

Shaping the Future of Care Together: The Green paper on the funding of adult social care

A response from Counsel and Care

Executive Summary

Counsel and Care, the national charity working with older people, their families and carers to get the best care and support, welcomes this opportunity to respond to the green paper, *Shaping the Future of Care Together*.

The fact that in Britain and across the world we are living longer should be celebrated – but at the same time the need for radical change in the way we provide care and support to older people should also be recognised.

Counsel and Care welcomes the green paper. It is clear recognition that the social care system is in desperate need of reform. It accepts the fact that the 1940s' social care system that we currently have is based on a time when people did not enjoy the longevity that we do today. As a result of this, older people, their families and carers have had to endure a system that is unfair, underfunded, unsustainable, disjointed and inaccessible.

The broad vision of a national care service is also welcomed. A system that provides a universal entitlement to care wherever you live is something that Counsel and Care in *Lifelong: our vision for the wellbeing of all older people, their families and carers*, and others have called for, for some time. A national framework with universal entitlements or guarantees to care and support is the key part of the offer. We do however in this response wish to highlight some of the issues around the notion of a 'national care service' that the public may misconstrue as being the same as the NHS. As we move towards a white paper in 2010, the government will need to ensure that it is being completely honest with the public so that they are clear as to what they can expect from the national care service.

In broad terms, the green paper does omit some fundamental areas that are important if we are to achieve a truly reformed social care system.

Eligibility: It is not clear in the green paper who will be eligible to use the new national care service. We currently have a system where only those with the highest level of need are able to receive care from their local authority at home. While the Department of Health has implied that possibly only people with high moderate needs and above will be supported under the new system, no definitive clarification of this has been provided, with no guarantees that this will change in the future. Therefore transparency is needed on who exactly will benefit from the new service.

Economic modelling: People need to be clear about what they will have to pay and what the state will contribute and, in return, what they will get by way of better care and support wherever they live. More detail is needed on the type of means test that will be applied for each of the three funding options and on the accommodation costs (see below). Will it be the same as now, or will it be more lenient? Counsel and Care and many other charities under the banner of the Care and Support Alliance have expressed concern that we have not been able to see the modelling upon which the three funding options have been founded. Some respondents do not feel that they can select a preferred funding option until this information is available. The announcement on 2nd November 2009 that the economic modelling would now not be available until 2010 makes it difficult for respondents to be definitive about their preferred funding options.

Carers: There are 6 million unpaid carers in the UK at the present time. The green paper does not explicitly address how the new national care service will benefit carers, instead asserting that the national care service will “help carers in many ways”¹ without setting out what those “ways” are. It is of particular importance that the green paper recognises the needs of older carers, whose concerns are often overlooked in the debate. We recognise that there is a national carers strategy being delivered, however there need to be clear links so that carers know that their needs are recognised and addressed.

Accommodation costs: The green paper states that accommodation costs will be excluded on the basis that older people in care homes would not expect to have their board and lodging paid if they were living in their own homes.

Housing: Any discussion about care should include a discussion about the environment in which that care takes place. Given the government’s direction of travel towards more older people receiving care in their own homes, the fact that housing does not feature significantly in the green paper gives cause for concern for joined up health and care and housing.

¹ HM Government (2009) Shaping the Future of Care Together, p20. Department of Health, London

Cross fertilisation across strategies: As alluded to above in the section on carers, there is limited cross fertilisation between the green paper and other strategies affecting the care of older people such as the lifetime homes strategy, the strategy for an ageing society, the end of life care strategy, and the dementia strategy.

The tax solution: There are also concerns about the ruling out of a tax funded social care scheme, given that there is some appetite for such a scheme in the public view. The Caring Choices coalition's survey held at a range of nationwide events in 2007 found that 40% of those questioned would prefer to pay more tax for a state-run scheme.² Therefore it would have been wise to have tax as one of the funding solutions under consultation.

The arguments about the reducing dependency ratio used for ruling taxation out as an option to fund care do not carry much weight – they certainly wouldn't be used in relation to paying for other universal services like education or health. Given the aspirations to create a national care service which benefits everyone, it would make sense for funding to come from taxation which is the fairest way to raise income across the population. The sums involved are relatively small compared to other areas of public spending, so this is more a question about priorities than funding mechanisms. It also raises continuing questions about age discrimination if care for disabled adults is provided free via taxation while older people are expected to pay considerable sums for care.

Learning from others: England is not alone in trying to deal with the challenge of how to fund long-term care for an ageing population. Difficulty in meeting the costs of long-term care is a challenge being faced by every country. We need to take lessons from other countries such as Japan, France and Germany that have developed social care systems with a single funding stream. It will also be important that the whole system is reformed so that care in every setting and every locality, be it in an original home, a care home, a day centre, or sheltered housing is of the same high quality, with the same levels of regulation and appropriate funding.

Research from other countries shows that for a new funding method to be successful it must offer a coherent vision that is supported by central government³, be economically sustainable to bear up against the increasing demands of an ageing population and built to last over generations. In seeking to successfully tackle the issue, every country has had to make trade-offs and hard choices. For example, a social insurance model (as seen in operation in Japan and Germany) has the benefit of removing means testing to allow equality of access while being more economically sustainable. However, it has been perceived by younger generations as unfair, especially as the current older generation is able to receive the benefits of a system that they were not required to pay

² Caring Choices (2008) The Future of Care Funding: time for a change. Kings Fund, London.

³ Passingham, A (2008). 'Reforming care and support: learning from Japan'. Counsel and Care, London.

into throughout their working life.

