

Care homes could profit from locking up vulnerable patients under new law

Chris Smyth Health Editor

Vulnerable people will be detained for years and care home managers who could profit will be involved in the decisions, charities and campaigners warn.

Rushed government reforms designed to save money embed a "worrying conflict of interest" at the heart of rulings on depriving people with dementia, learning disabilities and mental illness of their liberty, it is feared.

In a letter to *The Times*, 13 charities and rights groups say that hundreds of thousands of people risk "exploitation and abuse" by changes tripling the time they can be detained without review.

Since a Supreme Court decision in 2014 anyone under continuous supervision who would not be allowed to walk out of the door of a hospital or care home must have such restrictions approved under what are known as Deprivation of Liberty Safeguards (Dols). However, approvals take more than four months on average and 48,000 people wait more than a year for a decision from two independent assessors, who are appointed by local councils.

Ministers estimate that clearing the backlog under current law would cost £2 billion and have put forward a streamlined system in a Mental Capacity (Amendment) Bill, which is being considered by the House of Commons.

Charities including Mind, the National Autistic Society and the Alzheimer's Society say that their concerns have been ignored. The bill would create "an entirely unfit new system of protection", they warn in today's letter. "Alarming, the bill proposes to triple the time that people can be deprived of their liberty without review (from one to three years)," they say. "The bill also creates a worrying conflict of interest

Case study

It was just years of hell," Christine Mears said of her experience of remonstrating with care home managers looking after her late husband Bernard (Chris Smyth writes).

In a series of care homes, Mrs Mears found her husband dirty, left in his own filth or injured after falling down stairs. She would be "very, very worried" by moves to give care home managers

greater powers of detention.

Mr Mears, pictured, a former RAF ground crew engineer, developed vascular dementia in 2011 and his wife, a former social worker, initially cared for him at home before he became blind after a stroke and his needs became too great.

In one care home he was injured by a falling TV and the manager "just shrugged it off and said it was one of those things",



Mrs Mears, 65, said. In another he was repeatedly left dirty and without any toilet paper but when Mrs Mears complained "they became very irritated. I became labelled as a troublemaker. When I went to see them they turned it around to make it my fault. She said I couldn't keep coming in and making problems ... it makes you feel very, very uncomfortable — you've put your loved one in their care."

She moved her husband because of her fears, reasoning: "If you are rude when I'm here, what on earth are you doing when I'm not here?"

Mr Mears died in 2017

at the age of 89 and Mrs Mears contrasted his experience with that of her mother, who died shortly afterwards aged 91 after five years in an "absolutely excellent" care home. The same home could not accommodate her husband.

Mrs Mears, from Broadstairs in Kent, felt that the battle for dignity denied her the time to listen to music with her husband and take part in other activities they enjoyed. "Instead of enjoying my visit most of my time was spent trying to find him a pair of socks or chasing around trying to get him what he needed," she said.

for care home managers, giving them a greater role in the assessment process."

Care home managers would have more responsibility for arranging key assessments and deciding whether residents can access advocacy. Ministers say that local authorities would have the final say. Independent hospitals could approve Dols themselves.

About half of 227,000 Dols approved each year are for people with dementia. Jeremy Hughes, head of the Alzheimer's Society, said: "Under the proposals people with dementia find themselves in a worrying situation, unable to comment [honestly] on the quality of the

care they receive, because care home managers would be in charge of asking residents about their care. This ... creates a potential conflict of interest."

Sam Grant, of Liberty, said: "This bill is in essence a cost-cutting exercise, which removes vital safeguards necessary to ensure people, who for whatever reason might lack capacity to make decisions, are not abused, mistreated or ignored. The government must fix the bill, or put hundreds of thousands of vulnerable people at risk." Barbara Keeley, shadow minister for mental health, said: "This government is prepared to put the interests of private care

providers making millions from detaining vulnerable people ahead of the human rights of those being detained."

The Department for Health and Social Care said: "Our bill will reform a broken system and ensure vulnerable people can more quickly access legal protections. We have listened carefully to feedback from stakeholders and parliamentarians and made amendments, including excluding care home managers from granting authorisations or completing assessments. This will ensure all applications are independently scrutinised."

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