

# *NHS Continuing care decisions*

You may have heard of coverage within the media in August 2009, with respect to the family of an Alzheimer sufferer, who challenged the decision of their local NHS Trust that had refused to provide free nursing care (NHS continuing care). After persisting with their challenge for over five years, the family were rewarded with a refund of over £100,000 by the Parliamentary and Health Service Ombudsman for money that the family had paid out personally, which should have been provided by the local NHS Trust.

Decisions as to whom should receive free nursing care are extremely complex. In this case, the family were forced to sell the home that their mother had lived in for over thirty years to pay for the care home fees of £600 per week. When asking for an assessment to see if a person is eligible for NHS continuing care, there is a set framework that the NHS Trust must apply. The NHS Trust is required to provide clear reasons their decision.

The decision of the NHS Trust should be based on the particular circumstances of the person's physical

and psychological needs, the level of support required to manage those needs, the level of skill required by the carer to treat, monitor and manage those needs and the risk to the person if someone without necessary experience cares for them incorrectly.

There is a decision support tool that sets out the factors that should be considered in making the assessment and these are to be rated either no need, low, moderate, high, severe and priority. This is an aid to deciding whether a person is eligible and is not a scoring system. The guidance gives situations where the score is likely to be sufficient to receive NHS continuing care but this is only guidance so is not absolute. If you are not satisfied with the decision of the NHS Trust or if you believe that the framework has not been followed, you may seek a review from the Primary Care Trust, which has power to refer the matter to an independent review panel of the regional health authority. If you are still not satisfied with the decision, you may make a referral to the Health Service Ombudsman.



**HATTEN WYATT**

*Solicitors & Advocates*

*Established 1844*



*Article author:*

*Damien Jones*

*Partner*

*Private Client Department*

*Email:*

*[damien.jones@hatten-wyatt.com](mailto:damien.jones@hatten-wyatt.com)*

If you wish to discuss these matters further, please do not hesitate to contact Damien Jones on:

01474 351199 or alternatively  
[damien.jones@hatten-wyatt.com](mailto:damien.jones@hatten-wyatt.com)

**Telephone: (01474) 351 199 [www.hatten-wyatt.com](http://www.hatten-wyatt.com)**

18/21 Wrotham Road, Gravesend, Kent, DA11 0PF

51/54 Windmill Street, Gravesend, Kent, DA12 1BD