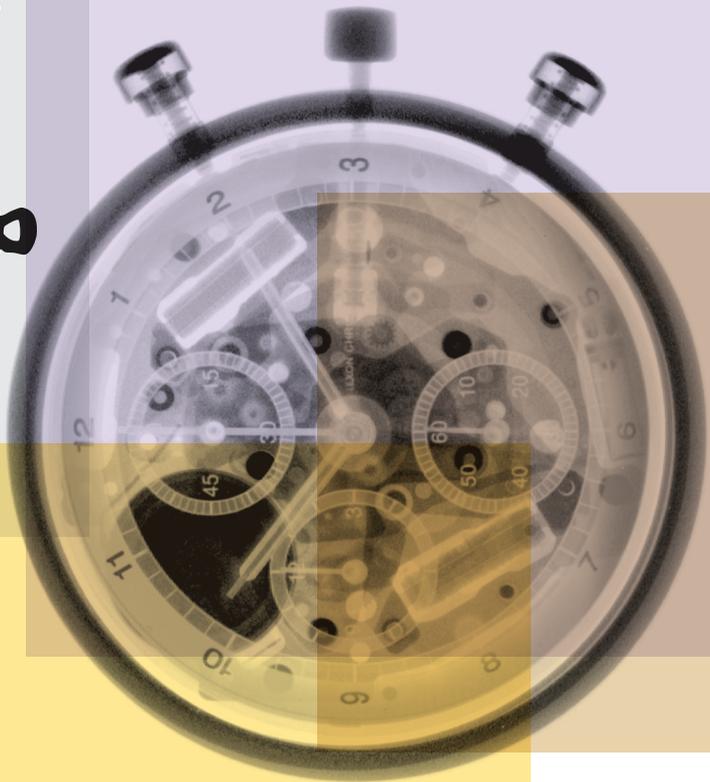
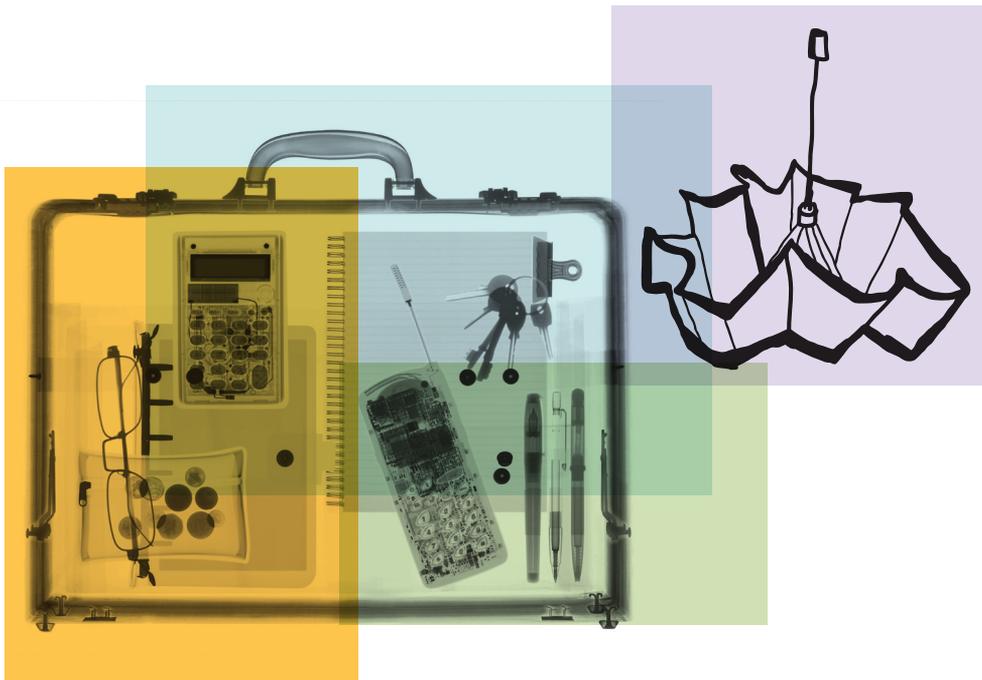


Care Homes



“They are very good, responsive, and they tailor their advice to the client’s commercial needs.”