A Preferred Funding Option

If a choice needs to be made from the three options, we would favour the comprehensive option, providing it is funded fairly. We have suggested doing so through a care duty on estates, so that the sum paid relates to people's wealth. Of course this is taxation by another name, but there are merits in hypothecating an element of people's estates to pay for care – we have a collection mechanism in place, it clearly links paying for what is mostly end of life care to death, it keeps pace with an ageing population, and it would deal with the current issue of people losing their homes to pay for care, enabling people to pass on most if not all their estate.

Whichever funding option is selected, we need substantial extra resources to address current high levels of unmet need, challenges around the quality of care provided, and the forecasted increase in demand caused by an ageing population.

The green paper has taken on board some of these issues but not all of them. The comments in this introduction set out our view that the social care system needs radical, holistic change that does not take a piecemeal approach but looks at older people's lives and their care needs as a whole. The areas set out above will be dealt with in more detail later in the response, with our views on how they can meaningfully be addressed in the white paper expected in 2010 prior to the general election.

A big election issue

Counsel and Care acknowledges the Prime Minister's pledge for free personal care at home for those with critical needs, and the announcement of a one-off insurance payment of £8,000 to cover residential care costs by Andrew Lansley, the Shadow Health spokesperson. Whilst these do not solve the problems inherent in the current care system, and could be seen to create perverse incentives of their own, they do work to finally put social care in its rightful place at the top of the political agenda.

However, neither of these announcements addresses the need for system wide reform; rather they look at piecemeal change that only focuses on part of the care and support system. Older people now and in future need diversity in their care, which is even more the case with the transformation of social care and the personalisation agenda. The Conservatives in particular have promised more announcements which we hope will be made before the general election.







In 2008, Counsel and Care set out a vision for care reform in our policy paper *Lifelong*, which we felt was a realistic approach to addressing the current care crisis. The Lifelong model is made up of six principles (see Box 1 on page 5). Our vision is for a universal

care offer for everyone regardless of status, with a top up by the individual should higher levels of care be needed. We also favour the notion of a care duty, levied on people's estates, as a way to fund long term care.

This response will look at the three questions posed in *Shaping the Future of Care Together*, linking back to our own vision, and setting out the areas which we believe must be considered in the Big Care Debate and the subsequent white paper planned for early 2010.

Our response includes quotes from older people who have responded to our call for comments via the Big Care Debate questionnaire, and case study examples from our own advice service. We provide as background a range of papers that Counsel and Care has produced over the past three years as our contribution to the reform of social care that largely began with the white paper *Our health, our care, our say*, published in January 2006.⁴

Box 1: Counsel and Care's Lifelong model

-  **Moves beyond care** to focus on re-abling older people to live their lives and ensuring carers' needs are met and their contribution recognised.
-  **Gives everyone a stake** by providing a universal entitlement to a package of integrated services delivered at a local level and publicly funded.
-  **Is progressively funded** by providing care top-ups funded by the individual for those who can afford to pay and by the state for those who cannot.
-  **Ensures fair and equitable treatment** with a national framework of assessment and charging together with nationally agreed criteria to achieve nationally agreed outcomes.
-  **Delivers high quality care and support** by applying national standards against which all service providers are measured.
-  **Provides flexible and responsive services** by ensuring local control over their design and delivery.

From Lifelong: a new vision for the wellbeing of all older people, their families and carers. Counsel and Care, October 2008.

⁴ Department of Health (2006) *Our health, our care, our say: a new direction for community services*. Department of Health, London.

Question One: A new National Care Service

Counsel and Care is supportive of the proposed National Care Service with its six principles of prevention services, a national assessment, a joined up service, information and advice, personalised care and support, and fair funding.

a) There are some areas missing from this approach that are set out below.

Re-ablement

The national care service should be able to identify older people who can be re-abled to regain independence wherever possible, as well as receive support. Current models of intermediate care go some way towards this but further development of these support systems is needed. By working with a team of professionals made up of the various disciplines, a person can be given the tools by which to live as full a life as possible, maintain existing and create new social networks, and to enjoy a good quality of life. The national care service will need to be truly joined with the national health service in order to ensure that services such as hospital discharge, intermediate care, ordinary and sheltered housing, occupational therapy, and others are working together to ensure seamless transitions of care and support, back into the community.

National standards

The new Care Quality Commission has a huge task in ensuring that services across health and social care are delivered to the same national standards for quality, and it has made a good start with a plethora of consultations and service delivery advisory groups to inform the process. The national care service approach set out in the green paper needs to be more explicit about national standards – and this links with the later question about national versus local delivery of care services.

It is important that a focus on national standards does not reduce levels of performance and quality but uses best practice to help raise standards across the board.

Local delivery (national versus local)

Counsel and Care has long called for a fairer care system where everyone is entitled to the same care wherever they live. Our *Lifelong* paper set out a vision where everyone with a care need is assessed against nationally agreed criteria and a national charging policy that prevents wide variation in charging between different parts of the country.

We believe that care should be delivered locally to meet nationally agreed outcomes, and will expand on how this can be achieved in the national care service later in our response to Question 3 of this consultation.

Support for carers and families

The green paper recognises the important role of families and carers in providing support, stating that 'service users, and their families and communities, will be at the heart of the new system'.⁵ Carers as a discrete group are not directly referred to in it. Of particular importance to Counsel and Care are older carers over 60, of which there are more than 1.5 million.⁶ These people often do not identify themselves as carers, and do not realise that they are entitled to a carer's assessment. The issue of carers' benefits is also missing from the national care service approach. Older people in receipt of State Pension are ineligible for Carer's Allowance, due to the overlapping benefit rule. This issue was one of those raised by older people responding to Counsel and Care's *VotingAge* consultation.⁷

Accommodation costs

Counsel and Care and others have expressed concern about the exclusion of accommodation costs without a clear alternative. There is already a campaign to increase personal expenses allowance to £40 per week for people living in care homes, and the measures in the green paper suggest that the hardship experienced by these older people will only increase in future if these proposals are put into effect. In question three below, we set out a solution of a universal deferred payment scheme to pay for accommodation costs in a care home.

