

**W**e need you to spread information and also to feedback to **LCAS** what you want from us as an organisation, what can **LCAS** usefully do for you and your organisation going forward? Although we hold a wide database and contact list for the area, with the turnover of staff and changes to e-mail addresses it can never be completely up to date, so please pass this forward to colleagues and contact us with changed and new e-addresses. Also your suggestions about the role of **LCAS** are useful, contact us by e-mail or phone.

This newsletter contains details of a wide range of information of use to your organisation, whichever part of the social care sector you operate in and for all organisations, small to large, for profit, voluntary, or charitable. You may be able to utilise it now, or keep it for a later date. As an operator working in specialist sectors such as health and social care it is important to get the right business advice and support to make certain that precautions are taken to avoid expensive and reputation damaging issues arising, so having good advice for insurance and knowing where to get sector specific legal advice if an issue such as a dispute with the regulators arises is very important and can save time, stress and cost in the long run.

Working with the **Tri-borough**, we are looking at workshops and seminars for providers around key issues, such as integration, safeguarding and partnership working. We rely upon feedback from providers to keep making these a success and we'd like to discuss ideas, or topics for these workshops, so do please get in touch.

In times of financial pressure as at present it's always sensible to look at the economies of the organisation, your skills are around social care, probably not procurement, so what can you save by having someone expert in procurement look at your purchasing and as it's free for you to use, why not give it a try? See **RedLink** for more information. You may be a small organisation, but you can still access better deals.

Many organisations are concerned about keeping up to date with regulatory requirements and so outsource this to expert specialist operators who can help with policies and advice at times of need. It is important to ensure that correct and up to date procedures are in place with areas such as health & safety, working time directives and pensions. We've had a number of queries about auto-enrolment pension schemes, an area where the task must be done correctly, hence the article from **Wren Sterling**. You may also be interested in attending a business meeting with **Citation** and learning about how they can help with your HR and Health & Safety issues. Do contact them to find out dates and venues locally.

**LCAS** facilitates SfC Registered Manager Groups in London in co-operation with local authorities. The purpose of these networks is to provide the opportunity for RMs and those aspiring to the position to meet other RMs, share experience, learn from their peers and gain knowledge of topics useful to their working roles. These operate in the Three-Boroughs, the Croydon area and the Wandsworth area. The next meeting of the Three-Boroughs Group is on September 13th in Hammersmith and the theme is medication, an invitation and agenda is on:

<https://lcasforumorg.wordpress.com/nw-tri-borough-rm-network/>

The next meeting for the Croydon Group on September 21st with the topics of discharge from Hospital into social care and medication, the latter supported by **Boots**, an invitation and agenda is on:

<https://lcasforumorg.wordpress.com/croydon-area-registered-manager-network/>

A further Wandsworth meeting date in October will be on the website shortly. All presentations from RM meetings along with much other information is on the **LCAS** website; [www.lcasforum.org](http://www.lcasforum.org) This information is an excellent source of material for CPD and there are links to further learning and information sources.

If you were a care home owner between 1993 and 2002, you may be eligible to reclaim a significant amount of VAT from that ten year period - even if you were not VAT registered at the time. **Kieran-Lynch** have extensive experience in achieving success for their clients, and all claims are engaged on an entirely contingent fee basis. If you do not receive a VAT payment, then there is no charge for the work which **Kieran-Lynch** complete. This could be a valuable route to helping cash flow, or simply recovering monies into your organisation.

One way both commissioners and providers can work with each other to redefine the domiciliary care market is through greater use of Individual Service Funds (ISF's). In this article, **TLAP** have provided advice for this and signposting to gain greater detail. Do take a look at the **TLAP** website:

<http://www.thinklocalactpersonal.org.uk/>

If you are looking to expand, develop a new unit, or make significant capital investment in the organisation, then you may want to look at capital allowances and talk with Ian Sutton to explore the possibilities.



You may be aware that last year, it was agreed that the Insurance Act would be changed for the first time since it was formed over 100 years ago. These changes will come into effect on 12th August 2016; so it is important that everyone that purchases insurance understands the changes and what you may need to do differently.

Our insurance partner, Towergate, welcome the changes as they further support their aim to ensure that every customer has the right policy for them and, more importantly, a policy that will be there when they need it most.

It has been widely reported how the changes will affect commercial customers, and while it certainly has the biggest impact on this customer group, some changes do actually apply to consumers buying personal insurance too. It is therefore very important to understand which customer type you are; consumers are those buying personal insurance not in relation to their trade or profession and commercial customers are those who are not a consumer and are buying insurance in relation to a business and/or profession.

