

# NHFA News Release

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## **Local Authority Ombudsman Issues Special Report Following the Failure of Local Authorities to Fund Long Term Care of Older People under Section 117 of the Mental Health Act 1983.**

Just a few months after the Health Service Ombudsman reported that older people are being wrongly charged for long term care which should be the responsibility of the NHS the local government ombudsmen for England and Wales has issued a special report in the same vein. The report provides advice and guidance to councils who, over the last 10 years, have been unlawfully charging or allowing vulnerable people, many were forced to sell their homes to pay for their own care.

The ombudsman has advised social services departments that they should now "put mechanisms in place to identify those persons improperly charged, or improperly deprived of financial assistance, and establish arrangements for reimbursing them or their estates".

The problem relates to many older people who are considered to be a risk to themselves or others because of mental illness or dementia and are consequently admitted to hospital under Section 3 of the Mental Health Act 1983. After treatment they may be discharged from hospital but continue to need care in a care home. This care should be free of charge under Section 117 of the same act.

The Ombudsman cited cases against Clwyd, Wiltshire, Surrey and Leicestershire County Councils where homes had been sold to meet the cost of care and if any persons so affected had since died, compensation should be paid to the beneficiaries of the estate.

Philip Spiers partner of the NHFA says ' This is another instance of the statutory authorities getting it wrong. The NHFA has identified many cases of entitlement to Section 117 funding over the past few years and in several instances been successful in obtaining significant refunds from councils. The coincidence is that we have also seen an increase in councils using their powers under section 7 of the Mental Health Act to enforce guardianship orders on vulnerable mentally ill people. The advantage to councils adopting this route is that they can dictate what care must be provided but are not obliged to pay for it under Section 117.'

It's essential that older people, their families and carers seek independent specialist advice when the need for care arises. Only after possible entitlement to local authority funding or NHS care have been identified should homes be sold and financial products be sought to meet the costs.

NHFA advice is free and available to all regardless of means and can be accessed through a *freephone* Care Advice Line **0800 99 88 33**, web site, **[www.nhfa.co.uk](http://www.nhfa.co.uk)**

Further information can be obtained from NHFA, St Leonards House, Mill Street, Eynsham, Oxford, OX29 4JX.  
Telephone 01865 733000 Email enquiries@nhfa.co.uk

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**Notes for Editors:**

Copies of the Ombudsman's Special Report can be obtained from: <http://www.lgo.org.uk/pdf/special-report-web.pdf>

The Nursing Home Fees Agency (NHFA) independent of all care providers, financial institutions and authorities provides free advice and information on obtaining and paying for long term care. NHFA advice is available to all regardless of means and encompasses the many financial and legal issues older people and their families should consider when the need for care arises.

Combines specialist financial advice with the complexities of our care system including local authority assessment and charging procedures, health authority responsibilities, DWP welfare benefits and legal matters i.e. enduring power of attorney.

Free Publications include Long Term Care Guides and an extensive range of 'Infosheets' on common problems including 'Treatment of Couples', 'Treatment of Property', 'Deprivation of Assets', 'The Legal Framework', 'Local Authority Charging Procedures', 'NHS Nursing Care Contribution', 'Immediate Need Care Fee Payment Plans', 'Issues Surrounding Choice' and 'Inheritance Tax Planning'.

The aim of the NHFA is to enable older people meet the cost of chosen care for life whilst also preserving their original capital and with that their independence, dignity and right of choice.