Communities and neighbourhoods

As stated earlier, the green paper puts communities, along with families and service users, at the centre of the social care system. The government has published strategies on the future of housing in an ageing society, and it has also consulted on a new strategy for an ageing society. However, there needs to be a stronger reference to neighbourhoods alongside communities, and it is clear that, like housing, these areas need to be a part of the conversation, if the prevention aspect of the national care service is to be realised and delivered. In order to help older people remain independent for as long as possible, it will be crucial that communities and

· HM Government (July 2009) *Shaping the Future of Care together*, Department of Health, London
· Carers UK and Sheffield Hallam University (2005) *Older Carers in the UK*. Carers UK, London
· Counsel and Care (2009) *VotingAge: an older people's manifesto*. Counsel and Care, London

neighbourhoods are 'good places to age in', which involves a wide range of agencies working alongside social care providers and commissioners.

The role of housing

As set out by Donald Hirsch in his issues paper for the All Party Parliamentary Group on housing and care for older people, the Green Paper does not address the challenge of ensuring that a single care system includes housing need. Hirsch suggests that by not including accommodation costs, housing is actually being disengaged from care in the proposed national care service.⁸ This contradicts the ideal of linking housing with health and care set out in the housing for an ageing society strategy, *Lifetime Homes, Lifetime Neighbourhoods*.

Homecare

We are pleased that the care workforce is recognised in the green paper and that the strategy for the adult social care workforce is linked into the national care service vision. Many of the people working in social care are lone workers, visiting older people in their own homes, providing the support that is essential to allowing those older people to remain where they want to be – at home.

Homecare must be a part of the prevention agenda, yet it only receives a passing reference as one of the ways in which older people receive social care. The government has announced that, if it is re-elected in 2010, it will provide care at home free of charge to people with high care needs. This intimates that those with lower care needs will still have to pay for homecare, if they are actually eligible for it. The majority of local authorities are only providing care and support at home to those with 'critical and substantial' needs, and we do not know what the government's definition of high needs is with regard to this recent announcement.

Homecare charging is clearly an issue for many older people. Counsel and Care and Ceretas, the professional organisation representing people who work in homecare, recently emphasised the need for a thorough Government review of homecare charging. A policy paper published recently by the two organisations stated that last year, maximum weekly charges ranged from £60 - £450 per week and that in a fifth of councils there is no limit on the amount that can be charged.⁹ Therefore even if the current government's plans for homecare are put in place, there will still be a huge number of older people either not receiving care at all at home, or receiving care at

⁸ Hirsch, D (October 2009) The green paper and care funding: on the brink of a sustainable settlement?

⁹ Bernard, C. (2009) The Future of Homecare: responding to older people's needs. Counsel and Care and Ceretas, London.

unaffordable prices. Details of the Government's future plans for care charging as a result of the review announced in July must be included in the White Paper as a matter of urgency.

Personalisation and the quality of care

Personalisation, as part of the national care service, needs to be clearly linked up with quality and safeguarding. In addition, we need to ensure that the quality of care is maintained, through a well trained and supported workforce, but also through effective regulation and inspection by the CQC. For people with long term conditions, this is of particular importance, as well as for those with degenerative conditions such as dementia.

There need to be tools to help older people understand what 'personalisation' actually means for them, to enable them to access independent information, advice and advocacy about the options available to them. Concerns remain as to whether the required levers currently exist in the care market to encourage growth in the availability of new and innovative services that will enable people to get the most benefit out of their personal budget. Local authorities have a key role to play in this as market shapers in their local areas. See response to question 3b for more discussion on this.

Eligibility

We also believe that the issue of eligibility is missing from the national care service ie what levels of eligibility are entitled to funding, and what safeguards are in place to establish what level of need will always be met. This is discussed further in our response to question three below.

b) We believe that the national care service will work by:

Local delivery

Early findings from the Big Care Debate suggest that the general public prefer some element of compulsion around paying for and delivery of care, to address the unfairness of the current system. We certainly believe in and support local delivery, and in order for this to be successful there will need to be some level of direction from the centre. It has been proven that providing local guidance simply does not work for older people. Local authorities can no longer say that they see themselves as a 'young' area with not many older people – because the population is ageing at such a rate that by the time of the next national census, every local authority will have sufficient numbers of older people living in their locality to make spending on social care and allied services absolutely crucial. We expand on this in our response to question 3b below.

Making the care system easier to navigate

Self funders in particular have found the social care system almost impossible to navigate, no matter how well educated the navigator. Many self funders who call Counsel and Care's advice line tell us that it takes unacceptable lengths of time to negotiate and that they receive only a modicum of information from statutory organisations, especially when their loved one faces an imminent move to a care home.¹⁰

Providing easily accessible advice and information

Everyone needing advice and information on care and support should be able to obtain it from a range of sources – it should not be left to the voluntary sector. It was encouraging to hear from GenRe at a breakfast meeting held in October by the ABI about how people can protect themselves against the future costs of long-term care. The public, private, and voluntary sectors all need to understand the importance of information, advice and advocacy, and equip themselves to provide it, in a wide range of formats.

"I called Counsel and Care's Advice Service in a state of distress about my father who was in hospital after suffering two strokes. The medical team working with my father was recommending that he move into a nursing home. However, my father wanted to return home. We agreed with this, but were worried about who was going to look after him, especially with me and my sisters working full-time. The social worker had offered support from carers, but there was no consideration of my father's nursing needs, which were far above what could be managed by the district nurses.