The main changes can be categorised into four key areas; Duty of Fair Presentation, Contracting Out, Warranties and Fraudulent Claims. The only two of these areas that affect consumers are Warranties and Fraudulent Claims - hence why the changes are much bigger for commercial customers.

### **Duty of Fair Presentation**

The “Duty of Fair Presentation” replaces the longstanding “Duty of Disclosure”, which required a policyholder to disclose risk information to insurers before entering into an insurance contract. The new approach requires policyholders to undertake a reasonable search of all information known to them and defines what they ought to know about their business, including anything special or unusual about it. Prior to buying or renewing a policy, you should consider what information you need to disclose, who holds this information and how you will capture it in order to ensure you are fairly presenting the risk, via us to the insurer. This means disclosing, clearly and accurately, every material circumstance that you know or ought to know.

#### ***Some key things you should think about are:***

- Are there any special or unusual facts relating to your business? Do you undertake any activities that would not be considered as standard for your business type?
- Are there any circumstances that led you to seek this specific type of insurance? Are you aware of any circumstances that have occurred that could lead to a claim?
- Who are your senior managers and who is responsible for insurance in your business? Who needs to be asked

# Insurance Act 2015

for their knowledge of material facts that could affect the risk presented?

- Is information presented in a clear and accessible manner? Will the insurer be able to get a feel for the risk based on the information you have provided?
- Have you disclosed enough information to put an insurer on notice that they need to ask further questions to uncover material facts? If you have unintentionally not disclosed any material facts, have you at least given enough information about your business that an insurer could identify if they need to ask more questions?

The Act also introduces a new approach in this area, applying proportionate remedies where misrepresentation or non-disclosure has taken place. The remedies will depend on whether the breach is deliberate/reckless or non-deliberate/non-reckless. For deliberate or reckless breaches, the insurer may avoid the policy and refuse any claims made against it. They are also under no obligation to return any of the premiums paid. For non-deliberate or non-reckless breaches, the options are proportionate and will be based on what the underwriter would have done had they been in possession of the full facts at policy inception.

#### ***Their options are:***

- If the underwriter wouldn't have accepted the risk under any terms, they may avoid the policy and refuse any claims made; but they must return the premiums paid.
- If the underwriter would have accepted the risk, but on different terms (other than they would have requested a different premium), then the policy is treated as though it had been accepted under the revised terms, even if the policyholder wouldn't have accepted them at the time. In this circumstance, any claims submitted will be dealt with under the revised terms.
- If the underwriter would have accepted the risk but required an additional premium, then the insurer may reduce the amount to be paid for any claim in proportion to the ratio between the premium initially charged, and the revised actual required premium.

Where an act of fraud has been committed by a policyholder in the submitting of a claim, the Act allows the insurer to avoid the claim in full, even for parts of the claim which would have been genuinely payable.

### **Contracting Out**

In terms of “Contracting Out”, the Act does allow policyholders and insurer to agree to contract terms which are less favourable than those stipulated in the Act, but under strict conditions. This can only be done if you, as the policyholder, are made aware of any disadvantageous

terms before taking out a policy and that any terms are clear and unambiguous as to their effect.

## Warranties

As previously mentioned, "Warranties" and "Fraudulent Claims" apply to all types of customer. Currently, an insurer may avoid liability to pay a claim under a policy if there has been a breach of a warranty, even if that warranty is later complied with, or if it is completely unrelated to the loss.

Under the new Act, all warranties will become "substantive conditions" which means that cover is only suspended for the period that the warranty is not being complied with. As soon as compliance with the warranty is in place, the insurer will again be responsible for any losses incurred. Also, if a loss takes place and complying with the warranty would not have prevented it, the insurer cannot refuse to pay the claim.

For example, if a policy has a warranty that a roof must be inspected every six months, and it actually goes seven months without an inspection, the insurer could refuse to pay a claim relating to the roof if the loss was in the month of non-inspection, but anything happening after the inspection takes place would be covered, at least until the next inspection is due. If, during the month of non-compliance with the warranty, another incident occurs that leads to a claim, but is in no way related to the non-inspection of the roof, the insurer would not be able to refuse the claim on these grounds.

## Fraudulent Claims

Finally, the new Act further clarifies the law on what happens if a policyholder makes a fraudulent claim. In the event that a policyholder attempts or does make a fraudulent claim, the insurer is not liable to pay the claim and can also recover any pay out already made in relation to the fraudulent claim. Insurers also have the additional option to terminate the policy from the time the fraudulent claim took place and retain the premiums, subject to giving notice of this intention to the policyholder.

