

Cherry Tree Lodge Private Retirement Home Limited

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Inspection report

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Date of inspection visit:
22 June 2020
23 June 2020

Date of publication:
04 August 2020

Ratings

Overall rating for this service

Inspected but not rated

Is the service safe?

Inspected but not rated

Is the service effective?

Inspected but not rated

Is the service caring?

Inspected but not rated

Is the service well-led?

Inspected but not rated

Summary of findings

Overall summary

Cherry Tree Lodge provides accommodation, personal care and support for up to 31 older people in one adapted building. At the time of the inspection there were 22 people in residence.

People's experience of using this service

Most people we spoke with and relatives told us they felt safe in the home and liked living there. There were, however, two examples of safeguarding concerns where people's basic human rights had not been upheld and people had not been treated with dignity and respect.

Within the context of the Covid-19 infection risk, people were not supported to have maximum choice and control of their lives and staff did not support them in the least restrictive way possible and in their best interests; the policies and systems in the service did not support best practice.

Arrangements were in place for checking the environment to ensure it was safe in relation to infection control and the threat of Covid-19. We found the policies and procedures in place were not always following current national guidance; for example, with regard to personal protective equipment (PPE) and testing for Covid-19.

We found the provider had a series of policies and procedures in place to manage the threat of Covid-19. These had not been changed or developed in the context of ongoing government updates around best practice and guidance. We found a negative attitude from managers and a reluctance to be open and accessible to external advice from professional and regulatory bodies. Some of the information given by the provider and managers in their communications to people and relatives had been incorrect or misleading.

There had been management and staffing changes since the last inspection, however, the home was staffed appropriately and most staff we spoke with had been employed for several years and this helped to develop positive relationships with people living there. People felt the care staff had the skills and approach needed to help ensure they were receiving the right care. Staff we spoke with felt, overall, they had been supported by the managers at the home and they enjoyed working at Cherry Tree Lodge.

Rating at last inspection:

The last rating for this service was Good (published 26 March 2019).

Why we inspected:

We undertook this targeted inspection to follow up on specific concerns which we had received about the service. A decision was made for us to inspect and examine those risks. We had concerns about the way the provider was managing policy and practice related to infection control; specifically, the response to Covid-19. The restrictive nature of the provider's response to Covid-19 had raised issues around the home's admission procedures, compliance with the Mental Capacity Act 2005 and Human Rights issues.

These were discussed with the provider's management team at an Emergency Support Framework (ESF) call with the Care Quality Commission on 29 May 2020. The assessment highlighted the home 'requiring support' due to a failure to adhere or consider infection control guidance during the pandemic.

The Care Quality Commission have introduced targeted inspections to follow up on Warning Notices or to check specific concerns. They do not look at an entire key question, only the part of the key question we are specifically concerned about.

Targeted inspections do not change the rating from the previous inspection. This is because they do not assess all areas of a key question.

Enforcement:

We are mindful of the impact of the Covid19 pandemic on our regulatory function. This meant we took account of the exceptional circumstances arising as a result of the Covid19 pandemic when considering what enforcement action was necessary and proportionate to keep people safe as a result of this inspection. We will continue to discharge our regulatory enforcement functions required to keep people safe and to hold providers to account where it is necessary for us to do so.

We have identified breaches in relation to people's consent to care, people's privacy and dignity, risk around the management of Covid-19 including the overall management and governance of the home.

Full information about CQC's regulatory response to the more serious concerns found during inspections is added to reports after any representations and appeals have been concluded.

Follow up:

We will continue to monitor information we receive about the service until we return to visit as per our re-inspection programme. If we receive any concerning information we may inspect sooner.

For more details, please see the full report which is on the CQC website at www.cqc.org.uk

The five questions we ask about services and what we found

We always ask the following five questions of services.

Is the service safe? Inspected but not rated	Inspected but not rated
Is the service effective? Inspected but not rated	Inspected but not rated
Is the service caring? Inspected but not rated	Inspected but not rated
Is the service well-led? Inspected but not rated	Inspected but not rated

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Detailed findings

Background to this inspection

The inspection

This was a targeted inspection to check whether the provider was meeting requirements in specific areas of concern; the requirements of the Mental Capacity Act 2005, infection control with reference to Covid-19, aspects of people's dignity and human rights and the overall governance and management of the service.

Inspection team

The inspection was undertaken by two adult social care inspectors who visited the service and another inspector who made supplementary phone calls to relatives of people living at Cherry Tree Lodge. The inspection activity was over two days.

