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**‘Angry, relieved, forever traumatised’:
A report into the experiences of families of care home
residents who were served a ‘notice to quit’**

March 2023

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Professor Jill Manthorpe

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Foreword

authored by **Helen Wildbore, Director of The Relatives & Residents Association**

Being told you must leave the place you call home can be distressing, stressful and traumatic. For people nearing the end of their lives, a move can have a serious, detrimental impact on health and even hasten death. The findings in this important report sadly echo what we hear on our helpline week in, week out: of people being afraid to raise issues about their care, to speak out about concerns or use their legal rights for fear of reprisals, including eviction. The power imbalance is so vast and people living in care are placed in such a vulnerable position, they are afraid to rock the boat.

The statistics about evictions unearthed in this report are shocking, but we know from our helpline they are the tip of the iceberg. The information being collated by the Care Quality Commission (CQC) doesn't include the incidents of people being threatened with eviction, which could be far more common. All too often our helpline hears that people are dropping complaints or not pursuing concerns because of a threat of eviction or being told to find a new home. This is hugely concerning and creates a dangerous situation where poor care, including abuse and neglect, is going unchallenged due to fear of reprisals.

This fear is understandable given the power imbalance built into the system and the dire state of social care. There is no central, independent support for families who face a frantic search for a new home that is suitable, available, close to relatives/friends, affordable and decent. There is no organisation to turn to within that 28-day notice period who has responsibility to check the legality of the notice or the process followed. As the regulator, the CQC is merely collating data. The Local Government Ombudsman process can be lengthy and will come too late to make a difference to the eviction. The only option is court action but this is so unlikely when the relationship has broken down with the care provider – who would want to stay in a home where the care staff have been forced by a court to continue to care for you?

This has to change. We cannot have a care system where people are afraid to speak out – it is allowing poor care to fester. We cannot have a care regulator that is failing to monitor and act upon inappropriate evictions – it is leaving people at risk. We cannot leave people needing care and their families abandoned to fight these failings on their own – it is causing unnecessary stress, anxiety and trauma. We must create a care system where people's basic rights can be met. This includes their right to feel secure in their home and their right to participate in decisions about their care, including where they receive that care. As a charity, we have been voicing our concerns about these issues for many years, with the government, the CQC and Members of Parliament. This report must be a catalyst for the change that is so desperately needed.

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REPORT SUMMARY

At least 5,871 care home residents in England were served a ‘notice to quit’ (often called ‘eviction notices’), thus being asked to leave their care home between September 2021 and October 2022, according to recent data provided by the Care Quality Commission. The exact number of people affected is unknown.

Care homes are entitled to end contracts with their residents/their representatives or – in the case of local authority publicly funded individuals – with the contracting authority. Some of the evidence for this report suggests that many care homes took the option to serve a ‘notice to quit’ because they felt they were no longer able to care safely for a person or because they felt that the relationship between their staff and the resident’s family had irretrievably broken down, often causing distress to everyone involved. However, care homes must stick to certain laws, policies and procedures when serving notices. The Competition & Markets Authority (CMA)¹ – the organisation charged with consumer protection in the United Kingdom (UK) - provides guidance² to care homes on what constitute legitimate causes for ending contracts. Accordingly, ‘notices to quit’ should only be served under exceptional circumstances, always being the option of last resort as well as in the best interest of the care home resident in question. Notices should be served in writing with at least 28 days before the resident must vacate the home.

Some care homes do not always follow such policies and procedures. This study investigated some of the circumstances under which ‘notices to quit’ were issued to care home residents or their representatives and the impact such a notice can have on residents and their families. The research included interviews with relatives of care home residents who had received a ‘notice to quit’, an analysis of 27 decisions published (January 2021 - September 2022) by the Local Government & Social Care Ombudsman³ (LGO) regarding such notices and discussions with people managing care homes. The study’s findings highlight:

- that ‘notices to quit’ may follow strained relationships between care homes and residents’ families following relatives’ complaints or concerns over quality of care. Notices to quit were almost always one piece of ‘traumatic journeys’ within a particular care home experienced by the families interviewed for this report, who felt that constructive, empathetic and person-centred communication was lacking.
- Some care home managers and LGO reports mentioned stress and pressures on staff related to high levels of contact and/or complaints and/or abusive behaviour by relatives and/or high or complex levels of care as a primary factor for serving notice. Indeed, the most common reason for care homes serving notice – according to Care Quality Commission (CQC) (the regulator) data - is the inability to cater for a resident’s needs. But, various LGO reports have concluded that the circumstances under which such notices were served are not always in the best interest of a resident, the option of last resort or not in line with necessary procedures, which it viewed as often amounting to an ‘injustice’ towards the resident and/or the relative.

1 [Competition and Markets Authority - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

2 [Care homes guidance \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

3 [Home - Local Government and Social Care Ombudsman](#)