"After speaking to Counsel and Care's Advice Worker, I followed their advice to set up care for my father at home, with three visits from carers per day funded by social services and three nursing visits per day, funded by the NHS. We were happy with this and my father returned home within the week to be cared for in the comfort of his own home, with his family around him." Ms F, Leicester

¹⁰ Passingham, A (2009) Finding and Financing Care in Hard Times: the top issues reported to Counsel and Care's Advice Service in 2008. Counsel and Care, London.

Question Two: a National Care Service with services that are joined up, give choice, and are of a high quality

a) **Clearly we agree** that a transformed social care system in the form of a National Care Service should be joined up, offer true choice and control, and provide high quality services. It will also be important that these services are accessible to all, and not just the most articulate and vocal.

b) **In practice:**

The service would need to be **fully inclusive**, so that seldom heard and hidden groups are able to access the national care service. Examples of these groups are:

- **Carers, particularly older carers** who do not always self-identify and therefore do not know what the person they are caring for is entitled to, nor what they as a carer can access if they are eligible to it. Carers of adults who wish to continue working should be eligible to care vouchers from their employers: a tax break which would be used to purchase care in the same way that childcare vouchers currently work. More financial support should also be available for older carers.
- **People whose first language is not English** and whose relationship with health and social care services is somewhat tenuous. One example of this would be older Bengali women, but this would extend to all older people who do not have a good command of English and who do not have family close by to translate for them when visiting their GP or social services department.
- **Older people living in care homes** who often cannot access services from their local GP or independent information and advice services. Practical ways should be identified to give people living in care homes as much information as possible about the services available to them, and access to it.

The **social care workforce** would need to be expanded, strengthened and supported, all things that form part of the government's social care workforce strategy. We urgently need a better trained and better paid workforce, in particularly home care workers who need a much broader understanding of the conditions of old age such as Alzheimer's disease and other dementia. The Care First apprenticeship scheme mooted in the strategy should be used to assist people considering a career in care to choose that career with specialism in particular conditions, so that older people their families and carers can feel more confident in the care workers that come into their home.

An independent body that gives advice on what works best in care and support, as mooted in the paper, should be part of the way the national care service works in practice. Counsel and Care would suggest that the government looks at the Social Care Institute for Excellence (SCIE) to carry out this function. The green paper suggests that

it would be challenging to set up a body that works in the same way as the National Institute for Clinical Excellence (NICE) for care and support. However, given that SCIE is already well established, has produced work which is used extensively throughout the sector such as *Personalisation: a rough guide*, and has begun to expand its services to care staff into multimedia with Social Care TV and other e-learning products, the government has a ready solution to this aspect of practice.

c) Barriers to making this happen:

For many of the measures we suggest above, **finance** will be a barrier in terms of the additional spend needed to enhance services. However, we believe that by being creative, the spend can be kept to a minimum – but creating a new national care service will not be possible without making extra investment. If we are to address the needs of an ageing population, we need to show commitment by giving the same spending priorities to social care that the government has given to the National Health Service over the past decade.

Culture is another barrier, in terms of bringing the NHS and the proposed national care service closer together. This has been discussed for more than a decade and despite legislation such as the Health Act 1999 which first provided clear mechanisms for health and social care organisations to work together with pooled budgets, joint commissioning, and integrated provision, there is still a lot of silo working between health and social care, and social care is not always given equal respect and an equal place at the table. For older people, this continues to be a barrier because many older people deal with challenges that take them across health and social care boundaries. Culture change can only work if it is bought into at the top of the professions concerned, and this is a huge challenge for the proposed national care service.

"I called Counsel and Care's Advice Service with my concerns about my wife who has Alzheimer's disease and has been in a nursing home for four years. Up until recently her care costs have been fully funded by the NHS. However, after a re-assessment of her needs she has been judged as no longer eligible for NHS Continuing Healthcare funding as her condition is viewed to be less volatile. The adult social care team now wants to carry out an assessment of my wife's finances as she may now be charged for her care home fees, which are extremely costly. I disagree with this wholeheartedly as she is now in the final stages of Alzheimer's disease, and remains anxious and unstable.

*"After speaking to Counsel and Care's Advice Worker, I followed their advice and the additional information in the guides provided on how to appeal this decision. I requested a copy of the decision support tool so I could check whether all my wife's needs had been included in the assessment and challenge it if any of her needs had not been recognised." **Mr B, Bedfordshire***

Question Three: Creating a *Lifelong* funding model

a) Counsel and Care considers that wholesale, rather than piecemeal, reform of the care and support system is the only way forward. The current care and support system has reached such a crisis point that transformation must be both bold and brave. Urgent action is required to allay the groundswell of public anger about the estimated 45,000 people a year who have had to sell their home to pay for residential care in older age. Counsel and Care's report¹¹ on the top issues reported to the Advice Service on a daily basis in 2008 highlighted that paying for a care home was easily the biggest concern for older people and their families, making up 30% of all calls received that year. Enquirers expressed particular anxiety about using large amounts of their savings and capital to pay for care, and worry about how to meet the ever-increasing costs of care home placements. Responses to our call for views on the Big Care Debate highlight the view of many of the general public that the current means-tested system is widely seen as a punishment, unfairly penalising those who have worked hard and saved for their retirement or who had high care needs for a long period of time:

'Comprehensive: it is unfair for anyone to lose all of their life savings to pay for care.'

VotingAge contributor

'My mother-in-law spent 18 years in a home; she had osteoporosis and rheumatoid arthritis. Due to the severity of her osteoporosis, my mother-in-law did have her elbows removed completely leaving her pretty much helpless for most of the eighteen years she spent in care. In that period of time £320,000 was spent. When it came to the last remaining £20,000 it was decided she needed support from the council but to stay in that home a further £100 per month was needed from a third party on top of her income. I paid that. I was already a pensioner but no one else in the family could afford that.'

