said that the doubling of the charge was necessary due to the social programme running at a loss the previous year and to allow for increased social activities. However the contract of care listed only an overall charge for 'entertainment' but gave no breakdown of the charge. The Ombudsman was of the view that in order to be transparent and to comply with the Regulations the content of the social programme should be listed in the contract of care. This would enable the resident to know what they were signing up to at the outset. The Ombudsman felt that the residents should also have been consulted regarding the potential for increased activities, especially with an associated cost. Finally the Ombudsman was also of the view that there was no financial choice for a resident to opt out of paying for any aspect of the programme which they did not wish to, or were unable to avail of.

Outcome

As a result of the complaint a new more detailed contract of care which includes a breakdown of the social charge was introduced allowing for more transparency for existing residents and enabling new residents to understand what they are signing up to on admission. Importantly, residents who do not have the capacity to take part in the social programme will now only be charged a nominal fee. Residents capable of attending all social activities will however still

be fully charged. Finally resident input into the content and design of the social programme will in future be sought, especially when an increase in activities (with an associated cost implication) is being considered.

Care of a resident

NJ4/16/3809

Upheld

Background

A woman complained about the management of her mother's condition, her diet and fluid intake, her oral hygiene and recurrent urinary tract infections (UTIs) in a nursing home. The woman felt that staff failed to recognise a decline in her mother's condition and lacked an awareness of the progression of dementia. The nursing home carried out an internal review of the resident's care and identified a number of shortcomings. The nursing home apologised and outlined an action plan to address the issues identified. The woman however felt that questions remained and queried how such deficits in care were allowed to develop.

Examination

The Ombudsman's examination agreed with many of the nursing homes findings. The resident was seen by a GP a number of times and by a dietitian. In addition specialised food and fluid monitoring charts were maintained. However, no specific measures were taken in response to a sharp reduction in the woman's intake and a decline in her condition until it was highlighted by a palliative care team pain review. This was four days before the resident was admitted to hospital. In the resident's last ten days in the nursing home the daily care notes did not give a full picture of the woman's emerging health needs. A recommended speech and language therapy referral was faxed incorrectly and never followed up on. The Ombudsman was especially concerned about the level of oral hygiene afforded to the resident.

Overall it appeared that the resident's emerging health needs were not recognised, responded to or escalated to senior nursing staff in a timely manner. Her care plan was not updated to reflect the change in her condition. The nursing home also acknowledged that a conversation about the likely progression in the resident's dementia would have assisted the woman to come to terms with her mother's declining health.

Outcome

The nursing home had already addressed some of the issues identified through the recruitment of senior staff with additional expertise and enhanced training sessions for staff. A number of improvements have been introduced into the day to day running of the nursing home such as better systems of handover of care, the introduction of an early warning system and multidisciplinary team meetings. The outcome of the complaint was shared with HIQA to ensure maintenance of the promised improvements.

Care of a resident

NJM/16/2127

Partially Upheld

Background

A woman complained about the care of her late father, who had only been resident in a nursing home for two weeks prior to his death. The woman felt her father did not receive adequate care in the nursing home and had on occasion been left to sleep in his chair. The woman complained about the documentation maintained in the nursing home and felt that staff were slow to respond to his call bell. Most importantly the woman felt that staff failed to seek medical attention for her father when his condition deteriorated.

Examination

From the documentation reviewed, it seemed the man had settled well in the nursing home and his care record for the period was generally complete. The man was on 24 hour oxygen therapy and used a wheelchair to get around. He seemed to be generally comfortable in the nursing home and his breathing issues were managed during the time. On occasion, he asked to stay in his chair until late in the evening before going to bed.

The deterioration in the man's condition occurred the day before he died. The clinical decision to monitor the man's condition made by nursing staff, was discussed with the man and his son. The man was monitored during the night and in the morning, and it was judged that he was stable. Sadly, he passed away in the morning before he was due to be reviewed by the GP.

While many elements of this complaint related to clinical decisions of staff which the Ombudsman could not examine, it was noted that, when it was first noticed that the man's condition had begun to deteriorate, no member of his family was told of this before they arrived to visit him. A seven minutes delay was also noted in responding to the call bell on one occasion.