- The negative emotional impact of the circumstances before, during and after receiving or learning of (in the case of funded individuals where the notice was handed to the commissioning local authorities) such a notice on families can be immense, with some relatives reporting post-traumatic stress disorder or long-term anxiety as a result. This seemed especially the case if the care home had not followed necessary procedures and policies leading up to the notice or once notice had been served. But some of the data, particularly the LGO reports, suggest that the negative emotional impact may also affect some individuals even when procedures and policies are followed.
- Many of this study's participants felt emotionally and practically overwhelmed, especially during the window between having been served notice and having to leave the care home, struggling to secure alternative accommodation for their family members. Interview participants reported the positive effect of support, including peer (other relatives') support and legal advice, on their ability to cope with the situation. However, local authority social workers (if they were in touch with such services) were often not perceived as helpful at any stage of the notice journey, with some exceptions who said that social workers had supported them to find new placements. Exploring a legal route to challenging the notice was not an option for many relatives because of the time, stress and financial burden associated with civil proceedings.
- The majority of people interviewed, whose relative in a care home survived the notice period and moved to another care setting, perceived an improvement in their life, around quality of care and wellbeing of their relative in the new care home or other care setting (We acknowledge of course that this study is limited by not hearing from residents who were the subject of notices to leave to get their accounts). This suggests that a change in care setting may indeed be a positive solution for a care home resident and/or their families. This is perhaps unsurprising considering the conflicted relationships, which often became worse after raising concerns, between families and notice serving care homes that the participants in this study described. In cases where notice was served because care needs could no longer be safely catered for, the move may also indeed be necessary and in the resident's best interest. However, some of the LGO reports concluded that, at times, families ended up in situations in which they had to take their relatives with care needs into their own homes without having the right environment and support to do so, which resulted in stress and anxiety for families and unsafe conditions for the people they cared for.

Recommendations:

- **CQC action:** CQC data on 'notices to quit' served by care homes is patchy and not easily publicly accessible. Care homes are required under the annual Provider Information Return (PIR)⁴ to state how many residents have been served notice within a one-year period and for what reason. However, reasons other than 'a change in care needs' can be described in a 500-word limited text passage. The CQC reported (following an FOI request by this study's author) a lack of scope to analyse and quantify these 'other' reasons. This could be addressed by the CQC. It is also unknown if or how the CQC uses the information in the PIR to take any action, check what has been reported or understand the circumstances of cases. In the light of the risk of detrimental impact of notices on care home residents, we recommend that along with the potential evidence

4 [Provider information return \(PIR\): adult social care services - Care Quality Commission \(cqc.org.uk\)](https://www.cqc.org.uk/provider-information-return)

for breach of various regulations (e.g. 16, 12,13) the CQC is asked to re-consider the way that information is collected and analysed within the PIR and to take action to test, evaluate and question practices. The CQC furthermore does not offer any support to families who are facing a notice, which this study suggests is crucial to minimise any negative impacts on residents and relatives.

- **Resources for care homes:** Notices to quit should be exceptional events. However, there are some resources that can support care home providers to follow policies and procedures when it comes to contractual terms and serving notices to residents and their representatives if these cannot be avoided. But, these are not as comprehensive and accessible as they could be. The CMA guidelines, the learning from LGO investigations and thoughtful analyses of the experiences of care providers/people who have been subject to a notice to leave could be bundled together to create a practice resource for notice serving considerations and scenarios. The CQC as the regulator of health and social care should provide guidance on the legality of the procedures and processes associated with notices to quit.
- **Dispute settlement/mediation:** The CMA's guidelines state that families of residents in care homes should have access to mediation services to settle disputes around notices to quit. However, no service currently acts as an independent mediator to help care providers and families in care homes to settle disagreements that lead to or involve notices to quit without the need to involve the justice system or the Local Government Ombudsman unless the care home or the family engages mediators. This study's findings indicate the need to investigate this topic further urgently to better understand the role of mediation services. This should include a consideration of the potential to introduce an independent body or tribunal to which care homes need to make their case when wishing to serve notice to a resident to safeguard against unlawful notices.
- **Support for families:** This study has highlighted the emotional impact of circumstances surrounding notices to quit on some families and the value/importance of support services. There are various organisations and points of contact that help families to be better informed about their position and how to cope with negative experiences surrounding notices to quit, but we found that not everyone knew that such services existed or how to access them. Ideally families should be pointed towards support services by the care home and/or social workers, NHS professionals and the CQC. The experiences of families when it comes to social workers during notice serving scenarios raise the question what could be improved within adult social care teams in local authorities to enhance the support provided to individuals and families who are facing a notice to quit. Social workers' perspectives could be obtained to see how this could best be offered.
- **Home care agencies/ care homes for younger people:** This study's data showed that the subject is not limited to care homes but also happens in relation to care at home and possibly day centres, with several LGO reports highlighting the devastating effects of people left without care at home due to notices being given by homecare agencies. This study included some participants with experience of notices to quit served by care homes for younger people (between 18 and 65 years), with one family reporting several separate instances of notice serving scenarios with equally distressing impact on them. Further research should be conducted into the subject in relation to homecare agencies including live in care, and care homes/supported living schemes for younger people.

BACKGROUND

Care home residents and their families have no guarantee that they can stay living in a particular care home indefinitely, with contracts usually including a clause that allows both sides of the contract to end it by serving a ‘notice to quit’. There is a legal framework, policies and procedures that care homes must follow to ensure that such a notice is the last option, would be in the resident’s best interests and is person-centred. The sections below explain the background of this current report by describing this framework, highlighting the data on how many people were approximately affected in 2021/22, briefly summarising the research that has been done on this subject and outlining the methods used to collect data for this report.

‘Notices to quit’ – summary of the legal/regulatory framework

Over 90 per cent of care homes in England, with or without nursing, are private or not-for-profit organisations⁵. When an individual moves into a care home and is a self-funder, this person or their representative is required to enter a contractual relationship with the care home provider – the individual normally becomes a contractual licensee to live on the premises of the care home. For individuals whose stay in a care home is funded by publicly, the contractual relationship is between the care home and the public authority.

Under consumer law, care homes are entitled to include terms within their contracts that enable them to terminate it and to serve a resident, their representative or the commissioning public authority with a ‘notice to quit’ (also referred to as ‘notice to leave’, ‘termination of contract’ or ‘eviction notice’).