## Advice from Towergate

The main piece of advice Towergate would give is to give yourselves more time to renew/arrange your insurance or you could risk non-compliance with your statutory duties or, importantly, miss the opportunity to benefit from the additional defences that this new law applies. As a specialist insurance broker, Towergate are committed to helping you ensure you make fair presentations of your business risks and that you fully understand the implications of any non-compliance with warranties.

If you have any questions at all about the Act and the impact on your business, Towergate are more than happy to help. If you are already a customer, speak to your Account Manager or specialist policy team, or if you are not yet a customer, you can call them on **01438 739739**.

*Towergate and Towergate Insurance are trading names of Towergate Underwriting Group Limited. Authorised and regulated by the Financial Conduct Authority.*

## HOW TO SAVE MONEY IN YOUR ORGANISATION; SIMPLY



## PEOPLE ARE TALKING ABOUT US

With costs rising on a regular basis, now is the time to talk to Redlink

We work hard to make your business as profitable as possible by eliminating waste on essential spend. Our team, together with an exclusive range of suppliers, means we can reduce your costs and free up precious extra time for you and your team to get on with running your business.

Our wealth of experience in dealing with care providers means we understand the pressures and

challenges you face.

### **For example:**

This month we saved two care homes an average of 20% on their food costs, 14% on all their cleaning supplies, gloves and aprons and 17% on their waste management costs.

Talk to us on:

**01935 420400**

or email: [brian.ritchie@redlinkalliance.co.uk](mailto:brian.ritchie@redlinkalliance.co.uk)

***Find out how we can save you time and money***

# Kieran Lynch & Co. | VAT Specialists

**We would like to introduce Kieran-Lynch & Co Ltd, one of our corporate partners. Kieran-Lynch are VAT specialists who have worked with care sector providers for a number of years. They have successfully worked with other Care Associations to provide a valuable service - and cash flow boost - to their members, and we would like to make the most of this opportunity for our members too.**

If you were a care home owner between 1993 and 2002 you may be eligible to reclaim a significant amount of VAT from that ten year period - even if you were not VAT registered at the time. The opportunity is often referred to as 'Kingscrest' due to the initial High Court ruling which allowed claims to become possible.

Kieran-Lynch will work with home owners to realise the opportunity to recover VAT over the specific ten year period. The High Court ruling, secured under **Kingscrest** decision in 2002, allows an operator to recover VAT incurred between 1993 and 2002. This is a one-off opportunity to recover a significant amount of VAT and, based on an average of successfully completed claims, an operator can expect to recover around £3,000 per qualifying bed. Reclaims in excess of £100,000 are not unusual. Kieran-Lynch have extensive experience in achieving success for their clients, and all claims are engaged on an entirely contingent fee basis. If you do not receive a VAT payment, then there is no charge for the work which Kieran-Lynch complete.

You may well still operate a home held over the period 1993-2002, you may have sold, as an asset sale, a care home which you operated over that period or you may have acquired a home, by way of share purchase, which operated during that period. Each of these instances could be considered for a valid reclaim.

Kieran-Lynch will try to make the gathering and request for information as simple and clear as possible, and are willing to assist in the collating of information for you. Time frames for successful claims vary, but at present, completion of the reclaim within 5-6 months would not be unrealistic.

*"Excellent service. They met me, explained the process and I was really pleased with the outcome . . ."*

**West Midlands Provider**

*"Kieran-Lynch are clearly experts in their field . . . my thanks for the quality of their work and their commitment to our case."*

**Learning Disability Provider, South East**

*"Surrey Care Association has really valued the relationship with Kieran-Lynch, and their services have been both reliable and valuable to care providers. The introductions which they have provided to their networks have supported not only the work of Surrey Care Association, but also the National Care Association Alliance."*

**Erica Lockhart, Chief Executive of Surrey Care Association and Joint Chair of the Care Association Alliance**

If you would like to explore the opportunity further, please contact **Clare Newbould** at:

**[clare@kieran-lynch.co.uk](mailto:clare@kieran-lynch.co.uk)**

or call on:

**0844 593 0211**

**Kieran Lynch & Co Limited**

3a Abbeydale Road South,  
Millhouses, Sheffield S7 2QL

T: 0844 593 0211 E: [clare@kieran-lynch.co.uk](mailto:clare@kieran-lynch.co.uk)

# HR and Health & Safety Business Briefings

We would like to invite you to attend a Citation Business Briefing. Join our expert consultants who will discuss the latest HR and Health & Safety updates and advice to support you and your business.