Service and service type

Cherry Tree Lodge is a 'care home'. People in care homes receive accommodation and nursing or personal care as a single package under one contractual agreement. The Care Quality Commission (CQC) regulates both the premises and the care provided, and specific aspects of these were looked at during this inspection.

The service had two managers registered with the Care Quality Commission. This means that they and the provider are legally responsible for how the service is run and for the quality and safety of the care provided.

Notice of inspection

We announced the inspection at very short notice; this was to have some preliminary discussion around the use of Personal Protection Equipment (PPE) on inspection. The inspection took place on 22 June 2020 with a site visit and we continued on 23 June 2020 with follow up calls to get more evidence.

What we did

Our planning considered information the provider sent us since the last inspection. This included

information about incidents the provider must notify us about, such as abuse or other concerns as well as information about how the provider was managing Covid19.

We obtained information from the local authority commissioners and other professionals who work with the service.

The planning also considered the concerning information we had received and reviewed with the provider on an Emergency Support Framework (ESF) call on 29 May 2020.

The provider was not asked to complete a provider information return prior to this inspection. This is information we require providers to send us to give some key information about the service, what the service does well and improvements they plan to make.

During the inspection, we spoke with eight people using the service and nine family members to ask about their experience of care. We also spoke with the two registered managers, care manager and four members of care staff.

We looked at specific aspects of three people's care records and a selection of other records including records relating to the MCA 2005 and Deprivation of Liberty Safeguards (DOLS), policies and procedures for infection control, information supplied to people, such as newsletters, and training records.

Is the service safe?

Our findings

Safe – this means we looked for evidence that people were protected from abuse and avoidable harm

At the last inspection this key question was rated as Good. We have not changed the rating of this key question, as we have only looked at the part of the key question, we had specific concerns about.

The purpose of this inspection was to check a specific concern we had about infection control and the management of Covid-19. We will assess all of the key question at the next comprehensive inspection of the service.

Preventing and controlling infection

- The recent ESF assessment had highlighted the provider had chosen a particularly rigid policy of infection control in response to Covid-19 which had created some issues around management of risk, admission procedure and maintaining people's rights. This was based on creating a 'bubble' at the home and being extremely rigid in allowing anybody in or out of the home environment. At the inspection, registered managers confirmed staff had not been 'living-in' consistently throughout the pandemic so there was a lack of clarity around how this measure alone maintained the homes isolation.
- People in the home and staff were not showing any signs/symptoms of Covid-19. There was no knowledge whether any people living there, or staff, were asymptomatic but positive as no testing for Covid-19 was being done although tests were available and had been supplied to the home.
- Observations by inspectors confirmed there was no social distancing being carried out in the home. There was also no staff wearing face masks in compliance with national guidance. Temperature checks were carried out twice daily with people.
- We found a good supply of cleaning materials. There was no evidence of a Covid-19 specific cleaning plan or additional cleaning schedule. The building appeared clean. Explanation regarding additional infection control measures completed by maintenance staff was not supported by guidance, instructions or records of completion.
- The homes policy statements were that "current guidance will be followed". Current national guidance had not been adhered to – specifically PPE [masks worn by staff] and testing for Covid-19. There was a lack of understanding or disregard about the rationale for testing and staff wearing masks which had been updated due to the sustained transmission in the environment.
- The approach by all managers was negative to testing and mask wearing and was based on their own personal preferences and out of date or incorrect rational; this was further evidenced in the providers newsletters and communications with relatives.
- Training specifically around Covid19 had not been arranged for staff apart from the registered manager and recent training by the Local Authority (LA) has been declined.

We found no evidence that people had been harmed however, systems were either not in place or robust enough to demonstrate safety was effectively managed. This placed people at risk of harm. This was a breach of Regulation 12 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. Safe care and treatment.

Staffing and Recruitment

- Enough numbers of suitably qualified and trained staff were deployed to meet people's needs.
- All the people we spoke with said they were satisfied overall with the support they received; one person commented, "I think the staff have looked after us very well." They told us staff were always available and they felt safe because of this.
- The provider had a recruitment policy that helped ensure staff were recruited appropriately and were safe to work with vulnerable people. The registered managers advised us that they had managed to recruit staff following the previous manager leaving.

Is the service effective?

Our findings

Effective - this means we looked for evidence that people's care, treatment and support achieved good outcomes and promoted a good quality of life, based on best available evidence.

