

Cornwall Old People's Housing Society
A public benefit assessment report by the Charity Commission



The Charity Commission

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More information about the Commission together with a range of guidance for charities can be found on our website www.charitycommission.gov.uk, or by contacting Charity Commission Direct:

Telephone: **0845 300 0218**

Typetalk: **0845 300 0219**

By post: **Charity Commission Direct**

PO Box 1227

Liverpool

L69 3UG

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The Charity Commission is the independent regulator of charities in England and Wales. In October 2008 we started our public benefit assessment in relation to Cornwall Old People's Housing Society. This is a report of our findings.

Section A: The purpose of this report

This report sets out the Charity Commission's findings from its public benefit assessment for Cornwall Old People's Housing Society ('the charity'), registered charity number 1071067. You can find further information about what public benefit assessments are, how we carry them out, a glossary of terms and other details on the public benefit pages of our website.

Section B: Key details about the charity

Charity registration details

The charity has operated since 1949. In 1998 it was incorporated and registered as a charitable company. It had previously operated as a Friendly Society for those of limited means.

Location and operation

The charity operates a residential care home (Perran Bay Care Home for the Elderly which we refer to in this report as 'the home') in the centre of the village of Perranporth, Cornwall. The village has a resident population of 3,500 people.

Residents

The home offers residential care for up to 34 people over 65 years of age who are no longer able to live independently because of illness, a hospital stay, or circumstances that no longer allow them to continue to look after themselves in their own home. The charity also provides some respite care and day care to people in the local area.

Most of the residents are from the local area, although the home accepts residents from other local authorities. The charity's occupancy rate is approximately 95%.

Referrals

The charity admits residents on the basis of its own assessment of an individual's care needs, often following referral from GPs and other healthcare professionals. Where an individual is admitted and care is to be funded through local authority assistance, the charity will establish whether any further contribution can be made by the individual's family towards the difference between the full cost of providing care and funding received from the local authority. The charity does not however expect or require this further funding as a condition of admission.

Fees

At the time of our assessment the charity made the following charges for its care services:

- Residential care between £308 - £480 per week
- Respite care between £308 - £456 per week
- Day care £23 per day

Factors influencing the different levels of fees include the length of time in residence, level of care requirements, the type of room and the ability to pay.

Opportunities to benefit for those unable to afford the fees

The principal means by which the charity provides opportunities to benefit to those who cannot afford the fees is through the provision of places to people who qualify for means-tested assistance from local authorities. Maximum awards are made to those with savings of less than £13,500. Where savings are greater than £22,250, no local authority assistance is available and a sliding scale of such assistance is available to those with savings between these two limits. Any income above the personal expenses allowance - £21.15 per week - is used towards meeting the cost of care, although certain allowances (for example, the Disability Living Allowance and War Widows Special Payments) are disregarded.

The level of funding received from local authorities does not fully meet the cost of the care. Although residents are not expected by the charity to make up for any shortfall of the fees the charity does establish if all or part of the difference can be covered by a third party (family or others).

Means-tested assistance (more details are in section D5)

Residential and respite care

- Maximum level of means-tested local authority assistance available - £300 per week
- Difference between maximum value of local authority assistance and maximum fee:
 - £180 per week (residential care)
 - £156 per week (respite care)
- Number of residents funded by local authority with full top up fees either provided by the charity or waived: 3 (9% of capacity)
- Number of residents funded by local authority and by family or others (third party top up): 5 (15% of capacity)
- Estimated value of annual assistance with fees provided by charity: £18,720
- Estimated value of annual assistance with fees as percentage of total income in 2007: 3%

Day care:

- Difference between value of local authority assistance and daily fee: £2.30
- Number of people receiving local authority assistance with day care: 1

Other opportunities to benefit provided by the charity

The charity runs a lunch club and recreational activities (at the home and on excursions) which are open to local elderly non-residents.

Financial position: year ending 31 December 2008

	Unrestricted Funds	Restricted Funds	Total
Income	£731,422	£25	£731,447
Expenditure	£668,720	Nil	£668,720
Net incoming/ (outgoing) resources	£62,702	£25	£62,727
Net assets	£592,460	£651	£593,111

Section C: Is the charity's aim capable of being charitable?

In this section we report on the charity's aim and whether it fits within the list of descriptions of purposes within section 2 (2) of the Charities Act 2006 that are capable of being charitable purposes.

The charity's object* is as follows:

"To provide residential accommodation and day care facilities for persons who through age or infirmity need such care on terms appropriate to their means"

The aim of the charity, in broad terms, is to provide a care home to relieve the needs of the aged and/or infirm and our assessment found that the charity's operation was fully within this aim.

The objects indicate that the facilities are to be provided "on terms appropriate to their means". We interpret "terms" to mean financial terms. In our view, the phrase requires the trustees to take account of the means of the beneficiaries as part of their approach to furthering the overall object.

