Almshouse Association – Independent Living webinar 14 May 2025

FAQs

1.	***Q: If an Almshouse allows a resident to organise their own assistance or care package independently and we have nothing to do with it is that OK?*** A: This raises several questions: 1. the charity's safeguarding obligations mean they should seek assurance around qualifications/regulated status of the carer(s) 2. how often the carers are visiting and the timings. If carers are present for large parts of the day, is it appropriate for the person to be left at night? 3. consider whether the resident is required to inform the charity if it is giving keys to carers to attend their residence. The extent of the level of care would need to be shared with/disclosed to the relevant trustee/identified safeguarding or pastoral lead in order to assess whether the individual can live independently. A further consideration is the public benefit requirement and resident eligibility.
2.	***Q: Would a fire alarm test in a communal hall be prompting?*** A: This would not be prompting. However, if an individual is evidently not able to appropriately comply with a fire alarm test (e.g. is not able to get themselves to the evacuation point), this would be a potential trigger to investigations into this individual's independence. Reasonable adjustments may then be a consideration.
3.	***Q: Does the support 'line crossing' include a partner living with an individual not just a neighbour or warden?*** A: Much depends on the level of support needed as to whether this is acceptable. Partners are mainly excluded from regulation ('though this is fact specific); however, it would be important for the identified safeguarding lead to explore the level of care being provided, and whether the resident would still be considered independent. The partner would need to meet the charity's beneficiary criteria and be formally appointed of course.
4.	***Q: So what are you saying is a legitimate aim?*** A: the aim must be a real, objective consideration, and not in itself discriminatory (for example, ensuring the health and safety of others would be a legitimate aim). If the aim is simply to reduce costs because it is cheaper to discriminate, this will not be legitimate. Working out whether the means is 'proportionate' is a balancing exercise: does the importance of the aim outweigh any discriminatory effects of the unfavourable treatment? There must be no alternative measures available that would meet the aim without too much difficulty and would avoid such a discriminatory effect.

5.	***Q: What if the accommodation is not suitable for a wheelchair in the first place? E.g., our bungalows do not have wider door frames and corridors to allow a wheelchair user to manoeuvre safely. We would have to knock the bungalow down.*** A: The Equality Act 2010 requires landlords & property managers to make reasonable adjustments to properties to ensure disabled people are not at a disadvantage compared to non- disabled people. However, what is considered a reasonable adjustment for a large organisation may be different for a small almshouse. It is about what is practical in the service provider's individual situation and what resources you may have. The provider will not be required to make adjustments that are unaffordable or impractical. Further factors to be considered in deciding whether it is reasonable to make adjustments are set out by the EA2010 regulations. If in doubt seek legal advice.
6.	***Q: Can we insist a Resident employs a cleaner?*** A: It would be unreasonable to insist the resident employs a cleaner regardless of whether they have funds, but trustees can insist the property is kept clean and in good order. (This should be covered in the Letter of Appointment/residents Handbook)
7.	***Q: How can any level of care package be viewed as 'independent living'? By definition, the recipient cannot live independently.*** A: A number of almshouse residents receive a care package which provides them the support needed to enable them to live independently. In judging whether such residents can live independently consideration should be given to the level of support needed.
8.	***Q: If the original letter of appointment doesn't cover independent living can you retroactively address, if so, how?*** A: It is perfectly acceptable &, indeed, advisable for almshouse charities to request residents to sign a fresh letter of appointment from time to time and an independent living policy should be put in place. Normally when contractual documents are altered, the other party (here, the residents) should be consulted on the changes.
9.	***Q: We have a frail gentleman with obvious capacity. He is having increased hospital admissions due to "self-neglect" and is not willing to continue to pay for the level of care required to maintain a good level of independence.*** A: It would be important for the relevant trustee/ safeguarding lead to explore any safeguarding risk and seek the support of Social Services. S. 42 of the Care Act 2014 mandates local authorities to undertake safeguarding enquiries in certain circumstances. They also have duty to assess an adult's needs for care and support under S.9.
10.	***Q: Where a resident, or their family, arranges their own care package, does the charity have any responsibility for ensuring that the care provider is regulated?*** A: Yes, the charity should ensure that the care provider is regulated – see 1 above.