At the last inspection this key question was rated as Good. We have not changed the rating of this key question, as we have only looked at the part of the key question, we had specific concerns about.

The purpose of this inspection was to check a specific concern we had about compliance with the MCA 2005 and staff training and competencies around the management of Covid19. We will assess all of the key question at the next comprehensive inspection of the service.

Ensuring consent to care and treatment in line with law and guidance

The Mental Capacity Act 2005 (MCA) provides a legal framework for making particular decisions on behalf of people who may lack the mental capacity to do so for themselves. The Act requires that, as far as possible, people make their own decisions and are helped to do so when needed. When they lack mental capacity to take particular decisions, any made on their behalf must be in their best interests and as least restrictive as possible.

People can only be deprived of their liberty to receive care and treatment with appropriate legal authority. In care homes, and some hospitals, this is usually through MCA application procedures called the Deprivation of Liberty Safeguards (DoLS).

We checked whether the service was working within the principles of the MCA, whether any restrictions on people's liberty had been authorised and whether any conditions on such authorisations were being met.

- Prior to the inspection there was a lack of reassurance about the information currently being accessed by people and relatives regarding the recent whole home swabbing initiative for Covid-19 and the consent issues around this. There was also a lack of reassurance around accessible information for people to make an informed choice. The evidence of information sent to relatives, not people using the service, was by the provider's newsletter and was highly subjective and provided incorrect information.
- At the inspection the registered managers directed us to speak with eight people living at the home. All eight people engaged fully with our discussions. All stated that they had had no information or discussion around the recent initiative and access to testing for Covid-19; one person commented "Nobody has spoken to us about it; I thought the testing would be good. Most of the information has come from the television." Nobody spoken with regarding testing said they would not consider it. This did not correlate with the information we had been given by managers who told us people had been asked and had refused testing for Covid-19.
- We asked about people who 'lacked capacity' to make some decisions had been managed with respect to the MCA 2005. We were referred to a 'DoLS tracker' as evidence of people who lacked capacity. At the time of the inspection 11 DoLS referrals had been completed. Managers explained the criteria for the referrals was based on the fact "There is a locked door, so we have to refer all residents." There was not an awareness that a DoLS referral necessitated a lack of capacity to consent to restrictions.
- There was very limited knowledge regarding the two-stage mental capacity assessment, recommended for

use under the MCA Code of Practice, and the managers could not provide an inhouse copy of this to refer to. There was no reference to consent for admission to the home or Covid-19 testing if the person was thought to lack capacity. We asked for any examples of best interest decisions for people but was told there weren't any.

- The evidence from the inspection was that there had been consultation about testing, but this had been with relatives. One of the registered managers advised us, "We ask the relatives – we protect the residents." We advised the information given to people was insufficient or lacking objectivity. We advised the issue of Covid-19 testing be revisited.
- There was a folder with information for Covid-19 and an information board. The information given to relatives in the provider newsletter, 'bubble news', had been based on opinion and was not in keeping with current guidance.

We found no evidence that people had been harmed however, systems were either not in place or robust enough to demonstrate safety was effectively managed. This placed people at risk of harm. This was a breach of Regulation 11 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. Need for consent.

Staff support: induction, training, skills and experience

- People and family members told us that staff had the skills and knowledge to provide the right support.
- Staff training was ongoing with all routine updates for staff monitored. Staff told us they felt very well supported by the management team and the training plans in place. Staff told us the training in the home was on-line training. We asked some specific questions around Covid-19 and found staff were not up to date with the current evidence for wearing of face masks or testing for Covid-19. Training for Covid-19 had been offered by professionals but had been declined.
- Care staff spoken with all felt confident in the management of the home and said they had been supported well throughout the home's lockdown.

Is the service caring?

Our findings

Caring – this means we looked for evidence that the service involved people and treated them with compassion, kindness, dignity and respect.

At the last inspection this key question was rated as Good. We have not changed the rating of this key question, as we have only looked at the part of the key question, we had specific concerns about.

The purpose of this inspection was to check specific concerns we had about compliance with care standards that supported people's privacy, dignity and respect. We will assess all of the key question at the next comprehensive inspection of the service.