We concluded that the charity's aim does fall within s2(2)(j) of the descriptions of purposes in the Charities Act 2006 – relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage.

* set out in the memorandum and articles of association incorporated on 9 March 1998

Section D: Is the charity's aim for the public benefit?

To meet the public benefit requirement, the organisation must meet the two public benefit principles. These are:

Principle 1: There must be an identifiable benefit or benefits

Principle 2: Benefit must be to the public, or section of the public

We looked at the sub-principles within each of these.

- Sections D1 and D2 set out our findings for those relating to principle 1.
- Sections D3 – D6 set out our findings for those relating to principle 2.
- Section D7 sets out our conclusions on whether the organisation meets the public benefit requirement.

Section D1

We looked at the first two sub-principles together:

- **sub-principle 1a - it must be clear what the benefits are**
- **sub-principle 1b - the benefits must be related to the aims**

Relevant benefits

The charity's primary benefit is the provision of a care home to the residents. The operation of a care home is a legitimate means of relieving the needs of the aged and/or infirm.

The care provided by the charity is related to the particular needs of its beneficiaries and to the charity's aim. All beneficiaries are assessed for care need before entering the home. The home is licensed by the Care Quality Commission (CQC) as a residential care home.

The charity has close links with the community and organises a number of activities in the village. Whilst these links can bring benefits to the wider community, they also result in benefit to residents at the home.

We concluded that it is clear that the benefits from the operation of the care home are related to its aim and the charity does meet sub-principles 1a and 1b.

Section D2

Sub-principle 1c: Benefits must be balanced against any detriment or harm

We explain in *Charities and Public Benefit* our approach to assessing this sub-principle.

Based on this, we found no evidence or indication of detriment or harm in relation to this charity.

We concluded that there was nothing under sub-principle 1c that would affect the assessment of public benefit in this case.

Section D3

Sub-principle 2a: The beneficiaries must be appropriate to the aim

The beneficial class is restricted to the aged and/or infirm. The beneficial class is appropriate to the aim as there is a clear connection between the aim and the aged and infirm in need of care.

We concluded that the beneficiaries are appropriate to the aim and that this sub-principle is met.

Section D4

Sub-principle 2b: Where benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted

In this section we consider geographical and other restrictions. In section D5 we consider restrictions arising as a result of the fees charged.

Geographical restrictions

There is no express geographical restriction in the stated objects applied to the opportunity to benefit. In practice, most of the residents are people from Cornwall or whose families live in Cornwall. However, the home does accept referrals from local authorities from elsewhere in the country.

Age restrictions

The benefits are restricted to the elderly or infirm in accordance with the charity's stated objects.

Health restrictions

Residents are only admitted to the home following an assessment of their needs to ensure the home can provide appropriate care. The need for care of each beneficiary is assessed at the time of admission. The charity does not provide access to those in need of full medical or nursing care, as the charity is not registered to provide nursing care.

These restrictions on who has the opportunity to benefit are rational and justifiable and **we concluded that** the opportunity to benefit is not unreasonably restricted by geographical or other factors outlined above and that the charity meets sub-principle 2b in relation to restrictions other than fees.

Section D5

We considered the following related sub-principles together:

- **sub-principle 2b (the opportunity to benefit must not be unreasonably restricted by ability to pay any fees charged); and**
- **sub-principle 2c (people in poverty must not be excluded from the opportunity to benefit)**

Taken together, these sub-principles mean that the charity must be able to show that there is sufficient opportunity to benefit in a material way that is related to the charity's aim for those who cannot afford the fees, including those in poverty.

We describe in section C of *Public Benefit and Fee-charging* the principal factors derived from case law which we use to assess this.

We set out below how these factors apply to the circumstances of the charity.

D5(i) *Does the level at which fees are set have the effect of preventing people who are unable to pay the fees from benefiting from the services or facilities?*

The charity primarily carries out its aim by providing a care home. In order to cover the costs of this, it charges fees. At the time of our assessment, the fees for residential care were between £308 and £480 per week (£16,016 – £24,960 a year) and are likely to be of a continuing, rather than a one-off, nature. Payments vary based on the length of time a resident has been at the home, the type of room, the ability to pay and care requirements.

The charity also provides:

- respite care which is charged at between £308 and £456 a week;
- day care which is charged at £23 per day.

Fees are set to cover operating and maintenance costs and take account of income from fundraising activities. A reserve (equivalent to 3 months' operating costs) is maintained in order to cover against the risk of not meeting the trustees' target occupancy rate.

The level of fees charged fits within the definition of 'high fees' in our guidance *Public Benefit and Fee-charging* because they are unaffordable to many people.