However, several laws and regulations put in place conditions which care home providers are required to follow for such termination to be lawful (see Table 1). The Competition & Market Authority (CMA) published a guide for care home providers⁶ in 2021 summarising some key points and the Local Government & Social Care Ombudsman’s (LGO) reports⁷ offer a wealth of information about relevant decisions. Some main points are:

- Care home providers are entitled to terminate a contract either with the resident/their representative or the commissioning public authority.
- But, contractual terms or practices must not be ‘unfair’ and consider the ‘vulnerable situation’ in which the resident is finding themselves and the emotional/practical difficulties that they may be faced with when being asked to leave the home⁸. Notices to quit should only be served under ‘extreme’ circumstances⁹, when all other avenues have been exhausted and, as such, must be an option of last resort. The notice should also be in line with the best interest of the person when this person does not have capacity to make the decision to leave themselves, although a care home cannot be ordered to drop a notice by the Court of Protection, the court of law that has the power to make some decisions for some people who are unable to make them for themselves.

5 [Care homes market study: summary of final report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/94444/care_homes_market_study_summary_of_final_report.pdf)

6 [Care homes guidance \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/94444/care_homes_guidance.pdf)

7 [Decisions - Local Government and Social Care Ombudsman](https://www.local.gov.uk/ombudsman/decisions)

8 [Care homes guidance \(publishing.service.gov.uk\) point 4.88, p.89](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/94444/care_homes_guidance.pdf)

9 [20 008 745 - Local Government and Social Care Ombudsman s.45](https://www.local.gov.uk/ombudsman/decisions)

- Contractual terms for notices should clearly state specific reasons and circumstances under which a termination is possible for ‘serious breach’ of contract. **Legitimate reasons**, according to the CMA, are a genuinely voluntary decision by the resident who has capacity to make this decision or by someone who is authorised to make the decision on their behalf; the need for the resident to move to accommodation that can better meet their needs after reasonable adjustments in the care home; where the resident has repeatedly failed to pay the fees; where the resident is violent towards staff or other residents and there is a significant risk of serious harm to themselves or others if the resident remains in the home.
- **Pressurising, intimidating or exploiting residents or their representatives to leave the home will likely infringe consumer law, and other laws.** This includes threatening or asking a resident/their representative to leave the home in reprisal for them making a complaint or falsely claiming that the home can no longer meet their needs.
- Care homes **must follow proper procedures and policies before and after serving notice.** This includes proper consultation and decision-making that involves the resident and/or their representatives; the problem(s) that may lead to a notice must be properly communicated to the resident/their relatives with the opportunity to correct/address the conduct of concern (if relevant) and in good time before a final decision is made; in the case of changing care needs all reasonable adjustments should be made in consultation with all relevant professionals, the resident and their representatives; if notice is served it should provide **28 days in order for the resident/their representative to address concerns and make alternative arrangements.** If it is impossible for the resident to stay for this amount of time, residents/their representatives should be given support and assistance to find alternative accommodation quickly.
- Residents/their representatives should be given a real opportunity to challenge and appeal the decision to serve notice. This may include accessing mediation and reconciliation services.

Table 1 includes a list of relevant laws and regulations regarding ‘notices to quit’ in care home settings (non-exhaustive)

| Relevant laws and regulations (England) (non-exhaustive) | How does it apply to ‘notices to quit’ |
|---|---|
| Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 | Care homes must achieve fundamental standards set out in this Act. Some of the regulations are particularly relevant, for example Regulation 16 which stipulates how care homes should treat complaints and how complainants should not be discriminated or victimised and that people’s care and treatment must not be affected by a complaint. Under Regulation 7, registered managers of care homes must have necessary qualification, skills and experience to carry out the regulated activity, including following other regulations such as Regulation 16. The Care Quality Commission oversees all registered care services for their compliance with this Act. |

| | |
|-------------------------------------|---|
| Mental Capacity Act 2005 | An individual lacking capacity to make an informed decision to move into a care home may be placed into a care home under this Act following a Court of Protection order. However, the rights under this Act set out that people should be able to participate in the discussions/decisions about where they live as far as possible or that a best interest decision is made following consultations with relatives and representatives. The Court of Protection can stop families from moving an individual out of a care home, but it does not have the power to stop a care home serving a notice to quit. |
| Protection from Eviction Act 1977 | People living in care homes are generally subject to this Act, with a right to 28 days written notice to allow for alternative arrangements. However, the notice period may be shorter in some circumstances related to safeguarding, for example where a resident poses a significant risk of serious physical harm to staff or other residents or where their health rapidly deteriorates. |
| Equality Act 2010 | Processes should be in place to ensure that there is no discrimination when a care home makes the decision to serve notice. |
| Consumer law | Under consumer law care homes are required to offer fair contractual terms. The Competition & Market Authority (CMA) published guidance for care homes in 2018 to comply with their consumer law obligations, which includes a section on ‘notices to quit’. |
| Human Rights Act 1998/Care Act 2014 | Residents have rights to private and family life and home under the Human Rights Act. The duty to respect and protect these rights applies to public authorities (such as the local authority, NHS, CQC) and to care providers where care is arranged or paid for by the local authority (see s73 of the Care Act and s6 of the Human Rights Act, they are required not to act in a way that is incompatible with human rights such as the right to have privacy and family life protected or not to be discriminated against). Any action that breaches human rights must be in accordance with the law, for a legitimate reason and a proportionate response. |

Whilst it may be difficult (yet not impossible) to legally stop a care home to serve notice or to force them to cancel a notice once served, care home residents/their representatives are able to complain about the procedures and processes under which the notice was served using the legal and regulatory framework. The LGO, for example, allows complaints from individuals and may investigate the case. An investigator considers the circumstances of the case, collecting information from all parties concerned. The investigation may then be followed by a decision whether a notice was legitimate in the first place, whether the care home adhered to the correct procedures leading up to and when serving the notice,

and whether any breaches caused an ‘injustice’ to the complainant. The LGO may order an apology to be given by the care home to the complainant, compensation and/or steps to improve the care homes’ procedures/policies. Individuals also have the possibility to take the legal route of redress, for example for breach of contract. The Care Quality Commission (CQC)¹⁰, England’s regulator of health and social care, does not deal with individual complaints but it is responsible for registering, inspecting, monitoring and encouraging care providers to provide care in line with regulations and must act when a care homes is in breach of any of the regulations.