Chambers UK 2016



Why choose Capsticks

Care Homes are an integral part of the delivery of social care to an ageing population that is often living with chronic and long-term conditions. At the same time Care Homes provide vital complementary services to healthcare in the UK. The Care Homes market faces significant challenges:

- the introduction of the living wage
- skills and staff shortages
- downward pressure on funding of Care Home places
- a tighter more vigilant regulatory regime

Whether you are a Care Home provider, owner or investor our specialist legal team can help you respond to these challenges.

Capsticks is rated as the leading specialist health and social care law firm. We provide legal support to Care Homes across the country. Our team of consultants advise on Care Quality Commission (CQC), HR and governance issues as part of Capsticks Business Solutions.

Over the next few pages, we've set out a guide to the ways in which we can support and provide solutions to you and your team. We understand that you are operating in a challenging market. We are ready to respond and help you to focus on driving your business forward and maintaining excellent provision of social care.

CQC and regulatory advice

CQC inspections must be a priority for Care Home providers. With the introduction of the new inspection and ratings regime, the decisions made by the CQC can make or break your reputation.

Compliance with the Fundamental Standards needs to be embedded in your day to day business. We work with Care Home providers to ensure that your team is always 'inspection ready'.

How we can help

We have a range of interventions designed to bring external scrutiny to your Care Home, including:

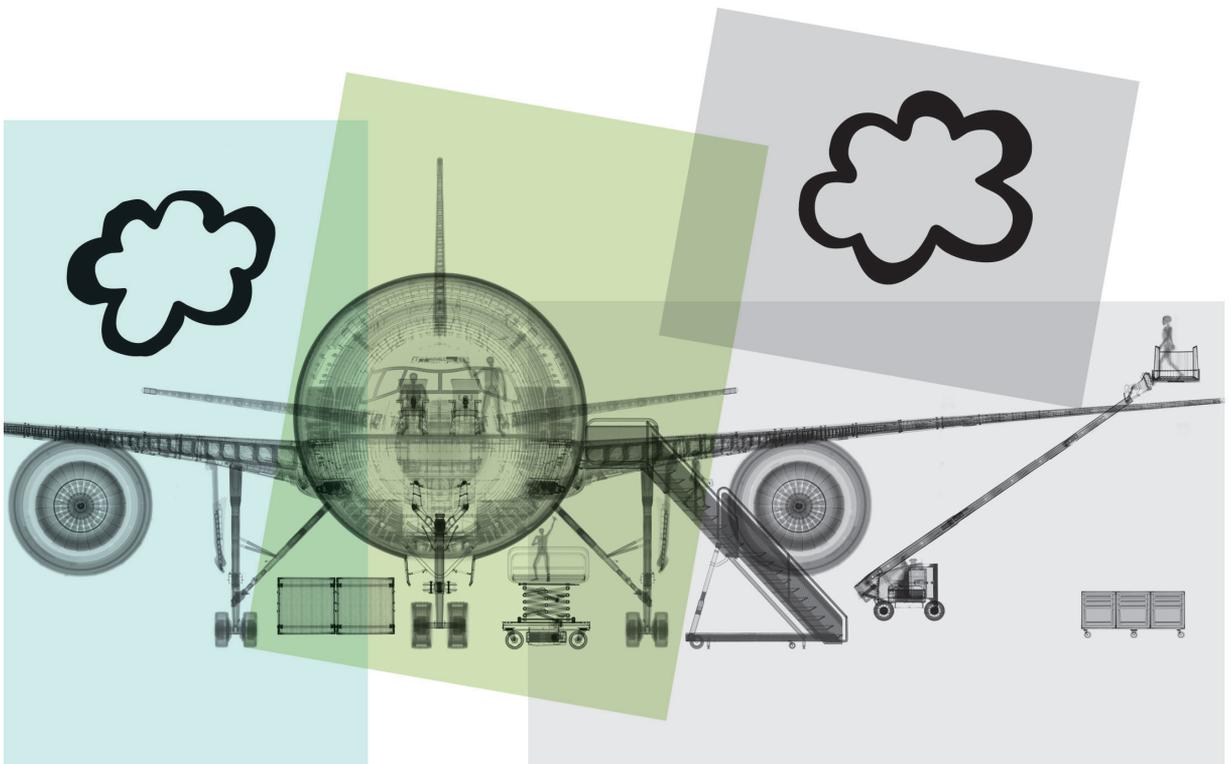
- well-led reviews
- focused mock inspections
- mock interviews for Registered Managers, senior staff and Directors