D5(ii) *In relation to those who cannot afford to access the services because of the charges made, to what extent are those charges moderated (in whole or in part) in order to:*

- *permit access to the services charged for*
- *give other access to the benefits of the charity?*

The principal means by which the charity provides opportunities to benefit to those who cannot afford the fees is through the provision of places to people who qualify for means-tested assistance from local authorities, supplemented in some cases by fee reductions by the charity. We set out below how this operates and how we considered it.

Residential care

For residential care, means-tested help with the fees is available from local authorities. Such assistance is available to people who are assessed by the authority as needing care.

At the time of the assessment, the level of funding received from local authorities did not fully meet the costs of care. The maximum level of local authority funding is £300 per week. The difference between this and the full fees falls within our definition of high fees because they are unaffordable for many, so the existence of statutory assistance alone could not be said to provide access to those who could not afford the fees or people in poverty. We therefore looked at what further mitigation is available.

The charity's budget is set on the assumption that 30% of residents will be in receipt of local authority funding. The actual number of local authority funded residents at the time of the assessment visit was eight (24% of the home's capacity) of whom three (9%) paid no additional contribution. This figure has fluctuated between one and three over the last two years, with the average being two (6% of capacity).

There is no set admissions policy. Admissions are assessed by reference to the charity's aim on a case by case basis and on individual needs. Where someone qualifies for local authority assistance, the charity admits that person on the basis of their need for care. The issue of whether the charity or a third party is able to make a top up contribution does not influence the decision, but is addressed once the place has been offered. At that point, the charity establishes if a third party contribution can be made: where this is not possible, the charity will admit the individual on the basis of the funding of the local authority alone.

Respite care

At the time of the assessment, one person was also receiving respite care that was supported by the local authority.

Day care

For day care, the daily charge is £23 but the local authority will cover 90% of the cost for those who need day care and who are unable to afford the fee and the charity will waive the remaining 10% (£2.30) if necessary. At the time of the assessment, five people were attending for day care of whom one was funded by the local authority.

Although the charity does not formally advertise the availability of funded places, its availability is known to local authorities and other referral agencies. The home is the only charitable care home in Perranporth, has strong links with the local community and historically has provided for those of limited means.

Moderating fees: hardship payments

Where an existing resident faces difficulty in maintaining payments, the trustees' policy is to consider on a case by case basis whether they can support the resident.

Other access to the benefits of the charity for those who cannot afford the fees

The charity runs a lunch club and recreational activities (at the home and trips out) for residents in which local elderly non-residents can participate.

Sub-principles 2b and 2c - conclusion

The charity charges high fees which, even after means-tested local authority assistance, require some mitigation in order to show that the opportunity to benefit is not unreasonably restricted. We took account of the relatively small size of the care home, its financial circumstances (including reserves) and the effectiveness of the means-tested assistance in providing opportunities to benefit in material ways that relate to the charity's aim. Our assessment is that the following factors taken together mean that there are sufficiently extensive opportunities to benefit for people who cannot afford the fees, including people in poverty:

- the requirement in the charity's object to provide care on the basis of financial need;
- the availability of means-tested assistance from local authorities, coupled with the charity's policy that admissions are not conditional on the expectation that a third party will pay the top up fee;
- referrals from local GPs and healthcare professionals are made on the basis of the charity's admission's policy of admitting residents on the basis of need;
- the number of residents in respect of whom no third party top-up fee is collected;
- the budgeted provision for 30% of the charity's residents to be in receipt of local authority assistance;
- the availability of day care which, for people in poverty, is supported by means-tested local authority assistance, supplemented where necessary by the charity.

We concluded that, taking into account what is reasonable and appropriate in the circumstances of this charity, it does provide sufficient opportunity to benefit in a material way for those who cannot afford the fees, including people in poverty, and that the charity does meet sub-principles 2b (in relation to fees) and 2c.

Section D6

Principle 2d: Any private benefits must be incidental

One trustee has a relative residing at the home. The trustees have a policy that any trustee who is subject to a potential conflict of interest does not take part in discussions relating to fees.

It is understood that the appointment as trustee was made after the relative had been admitted to the home.

We concluded that private benefits are incidental and that this sub-principle is met.

Section D7

Conclusion: Is the public benefit requirement met?

We concluded that all of the above sub-principles are fulfilled and that the public benefit requirement is met.

Section E: Overall conclusions and required or recommended actions

We concluded that Cornwall Old People's Housing Society is a charity and is operating for the public benefit.

There are, however, some steps the trustees should take in order to demonstrate that they are meeting key good practice requirements in our public benefit guidance.

The good practice recommendations are as follows:

- the information about the possibility of assistance with fees for those who are unable to afford the fees should be more widely publicised;
- the trustees should identify more formally the specific funds in the budget for subsidising care and periodically review the number of residents with funded places. Where the number of, and monetary contribution to, funded places falls below the budgeted sum, the trustees should consider how the balance of the unspent funds could be used for the purpose of subsidising places in the future.

This publication can also be accessed at the Charity Commission's website: www.charitycommission.gov.uk

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