Respecting and promoting people's privacy, dignity and independence; Supporting people to express their views and be involved in making decisions about their care:

- There were examples where the service had breached people's Human Rights and people had not been treated with respect or dignity.
- Prior to inspection a safeguarding concern highlighted an issue around refusal to re-admit a person after attending hospital, effectively making them homeless and raising issues around the person's Human Rights. This was the result of the homes Covid19 policy whereby the person was 'warned' by the registered manager, they would not be readmitted if attending hospital. This put the person in the position of having to decide about access to health care balanced against the threat of losing their home; this despite reassurance from the Local Authority the person was safe to return to Cherry Tree Lodge.
- We were further concerned that this case had been discussed in an edition of the homes newsletter which was commented on by one relative during the inspection, "If this was (my relative) I would be very upset as it's [their] home."
- A further concern related to a vulnerable elderly person who was served notice of eviction without regard for the feelings and dignity of the person who lost their home without apparent consideration of the circumstances of further placement due to the Covid19 pandemic.
- The registered managers communicated with the relatives of the people living in the home with a series of newsletters and emails about the ongoing Covid19 situation. The newsletters helped relatives to be involved but did not always convey appropriate information. The people living in the home did not receive the newsletters.

We found no evidence that people had been harmed however, systems were either not in place or robust enough to demonstrate safety was effectively managed. This placed people at risk of harm. This was a breach of Regulation 10 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. Dignity and respect.

We found, apart for the examples described above, the people we spoke with and their relatives felt they were treated with kindness and were positive about the caring attitudes of staff in the daily running of the home. One relative commented, "All the staff are lovely. They had a change of staff last year – the new staff just fitted in as though they had always been there."

Is the service well-led?

Our findings

Well-Led – this means we looked for evidence that service leadership, management and governance assured high-quality, person-centred care; supported learning and innovation; and promoted an open, fair culture.

At the last inspection this key question was rated as Good. We have not changed the rating of this key question, as we have only looked at the part of the key question, we had specific concerns about.

The purpose of this inspection was to check specific concerns we had about the culture and leadership of the home and the managers response to feedback and how this helped develop the service policies and procedures around Covid-19. We will assess all of the key question at the next comprehensive inspection of the service.

Continuous learning and improving care

- There is a concern around a closed culture in the home. There has been a reluctance to be open and accessible to external advice and to engage positively with external stakeholders such as the Local Authority.
- The registered managers do not appear to be open to criticism or best practice suggestions. This has been communicated to relatives in the provider's newsletter which is openly hostile to regulation and current initiatives regarding Covid-19.
- The services policies and practices were not always in line with current national policy around management of Covid-19, for example, management of risk which takes account of people's Human Rights. This has been fed back via recent safeguarding issues and the Care Quality Commission's recent ESF assessment.
- There has been a failure to act on this feedback to further improve the service. This failure has potentially increased the risk to people in the areas of consent to treatment, access to health care and admission procedure for Covid-19. It is a failure to respond positively to changes in national and best practice guidance.

Working in partnership with others

- The registered managers were aware of the need to work closely with other agencies to ensure good outcomes for people. This included working with health and social care professionals as well as external agencies who supported best practice. The evidence from key stakeholders such as the Local Authority (LA) and Clinical Commissioning Group (CCG) prior to the inspection evidenced the provider had not liaised positively.

We found no evidence that people had been harmed however, systems were either not in place or robust enough to demonstrate safety was effectively managed. This placed people at risk of harm. This was a breach of Regulation 17 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. Good governance.

This section is primarily information for the provider

Enforcement actions

The table below shows where regulations were not being met and we have taken enforcement action.

Regulated activity	Regulation
Accommodation for persons who require nursing or personal care	Regulation 10 HSCA RA Regulations 2014 Dignity and respect There were examples where some people's dignity and basic human rights had not been upheld.

The enforcement action we took:

We served an Urgent Notice to impose conditions on the provider to make improvements.

Regulated activity	Regulation
Accommodation for persons who require nursing or personal care	Regulation 11 HSCA RA Regulations 2014 Need for consent The provisions of the MCA 2005 and Code of Practice were not being followed.

The enforcement action we took:

We served an Urgent Notice to impose conditions on the provider to make improvements.

Regulated activity	Regulation
Accommodation for persons who require nursing or personal care	Regulation 12 HSCA RA Regulations 2014 Safe care and treatment People were at increased risk because current guidance around the management of Covid19 were not being followed.

The enforcement action we took:

We served an Urgent Notice to impose conditions on the provider to make improvements.

Regulated activity	Regulation
Accommodation for persons who require nursing or personal care	Regulation 17 HSCA RA Regulations 2014 Good governance People were at risk because the management and leadership in the service did not support best practice around key areas of care.

The enforcement action we took:

We served an Urgent Notice to impose conditions on the provider to make improvements.