



# Department of Health

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17<sup>th</sup> March 2015

Dear Katherine,

Thank you for your letter of 30<sup>th</sup> January which outlined concerns from several Local Healthwatch organisations about an apparent gap in the scope of regulation in supported living environments and, in some settings, use of personal budgets.

All providers of regulated activities must be registered with the CQC and continue to meet registration requirements about safety and quality. 'Supported living' is a phrase commonly used to describe services that provide care and/or support to people living in their own homes. Those that provide personal care are not exempt from registration with CQC, and are usually registered to carry on the regulated activity 'Personal care' rather than 'Accommodation for persons who require nursing or personal care'; the regulated activity that covers the services that are often referred to as 'care homes'. CQC has no right to enter and inspect people's own homes, and medicines management, shopping and cooking are not included in the legal definition of 'personal care' for registration purposes.

Having their own tenancy is extremely important to many people using 'supported living' services. It is something they value enormously, and which makes an important contribution to their sense of autonomy and wellbeing. The housing involved can be singly occupied or shared (sometimes by a number of people); be based on single flats, groups of flats, or houses; and be supported by paid staff either all or some of the time. The housing provider can be the same organisation as the care provider, work in collaboration with another organisation, or be a completely separate organisation. It can be more helpful to think of it as support and/or care associated with a person's housing arrangements, rather than directly linked to it.

The Department has been discussing with CQC the regulatory arrangements for supported living services. In particular, we have been exploring whether services should register for the regulated activity of accommodation with personal care in cases where a resident signs a tenancy agreement that leaves them with no choice of care provider. While this

would enable CQC to inspect both the care and accommodation elements of such a service, it is important that the impact on funding streams of such an approach is fully understood. At present supported living accommodation costs are eligible for housing benefit, while those of care home services are not. We are working with the Department of Work and Pensions to develop a clearer understanding of the impact of any change of registration status on eligibility for housing benefit.

I acknowledge that there are some issues to be resolved. CQC is reviewing how to improve its approach to regulating supported living services that provide personal care and talking to the Department in relation to this. We need to be careful to foster and encourage innovation and avoid unnecessarily stifling the development of new solutions to providing care. Anything we do in relation to supported living could easily impact on legally similar settings such as Extra Care Housing schemes. Ultimately supported living is making an important contribution to giving people more choice and control over their lives – in a way that they themselves clearly value enormously.

Your letter also referred to the use of personal budgets and direct payments. The Government wants to give people including carers more control over their health and social care. The Care Act provides a new legislative focus on personalisation by mandating care and support plans and personal budgets (which can be taken as a direct payment) for everyone with care and support needs, increasing opportunities for greater choice, control and independence, so that people can choose what is important to them to meet their care and support needs.

Under the Care Act, local authorities should conduct regular reviews of the individual care and support plan and work with them to identify unmet needs and agree outcomes to be met through the use of their direct payment. Alternatively an individual can request a review of their care plan at any time should they wish to. The review will help to identify if the person's needs have changed and can in such circumstances lead to a reassessment. It should also identify other circumstances which may have changed, and follow safeguarding principles in ensuring that the person is not at risk of abuse or neglect.

The Care Act also provides a new duty on local authorities to provide the information and advice that people need to help them plan and to maintain their independence and exercise choice and control over their personal budget.

Current complaints provision for care and support is set out in regulations in the Local Authority Social services and NHS Complaints regulations 2009. In conjunction with stakeholders, the Department intends to develop proposals for a system for appealing local authority decisions, and are currently consulting on more detailed proposals. The consultation feedback will inform the need for an appeals system and drafting of the regulations and guidance as we work towards implementation in April 2016.

The Department is working with Skills for Care implementing the Personal Assistant (PA) Framework to support this workforce and their individual employers. The PA framework encourages local authorities to ensure they promote a positive and well informed approach to risk management that enables choice and control for individuals while also staying safe.

I hope that my response gives you assurance that the Department is looking at these issues and I am happy to discuss them with you as we make progress.

Yours sincerely,

A handwritten signature in black ink that reads "Jon Rouse". The signature is written in a cursive style with a large, stylized 'J' and 'R'.

**Jon Rouse**

Director General of Social Care, Local Government and Care Partnerships