

FINANCIAL VIABILITY FOR CARE PROVIDERS IN THE COVID CRISIS



In an already under-funded sector, COVID has further exasperated the financial crisis facing many care providers. Whilst additional Government funding has been welcomed by the sector, it will not protect providers from the continuing challenges presented by increasing vacancies (particularly in the self-funded market), recruitment costs, PPE and the likely tightening of Council budgets as the national economic picture unfolds.

Providers are legally required to ensure their financial viability. Under Regulation 13 of the Care Quality Commission (Registration) Regulations 2009, providers must “take reasonable steps to carry on the regulated activity in such a manner as to ensure the financial viability of the carrying on of that activity”. Those with local authority contracts are likely to have signed up to contractual provisions which a) require compliance with the Fundamental Standards, and b) permit the local authority to terminate the framework agreement in the event of a breach.



Whilst resolving these financial challenges will not be straightforward, there are practical ways in which providers can improve and protect their position, particularly when it comes to residents’ fees and contracts.

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Ensure that financial assessments are carried out for all self-funders prior to admission. This can give providers an idea of how long a self-funder can afford private fees for and help ensure that arrangements for local authority funding are put in place well in advance of funds running out to avoid cash flow issues.
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Check that top ups are legally implemented and agreed with the local authority as well as the third party payer. Without agreement from the local authority they are not enforceable or recoverable in the event of non-payment by the third party.
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Consider the use of secured deferred payment agreements where residents have properties to sell. Provided this is done in compliance with consumer credit legislation, it can provide security for payment for full private fees whilst a property is being sold.
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Ensure that contracts are watertight and enforceable in the event of non-payment. Residents contracts need to be compliant with consumer legislation but can also be drafted commercially to ensure that providers have recourse to charge late payment fees, recover costs and ultimately end the contract in the event of non-payment.