The number of notices served between October 2021 and September 2022 – What we know

Care home providers are required to complete a ‘Provider Information Return’ (PIR) once a year and return it to the CQC. The purpose of the PIR is for care homes to provide the CQC with data on how they are ensuring that their service complies with relevant regulations. The PIR includes a set of questions for providers on the number of and reasons for serving ‘notices to quit’ to care home residents/their representatives or commissioning local authorities. CQC’s data is the only source available that remotely captures how many people are served with notices to quit per year, however the exact number is unknown. The CQC does not check the validity of the number of notices reported, for example. There is no data capturing the number of times care homes may raise the possibility of a notice with families. The questions in the CQC’s PIR that care home providers must answer are:

- How many people have you served notice on to leave your service in the past 12 months solely due to changes in the care needs?
- How many people have you serviced notice on to leave your service in the past 12 months for any other reason?
- What were those reasons? (to be described within 500 words)

Following a request made by Dr Caroline Emmer De Albuquerque Green for the purposes of this study made in October 2022 under the Freedom of Information Act, the CQC shared the following data:

- Between October 2021 and September 2022, at least 30% of the 12,247 residential and nursing homes in England which needed to provide a PIR return had issued at least one notice to quit to a care home resident for any reason.
- During the same timeframe, at least 4,492 residents were served notice because of a change in their care needs.
- At least 1,467 residents were asked to leave their care home for a reason other than a change in their care needs. Data is available on what these ‘other reasons’ are but according to the CQC this data is ‘qualitative’ and thus ‘too time consuming to analyse and quantify’.
- 253 care homes served 4 or more notices ‘for any reason’ during this one-year period.
- The data comes from PIR returns and therefore does not include notices to people made following the announcement of the closure of a care home.

¹⁰ [Care Quality Commission \(cqc.org.uk\)](https://www.cqc.org.uk)

- Between March 2020 and February 2021, the PIR process was suspended. Therefore, no data is available that capture how many notices were served during this early period of the Covid-19 pandemic. Stories in the media and those heard by support charities from families suggests that notices to quit were served during the height of the Covid-19 pandemic, in several cases following families complaining about visiting restrictions and/or care homes' requirement for vaccinations of residents and/or their visitors.

The data shared by the CQC only allows for estimates. It remains unclear how the CQC uses the data provided in the PIR regarding notices to quit and if/when it follows up with particular care home providers, for example those which seem to issue multiple notices or if there are other causes for concern.

Previous research

The circumstances, experiences and outcomes of 'notices to quit' by care home providers for reasons other than care home closures are understudied in care home research. However, projects are underway in England capturing the impact of care home closures on residents and their families, with parallels to this current study. Jon Glasby and colleagues in their study have referred to closures as a 'tale of two halves'¹¹, with 'inevitable' distress caused during the closure but with potentially positive outcomes if the closure is handled sensitively.

There is substantial literature around the meaning and importance of positive relationships between care home staff and residents' families. There is evidence of the value of constructive communication between family and care home staff on the wellbeing and quality of care for care home residents¹² as well as the role and importance of family caregivers in care home settings¹³. This research should be tapped into in future studies on this topic.

Methodology

This study is qualitative research undertaken by a researcher at the Health and Social Care Workforce Research Unit at King's College London as part of the National Institute for Health and Care Research (NIHR) Applied Research Collaboration (ARC) South London. The purpose of the study was to address the gap in research around the question: What are the circumstances of 'notices to quit' handed to care home residents and/or their representatives in England? The study also explored the following questions: What is the perceived impact of such notices on families? What helped families to navigate the notice to quit?

11 Glasby, J, Allen, K, Robinson, S. "A game of two halves?" Understanding the process and outcomes of English care home closures: Qualitative and quantitative perspectives. *Soc Policy Admin.* 2019; 53: 78– 98. <https://doi.org/10.1111/spol.12412>

12 e.g. Majerovitz, D, Mollott R. & Rudder C. (2009) We're on the Same Side: Improving Communication Between Nursing Home and Family, *Health Communication*, 24(1) 12-20, DOI: 10.1080/10410230802606950;

13 e.g. Gaugler, JE. (2005) Family involvement in residential long-term care: A synthesis and critical review, *Aging & Mental Health*, 9(2), 105-118, DOI: 10.1080/13607860412331310245; Verbeek, H., Gerritsen, DL., Backhaus, R., de Boer, BS., Koopmans, R., Hamers, JP. (2020) Allowing Visitors Back in the Nursing Home During the COVID-19 Crisis: A Dutch National Study Into First Experiences and Impact on Well-Being, *JAMDA*, 21(7) 900-904. [https://www.sciencedirect.com/science/article/pii/S1525861020305260;](https://www.sciencedirect.com/science/article/pii/S1525861020305260)

Data were collected between June and November 2022:

- 16 interviews were undertaken with individuals who had previously experienced a ‘notice to quit’ either as a formal representative or as someone supporting someone living in a care home. Of the 16 participants, one person was the representative of a young person (aged 18-35) who had been living in various care homes across several years. All other participants were either the partner, adult (grand-)child, sibling or close friend of someone who lives or lived in a care home for older people, aged 65 years or over, in England. All residents subject to the notice were reported to be living with some form of cognitive impairment like Alzheimer’s and multiple long-term conditions, the majority of them at the end of their life. None of the interviews were with people currently going through a notice to quit process.
- LGO data was hand-searched for decisions involving a complaint about ‘notices to quit’ served by care homes. The LGO published at least 27 relevant decisions between January 2021 and September 2022. Of these, 15 upheld the complaint against a care home for their procedures surrounding a notice. The remaining 12 investigators rejected the complaint, either because there was not enough evidence, the complaint was a matter of court proceedings or because the investigation did not conclude any fault.
- Conversations were held with five care home providers/managers about their experiences of ‘notices to quit’.

Highest risk ethical approval was granted after consideration by King’s College London’s research ethics committee. Care home residents were not included in this study due to the limited timeframe and human resources available to undertake the research, which could not accommodate the extensive ethical and procedural processes of involving care home residents in this type of sensitive research. Of course, this presents a limitation to this study, as does the focus on care homes for older people because younger care home residents are subject to notices to quit too. The emphasis on interviews with relatives of care home residents also means that the data captures their experiences more extensively than those of care home providers, managers and staff. However, the LGO decisions are based on the perspectives and evidence presented by both parties, including care home providers and managers. Nonetheless, more research must follow this exploratory project to include a larger group of people working in care homes to present a more comprehensive picture. The data is furthermore biased towards conflict scenarios. It is possible that some families have had more positive or neutral experiences when it comes to notices, which are not captured here but which would be useful to investigate and disseminate for learning. It is important to note that the LGO’s decision depend on the individual circumstances of each case. For example, there were several complaints regarding residents receiving notice whilst in hospital with similar circumstances but with one complaint being upheld and one being refused without the reasons for the different decisions immediately being clear. Whilst there is significant learning opportunity from analysing these reports there are also limits to the rules or conclusions we can deduce from this qualitative data.

FINDINGS

The findings in this report include interviews with relatives of people living in care homes who have previously been served a notice to quit, interviews with care home providers and managers and the LGO reports (those where the complaint was upheld and those in which the complaint was rejected). Findings for each group are reported separately and then discussed in the conclusion.

Relatives' experiences

Individuals interviewed for this study were invited to share their recollections of the time their relative in a care home received a notice to quit personally or one was sent to their representative. Without exception, all began their storytelling with detailed explanations of the circumstances and events leading up to the notice, sometimes months or even years in advance. The notice as such was often but a piece in the puzzle of what one individual referred to as 'traumatic journey' from one point of time of their family member living in the care home to leaving it or dying. The stories are all different but contain some similarities that are summarised below. The text includes limited paraphrased quotes, none of which go into personal detail to protect anonymity and confidentiality.

Before the notice

Moving a relative into a care home can be a highly emotional experience for family members¹⁴. Several relatives described their feelings of guilt, sadness or concern for their relative on their move into a home. Most of the relatives explained how the family member had not only care and support needs arising from cognitive impairment but also from other, multiple, long-term health conditions. Many had reached the end of life and moved into a care home after a stay in hospital with significant care needs. Relatives often said that they felt responsible for making sure that their family member was well and received the best care possible whilst living in the care home.

The circumstances described by many leading up to a notice to quit highlighted either long-standing poor relationships between care home manager/staff and relatives of residents or the break-down of relationships that were previously perceived as positive.

Long-term poor relationships most often unfolded in scenarios in which the relative said they had voiced concerns over a series of specific care related matters, such as residents being left without attendance when requiring urgent medical attention, the administration of incorrect medication, and lack of adequate food and water. Relatives detailed how voicing such concerns to the care home management, their staff and sometimes external organisations like GPs or local authority adult safeguarding teams would lead to discussions or arguments with staff and a loss of trust on the side of relatives. Some individuals adopted a 'coping mechanism' by starting to call or email the care home frequently to get updates on the resident in question. Next to confronting staff and/or contacting them more often, many participants felt the need to document all instances of perceived poor care, (in-)actions taken by staff and communication between them and the management/care staff at the home. Some participants explained how their lack

14 Samsi, K., Cole, L. & Manthorpe, J. (2021) 'The time has come': reflections on the 'tipping point' in deciding on a care home move', *Aging & Mental Health*. 26(9) 1855-1861 <https://doi.org/10.1080/13607863.2021.1947963>

of trust in the quality of care made them feel 'frightened' and 'angry' but that they still did not want their relative to have to leave the care home but rather have the care improve or documented failures in care remedied. They explained how they felt caught between voicing concerns and 'scared' that this would cause their family member having to leave the home, especially when feeling threatened by the care home with a notice to quit after complaints of poor care. Such threats were alluded to in some of the relatives' accounts. Some reported numerous meetings with the care home staff and providers to address concerns around care. However, many times participants said how they felt that these meetings were not genuinely meant to be constructive, but rather to 'tick the box' on procedures, with significant power imbalances between those attending the meetings.

In some instances, participants reported positive relationships with the care home staff without any perceived break-down before the notice was served. For these interview participants the 'traumatic journey' began with the notice. This will be reported in the next section.

Receiving the notice

Participants reported different ways of receiving the notice, with a variety of reasons and timeframes. Most frequently participants were sent an email by the care home informing them about the notice. But in some cases no written notice was given, relatives were informed verbally instead. Commonly notices were served whilst a resident was undergoing treatment in hospital, with the reason that the home could no longer meet the resident's needs and they could not return to the home from hospital.