Outcome

The nursing home apologised and said that it is its policy to notify the next of kin of a change in the condition of a resident. The nursing home also apologised for the issue regarding the call bell and has since made arrangements for additional staff to be on duty during tea time.

Complaint about a member of staff

N20/17/1533

Upheld

Background

A woman complained about the manner in which her verbal complaint about a staff member was handled, initially by care staff in the nursing home and subsequently by the proprietor of the nursing home. The staff member complained of, approached the woman to question her about the verbal complaint. The woman found this conversation upsetting. Staff in the nursing home then contacted the proprietor at home to discuss the woman's complaint and the interaction. The next day the proprietor discussed the incident with the woman's brother (as her mother's nominated next of kin) before he discussed it with her. Following a number of contacts, the proprietor wrote a letter of apology to the woman for discussing the incident with her brother. At the woman's request he also copied the letter to her family. Unfortunately the contents of this letter caused further upset.

Examination

The woman's complaint had not been handled in line with the nursing home's complaints procedure. The proprietor accepted that the verbal complaint had been poorly handled by the staff members involved which resulted in an interaction that was upsetting for all involved. The correct procedure would have been for the staff nurse in charge to bring the verbal complaint to the attention of the nursing home management who would in turn contact the woman. The proprietor spoke to the staff involved and discussed the complaints procedure. The proprietor had already acknowledged that it had been unwise to talk to the woman's brother before discussing the incident with her and he apologised for this.

Outcome

The Ombudsman was satisfied that the complaints procedure had been discussed with staff. The proprietor issued a personal letter of apology to the woman and outlined the actions he had taken as a result of her complaint. The proprietor said he was genuine in his apology and was hopeful that his letter would ensure that the woman continued to feel welcome when visiting her mother in the nursing home and comfortable to raise concerns regarding her mother's care.

Complaint about the visit of a relative

NAH/16/1032

Not Upheld

Background

A complainant said that they had received a notification from a private nursing home informing them that visits to a sibling, a resident in the nursing home, would have to be pre-arranged. In addition the nursing home had indicated that supervision would be imposed on the visits.

Examination

There had been difficulties previously in the relationship between the two siblings. For this reason the sibling in the nursing home wanted to be notified when visits were to take place. Supervision of visits was deemed necessary due to a previous incident in the nursing home involving the complainant and their sibling.

Outcome

The Ombudsman was satisfied that the nursing home's actions were reasonable under the circumstances. It appeared that the resident received good support in the nursing home. The nursing home said that they wanted to promote good relations between the siblings and that any supervision of visits would be carried out in a sensitive manner.

HSE Nursing Homes

Investigation of incident at a HSE home

HB8/12/1810

Not Upheld

Background

A woman complained that an incident involving a visitor and an elderly resident at a HSE residential facility for older people had not been adequately investigated by the HSE and that sufficient regard had not been afforded to the family.

Examination

The incident was recorded on CCTV and was witnessed by a member of staff. The matter was reported to the Gardaí as an alleged criminal offence and a file was submitted to the Director of Public Prosecutions.

The HSE explained that, as a first step, the resident was moved to a different location within the facility, extra staff were assigned for the purpose of supervision, the resident was assessed by the Psychiatry of Later Life team and additional CCTV cameras were installed. The HSE then initiated moves to have the resident re-located. This was achieved within eight weeks of the incident occurring. The HSE offered its apologies and its support, including counselling, to the family concerned and the Community Services Team maintained contact with the family.

Outcome

While acknowledging the difficult situation for all concerned, the Ombudsman concluded that the HSE did not act in a way which adversely affected the woman or which was contrary to fair or sound administration.

Nursing Homes Support Scheme

The Nursing Homes Support Scheme, also known as the “Fair Deal” scheme is a scheme of financial support for people who need long term residential care services. Under the Nursing Homes Support Scheme, people make a contribution towards the cost of their care and the State pays the balance. The Nursing Homes Support Scheme is administered by the HSE.

Backdating of NHSS payment

HC2/12/1259

Upheld

Background

The Ombudsman received a complaint from a man on behalf of his late mother. He wanted to have a payment from the HSE under the Nursing Homes Support Scheme (NHSS) backdated for a six month period. The HSE had refused his request. The HSE said that for applications received after 1 October 2011 the NHSS is paid from the date the application is approved, not the date the application is made. In this case the application was made on 3 October 2011 but not approved until nearly six months later on 23 March 2012.

