

Competition and Market Authority – Final Report



On Thursday last week the CMA (Competition and Market Authority) provided **the results** of their year-long investigation into the older people's residential care market. NCF and our membership have had a strong level of engagement with this research throughout the different stages, and representatives of the CMA have attended the general members meeting and two meetings of the Finance Directors forum. In addition, NCF have had one to one meetings with members of the team, and submitted written responses to some of their interim findings. I don't think we can underplay how important this engagement has been in shaping what appears to be a report with a very specific message about the need for change.

This message for change is broken into two specific areas, where they identified problems. The first of these has been the focus of many of the headlines and soundbites that hit the news desk late last week. These relate to the 'consumer' experience of residential care. The early thrust of the investigation, and the various interim reports indicated that there were a number of areas that their recommendations were likely to focus in on – and these have been played out in the final report. These include the need for greater transparency around indicative pricing, the provision of contracts in a timely fashion, challenges to the requirement to pay fees for an extended time after a resident's death and a number of other consumer protection issues. These areas will be followed up by the CMA, who will be looking at guidance for the sector across the full range of issues they have raised to ensure provider compliance with consumer law. In addition, the CMA has promised to develop short accessible advice for residents and representatives to help them understand their rights. There are significant challenges around some of what they propose – particularly in relation to indicative pricing – however, there points are well made about the need to provide clarity of information to ensure that people can exercise choice and control. NCF will be working with the Care Provider Alliance to think through how best to implement some of these complex recommendations.

The second, and definitely the most surprising headline, is the strong focus within the report on the sustainability of the sector – with a particular concern about the position of providers who work almost exclusively with local authority clients. It became clear relatively early on in our dealings with CMA that this was becoming a focus for their investigations. In addition, their very detailed financial report produced in the Autumn began to firm up their assertion that whilst the sector as a whole is *“just able to cover its operating costs and cover its cost of capital. However, this is not the case for those providers that are primarily serving state-funded residents.”*

This is a very helpful addition to the narrative around both the current picture of the sector, and to feed into the future of care to be explored within the green paper team. There is an immediacy that came through strongly in their financial paper which highlights just how rapidly the position around meeting the cost of care has changed, and they identify an average differential between self-funding and local authority residents of 41% - or £236 per week. The confirmation of national living wage increases in the budget, alongside no additional funding for social care, are only likely to mean further increases for self-funders, and more pressures on local authorities to increase their rates. This is alongside a narrative from the LGA about the increasing number of authorities who are accessing their reserves to pay for statutory social care provision. In order to have some oversight of this, the CMA is recommending an extension of the role of CQC to take on the role of an independent body to have oversight of LAs, support them in their role of identifying and planning for future needs, advise on the costs of care, and enhance transparency.

The Green Paper looms large on the horizon in this final report, and it is clear that any immediate governmental response to this paper is likely to be referred on to the Green Paper team, for these recommendations to be considered in the round with other concerns. However, this would represent an opportunity missed for this detailed investigation which shows the shortfall in funding that exists here and now, and can't wait for a long term reform to grind its way into place. On balance, the CMA has provided us with a valuable analysis of the state of the sector – and a very important opportunity to stand alongside those who use services – and be clear that the vested interest that we all share – and the one that this report so adequately identifies is at risk - is that of having a sustainable and functioning care sector.