Other reasons for notices were named as 'change in care needs', a 'breakdown of trust' between the care home and the family, the care home's inability 'to meet the relatives' expectations', 'relatives contacting the home too often', 'the resident being a threat to others' or 'other residents in the home having witnessed abusive behaviour from the families being served with a notice towards staff'. Often participants reported that they refuted these reasons and tried to open conversations with the care homes to find solutions, but without success. Some families reported that they had not been given a reason for why they had been served the notice.

Study participants reported various scenarios of how they had experienced hearing about the notice. Those who previously perceived relationships with the care home as positive reported a feeling of 'shock for receiving a notice out of the blue'. In these instances, the reason given – if any at all – was that the home could no longer care for the resident. However, according to the study participants, they had not been involved in the decision or invited to relevant meetings to discuss this, nor had they been informed that the home was considering serving notice.

Notices did not come as a surprise to most of the relatives who had previously experienced poor relationships with the care home. For them, the notice was often seen as the 'climax' of broken relations with the care home's staff. However, the notice itself caused additional feelings of 'anger', 'powerlessness', 'stress' and 'sadness'. Some participants tried to confront staff by email, about the notice, the reasoning, or the timeframe to leave often without a reply and no concessions. Often the home was not able to provide evidence for allegations that were used to serve notice, which again left participants 'distressed' and 'angry'.

During the notice period

The notice period is the time between the notice having been served and the resident leaving the home. Usually this is supposed to be at least 28-days but some participants reported much shorter timeframes, from no notice period to two days, five days or two weeks. Residents who had been served notice whilst in hospital were not able to return and thus had no notice period.

Participants described the situation during the notice period as particularly ‘stressful and anxious’ times of their lives, trying to find and arrange alternative care for their family members in a short period of time. This included having to phone and visit other homes, arranging assessments and often dealing with multiple rejections from other care homes. Some found it difficult to prepare their family member in a care home for the move, not wanting to cause anxiety or distress. In many cases relatives opted not to initially tell the resident about the move and only once a new home had been found.

A few of the participants spoke about the circumstances in the home during the notice period. Participants whose family member reached the end of life during this time reported situations in which they felt they were not provided with empathetic support from staff, or lack of practical assistance such as comfortable sleep options to stay close to their dying family member, access to food or emotional help. Others told stories how they were supervised by staff when packing up their family members’ belongings, without any supportive words or practical help to do so. These experiences added to the emotional distress that many perceived to be unfolding.

After leaving

Most of those individuals whose family member survived the notice period felt a sense of ‘relief’ once they had successfully identified a new home and the family member had moved. They reported improved quality of care and greater signs of wellbeing in their family members in these new care settings. However, past experiences stayed with individuals, causing long-term anxiety and worry that they might face another notice. Some had complained to the LGO, with processes often ongoing for months or years, and others had shared their stories with peers or support groups to raise awareness. Many said they were suffering from symptoms of post-traumatic stress disorder because of their experiences.

Support

Interviews included questions on what, if anything, helped relatives deal with the circumstances leading up to the notice, when notice was given and during the notice period. There were three points of time that participants sought external support: When experiencing long-term poor relationships and concerns over care; once notice had been served; after the experience of the notice and the circumstances leading/following it. The people and places that participants contacted included social workers in local authorities; wider family and friends; peer support groups and residents’ advocacy groups. Their experiences with the different groups are summarised below:

Social workers: Frequently participants who experienced long-term poor relationships with their care home’s staff explained that they had contacted their local authorities for support to address concerns or help to improve the relationship between themselves and the care home, thus before notice was served.

Many said it was difficult to get social workers to take on their case when they had not previously been in touch with one and needed to quote relevant regulation to catch their attention. In most cases, the support by social workers was then perceived as unhelpful and biased towards the care homes, with participants feeling that social workers and care home staff ‘worked together’ and ‘supported each other’. However, some participants said that their social workers were helpful once notice had been served in finding alternative accommodation. This was particularly so when there was an existing positive relationship between the social worker and the family or, in rare instances, when a social worker was privately appointed by the relative and thus able to act as an advocate, independent of any local authority, and had no previous connections with the care home.

Circle of family and friends: Some participants relied on their wider circle of family and friends to support them through the various stages of the experience, sometimes benefitting from their professional knowledge and connections, emotional and practical support to find a new home.

Peer support and residents’ advocacy groups: Some participants made use of helplines and offers for support from advocacy groups and peer connections. Helplines were considered as a particularly useful way to get information about legal routes to redress or to simply find someone to listen and talk through experiences.

The CQC was not perceived as helpful, telling participants who were seeking support that they do not follow up individual complaints. The legal route was seen as lengthy, expensive and thus inaccessible to most participants.

Some participants had not sought support from anyone. They said this was due to not knowing whom to turn. This caused significant distress to some people and feelings of being left ‘alone’ in the situation.

Suggestions for change

Relatives were invited to share their views on what changes they would like to see regarding care homes serving notices to residents. Many of the study participants said that they would like to see greater awareness of the circumstances under which notices to quit are being served to residents and the impact these are having on individuals. Some participants felt that there should be an independent body, or a tribunal, to which care homes should have to apply for scrutiny before a notice to quit could be served to a resident or at least an instance of mediation, which could provide an independent opinion on each case.

One participant simply stated that they felt all care homes should be ‘more open to honest dialogue rather than automatic defensive resentment’, quoting positive experiences with the manager of the new care setting to which the family moved after having been served notice. This participant felt that in the new care setting, the manager engaged ‘even-handed and non-defensively’ to the family if they voiced concerns over care related matters.