Counsel and Care enquirer

To that end, Counsel and Care favours the Comprehensive care funding option which aims to pool the societal risk of paying for care through a compulsory state-funded insurance scheme. Under the Comprehensive model, everyone aged 65 and over who can afford it must pay a contribution into the state-funded insurance scheme, and in return everyone who is eligible should get access to care and support when they need it free at the point of delivery. This approach has the potential for costs to be shared fairly and equally among those who may or may not need care and across the generations. Those older people with high needs and moderate incomes that render them ineligible for council funding would also be better supported by the new system.

¹¹ Passingham, A (2009) Finding and Financing Care in Hard Times: the top issues reported to Counsel and Care's Advice Service in 2008. Counsel and Care, London.

A number of different ways of paying this contribution have been mooted during the Big Care Debate, including the option of a monthly premium, a one-off lump sum after retirement of between £17,000 and £20,000, deferment of take-up of state pension; or the possibility of a 'care duty' on people's estates.

Of the alternatives, Counsel and Care considers that paying for care from people's estates after death - a care duty¹² - be a much fairer choice than is offered by the current system which means that many older people and their families have to sell their home during their lifetime, use up all their savings and have little or nothing to pass on as inheritance.

'Comprehensive: because it maintains the principle of free care [while] those who can afford it should contribute.'

VotingAge contributor

Of the three funding options, the Comprehensive model best also fits the demands of the principles set out in Counsel and Care's *Lifelong* model (see Introduction). The *Lifelong* model sets out the need for a set of national rights and entitlements based on citizenship with everyone as citizens of the country possessing the right to access a range of quality care and support options if they need it which can then be personalised to their individual situation. The Partnership funding option echoes the approach promoted by Sir Derek Wanless, but with only a quarter to a third of the costs to be paid for by the state.

Voluntary or Compulsory insurance

While the compulsory funding option has the potential to be politically unpopular, it is highly questionable whether a voluntary private insurance model will encourage enough take-up from the general public to create a feasible funding pot. Even with further promotion by the Government and the media of the stark demographic figures: with 2 in 3 women and 1 in 3 men predicted to need care at an average cost of £30,000 per person but with the potential to hit highs of £300,000, it is unlikely, that if set out as a voluntary option, enough people would contribute. In the current climate no Government could convince enough of public of the urgent need to make a voluntary payment in order to cover the costs of future care costs, the need for which may never arise, against the array of more immediately pressing financial demands currently felt by families, including supporting teenage children through university as well as the increased cost of living. Despite Government intervention, the public still does not save enough into a private pension to warrant a comfortable standard of living in older age, which due to huge leaps in public health, the vast majority of us will reach, yet alone consider putting money aside specifically to protect against the risk of

¹² Spiers, P (2008) *Care duty: A proposal for funding the immediate and future long-term care costs of older people in the United Kingdom*. London

using savings or selling property to pay for long-term care. Public mistrust of insurance payouts not covering the full cost of care may also affect the number of contributors to the scheme.

The National Care Service contains echoes of the National Care Fund, a pre-funded insurance scheme mooted by James Lloyd, previously of the International Longevity Centre. In order for this scheme to work, he argued that a policy of automatic enrolment is required where everyone is compelled to invest regardless of future need and has to make an active decision to opt out, but if person does need care, no one is then compelled to spend all their savings or property and is still able to pass on some inheritance to their children/grandchildren/charity if they so wish.

The Conservatives' proposal of a voluntary payment of £8,000 in order to cover all residential care and accommodation costs also seems too low compared to previous estimates of care costs.

However politically difficult or unpopular, a compulsory insurance scheme seems to be the only way forward to ensure that enough money is in a national fund to cover everyone who will need use of it including people on low incomes who cannot afford to pay into it. As a result, the care duty on estates after death seems the most palatable option mooted so far.

Taxation

A vocal part of the public, including many pensioners' forums, have been pushing for an increase in direct taxation or national insurance as their preferred method for funding long-term care. However, the option of funding the care system through taxation is viewed by the Government as contributing to intergenerational unfairness and inequity across the generations and as unsustainable in the long-term due to the predicted reduction of the working population ratio to retired people from 4 to 1 to 2 to 1 by 2059. Evidence of the weakening dependency ratio has been used to silence any dissenting voices and stop the conversation in favour of the taxation model at source. But it raises the question of whether this is a debate about 'mathematics' or about public spending priorities.

One strong justification for the taxation model is the lack of public understanding that this is not already the status quo. As argued in *Lifelong*, just as people expect to fund the National Health Service through the tax system, the vast majority of the public when questioned also expect their tax contributions to be funding the social care system¹³ and have no understanding that this might not be the case. Many are shocked to find out that when they need to set up care for themselves or their relatives that it is not automatically free of charge. Delivering a universal care and support system funded

¹³ Counsel and Care and DHA Communications (2008) *Lifelong: a new vision for the wellbeing of older people, their families and carers*, Counsel and Care and DHA Communications, London, page 36.

through taxation would not require a fundamental shift in public attitudes as, conversely, it will actually start to meet current public expectations. Unlike some other recent Government uses of public expenditure, it would be regarded by the majority as a legitimate use of tax revenue:

'The National Health Service is 'free' at point of delivery. In order to be a truly National Care Service it has to be the same, but this seems to have been ruled out. So is the National Care Service a misnomer? Is it a hollow, meaningless name that just sounds good?'

Advice Worker, Counsel and Care

'Please could you tell me why has this country wasted billions of taxpayers' money on the Iraq war, on bailing out failing banks that still cannot be regulated, with millions more spent on bonuses for chief executives of part-nationalised banks.'

Counsel and Care enquirer

It also importance to recognise that the Comprehensive model will not cover all costs of care for those without savings or property; nearly 30% of older people will still have their care costs paid out of general taxation.