11.	***Q: Under the data protection slide, please restate the JAPAN acronym*** A: J – Justified A – Accurate P – Proportionate A – Appropriate N – Necessary However please note this is a helpful tip rather than statutory guidance and you should follow the ICO data sharing code of practice and take advice in specific cases.
12.	***Q: We have a resident who is aged and frail. I live just down the road from the almshouse and walk past every day. Would I be stepping across the line if I were to simply knock on her door each morning, in order to check that she is ok?*** A: This is not within itself stepping across the line, because simply checking in on a resident would not be considered to reach the threshold of a regulated activity. The question however points to a wider concern about the resident's welfare and ability to live independently. (Assuming you are a trustee.) It would be advisable to seek authority from the board of trustees for volunteering in any wider capacity for the charity and understand that this is a completely separate role. You would need some safeguarding training and clear parameters to avoid the charity inadvertently assuming a higher duty of care.
13.	***Q: Is it an idea to have a formal Licence to reinforce the Letter of Appointment which Residents do not always seem to take as seriously as they should?*** A: The Letter of Appointment constitutes a licence so this is not strictly necessary but can help to clarify the legal relationship between the charity/trustees and the beneficiary/resident/licensee.
14.	***Q: How would the inability to leave a first-floor flat be considered with regards independent living?*** A: This is likely to cause issues in terms of your fire safety certificate and insurance cover. The inability to leave one's residence may also constitute a risk of neglect/ self-neglect that may trigger a local authority Section 42 safeguarding enquiry. If possible, the resident should be moved to a ground floor flat.
15.	***Q: How often should we be checking capability of residents to live independently?*** A: On an ongoing basis volunteers or employees should be taking steps to monitor any sign of residents declining, but it is up to the Almshouse how (and how frequently) this is done. See also Qu.12 above.

16.	***Q: If someone has declining health and is now in hospital indefinitely, would it be an appropriate action to then set aside?*** A: In such circumstances setting aside the resident's appointment is likely to be necessary, though this needs to be handled with sensitivity because hospital is generally more temporary than residential care. The assistance of the resident's family (if available and assuming appropriate consents have been given by the resident to share information with them), should be sought as well as Social Services in moving the individual on to more suitable accommodation to meet their needs.
17.	***Q: Can a family member provide care? or does it have to a regulated provider?*** A: This depends entirely on the resident's circumstances; the Care Act recognises the role of families in supporting individuals with care needs. The charity should be informed of any arrangements made. The extent of the level of care would need to be known to assess whether the individual can live independently.
18.	***Q: If trustees have a concern that a resident is no longer capable of independent living because of poor health, what duty do they have to consider alternative accommodation? Is it good enough to suggest to the resident that regulated care needs to be considered as a matter of urgency?*** A: Trustees have no legal duty to assist a resident to find more suitable accommodation but must liaise with Social Services and make all reasonable attempts to ensure they meet their statutory obligations as regards the resident.
19.	***Q: To what extent would isolated incidents of 'personal care' by the warden e.g. in an emergency/ crisis drag you into regulated activity?*** A: Such incidents should be avoided as potentially they move the role of the warden into that of a carer. Emergencies should be dealt with by calling the emergency services. Almshouse charities are not regulated to provide personal care and the consequences of breaching this can be serious.
20.	***Q: If a resident becomes terminally ill is it appropriate to allow 24 hour care or does the resident have to be moved out?*** A: This is a sensitive situation and depends on how long term the arrangement would be. It should also be covered in your Independent Living Policy. If, for example, the 24-hour care was short term (hours/days rather than weeks/months, making it disproportionate or impractical to move them), this is something the trustees might agree to. In terms of longer-term arrangements, the resident would normally need to move to a hospital or hospice. This move should be coordinated by Social Services/NHS (and where applicable, in consultation with and support of next of kin). Please note that the setting aside process can take several weeks and residents are entitled to four weeks' notice.