The Local Government & Social Care Ombudsman's (LGO) decisions

LGO decisions provided detailed background information on each case and descriptions of the LGO's position towards notices to quit more generally. Accordingly, the LGO recognises care homes' entitlement to end contracts with residents or their representatives as outlined in this quote taken from a report.

“Care homes are entitled to give notice and terminate a resident's placement. However, they must do so in a way which is in line with... law”¹⁵.

Of the 27 reports collected for this study, 15 upheld a complaint in relation to a notice to quit and 12 rejected the complaint. Several of the decisions, in which the LGO rejected a complaint regarding a notice to quit, highlighted that:

- The LGO generally supports care homes serving notice when they can no longer meet an individual's care needs. Other circumstances in which the LGO rejected complaints included evidence that showed that resident or their representative were consistently abusive or violent towards staff or other residents.

The LGO reports, in which complaints were upheld, showed that:

- Notices to quit may be deemed as 'unjust' when the LGO finds evidence that a care home served a notice because of relatives' substantiated complaints; if the care home has not exhausted all options to accommodate a resident's needs and/or if the notice is not in the best interest of the resident.
- In many cases, in which the complaint was upheld, the LGO found that the notices were not unjust per se but that relevant procedures or policies to serve notice were not followed adequately, which in consequence caused an 'injustice'. The LGO defines an 'injustice' as an 'adverse impact' (emotionally; financially or otherwise) on the person making the complaint or their representative following a 'fault', defined as a 'service failure' or 'maladministration' by a care home¹⁶.

The background and impact of notices

Each LGO report describes the circumstances of the case which it investigated from the perspective of the complainant and looking at evidence (emails; care records etc.) provided by the responding care home. Often the background included stories of perceptions and complaints over poor care on the side of the residents' representatives. Various reports confirm a break down in relationships between a care home and the relatives, ending in a threat to serve or handing over a notice to quit. Many of the background descriptions focus on care homes serving notice because they felt that they can no longer meet the needs of residents safely.

The LGO looks for evidence on the side of the responding care home that communication with families and relevant medical/care professionals was in line with law, policies and guidance. The adverse impact of notices ('injustices'), as described by the LGO decisions, include 'anxiety', 'distress', 'uncertainty', 'confusion', 'burden' and 'financial loss' to the residents and/or their representatives. However, the

15 [20 000 625 - Local Government and Social Care Ombudsman](#) para. 35

16 [21 012 996 - Local Government and Social Care Ombudsman](#) para. 5

LGO did not always find that a fault on the side of the care home resulted in an ‘injustice’ to the complainant. The relation between fault and injustice is circumstantial and determines the direction of recommendations and actions determined by the LGO.

The paragraphs below summarise some of the learning from both types of decisions, the ones in which a complaint was upheld and those that were rejected. It is based on the LGO’s explanations of whether they found ‘fault’ but not necessarily and ‘injustice’.

‘Faulty’ notices

As previously mentioned, in a few cases the LGO found that the notice itself had been ‘faulty’. There are various circumstances when this was decided:

At times the LGO found that the care home had not ‘explored alternative options’ to serving notice, with the potential for less severe outcomes for the concerned families – particularly the resident - in the care home. One case, for example, detailed how a notice was served to a family following a breakdown of relationships with a resident’s relative. The resident was ‘happy and settled’ within the care home, according to the evidence. The LGO decided that the responding care home had not taken the steps necessary to avoid a notice and protect the resident’s placement. Accordingly, it should have shown a ‘desire to resolve the situation’, for example by setting out in writing to the relative what the issues were, what needed to change and what the consequences would be¹⁷. As such, the notice caused an injustice, according to the LGO, which led to ‘avoidable distress’ of the complainant.

In the case of ‘changing care needs’, the LGO generally looks for evidence such as consultations with care professionals, updated needs assessments and care records detailing how a resident’s needs have changed and how this precludes them from staying in the care home. Again, the decisions highlight the expectation for care homes to show that they have ‘explored alternative options’ to serving notice first and to record/communicate the steps they have taken and the possible consequences to families. In the case of people living with cognitive impairment, there is furthermore an expectation to act in the resident’s ‘best interest’ before serving notice. This includes consultations with medical professionals and making reasonable adjustments in the care or environment to meet changing needs. In one case, for example, a resident living with dementia was served notice because they attempted to leave the premises of a care home that specialised in caring for people living with dementia. The LGO concluded that the care home had not made reasonable adjustments to mitigate the risks of the resident wishing to leave, which was considered a ‘fault’¹⁸.

‘Fault’ in policies and procedures

In most cases, in which a complaint regarding a notice to quit was upheld, the notice was not considered ‘faulty’ per se. However, the LGO found ‘fault’ in the procedures leading up to the notice being served, how the notice was communicated and/or the content of the notice. Again, the decisions highlighted the need for high quality communication, consultation and recording of these between the care home, the families and other care professionals, as outlined in laws, policies and procedures. As such, some of the problems identified by the LGO regarding the way a notice was served included:

17 [20 008 745 - Local Government and Social Care Ombudsman](#) para.47

18 [19 015 787 - Local Government and Social Care Ombudsman](#)