Barriers to making it happen

Despite the overall welcome, Counsel and Care does have some concerns about the Comprehensive model that are set out below:

A care 'guarantee'

Urgent clarification is required about what eligibility criteria will be used when judging who will qualify for care and support under the National Care Service and by extension the exact nature of the national entitlement to a 'basic' level of care and support that is to be provided under the Comprehensive model. The green paper seems to suggest that eligibility will be set at a level that will be able to provide enough care and support for people with needs currently defined as critical, substantial and top-end moderate under the Fair Access to Care Services guidelines, but examples of what this means in practice for older people is needed. Confirmation of exactly what individuals will be guaranteed to access depending on their level of need is also vital in order to secure the required public support for a compulsory scheme.

Much concern is felt about this lack of clarification especially due to the ongoing challenges that older people face when trying to access and pay for care in the current system. These issues include the ongoing misinterpretation of the Fair Access to Care Services guidelines by some local councils, the subsequent postcode lottery in care with access to services depending on the local authority area where you live, the low savings threshold for access to local authority support (currently at £23,000 if you live in England), the high deductions from income charged on capital over £14,000 and the low amount allowed for essential items for older people in care homes.

The green paper does not provide details of a new capital limit or whether a version of the Fair Access to Care Service guidelines will continue to exist as part of the new National Care Service.

A conflict remains between the concept of a basic national entitlement and a 'cash-limited' system, restricted though eligibility criteria. Safeguards must be put in place to establish the level of need that is guaranteed to always be met, so there is no danger that despite a person paying into a system that is stating it meets 'moderate' needs, they might still not be able to receive the benefits of it when their needs increase to that level. If no such guarantee is put in place, the risk remains for the future that in order to balance the books of the National Care Fund, the eligibility criteria might be restricted to care and support for only those people with the highest needs, and a person with moderate needs would then be ineligible for support, if even when they first paid into the system, moderate needs were being met.

It also seems that despite the emphasis in the vision on 'prevention' and re-enablement, this will mean little in practice if the 'basic' national entitlement will only meet needs judged to be critical or substantial and as a result those older people currently with care

and support needs that are regarded as 'low' level needs, will not be able to access free care and support from the new National Care Service.

Increasing costs of care

Respondents to the Big Care Debate questions also raised concerns about the considerable potential for the contribution to increase in later years after the National Care Service was set in place.

'I am concerned that this will be replaced by a system that levies an additional stealth tax against decent, hardworking middle class and working class people. ...Before we realise, the £20,000 contribution will rise to an even more extortionate figure in later years.'
Counsel and Care enquirer

The gap between the Government and the Opposition's estimates as to what would be a reasonable amount for individuals to pay into an insurance scheme must raise questions about the legitimacy of either amount: £17,000-£20,000 according to the Government's green paper, or £8,000 according to Conservative calculations for residential care. The Department of Health predicts that in 20 years' time, 1.7 million more people will need care and support. The pressure from increasing demand, especially if those with current unmet need become able to receive benefits from the system may well force an increase in the level of contribution as well as a restriction in the level of need provided for. The White Paper must tackle this issue and include details of how people can be protected against increasing costs, and also how people already at retirement age will contribute to the system in a way that is fair and consistent.

Attendance Allowance

While Secretary of State for Health, Andy Burnham, has confirmed that Disability Living Allowance, the disability benefit available to people under the age of 65, will not be used to fund the new National Care Service, each proposed funding option still includes combining Attendance Allowance money together with money from the social care budget. The request by the Government for permission from the public to use Attendance Allowance money in this way has been one of the most controversial areas of the debate, at times threatening to engulf other areas of the green paper discussion entirely. The lack of detail about the economic modelling has also further restricted the quality of the debate.

While the Government has confirmed that nobody who is currently receiving disability benefits will lose out from the reforms, Counsel and Care continues to have serious

concerns about this attempt to underwrite the National Care Service with use of such a popular non-means-tested and flexible disability benefit for people aged over 65. Attendance Allowance is currently paid to 1.6 million people aged 65 and over at a cost of around £4.4 billion. It is popular with millions of older disabled people because it provides financial support towards the extra costs of disability, such as heating or washing, but also gives freedom of choice and flexibility over how these needs are met, is accessible regardless of income or savings and not subject to the postcode lottery.

'I can only see this as a negative. It also has undertones of 'damage limitation'; let's claw back something before we start paying out more state funds.'
Advice Worker, Counsel and Care

It is vital the freedoms allowed with such non-means-tested disability benefits are not lost and, instead, become an integral part of the new care and support system. If Attendance Allowance cash, currently non-means-tested and not subject to close regulation in how it is spent is to be merged with social care money, then it is imperative that a national legally defined entitlement is laid out to ensure that such money is not means-tested and rationed and older people are protected and guaranteed access to an equivalent level of flexible care and support.

The assessment for Attendance Allowance is also 'carer-blind', whereas current assessments for care and support from local authorities remain reliant on carer support. This must be a key aspect of the new national entitlement.

Older people living in care homes who are currently paying for their care in full have the potential to lose out the most as they will no longer be eligible to claim Attendance Allowance and, depending on the level of means-test, may not receive a comparable amount under the National Care Service.

Thought must also be given to reducing the risks of a system that could penalise people depending on the age that they enter it. A person requiring care at the age of 64 would still be able to claim both the care and the mobility components of Disability Living Allowance and presumably still be able to retain it when they reach 65, whereas a person needing support at the age of 65 would not be able to access DLA, nor would they be able to access an equivalent non-means-tested benefit as they previously would have been able to.

