

Care Homes Briefing

Solicitors

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Human Rights Act To Apply To Nursing Homes

The Government have apparently decided to extend the Human Rights Act so that it will apply to publicly funded residents in private care homes. The media have reported that Ivan Lewis has announced that the Government will amend the Health and Social Care Bill, currently before Parliament, to extend the Human Rights Act to residents who have been placed in privately run residential and nursing homes by Local Authorities.

The announcement in effect reverses the decision of the House of Lords in the YL case¹. The House of Lords held that the Human Rights Act did not apply to care homes.

This is likely to affect the ability of care homes to terminate placements, either because an individual is

inappropriately placed or because of difficulties with the resident or their relatives. It will be necessary to be able to demonstrate compliance with the Act. However, with the benefit of appropriate advice, in cases where such placement termination is demonstrably necessary, compliance with the Act should not adversely impact on the proper running of a care home. Nonetheless, there is clearly a risk of increased costs if disputes about compliance with the Act end up before the Courts.

The Minister has also announced that self funded residents will be given the right to appeal to an independent adjudicator if care home operators do not deal with complaints about the standard of service properly.

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Out of office emergency advice available 24hrs on 07802 506 306.

Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.

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¹ See RadcliffeLeBrasseur's previous Care Homes Briefing 49