## Why attend?

- Your chance to learn more about solutions to HR issues and Health & Safety updates
- Learn how ISO Certification can safeguard your business and increase your competitive advantage
- Would attending a free advice clinic help?

## How to Register

If you would like to register to attend one of our upcoming business briefings or for further information please get in touch:

📞 0345 844 1111    ✉️ [seminars@citation.co.uk](mailto:seminars@citation.co.uk)    ➡️ [citation.co.uk/seminars](http://citation.co.uk/seminars)



The shape of social care services is changing. Council and CCG commissioners are increasingly squeezing margins and demand for greater control from people who use service means there is no room for inefficiency or poor quality service. Sadly, even good and excellent services are beginning to close because they don't believe their businesses have a future.

For domiciliary care providers, is this a time of inevitable business closure, or is it a time of opportunity to redefine their service offer?

One way both commissioners and providers can work with each other to redefine the domiciliary care market is through greater use of Individual Service Funds (ISF's).

Every council area in England should have an ISF offer in place, but from the work Think Local Act Personal (TLAP) progressed last year to support councils get an offer in place, it is clear that this is far from the case. This needs to change quickly and TLAP are continuing that work in partnership with the Centre for Welfare Reform this year.

In areas where there is an offer in place providers are positive about it.

### So what are the benefits?

ISF's give providers freedom to meet the needs of customers flexibly and use their knowledge of localities and communities to meet them more creatively and in ways their customers and families want. It enables providers to have a similar relationship with individuals who cannot or do not want to manage a direct payment to those who do by managing the fund on their behalf.

It is a mechanism by which individuals can choose their provider rather than the local authority

They offer the opportunity to deliver system and process efficiencies across councils and providers. They can do this by reducing and eliminating layers of bureaucracy.

For staff, they offer the opportunity to work more consistently with customers and deliver the person centred care they often wish to provide but are constrained from doing so by unrealistic time and task specifications.

Importantly, they can stimulate a redefining of trust between state and citizen and signal a step change towards true co-production of health and social care.

Find out more about what an ISF is and how they can be used and the work **TLAP** and the **Centre for Welfare Reform** are doing with Commissioners and providers by visiting our websites.

Contact E-mail: [info@tlap.org.uk](mailto:info@tlap.org.uk)

# Having trouble recruiting the right people?

Running your care service can be a tough job – especially when it comes to managing your workforce:

- Recruitment
- Performance Management
- Sickness and Absence
- HR Management

Partner with us to allow yourself the expert support and free time to concentrate on what's important to you – looking after your clients and your care service.



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## Challenging CQC - can providers win?

**The answer is a resounding “Yes!” ...but read on for the caveats!**

The changes to CQC's inspection and enforcement system have led to a substantial increase in the number of care providers wishing to challenge decisions made by CQC.

In the last 12 months we have successfully assisted a large number of providers in challenging CQC enforcement action:

### Achievements include:

- Overcoming a Notice of Proposal to cancel a care home's registration and guiding the home out of special measures;
- Obtaining a significant number of amendments to a draft inspection report, resulting in five out of eight findings of regulatory breach being withdrawn, two “inadequate” ratings upgraded to “requires improvement” at the draft report stage, and thereby allowing the home to avoid going into special measures (into which CQC had indicated they would go);
- Challenging a draft inspection report and getting three regulatory breaches withdrawn for lack of supporting evidence;
- Obtaining a downgrade of several regulatory breaches to recommendations, with the result that CQC did not issue an intended Notice of Proposal to place restrictions on a care home's registration (an embargo on placements);
- Making representations/submissions on warning notices for several homes, allowing them to carry on trading without further enforcement action being taken.

### To achieve a result, you need to:

- **Be quick off the mark.** Whether it's an inspection report or Notice of Proposal, CQC's decisions come with strict timescales. The quicker you ask for help, the more time there is to prepare a response and the better your chance of success;
- **Put in the graft.** To challenge a decision, you will need to go through the report or notice presented by CQC with us with a fine-toothed comb. Where you and your team can present detailed evidence to challenge the statements or decision made, your chances of success will be that much higher;
- **Pick the right battles.** We can help you analyse the strength of your position and advise you on the most effective course of action.
- **Demonstrate you are willing to improve.** It's rare that we see a decision that doesn't have some valid grounds. CQC are more likely to view your challenge in a positive light if you can show what you have done to improve upon any proven weaknesses.