Post inspection, we will support you through the factual accuracy process to ensure that the final published reports fairly represent your organisation. Where appropriate, we will help you challenge the proposed ratings. We have a superb track record

helping Care Homes to improve their ratings. We recently helped a Care Home provider challenge the accuracy of a CQC draft inspection report. We advised our client on the appropriate evidence and narrative required to effectively challenge the CQC's draft report. This led to important changes in the report when it was published on the CQC website.

Bad ratings can lead to the placement of restrictions on your business and can even lead to the closure of a Home. We can help you respond to cancellation notices and proposed conditions. This enables you to continue to provide services and remain financially viable. We also have a track record of supporting Care Homes through PACE interviews and CQC/Health & Safety Executive (HSE) prosecutions. We operate a CQC 24/7 helpline to act as a sounding board if you face urgent regulatory issues.

Our regulatory experience also means that if you are acquiring a new Care Home we can provide you with a clear report on the key regulatory risks that may impact the deal.



*“Very pleasant,
knowledgeable,
experienced and
very good at getting
back to us.”*

Chambers UK 2016

Corporate, Commercial and Finance

Care Homes need legally robust contracts. This ensures compliance with regulatory requirements and minimises the potential for disputes. Our specialists are experienced at preparing resident and supplier contracts, focusing on key areas of importance for you such as:

- payment terms
- fee increases
- personal possessions
- cancellation rights

Our finance lawyers advise on financing and related borrowing/security arrangements. We assist Care Home providers with:

- secured/unsecured credit facilities
- development finance
- credit sharing arrangements