However, enquirers to Counsel and Care's Advice Service complain about the complexity of the care system and the amount of different hoops that a person has to jump through before they can get access to care and support. Less not more assessments are needed in order to simplify and streamline the care system for older people, their families and carers. It is also important to note that Attendance Allowance is not a targeted benefit, which on the one hand reduces the stigma around applying for the money, but also enables the wealthy with lower needs as well as the poorest to claim. This is one of its strengths, with universal accessibility, but also one of its

vulnerabilities as the Government, in seeking to protect public money in the face of an ageing population, looks to prevent people in the top three wealth quintiles from accessing such money.

As a result, more clarity is required from the Department of Health on how it is proposed that Attendance Allowance be integrated with social care funding, before Counsel and Care can confirm its position on the subject. 'Merging' Attendance Allowance cannot occur without recognition of the negative knock-on effect on an older person's income as well as their independence through loss of passporting benefits, access to charitable assistance, the Social Fund and discounts from utilities. The risk is that older people may lose access to Attendance Allowance but then not see immediate improvements in access to care and support.

Other funding streams

In order to encourage greater clarity in the system, it is also surprising that, as the Government took the huge step of putting Attendance Allowance into the mix, other funding streams were not also considered for the pot. In particular, consideration of the complex framework of eligibility for NHS Continuing Healthcare especially significant if the new National Care Service is to truly be integrated with the NHS. This also would work to unpick the current confusion as to what a primary 'health' need is compared to what a 'social' or 'personal' care need is defined as, when one enables an individual to have all their needs funded by the NHS and the other means that they will continue to be means-tested for the care and support they receive.

Other funding streams that add to the multitude of different assessments include community care grants, supporting people and disabled facilities grants.

Accommodation costs

Separating charges for accommodation from those for care for older people living in a care home on the premise that people are expected to pay for their own food and lodging wherever they live is not as simple or fair as it may first appear. The increasing range of different types of specialist housing now available in addition to care homes, each one with their own cost implications, means that it may not be fair for older people in care homes to be charged for some housing costs, where in extra-care housing some element of this is free under Supporting People funding, for example.

As consumers, care home residents who have to pay all the costs of the care home themselves without support from the local council, are vulnerable to unfair price increases. Currently, older people have to pay a wide range of fees for care homes depending on where they live. As they cannot easily switch service provider without a

negative impact on their health and quality of life, they are far less able than other consumers to act to improve their situation. Much more must be done to safeguard care home residents from such huge year-on-year fee increases by closely regulating the fees charged by care home providers.

The idea of a one-off manageable payment to cover care costs may be put at risk if a fair rate for accommodation costs is not established for the future. Care home providers must be more closely regulated to ensure that consumers are protected and any increases in accommodation costs are reasonable and transparent, and truly only include 'hotel' costs. In addition, action also needs to be taken to monitor the standard rates offered by local councils to pay for care, as many families are also required to pay third party payments to top up the amount their relative receives to a realistic level where an appropriate care home placement can be found.

Counsel and Care's Advice Service has, seen with the credit crunch and the poor housing market, many more older people who are needing to move into a care home urgently, finding it difficult to sell their homes at short notice¹⁴. Many then have faced the difficulty of being unable to release funds to pay for their care home fees, turning to local authorities for financial support but finding none. Some authorities with restricted budgets are in turn diverting families to build up debt with care home providers rather than offering the option of an interim loan or a deferred payment against the property. If a mandatory deferred payment scheme was introduced as is suggested in the green paper, this would be a positive step towards protecting the vulnerable from resorting to unsecured debt to pay for care home fees during the recession. However, the potential risks of this must also be considered. If accommodation costs become over-inflated, the proposal of a mandatory deferred payment scheme for people to utilise the assets in their properties to pay for accommodation costs could result in the value of such properties being exhausted and older people losing their homes after all. The mandatory deferred payment scheme, while a positive step in itself, also must not encourage other current property disregards to be lost, such as the mandatory disregard for the spouse or civil partner or the discretionary disregard for carers.

¹⁴ Passingham, A (2009) Finding and Financing Care in Hard Times: the top issues reported to Counsel and Care's Advice Service in 2008. Counsel and Care, London.

Question Three: National consistency versus local flexibility

b) Our *Lifelong* paper sets out a vision where everyone with a care need is assessed against nationally agreed criteria and a national charging policy that prevents wide variation in charging between different parts of the country. In turn, it is positive to see the inclusion of a national assessment in the green paper, where if the Government sets the minimum level of need a person is entitled to receive through the National Care Service rather than individual local authorities, then access to the care and support system has the potential to be more consistent and fair across the board.

We believe that care should be delivered locally to meet nationally agreed outcomes (option 2 in the regulatory impact assessment). Responses to our call for views on the Big Care Debate echo this approach:

'National Government shall decide – it should not be left to the whim of local government which then can vary widely throughout the UK. There needs to be as much uniformity as possible.' VotingAge respondent

Research from successes in other countries has shown that a strong lead is required by central government that sets out a national framework for local delivery, and a clearly defined way forward for the public to buy into. It seems that consensus is being reached on this issue with the majority of people consulted during the Big Care Debate falling on the side of national consistency and the need for strong direction from central government rather than local variation on the grounds that it can provide greater equity and fairness across the board. A national approach has the benefit of providing greater simplicity that will make it easier to encourage people to contribute towards a system they can understand. It also gives greater certainty as people will know what their entitlements are in advance of needing care and will get access to the same amount of care if they have eligible needs, regardless of where they live. The most significant gain would be for older people with care needs who have to move to a different area. Under a system with a nationally determined level of support and a fully portable assessment, regardless of where a person then lived or which council initially assessed them, they would still be able to access the same level of care and support.

A purely national approach (option 1 of the regulatory impact assessment) would have a considerable impact on local authority budgets and require major changes to the way that local authorities raise and spend funding on care and support, as central rather than local government would set the threshold at which someone could be judged as eligible for state support, but also decide how much would be spent on care dependent on each level of need.

