

Costing, Organising and Managing Care & Support of Brain Injured People

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The UK System

- Costing
 - Who funds care
- Assessment of the care needs
 - What is care?
- Managing the care regime
 - Maintaining quality
 - Managing Risk

Costing of Care

- The National Health Service via PCT's
- Local Authorities
- Insurers in litigation cases
- Combination of the above

National Health Service

- NHS created after World War 2
- Duty to set up services for the public to access
- Largely free of charge
- Discretionary
- Continuing Health Care – Primary Health needs

The NHS Continuing Health Care (Responsibilities) Directions 2007

A Primary Care Trust must take reasonable steps to ensure that an assessment of NHS continuing health care is carried out in all cases where it appears to the Trust that there may be a need for such care or a variation in the provision of such care

Assessing Continuing Health Care

- Framework since 2007 to provide single set of national criteria
- More now eligible for continuing health care

Core Values

- Needs should not be ignored because they are being well managed
- Eligibility decisions should not be based on
 - Setting of care
 - Ability of care provider to manage the care
 - The use or not of NHS employed staff
 - The need for/presence of specialist staff
 - Existence of other NHS funded care

Decision Support Tool

- Behaviour
- Cognition
- Communication
- Mobility
- Contenance
- Skin and tissue viability
- Breathing
- Consciousness
- Medication symptom control
- Psychological & emotional needs
- Nutrition

If eligible..

- Reasonable offer of services
- Services will be free

However....

- Not obliged to meet every medical need
- Assessments inconsistent
- Cannot demand care in a particular home or level
- Needs of the individual have to be balanced with the needs of every other potential recipient of NHS care
- Potentially variable in future

Local Authority

- Duty owed to individual to provide them with social care
- Services are means tested
- Cannot deliver care by a registered nurse or doctor

It can provide..

- Facilities to assist to return to work
- Practical assistance in the home
- Provision of recreational facilities
- Adaptations to property
- Provision of meals

Assessments

- Social workers – inexperience of brain injury?
- Inconsistency
- Can decline to support if needs more than usual social care

If offer of support made..

- Either provide the support
- Direct Payments
- Can have joint funded package with NHS

Private Regime

- Insurer to fund as a result of a personal injury compensation claim.
- Care (health and social) assessed by a selection of experts

Advantages

- Complete control of how care and support is provided, organised and managed
- Can choose case manager to over see regime
- More flexibility

- State funding
 - Uncertain
 - No future security
 - Continued assessment process
 - Lack of control re provider etc
 - Harder to maintain quality

Legal position

- Defendants seek to argue Claimants should explore state funding
- Direct payments to be taken into account and insurer payments to be net of such payments
- Issues over whether compensation payments should be taken into account at all when considering eligibility for direct payments

Current position

- More support for a Claimant to look insurer and decline to seek state funding
- Ongoing issue – government intervention to shift cost from state to insurers likely in future