

Fair terms for care

Care Homes for older people in the United Kingdom

A guide to unfair terms in privately funded care home contracts



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Care home contracts

This leaflet is designed to help you, or someone helping you, decide whether the terms of your care home contract are fair. It also gives details of where you can get advice.

If your care home place is being provided under a contract between a public authority and the home, then you are entitled to a statement of the terms and conditions rather than a contract.

If you move into a care home and you, or someone helping you, are paying privately towards the fees, you are entitled to have a written contract and the terms and conditions must be fair. It is a legal document affecting your future so it is important to make sure you are happy with it and there is nothing in it that you are not prepared to agree to.

Both you and the care home have legal rights and responsibilities. The contract should be in clear language and in a format suitable for you, such as large print, so that you know what you can expect from the care home and what your own obligations will be. The care home can't use unfair terms or take away your legal rights.

The Office of Fair Trading, trading standards departments and certain other regulators enforce the Unfair Terms in Consumer Contracts Regulations 1999 but only a court can decide whether a term is unfair. If you need further advice about the contract, please contact your local trading standards department, local advice centre or Citizens' Advice Bureau or seek your own legal advice. The Office of Fair Trading cannot assist you in a private dispute or give individual advice, but can take action against a care home to stop the general use of unfair terms.

There is a list of useful contacts at the back of this leaflet.

What to think about

Care homes will provide you with brochures or guides to what they offer. Make sure you have these so you can think about them and make a choice. You should be told about:

- the fees or charges, and when they are due
- the services provided
- your bedroom
- the rooms you can use, such as the dining room
- the number of resident places
- special needs or interests catered for
- the home's philosophy
- staff qualifications and experience
- any rules the home has
- your rights and responsibilities as a resident
- any recent inspection report
- what the residents think about the home
- how you can complain
- the period of notice
- what happens if the home closes or there is a new owner
- the arrangements needed if your funding runs out.

The contract

The terms of your contract should be clear enough that you should not need legal advice to understand them. It is important that you take your time to read the contract carefully. Ask to be allowed to read it before you visit the home. Don't let yourself be rushed. If you don't understand any of the words or what a term means, then ask. Make certain that you know what the care home is providing for the fees.



What should be in the contract

New legislation means that you are entitled to a written contract setting out the terms and conditions of the care home. These should contain:

- the basis of your stay e.g. permanent, trial or temporary
- information about the room to be occupied
- the care and services, including food, provided
- the fees or charges and how they are calculated
- how often and when the fees are due
- who is paying
- whether there are additional services to be paid for
- your rights and obligations
- the care home's rights and obligations
- what happens if something goes wrong
- the period of notice
- what happens if things change
- who is liable if there is a breach of contract
- how the care home will meet your special requirements

Don't sign until you are sure what they are going to do for you and also what is expected of you.

What are unfair terms?

These are terms made by the care home in advance, in a standard contract, which you have no choice about and which give the care home too much advantage over you. A care home has to take your interests into account.

Unfair terms are traps, often hidden in the detail. For example they might

- seek to exclude the care home's legal liabilities
- impose unfair penalties, restrictions or obligations on you
- be unclear about what you have to pay.

Terms should be clear and easy to read. Contracts should not use jargon, difficult words you don't understand or long complicated sentences.

If you think a care home is using an unfair term to your disadvantage, get advice about telling them so. If you are not sure about a certain term, get advice from your local trading standards department or you can contact your local advice centre or Citizens' Advice Bureau (see your local directory). A list of useful contacts is at the back of this leaflet.

What to look out for

Watch out for terms that:

- are not clear about what you have to pay
- are not clear about how often you pay
- are not clear about who is responsible for paying
- exclude the care home's liability for causing death or injury
- exclude the care home's liability to provide a service
- exclude the care home's liability for looking after your property or possessions
- exclude the care home's liability for damaging your clothes in the laundry
- exclude the care home's liability for anything printed in the brochure
- let the care home make significant changes to what it supplies without consulting you
- let the care home change your room without consulting you
- charge penalties or interest which are unreasonable for overdue fees
- let the care home make frequent and arbitrary increases in fees without notice
- impose unreasonable restrictions or obligations on you
- give the care home the right to keep or dispose of your property or possessions
- are not clear about the notice required if you wish to leave or they want you to leave
- are not clear about how long the fees are payable after death
- are not clear about access to the room after death
- are long and legalistic or otherwise unclear.

Where you can get advice

Advice on unfair terms

Trading standards department - see under Council in local directory information

Citizens Advice Bureaux or local advice centres - see local directory information

For details of local advice centres contact Adviceuk,
tel: 020 7407 4070

You can complain about a care home's unfair terms by writing to

Contract Regulation Unit
Office of Fair Trading
Zone 1W, Fleetbank House
2-6 Salisbury Square
London EC4Y 8 JX
email: cru@oft.gov.uk

You can also contact our consumer helpline 08457 22 44 99,
or visit our website at www.oft.gov.uk

Care Standards

National Care Standards Commission, tel: 0191 233 3600

Scottish Care Commission, tel: 0845 603 0890

Care Standards Inspectorate for Wales, tel: 01443 848 450

Northern Ireland Health and Social Services Boards - see local directory information

General advice about care homes

Age Concern, tel: 0800 00 99 66

Help the Aged, tel: 0808 800 6565

Help the Aged Northern Ireland, tel: 0808 808 7575

Counsel and Care, tel: 0845 3007 585

who publish an advisory leaflet - Living in a care home

Elderly Accommodation Counsel, tel: 020 7820 1343

Relatives and Residents Association, tel: 020 7359 9136

Social Services - see local directory information

Further copies of this leaflet can be obtained from our mailing house:

OFT
PO Box 366
Hayes
UB3 1XB
tel: 0870 60 60 321
fax: 0870 60 70 321
email: oft@eclogistics.co.uk

Office of Fair Trading
Fleetbank House
2-6 Salisbury Square
London
EC4Y 8 JX
switchboard: 020 7211 8000
general fax: 020 7211 8800
consumer helpline: 08457 22 44 99
website: www.oft.gov.uk

This information is available in other formats and languages on request. Please ring 0870 60 60 321 to order.

This leaflet is only a simple guide and should not be relied on as a complete statement on the law. To understand your rights and obligations fully, study the relevant law or consult a solicitor.

Published by the Office of Fair Trading

Printed in the UK on paper comprising 75 per cent post-consumer waste and 25 per cent ECF pulp

Edition 01/04 – printed 01/04/20,000

Product code OFT688

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