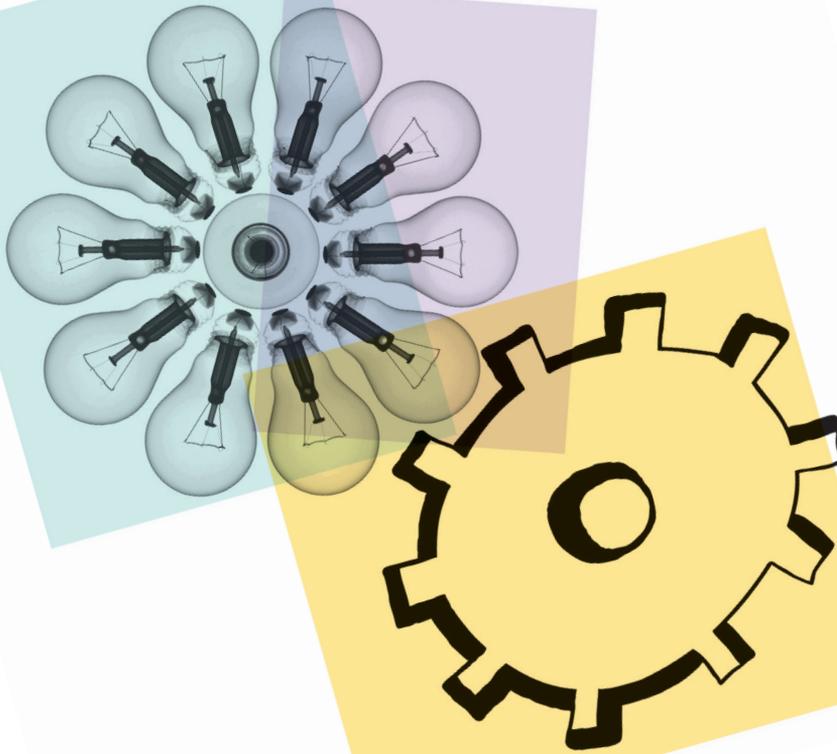
How we can help

Acquiring or selling a Care Home business can be complex. We will guide you through regulatory, funding, employment, contractual and liability issues that will be faced in achieving a successful transaction.

We have helped with the sale of Care Homes to a new market provider. We negotiated heads of terms and managed buyer due diligence. The transaction involved obtaining local authority approvals, appropriate staff consultations, resolution of numerous property title issues and conditionality regarding the buyer's CQC registration.

We have worked on the £55m group refinancing of a Care Home provider's existing bank facilities. We agreed the structure and detailed terms of the replacement facilities (complicated by charity law concerns). We undertook detailed due diligence on the group's properties, provided detailed reports to the new lender and client and replaced security on all of the group's properties.

We also advise on Care Home resident contracts, third party operator agreements, subcontracts and service level agreements relating to the provision of goods and services, such as laundry services, catering services, and decontamination services.



Property transactions

Whether you are considering building, buying, redeveloping, selling or refurbishing a Care Home, our specialist team can help you. We know that property transactions are part of your Care Homes' commercial strategy.

Our specialists focus on minimising financial and other risks to your Care Home business as far as possible in construction and property transactions.

How we can help

We can support your team with:

- Leasehold and freehold Care Home acquisitions and disposals
- All aspects of the development of new Care Homes, including building contracts, warranties and development agreements for lease
- The property aspects of Care Home commercial transactions, including re-financings, secured lending, business acquisitions and intra-group reorganisations

- Alteration and refurbishment projects
- Planning law matters such as s.106 agreements, certificates of lawful use and on-going adherence to planning conditions
- Statutory compliance and CQC related premises issues

We advise on everything from multimillion pound health and social care construction projects to routine property matters.

Your Care Home estate can be key in helping you deal with current market pressures; whether by improving space utilisation to increase bed space, redevelopment/refurbishment or acquisition and disposal of your Homes. We work with you to develop Care Home estates solutions that reflect your business' objectives.

Criminal consequences of death, serious harm or risk of harm

Care Homes are accountable under criminal law and the cost of default can be very high. New sentencing guidelines establish fines of up to £20million.

How we can help

We can support you by:

- defending prosecutions or agreeing mitigation points following a guilty plea
- safeguarding your reputation
- minimising the impact of criminal prosecution

Corporate offences – manslaughter / health and safety

If the worst happens, police may investigate a corporate manslaughter offence. We have advised a number of clients faced with such investigations, successfully avoiding corporate manslaughter proceedings in every case. The “lesser” health and safety offence is still very serious. We recently supported a Care Home prosecuted by the HSE, following the death of an elderly resident. Our client faced a potential fine of £2.1million but our intervention reduced the fine ultimately imposed by £1.5million, with minimal reputational damage.

Individual offences

HSE considers that offences are often attributable to acts or omissions of senior officers, who bear potential criminal liability alongside their employer. When a Care Home client was prosecuted for perceived deficiencies in its occupational health provision, HSE expressly considered the role of our client’s senior officers, but no individual prosecution was pursued against them.

Senior officers acting competently within their allotted roles have nothing to fear but the investigation process is very unnerving. Our wide experience means you can rely on our support, no matter how serious the allegation you or your organisation faces.



