

## RHONA – SUBMISSION 6

Rhona's submission relates to her experiences as a relative of someone in nursing home care. Rhona refused to sign the contract of care provided when her relative entered the nursing home until certain clauses were removed from the contract. Rhona said this took some time and she received different drafts of the contract in a piecemeal fashion.

At a later stage, when compulsory charges were introduced, Rhona again refused to agree a new contract and says she was successful in her refusal. However, Rhona said the process involved protracted correspondence and a formal meeting of complaint. Rhona states it is all very stressful and legally complex and that most relatives would understandably feel intimidated. Rhona feels support from regulatory bodies is vital to stamp out any sharp practices towards the vulnerable.

Rhona states that residents or relatives of residents are legally required to sign a contract of care. The contract is shrouded in legalese. Rhona states that Nursing homes are quick to state that a contract for the provision of services is legally required under the Health Act and expect the resident to sign away on the dotted line to gain admission. Rhona feels that nursing homes often blur the distinction between essential and optional services. A Resident who is usually grateful at getting a place and is ill and stressed, unfortunately ends up signing to find later they have signed up unwittingly to new and rising compulsory charges. Rhona states they have effectively written their rights away and that once they have signed the contract, residents have no cause for complaint and therefore no redress with the Ombudsman.

Rhona in her submission quotes Health Act 2007, S.I. 415/2013 Section 24(2)(d) that a nursing home contract must 'include details of .....any other service of which the resident may choose to avail but which is not included in the Nursing Homes Support Scheme or to which the resident is not entitled under any other health entitlement'.

Rhona goes on to say that the Department of Health further clarifies in its guide to the Fair Deal Scheme (Department of Health publication: 'Nursing Home Support Scheme (A Fair Deal) Frequently Asked Questions' (July 2015)' Q5. What services are covered under the Scheme? The services covered under the scheme are: basic aids and appliances necessary to assist a person with the activities of daily living, bed and board and laundry service. Incontinence wear, where required, is provided free of charge by the HSE to all Nursing Homes Support Scheme residents that possess a Medical Card. A person's eligibility under other schemes, e.g. Medical Card and Drugs Payments Schemes, remains unaffected by the introduction of the Nursing Homes Support Scheme.

Under the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2009, the registered provider must agree a contract with each resident. This contract must include details of the services to be provided to that resident and the fees to be charged. Residents should not be charged fees which are not set out in the contract. Rhona says this is why the nursing home sets out extra services and then the resident unwittingly signs his or her agreement to paying them, needed or not.

A person who avails of the Nursing Home Support Scheme should not be charged any additional fee over their contribution (as assessed by the HSE), except where he or she chooses to obtain additional services over and above long-term residential care services, for example, hairdressing or the delivery of daily newspapers.

Rhona feels this legislation clearly precludes by law any compulsory payments for optional additional care services.

Rhona feels nursing homes contracts tend to blur the distinction between the Essential Services (bed and board) and the extras, variously termed "*Nursing Home Services Charges/Long Term Residential Care Services/ Additional Care Services*". Rhona believes residents find themselves signing for both and have no further redress.

RHONA FEELS THE FOLLOWING IS NEEDED:

To avoid any confusion nursing home should be *legally* obliged to

1. make a clear statement that charges for non-essential services are voluntary. Post falls assessment, physiotherapy, incontinence pads are automatically covered under the medical card since they are medically advised and not optional extras, but many residents are being misinformed here.
2. provide a list of all services and amenities indicating where cost restrictions apply for Fair Deal residents. Residents should know they can attend the home's Christmas party and sing along with the local schoolchildren.
3. Residents have a legal and human right as part of their basic care and without fear of punitive compulsory payments to *rightful access to social activities, hobbies, leisure interests and religious expression (Health Act 2007, S.I. 415/2013, Section 9)*

Rhona finds the concept of charging for religious services, visiting chaplains, voluntary choirs and the work of volunteers highly distasteful. Rhona is sure the generous volunteers and schools would be appalled to be associated with charges for their involvement. Rhona suggest that they demand a contract for their own involvement, free of commercial exploitation.

Rhona states, basic social activities for human dignity internationally include access to religious services, choirs and volunteers activity, personal use of the activities room, Residents' Meetings, use of communal newspapers, a small library, with blood tests and courier charges, post falls assessment and physiotherapy as medically advised free to residents who have a medical card and no attempt should be made clear whether these can incur merely a once off charge rather than the weekly activities vas they feel up to it and not be totally socially excluded by a set annual compulsory charge.

4. On the subject of Guarantors Rhona states relatives should not be forced to sign a contract as guarantor to automatically pay for any and all expenditure as a condition of entry. A relative should be free to opt for this status without threat. This is generally illegal in some states in the USA. Also, in the UK such contracts are currently being examined for contravention of Fair Trading legislation.

5. On the subject of appeal, Rhona states the arbitration procedure in most contracts, often requiring compulsory use of senior counsel, is unnecessarily legalistic, potentially costly and intimidating. This silences most relatives from complaining when faced with sudden new charges which they are told they already signed for.
6. Pocket money: Rhona feels imposing compulsory charges when residents have so little is deeply wrong. Fair Deal residents keep a personal allowance or pocket money of only 20% of their income – or 20% of the maximum rate of the State Pension (non-Contributory), whichever is the greater. This is €6.34 for a state pensioner. For others on equally modest pensions it is not much more.

This small sum needs to cover all the sundries not supplied by the nursing home. Taxis to medical appointments and an escort carer can result in bills of €70 for each visit. Shampoo, shower gel, toothpaste, tissues, non-prescription medicines, soft drinks, sweets or treats are essential extras. Plus new clothes and shoe replacements or repair or indeed mobile phone bills to stay in touch. Not to mention maybe a daily newspaper or magazine of choice, and even small birthday or Christmas presents for their carers if residents wish to give a small token of thanks.

Rhona points out that not all Nursing Home residents are always old, especially those with Alzheimers or those with well-maintained but disabling psychiatric conditions, and can often be as young as 60 and yet have the same needs anyone else for life's little and not so little extras.

The final section of Rhona's submission deals with the effectiveness of the Ombudsman. Rhona believes the reason that the Ombudsman has such low volume of complaints is that the nursing homes are caving in when residents or relatives complain. The Ombudsman could not take on Rhona's complaint once the home agreed to drop the charges for services her relative did not require.

Also, private nursing homes only came under the remit of the Ombudsman in 2015 so the issue is slowly surfacing now. Rhona is very grateful that the Ombudsman is now overseeing nursing homes and bringing impartiality to their regulation.

Sadly, Rhona feels, nursing homes will continue to cajole residents to sign while the HSE seems to turn a blind eye. On the whole nursing homes do a good job in difficult circumstances. However, both bodies are causing hardship to vulnerable individuals.