- **Not following own policies and procedures leading up to and when serving a notice as detailed in care home’s own contracts or policy documents:** There were cases in which the care home had detailed steps in their contract or other policy it would follow before serving notice. This included statements that they would consult with the family and inform them before notice was considered and then served. The LGO found fault with care homes when they did not follow these procedures.
- **Lack of consultation process/communication with families and/or medical professionals before the notice was served:** In various instances the LGO found evidence that the care home had not consulted with families and/or primary healthcare professionals leading up to the notice or it found that the care home claimed to have undertaken a consultation process but did not record this adequately. In addition, some families were not provided with advance warning that such a decision could be a possible outcome. In some cases, the LGO said this caused an ‘injustice’ to the families in care homes because it did not provide them with the opportunity to ‘work with the care home to try and resolve problems’¹⁹. In the case of notices to quit following a change of care needs, a lack of consultation (or recording of this) with medical professionals and/or the families were at times decided not to be in line with principles of person-centred care, that is in the best interest of an individual and/or not in line with policies and guidelines requiring to make the notice an option of ‘extreme circumstances’.
- **Lack of recording around how a decision to serve notice was taken:** Some of the reports detailed how a care home had failed to properly record the steps taken and exact reasons for deciding to serve a notice to quit. A lack of record keeping, according to the LGO, is in breach of the CQC’s fundamental standards of care²⁰.
- **Verbal communication of notice instead of written notice being served:** Some complainants had not been given notice in writing, only verbally. This is in breach of the CMA’s guidelines.
- **‘Catch-all’ 28 days to serve notice clause used without proper reasoning:** Some written notices failed to provide a reason for why a notice was served, using a general contractual clause that says that either party can terminate the contract within a 28 days notice period. This ‘catch-all’ clause is against the CMA’s guidelines.
- **Short notice periods, not adhering to the required 28 days:** Many of the reports highlighted notice periods shorter than 28 days, which was considered faulty either because it went against the contractual terms, because the contractual terms allowing shorter notice periods were not clear or because no proper reason was given why a shorter notice period was necessary. Short notice periods were noted in various cases involving hospital stays: In one case, a resident being treated in a hospital was served a notice saying that they would not be able to return to the care home, with a 2-day notice period rather than the contractual 7 days. In this case, the relative of the resident in question was not able to find suitable accommodation because of the short notice period and had to take the family member home, which was not suitable to meet their needs. This, according to the LGO, caused an injustice to the family, with avoidable stress. In another case, a care home resident was left in hospital for over two weeks until a new care home was found following a short notice period.

19 [19 015 559 - Local Government and Social Care Ombudsman](#) para.36

20 [Regulation 17: Good governance - Care Quality Commission \(cqc.org.uk\)](#)

Examples of when policies and procedures were followed.

Some of the LGO reports, which rejected the complaints in regard of a notice to quit, noted policies and procedures that care homes had followed and which meant that no fault was found on the side of the care home – relevant examples are described below. Other reports rejected a complaint because of lack of evidence or because the case was subject to court hearings.

- **The care home exhausted all alternatives to accommodate a resident's changing needs before serving notice and adhered to all contractual terms when serving notice:** Some LGO decisions highlighted the steps that a care home had taken to address a resident's 'challenging behaviour', including trying out new strategies and involving medical professionals. Only when none of the strategies proved effective was notice served, with a 28-day notice period.
- **The care home provided detailed care and incident records and noted show it came to a decision to serve notice:** In some cases, the LGO found that the care homes had followed the correct procedures in care record keeping by noting down in detail what steps had been taken prior to serving notice and how the decision was made.
- **The care home did not serve notice, but recommended a move, allowed the resident to stay in the home until a suitable option was identified and provided support to the family to identify a new care setting:** One case detailed how the changing needs of a resident meant that the care home in question was no longer deemed to be the right setting for the individual. However, instead of serving notice, the care home recommended a move to the family, provided support to identify a more suitable setting and allowed the resident to stay until an alternative had been found.

However, complainants still felt that they were treated unjustly otherwise they would not have raised a complaint with the LGO. This suggests that in some cases serving notice can feel unfair or unjustified even when policies and procedures were followed or when supportive and empathetic communication was used.

The view of care home providers/managers

The care home providers (owners) and managers who were interviewed for this study all spoke about the circumstances in which they had served notices to quit to residents or had witnessed the processes in other care homes. Participants mentioned two notice serving scenarios. The first scenario unfolds when a resident's needs are perceived to be no longer possible to meet within the care home environment. The notice is then considered to prompt action on the side of families or by the commissioning authorities to find an alternative, more suitable placement. The second reported scenario unfolds when residents and/or relatives are perceived as abusive and threatening to staff and/or other residents. Here some managers reported that they saw little alternative to serving notice to protect staff and/or other residents, especially in a time of staff shortages and fast turn arounds.

The voices of care home professionals were not at the centre of this study and data is therefore limited. There are likely to be other scenarios in which care homes feel the need to serve notice that are not discussed here and no procedural insights were explored. The study's findings should prompt research and must include a range of care staff perspectives and experiences.

CONCLUSION

This report captured a range of stories from families who had experienced ‘notices to quit’ in a care home, often reporting devastating effects on their own wellbeing and that of their family member living in a care home. Families did not get formal support to tackle the situation, with the CQC saying they are not responsible for individual cases and social workers in local authorities frequently perceived as unhelpful. Charities supporting care home residents and their families have raised concerns around the threat or use of ‘notices to quit’ when relatives complain and regarding their impact. This study supports these accounts, highlighting that ‘notices to quit’ can indeed follow complaints and concerns around the quality of care. It also highlights that not all care homes follow procedures and policies as required by law and regulation when it comes to serving notice, again with potentially detrimental effects on individuals. Overall, ‘notices to quit’ should be exceptional incidents that are closely monitored. The topic requires more research and action by various organisations urgently, including the CQC and local authorities and the National Health Service, to gain better insights and respect the rights of all parties, hold care providers to account and support families in such scenarios.