Examination

The Ombudsman believed that the delay of nearly six months in approving the application in this case was unreasonable. He asked the HSE to review the case.

Outcome

The HSE conceded that the application should have been processed much quicker and certainly by 1 December 2011 (that is, within two months of the application). The HSE offered a payment of €8,400 to the complainant.

Assessment of assets under NHSS

HB1/13/0815

Upheld

Background

The daughter of an elderly woman (80) complained to the Ombudsman about the way the HSE assessed her mother's assets and principal residence following her application for assistance under the Nursing Homes Support Scheme (Fair Deal).

While her application under the scheme was approved, the full value of her principal residence was assessed against her despite the fact that there was a large outstanding loan on the property. This outstanding loan had arisen due to the woman having applied for a small loan for the purposes of carrying out some home repairs in 2003. Her daughter had been unaware of the existence of the equity life loan which amounted to €140,000 of which the woman had only drawn down under €10,000 following home decoration. However, interest on the loan mounted up over the years adding considerably to the value of the loan which had reached €240,000 by 2011.

In appealing the HSE's decision the woman was advised by the HSE Appeal's Officer that the value of a principal residence can be reduced where it can be established that any outstanding loans on that property were obtained for the purchase, repair or renovation of the property. However, as the woman's daughter was unable to provide evidence to show that the loan had been obtained for this purpose, the full value of the property was assessed.

Examination

The woman's daughter felt unable to write a letter to the bank seeking confirmation that the loan was for home improvements as the relationship between her and the bank had deteriorated. She had experienced enormous stress dealing with the sale of her mother's property and repayment of the outstanding loan to the bank. During the Ombudsman's examination of the case he decided to seek a copy of the original loan application from the woman's daughter which clearly showed that the purpose of the loan was for home improvements. In light of the loan application the Ombudsman asked the HSE to review the case.

Outcome

The outcome of the review was that the HSE accepted that the information contained in the loan application form clearly indicated the purpose of the loan. It was considered sufficient evidence to treat the outstanding balance of the loan as an allowable deduction under the scheme. The woman's contribution to her nursing home care was reduced by nearly € 32,000.

Assistance refused under NHSS

Upheld

Background

The Ombudsman received a complaint from a family regarding the HSE's decision to refuse assistance to their father under the Nursing Homes Support Scheme.

Assistance under the Scheme was refused on the basis that the man had expressed a wish to eventually return to his home. According to the HSE, all applicants have a right to self-determination and such cases could not be considered eligible under the Scheme. However, the man had a serious medical condition and needed respite care over a number of years and, in particular, during the winter months. Sadly, the man passed away and his family brought a complaint to the Ombudsman.

Examination

The Ombudsman formed the view that the refusal by the HSE to grant assistance under the Nursing Homes Support Scheme was at odds with the medical evidence on record. In particular, the evidence recorded that the man needed full-time supportive care and that he had lived in nursing homes previously under the "Winter Beds Initiative". His family helped to care for him at home at other times of the year. His application also followed several admissions to hospital in the previous months. In addition, it was clear from the application form for the Scheme that, while the man expressed a preference for staying at home, he also indicated that he was willing to stay in the nursing home for a few months.

Outcome

The Ombudsman asked the HSE to review its decision. Following this review, the HSE accepted that, having regard to the medical evidence, the application for assistance under the Nursing Homes Support Scheme should not have been refused. As a result, the HSE made the appropriate payment of €5,000 to his estate.

Notional income from farm included in means calculation

HD9/14/0777

Not Upheld

Background

A woman applied for support for her husband under the Nursing Homes Support Scheme. She complained that the HSE had included as part of her means the notional income she received from a farm that she transferred to her son within the previous five years. The Scheme is means tested and one of its conditions is that any assets an applicant transfers up to five years before they apply are counted as part of that applicant's income. The woman said that although the formal transfer had been made within the previous five years, the farm had effectively been

transferred to her son under the Early Retirement Scheme for Farmers more than ten years earlier.