 **QualitySolicitors**  
Burroughs Day

If you have any queries about the content of this bulletin please contact James Sage, on **0117 930 7532** or [james.sage@qsbdlaw.com](mailto:james.sage@qsbdlaw.com).

# Pensions

## Auto-Enrolment The Facts

### What do I need to know about auto enrolment?

The Pensions Act 2008 introduced new legislation to create a savings culture in the UK, requiring employers to enrol all eligible workers into a Qualifying Workplace Pension Scheme (QWPS).

This came into effect on the 1st October 2012, with the largest companies in the UK initially impacted by this legislation. However from now until late 2018, this is mainly effecting companies with less than 30 employees.

### What is auto enrolment?

Put simply, all employers must comply with the legal requirements for auto enrolment, which are:

- To provide ALL of your workers with access to a qualifying workplace pension scheme
- To automatically enrol ELIGIBLE workers into a qualifying workplace pension scheme
- To pay a minimum level of contributions.

***However, this is just the start.***

As with all things, the devil is in the detail. When you start to delve deeper into the numerous employer responsibilities, there is much to do. For example:

- Providing eligible jobholders with written confirmation of when they will be auto enrolled into the pension scheme, and what the contributions will be going forward
- Processing those that opt out of the pension scheme and arranging any refunds where necessary
- On each third anniversary of your Staging Date, re-enrolling any eligible jobholders who opted out of the pension scheme in the first two years of the three year period
- Enrolling anyone who becomes an 'eligible jobholder' - whenever that may be.

It's possible that if you already have a pension scheme in place, you could use this as your qualifying workplace pension scheme, however, you will need to talk to your provider / adviser to

make sure that your pension scheme meets the new requirements.

### When do I need to act?

All affected businesses have been allocated a 'staging date' determined by their PAYE reference. To clarify your staging date please log on to the Pension Regulator website(link below) and enter your PAYE code.

**<http://www.thepensionsregulator.gov.uk/employers/staging-date.aspx>**

### Introducing the Wren Sterling Master Trust

Auto enrolment can seem complicated, but the Wren Sterling Master Trust is designed to take a lot of the administrative burden of auto enrolment away. It can offer you the following;

- Holds Mastertrust Assurance Framework AAF 02/07 awarded to just a handful of master trusts (held by Salvus, the provider of the Wren Sterling Master Trust)
- 5 star Defaqto rated Mastertrust
- Guaranteed acceptance
- Comprehensive and fully compliant self-service solution
- Easy to use software
- Access to advice through Wren Sterling's national network of Independent Financial Advisers
- Telephone helpline
- A fully governed default investment fund provided through Aegon
- Oversight from independent third parties to ensure the Wren Sterling Master Trust pension scheme is fit for purpose
- Prices start from £995 plus VAT in Year 1, and then £250 plus VAT each year thereafter.

For further details, please view Wren Sterling's dedicated website;

**<https://www.wrensterlingmastertrust.com/>**



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CAPITAL ALLOWANCES

## Simple Solutions for Complex Cases



**Our team are dedicated to getting the best results for our clients.**

If you would like us to consider any of your capital allowances requirements then we would be delighted to assist and prepare one of our initial proposals free of charge.

**Please contact Ian Sutton - Telephone: 08445 930210  
Email: [ian.sutton@suttons-ca.com](mailto:ian.sutton@suttons-ca.com)**

## Proud to support



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5-5a Castle Street, Tonbridge, Kent TN9 1BH

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# MED&QUIP



## Medequip Assistive Technology and the Care Home Sector

Medequip Assistive Technology, the UK's leading supplier of Community Equipment Service provision is now offering its un-paralleled product availability and service to the Care Home sector.

With experience of supporting over 11.5 million people through 43 contracts across the UK, delivered by over 300 mobile service technicians backed by dedicated Customer Service Teams, you can be assured of reliability and suitability of all your product choices. Medequip Assistive Technology has proven processes from procurement, decontamination, maintenance, servicing and a unique Retail section designed for clients to purchase their own products from a vast

choice, all clinically proven and demonstrated by Trusted Assessors. With unrivalled purchasing power we procure, maintain and support across a broad range of manufacturers equipment ranging from simple aids to daily living (ADL) to profiling beds, active mattress systems, moving and handling and lifting systems, tele-care and home nursing care systems.

Medequip Assistive Technology is a one-stop-shop for all Care Home requirements needing exceptional service and customer focused staff.

For more information, please visit our website:

**<http://www.medequipuk.com/default.aspx>**