Counsel and Care considers that there needs to be some level of flexibility in the national system to take into account the variation in care markets across England. The concern remains that in the rush for greater simplicity, some of the flexibility achievable at local level, where care can be tailored to fit the holistic needs of individual people's lives, will be lost.

Under option 2 of the regulatory impact assessment, while central government would set the threshold for which someone was eligible for state support and local authorities would be the channel for state funding, local authorities would have more flexibility to decide for themselves the exact amount of money to set at each level of need, while still having to meet guaranteed levels to ensure the national basic entitlement is always met. Such flexibility would enable recognition of differing pricing for care according to location, for example, between urban or rural areas and population demands. Local authorities would then have more scope to develop their role as both market-shapers, working to stimulate innovation so that the care and support available for older people and their carers in their area is of the kind that people want now and in the future, and as providers of good-quality information and advice to support people to choose the care option best suited to meeting their individual predefined outcomes.

Still the reality is in the current system that services are so overstretched that most local authorities can do little more than provide essential care to those with the most critical needs. If you allow a part national/part local system with greater control in the hands of local authorities, the problem remains if the individual's budget is reduced if local authority funding runs out.

Challenges to implementation include the difficulty of ensuring consistency in how assessments are carried out from one local authority area to another, and how to unpick the tangle of social care budget money derived from council tax revenue as well as central government grants. While a national assessment encourages portability of your care needs wherever you live and prevents local authorities from rejecting the level of support provided by a previous authority, as has been seen with implementation of the national framework for NHS Continuing Healthcare, the challenge lies in ensuring consistency of interpretation of the assessment amongst individual professionals.

National guarantees or entitlements have service delivery implications in every part of the country and require joined-up health and care and joint commissioning in every community. The White Paper must offer more detail as to how health and care can be brought much closer together, as the option of the comprehensive model with services available free at the point of delivery provides great potential to make this happen.

Conclusion

Counsel and Care recognised that the green paper, 'Shaping the Future of Care Together', offered a once-in-a-lifetime opportunity to solve the growing care crisis faced by older people and their families and carers. The proposed National Care Service had the potential to create a future where care and support is a universal compact between the state and the individual where everyone in society has a stake in and everyone who needs it can benefit from. The green paper proposals met many of Counsel and Care's tests for a new system which must be simpler, fairer, consistent, transparent and flexible, meeting the needs of older people wherever they live.

However, this potential has been thwarted by a lack of transparency about the real facts and figures behind each funding option. Comments during the consultation have clearly favoured either the comprehensive funding option (provided it is progressively funded through, for example, a care duty on people's estates) or funding care through taxation even though that was ruled out as an option. But debate has been limited by the lack of financial information. It has been difficult to argue the case strongly for any one option without setting some clear provisos. The proposal to merge Attendance Allowance with care funding has also threatened to undermine the debate as Government has been unable to reassure the public that such a popular disability benefit would be replaced with something better, more flexible or easier to access.

Politicians must remember that doing nothing is not an option in the coming months. The care and support system is already in a crisis of funding, fairness and confidence¹⁵. By 2012 the social care system as it stands will no longer be able to support the same proportion of people, even while acknowledging that an estimated 6,000 older people with high needs and 275,000 with less intensive needs are not receiving any care at all in the existing system¹⁶. Older people will have to wait until 2014 before any changes to the current arrangements are implemented, and for many of the most vulnerable people, this will be too late.

If implemented as planned in October 2010, the policy of free personal care at home for an estimated 350,000 older people with critical needs would provide some relief, but there are reasons to be cautious about the extent of its impact, due to the expectation that local authority efficiency savings are needed alongside the £420 million pledged by the Department of Health in order to fund the scheme. It also has the potential to create two conflicting approaches operating in the same care system,

¹⁵ Counsel and Care and DHA Communications (2008) A Charter for Change: reforming care and support for older people, their families and carers, Counsel and Care and DHA Communications, London.








¹⁶ Commission for Social Care Inspection (2009) *The state of social care in England 2007-08*, Commission for Social Care Inspection, London.

with free care for those with the highest needs, but contributions required from everyone else.

The recent expert recommendation that health and social care should meet the demands of the Equality Bill by 2012 and eradicate age discrimination has the potential to have a dramatic impact on care budgets for older people, currently far lower than those available for younger adults. The question remains where the money will come from to fund these required increases.

The lack of open discussion about the tangible financial implications of a radical long-term universal offer has also raised more questions than answers during the Big Care Debate. These questions must be addressed in the White Paper promised by Government in early 2010. The funding option chosen must be long-term, set to last the length of more than one Parliament. Political consensus needs to be reached on an ambitious but also long-lasting settlement on the future reform of the care and support system, one that can meet the needs of this and future generations.

Appendices

-  Counsel and Care and DHA Communications (2008) *Lifelong: a new vision for the wellbeing of older people, their families and carers*. Counsel and Care and DHA Communications, London.
-  Counsel and Care and DHA Communications (2008) *A Charter for Change: reforming care and support for older people, their families and carers*. Counsel and Care and DHA Communications.
-  Bernard, C (2009) *VotingAge: an older people's manifesto*. Counsel and Care, London.
-  Bernard, C (2009) *The Future of Homecare: responding to older people's needs*. Counsel and Care and Ceretas, London.
-  Passingham, A (2009) *Finding and financing care in hard times: the top issues reported to Counsel and Care's Advice Service in 2008*. Counsel and Care, London.
-  Passingham, A (2008) *Reforming care and support: learning from Japan*, Counsel and Care and the Resolution Foundation, London.
-  Counsel and Care (2008) *Delivering A Sure Start to Later Life: exploring new models of neighbourhood services for older people*. Counsel and Care, London.