Examination

The HSE told the Ombudsman that under the relevant legislation it had to take the formal Date of transfer and had no discretion to take account of other circumstances such as those outlined by the complainant.

Outcome

The Ombudsman considered that the HSE was correct in its interpretation of the legislation and for this reason he did not uphold the complaint.

Recovery of overpayment from nursing home resident

HD7/14/0415

Partially Upheld

Background

A woman and her husband lived in a nursing home through support provided for under the Nursing Homes Support Scheme. When the complainant's husband died the woman continued to receive a higher rate of subvention than she was entitled. The HSE sought repayment of €7,484.99. The woman's son had not informed the HSE as required under the Nursing Home Subvention scheme. However, the nursing home had informed the HSE of the death of the woman's husband.

Examination

The Nursing Homes Support Scheme application form completed by the woman's son in respect of both his parents, stated at part 5 - "that the applicant must report to the HSE, within 10 working days any changes in his/her or their parents circumstances which may affect entitlement to financial support.". The Chief Appeals Officer was of the view that this requirement had not been complied with and as such no reduction in the outstanding amount should be allowed in this case.

Outcome

The relevant legislation is silent on this issue. However, the Appeals Office accepted that the nursing home had notified Elderly Services in Waterford. On this basis the HSE reduced the outstanding amount by 50%. As the son had not informed the HSE as required and as his mother had received a higher rate of subvention than she would have been entitled to, the Ombudsman considered that the HSE offer was reasonable.

FACTSHEET

Complaints about Private Nursing Homes

This factsheet tells you what you can do if you have a complaint about a private nursing home. It also explains what complaints the Ombudsman can and cannot examine.

What can the Ombudsman do?

The Ombudsman can examine complaints about the actions of a range of bodies such as Government Departments, Local Authorities and the Health Service Executive (HSE), including HSE-run nursing homes. In addition from 24 August 2015 the Ombudsman's remit was extended to enable him to deal with complaints relating to the administrative actions of private nursing homes. The Office of the Ombudsman provides a free, independent and impartial service for dealing with complaints. You may feel that you, or a person on whose behalf you are complaining, have been treated unfairly or have received a poor service through some failure on the part of a private nursing home. If this has caused you hardship we may be able to look into your complaint.

We can normally only deal with a complaint if you have already gone through the complaints procedure of the private nursing home concerned.

Introduction

From 24 August 2015 the public can bring complaints to the Ombudsman about any private nursing home in receipt of public funding under subvention or the Nursing Home Support Scheme.

However only complaints about actions that occur on or after 24 August 2015 can be examined by the Ombudsman

Is the Ombudsman independent?

Yes. The Ombudsman deals with all complaints independently and impartially when judging whether the action or decision of a private nursing home provider was fair or reasonable.

What can I complain to the Ombudsman about?

You can complain about your experience in dealing with a private nursing home. The issue may include a nursing home:

- failing to communicate clearly
- failing to meet your basic needs or to respect your privacy and dignity (for example not providing suitable food and drink or managing incontinence issues)
- failing to follow approved administrative procedures, protocols or reasonable rules
- keeping poor records
- lack of cleanliness or infection control

- having staff that are rude or unhelpful
- being reluctant to correct an established error
- giving slow or unsatisfactory response to letters
- failing to deal properly with your complaint

How will the Ombudsman deal with my complaint?

Once we establish that we can examine a complaint we will ask the private nursing home to send us a report. If necessary the Ombudsman may also examine any relevant files and records. We may question the people involved in the complaint. It can take time to gather the information that we need.

We will examine all the issues of possible maladministration.

‘Maladministration’ can include an action that was or might have been:

- taken without proper authority
- taken on irrelevant grounds
- the result of negligence or carelessness
- based on incorrect or incomplete information
- improperly discriminatory
- based on an undesirable administrative practice
- otherwise contrary to fair or sound administration or
- the result of the nursing home failing to give reasonable assistance and guidance or failing to provide information on a person’s right of appeal or review

We will then decide whether

- your complaint is justified
- you have suffered due to the actions or decision of the private nursing home

If we find that you have suffered adverse affect due to maladministration and if the private nursing home has not taken steps to remedy this, we may suggest it does so. We may ask the private nursing home to:

- review what happened and learn from it
- change its procedures and practices
- provide staff with training
- change its decision and/or
- offer an appropriate remedy, including an acknowledgement of what happened, apologise to you and give you a better explanation of their actions

We will also check with the private nursing home that they have carried out any commitments they give.