21.	***Q: On the issue of privacy and data protection: We have a trustee who is responsible for pastoral care, however, he does submit a report to trustees on each resident about their wellbeing. Is this appropriate or should it be restricted?*** A: This raises questions about privacy, data protection and the role of trustees. The trustee with pastoral responsibilities (and relevant authority from the board of trustees as well as appropriate training/qualifications) can have a legitimate role in supporting residents' wellbeing and providing board reports in line with GDPR/ICO guidance (see also 11 above). However, sharing special category (including medical/health) data should be avoided/narrowly restricted as this requires special treatment under privacy legislation.
22.	***Q: Where do we stand with regard to an occupational therapist deeming a reasonable adjustment within a listed building?*** A: Any person (including the resident) can reasonably identify a reasonable adjustment. In the case of adaptions being made within a listed building, refer to a building surveyor specialising in buildings of this type. Also see Qu. 5 above.
23.	***Q: I am drafting our own policy for Independent Living - is it ok to use your reference to LA - standard 4 visits etc within it to specify the criteria?*** A: We think this would a reasonable approach, as it is based on the maximum care package many LAs will agree to fund, but it is not set down in legislation. (See Qu.27 below)
24.	***Q: Is fire risk for hoarding enough to set aside the resident's appointment? Is wandering at night due to mental health, with risk of falling, harm, damage, etc.*** A: Hoarding is a recognised mental health condition with different levels, which encompass minimal, mild, moderate, severe, and extreme clutter. It is important to identify what level you are dealing with and try to seek help for the resident, ideally via a 'multi agency' approach. Generally, if a resident is reasonably perceived to have become a danger to themselves and/or others, trustees should consider whether alternative accommodation would be more suitable to their needs. There is often a balancing exercise considering their duties to the resident and those to the wider charity/beneficiaries. A setting aside must always be regarded as a last resort and - assuming there are relevant consents in place - there should be communication with the individual's family, GP & Social Services.
25.	***Q: Under the Equality Act are we expected to appoint a beneficiary who needs significant disability aids from the outset.*** A: Trustees are not obliged to appoint people whose needs cannot reasonably be met by the facilities available. However, trustees should consider whether they are able to make reasonable adjustments where practical. They are not obliged to appoint someone whose needs are likely to require significant adaptions that are unreasonable or impracticable for the charity to provide. It is important to adopt an appointments policy that covers equal access and assess each case individually against the policy. Decisions made should be consistent and clearly documented.

26.	***Q: What if it is a member of the family who is doing the caring? Does that cause a safeguarding issue?*** A: No not necessarily but the level of care needed should be taken into account. The charity should be alert to any signs of neglect/poor care, abuse, undue influence or coercion and act on any safeguarding concerns under your safeguarding policy.
27.	***I was unclear how or why the local authority limit of four calls a day could be used to define 'independent living' and how that would inform decision making in real world scenarios - any further information to support this would be appreciated.*** *A:* This is a suggestion of what might be reasonable based on the maximum home care package that most LAs will fund. It is not a legal limit set out in legislation. Our thoughts are that if carers are present for large parts of the day, this begs the question about how appropriate it is for the person to be left at all/overnight, and whether it can be reasonable to consider them to be otherwise independent.
28.	***Q: Was wondering about a gentleman with capacity who is having increased hospital admissions. Each time he is discharged he gets carers for 4 weeks coming in 3/4 times a day. Once the 4 weeks is up, he's reluctant to spend funds on maintaining that level of care, resulting in a decline and eventually re-admission. On the occasions when I pop in, he's in bed, looks unkempt and generally has a cold tea/coffee by his bed. I worry that he isn't in the right place. From the seminar I understand how complex it is being in this "grey area" ....*** A: It is important to get legal advice on specific facts like these. However, flagging with Social Services is likely to be necessary as arguably they should be assessing him for an ongoing care package. It would also be interesting to know who is funding the discharge package. There may be privacy considerations if he has capacity and does not want you to involve third parties; again, advice may be necessary as well as clearly documenting your safeguarding concerns. Whether higher care accommodation is appropriate is a matter for his GP & Social Services.