HR legal and advisory support

Care Home providers can face an array of complex employment issues. We support HR professionals, Directors and managers on a whole range of HR and employment law issues, including TUPE and pensions, day to day advisory matters, right through to defending your organisation against litigation.

How we can help

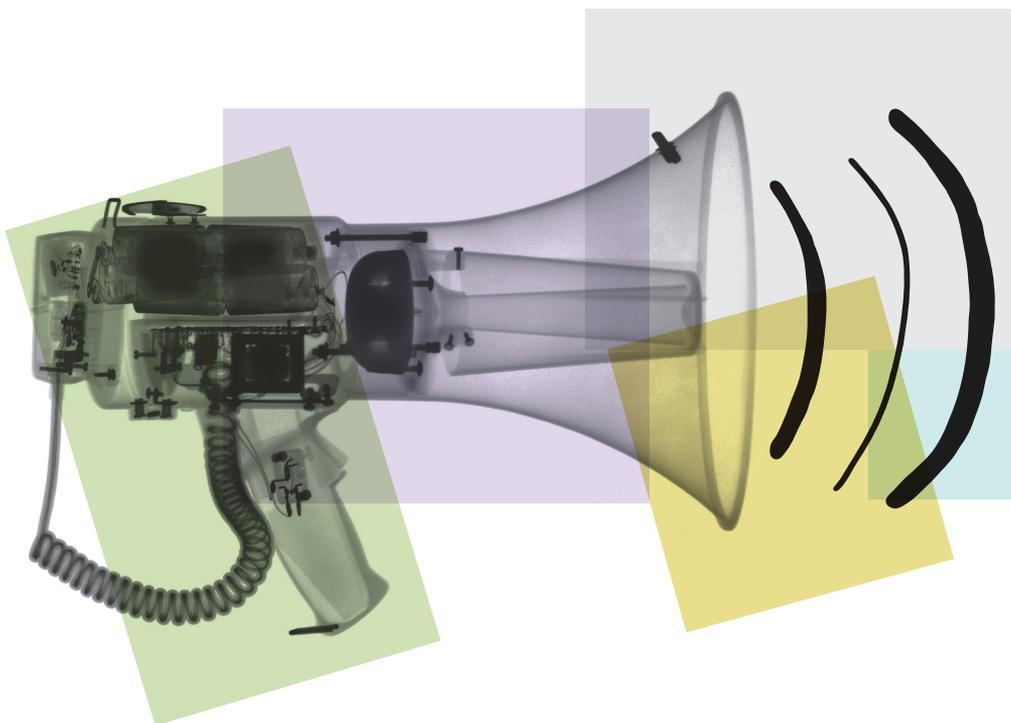
We can support your team to manage day to day employee relations issues including:

- pre-employment checks and references
- sickness absence
- discrimination
- bullying and harassment
- whistleblowing
- the application of disciplinary, grievance and capability policies and procedures
- compliance with immigration rules
- commercial settlements of threatened litigation

We can also support your teams by providing training on employment law and HR best practice so that they are best equipped to manage these issues as they arise.

We recently supported a client during a safeguarding alert, with the disciplinary investigation into the standard of care provided by its employees to the resident. We reviewed the investigation report, drafted disciplinary allegations for disciplinary hearings and advised on fair and legally sound disciplinary outcomes. For staff who were not recommended for disciplinary hearing, we advised our client in relation to improving care standards through fair and measurable targets for improvement. We also advised in relation to the duty to refer to the Disclosure and Barring Service.

We concurrently advised our client in relation to the restructure of the staffing arrangements in their Care Homes to achieve better care standards for their residents, from ensuring a fair selection process based on an assessment of competency, to identifying suitable alternative employment and assessing entitlement to redundancy pay, thereby minimising the risk of claims.



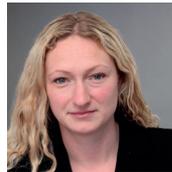
Like to know more?

Please visit our website:

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@Capsticksllp or if you would like to speak with us,
please call one of our team on the attached teamsheet.



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