What the Ombudsman cannot examine

People sometimes contact us about things we are unable to deal with. The Ombudsman cannot look at complaints about:

Clinical Judgement: The Ombudsman cannot examine complaints which are specifically about actions taken by medical professionals acting on behalf of the Health Service Executive when, in the opinion of the Ombudsman, they are acting solely in the exercise of clinical judgement in connection with the diagnosis of illness or the care or treatment of a patient. The clinical judgement exclusion also applies in relation to the examination of complaints about medical professionals acting on behalf of private nursing homes.

Employment: The Ombudsman cannot look at complaints relating to recruitment, pay and conditions of employment or contracts in relation to employment.

Other: The Ombudsman cannot look at complaints where:

- The law provides for a right of appeal to a court, an independent tribunal or an independent appeal body
- The complaint is, or has been, the subject of legal proceedings before the courts.

The role of the Ombudsman and the Health Information and Quality Authority (HIQA)

The Ombudsman and HIQA have separate but complementary roles in the health and social care area. The role of the Ombudsman mainly involves examining individual complaints from patients, their family or representative about the care they have received from a private nursing home. HIQA is the independent authority established to drive continuous improvement in Ireland's health and personal social care services by regulating and monitoring the safety and quality of these services.

On occasion complaints or information received by either office can be of use and benefit to both our offices. We will ensure that any such information is channelled to the appropriate office. This ensures that anyone with concerns about the service they have received in a private nursing home can have those concerns addressed properly, thoroughly and promptly.

When should I complain to the Ombudsman?

Before you complain to the Ombudsman you should try to resolve any issues with the private nursing home using their complaints procedure. The private nursing home should be given a chance to respond and, where appropriate, try to put things right before the Ombudsman becomes involved.

If you cannot resolve your complaint in this way, you can then ask the Ombudsman to examine your complaint.

Please remember to include any letters or correspondence between you and the private nursing home concerned.

Complain to the Ombudsman as soon as possible.

You should complain within 12 months of the action taken by the private nursing home or date of the decision of the private nursing home's complaint handler.

Who can complain to the Ombudsman?

You can complain on your own behalf or for someone else if they ask you to. A complaint can be made on behalf of a nursing home resident if they give written consent to do so. Often relatives or others submit a complaint on behalf of a person who does not have the capacity to submit the complaint themselves. If for some reason the resident is unable to give written consent, the Ombudsman may seek some form of independent evidence in this regard before accepting a complaint. We can also consider a complaint about the care given in a private nursing home to someone close to you who has since died.

How long will it take the Ombudsman to deal with my complaint?

The time taken to reach a decision will vary from case to case, depending on how complex it is. However, we will keep you informed of what is happening with your complaint.

What will it cost me to complain to the Ombudsman?

Nothing. There is no charge for the services of the Ombudsman.

In summary - Three steps to getting things put right

1. Make a complaint to the private nursing home as soon as you can. Complaining to them directly might get the matter resolved quickly. Explain why you're unhappy and how you want them to put things right.
2. Give the private nursing home a chance to resolve your complaint and give you their final response. Make sure you keep copies of all letters about your complaint.
3. If you are unhappy with how the private nursing home has dealt with your complaint, contact the Ombudsman.

How do I complain to the Ombudsman?

You can write or call to:

The Office of the Ombudsman,

18 Lower Leeson Street, Dublin 2.

Phone: LoCall 1890 22 30 30 or (01) 639 5600

Email: ombudsman@ombudsman.gov.ie

You can also make a complaint online using the online complaint form at www.ombudsman.gov.ie



Ombudsman

2017 Office of the Ombudsman

Office of the Ombudsman, 18 Lower Leeson Street, Dublin 2. D02 HE97.

Lo-call: 1890 223030 Tel: 01 639 5600

Website: www.ombudsman.ie

Email: ombudsman@ombudsman.ie

Twitter: @OfficeOmbudsman