

Group Briefing

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Investing in Nursing Homecare in Ireland

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This document contains a general summary of developments and is not a complete or definitive statement of the law. Specific legal advice should be obtained where appropriate.

The combination of demographic need, lack of sufficient medium term State capital investment, non-consolidation, increased regulation and sectoral structural reform, all indicate that significant private sector participation in the delivery of nursing home care is required in the medium to long term in Ireland. The availability of the NHSS and certainty in relation to the agreed costs of care offer private sector participants both a benchmark against which to assess potential development opportunities and access to a State backed stream of revenue, which can provide investment certainty.

THE DEMOGRAPHICS

According to the Central Statistics Office, there were 532,000 persons over 65 in 2011 in Ireland. This is expected to increase to 1.4 million by 2046. Recent reports indicate that between 2014 and 2021 the number of persons aged over 65 will increase by 38%.

There are currently over 430 registered nursing homes in Ireland catering for more than 22,000 residents. Occupancy rates are at or above 90%. The nursing home sector is not consolidated in Ireland. A feature of the sector is that there are a large number of small service providers (either with single facilities or a relatively small number of facilities). An estimated 8,000 additional nursing

home beds are expected to be required to fulfil current projected demand, based on population changes alone, by 2021.

The Health Service Executive (“HSE”) has estimated it requires €834 million to bring current bedding stock to the required standards and an additional €850 million to realise the stated intention of the State providing 20% of the overall nursing home provision.

One recent commitment to capital investment for the sector came in *Building for Recovery 2016-2021*, announced in September 2015. This offered €300 million in direct Exchequer funding and €150 million to be funded via public private partnerships to upgrade existing bedding stock.

Based on demographics alone and the current proposed capital investment commitment, there is likely to be a significant supply shortage of nursing home beds in the medium term.

REGULATION

In order to operate a nursing home in Ireland, you must be registered with the Health Information and Quality Authority (“HIQA”) under Section 48 of the Health Act 2007.

HIQA is responsible for ensuring that nursing homes meet the National

Quality Standards for Residential Care Settings for Older People in Ireland. HIQA regularly inspect nursing homes to ensure they meet the applicable standards for quality and safety. During 2016, HIQA has, by 31 March 2016, already conducted more than 100 inspections of nursing homes. In 2014 (the latest year for which information is currently available) HIQA conducted 758 inspections. Six nursing home centres were closed during that year.

HIQA is increasingly active in fulfilling its inspection and enforcement roles. The impact of enforcement by HIQA in relation to nursing homes which do not meet the required standards is not factored in to the supply needs for nursing homes. We consider that the increased regulatory environment is only likely to create more pressure on supply as poor standard accommodation is taken out of the system.

STRUCTURE OF THE SECTOR

Currently nursing home provision is provided via the public, voluntary and private sectors. Community health services, of which nursing home care forms part, is currently undergoing radical structural reform. The *Community Healthcare Organisations – Report and Recommendations of the Integrated Service Area Review Group* has identified the development of Community Healthcare Organisations as a means of delivering integrated services to the social services sector generally. This is likely to have a significant impact on the delivery of nursing home care, both from the public sector and voluntary sector. We consider that these structural reforms are likely to require a greater response from the private sector to nursing home provision.

PAYING FOR NURSING HOME CARE – THE NURSING HOME SUPPORT SCHEME

In Ireland, the cost of nursing home care is supported by the State under the Nursing Home Support Scheme (“NHSS”) (often referred to as the “Fair Deal” scheme), introduced through the Nursing Homes Support Scheme Act 2009 (the “2009 Act”). The NHSS is open to any citizen who has been living in Ireland for at least a year and meets the relevant care assessment standard for long term residential care.

Under the NHSS, residents contribute 80% of their assessed income and 7.5% of their assets (including any principal private residence) to the cost of the provision of nursing home care. The State makes up the shortfall. The 7.5% “asset” contribution can be deferred through “Ancillary State Support”. This is effectively a loan from the State in return for a charge granted in favour of the State against the relevant asset (generally the principal private residence) which is then realised from the estate of the resident following their death. The NHSS applies to all registered nursing homes regardless of whether it is supplied by the public/voluntary or private sector.

The HSE is responsible for administering the NHSS. The resident is obliged to make payment of his/her contribution to the cost of care directly to the relevant nursing home. The balance is paid by the HSE to the nursing home directly. Once an individual is approved for nursing home provision, the resident is entitled to the State support for its nursing home care for the duration of their stay. (A resident’s care needs can, however, be the subject of re-assessment). HSE funding for the NHSS currently exceeds €900 million and is expected to exceed €1 billion by 2021. While a review of the extent of the State support under the NHSS was undertaken in 2015, there is no indication that the principle of State subvention for nursing

home care is likely to be removed or adjusted in any significant manner in the medium term. That being the case, the NHSS offers medium to long term revenue certainty from the State.

The agreed cost of a nursing home bed for a single room ranges from approximately €700 per week to €1,200 per week (current as at March 2016). Rates are specific to each nursing home. These costs are agreed between the National Treatment Purchase Fund which is authorised under the 2009 Act to negotiate these rates on behalf of the State with the individual nursing homes. The average cost in 2015 was €896 per week.

INVESTMENT OPPORTUNITY

Ireland is experiencing supply issues in relation to nursing home care provision. This represents a significant opportunity for the private sector to respond over the medium to long term.

WHY ARTHUR COX?

Arthur Cox is a leading law firm in Ireland. Pursuing opportunities in the social care sector requires legal support from a multi-disciplinary group with expertise in areas such as property, healthcare regulation, infrastructure development, corporate, finance, tax and employment law. Our multi-disciplinary team is the leading group of its kind in Ireland with a long tradition of advising in the healthcare sector. In each of the key areas we have market leading lawyers who have a deep understanding of the sector and who devise commercial solutions to align with client goals.

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