

White Paper on Social Care and Funding Update

LGA On the Day Briefing

11 July 2012



Summary

The Government published the long awaited White Paper, *Caring for our future: reforming care and support*, today on the reform of adult social care. It is accompanied by a draft Care and Support Bill and a suite of other documents including a progress report on its response to the Dilnot Commission, summary of the *Caring for our future* engagement exercise, and response to the Health Select Committee's reports on these matters.

The Care and Support Bill provides enabling legislation for these reforms. This is published for pre-legislative scrutiny. It will be introduced into Parliament in late 2013 with a view to completing its passage by Autumn 2014. Most changes requiring legislation will be implemented from April 2015 at the earliest.

LGA key messages

- The LGA is disappointed the White Paper does not address the reality of the funding pressures councils face. The small pockets of additional funding are welcome but an essential precondition of serious progress must be an honest appraisal of what a modern social care system costs and how it is to be funded.
- The White Paper provides a good platform for a reformed social care system. It builds on the sector-wide consensus about the recommendations of the Law Commission and the Dilnot Commission. There is plenty for councils to work on with Government through the draft Care and Support Bill.
- However, the funding statement takes us no further forward in how a modern, stable and predictable social care system can be properly resourced. We fear that on this timetable users and carers could face at least a further 5 years of uncertainty and hardship.
- The LGA welcomes the Government's commitment to adopt the principles of the Dilnot Commission that an individual's lifetime contribution should be capped. We endorsed his view that such a system had to be universal to work and suggest the proposed consultation on voluntary opting in or out may not be workable.

Background

The Coalition's Programme for Government highlighted in May 2010 the "*urgency of reforming the system of social care to provide much more control to individuals and their carers, and to ease the cost burden that they and their families face*". Andrew Dilnot's Commission on the Funding of Long Term Care reported in July 2011, and the Law Commission completed its review of social care legislation in May 2011. In response, the Government launched an engagement exercise, *Caring for our future*, from September to December 2011 with a number of strands including integration with health, information and insurance. During

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Briefing

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2011/12, the Health Select Committee published reports on funding social care and integration. A White Paper and an update on funding reform were originally promised in April.

Andrew Dilnot called for a cap, suggested at £35,000, for an individual's lifetime contribution towards their social care costs, after which they would be eligible for full state support. He recommended an increase in the means tested threshold, above which people should pay full care costs, from £23,250 to £100,000. He proposed that national eligibility criteria and portable assessments should be introduced to ensure greater consistency and that younger adults should be eligible for free state support immediately, rather than be means tested. Implementation costs were estimated to be around £1.7 billion.

The Law Commission recommended a single, clear, modern statute and code of practice that would pave the way for a coherent social care system. Under their proposals users and carers would have clear legal rights to care and support services and councils would have clear and concise rules to govern when they must provide services.

The Commission recommended:

- putting an individual's wellbeing at the heart of decisions, using statutory principles
- giving carers new legal rights to services
- placing duties on councils and the NHS to work together
- building a single, streamlined assessment and eligibility framework; and
- giving adult safeguarding boards a statutory footing.

The LGA set out its expectations for social care reform in its recent publication, *Ripe for reform: the sector agrees, now the public expects*. This was based on three key tests:

Test one: Does the White Paper set out proposals for a reformed system that is likely to achieve our aims of:

- improving the individual's experience through a simpler system that enhances choice and control; fosters quality services founded on dignity and a commitment to safeguarding; supports the needs of an expanding workforce; and promotes an integrated response from services to their needs.
- providing stability, predictability and transparency and encouraging the long-term view.
- providing sufficient funding that is appropriately directed now, until the reformed system is in place; to meet demographic pressures; meets the full costs of reform; and incentivises prevention.
- using the totality of local resources through a focus on wellbeing, quality of life, aligning of public and individual resources, integrated services, and support for carers.

Test two: Does the White Paper set out a timetable for reform that recognises the urgency of the challenge and commits to immediate action where possible?

Test three: Does the White Paper articulate a clear role for local government in a reformed system and recognise the importance of a local approach to care and support?

Commentary

Today's announcements meet many of the expectations the LGA set out in *Ripe for reform* but **fall a long way short of the second test of confidence** in seeing

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this through to conclusion.

In adopting all of the key recommendations of the Law Commission and framing draft legislation, the Government has taken **significant steps towards bringing to life a new, modern social care system**. We set out a vision based on community and individual assets, support for carers, and support to users and carers to make good decisions about their future care needs. This should be based on clear, national and portable entitlement to services, coupled with individuals having the flexibility to design support to meet their needs in their local context.

We wanted an emphasis on prevention, a more integrated approach to how housing and health contribute to good care, and on developing local markets and ensuring continuity of care provision. We also stressed the need to recruit, train and support an expanding workforce. The LGA has supported putting Adult Safeguarding Boards and requirements to cooperate on a statutory basis.

Our second test was about confidence; **confidence that the White Paper would pave the way for real action** and confidence that the Government will indeed see this agenda through. We have a draft Bill but it is unlikely to complete its passage before 2014. All the key funding decisions on implementing Dilnot reforms and addressing the true costs of a reformed care system are postponed until the next Comprehensive Spending Review. There are worrying signals that these issues may have to take their place in consideration of measures to stimulate growth and other public spending pressures.

The Dilnot proposals under consideration are mainly focused on older people. He recommended care and support for adults should be free. These groups are, therefore, disproportionately affected by councils' rationing services in response to funding shortfalls. **Unless this wider issue is addressed the system cannot be considered fair or stable.**

Our third test was that the reforms articulated a clear role for local government, that appropriate links were made with Health and Wellbeing Boards, and clearly defined relationships for councils with key partners. There are clear new duties proposed that are intended to promote cooperation. **The LGA will be keen to ensure that social care and health reform are not taken forward on separate tracks** and that no opportunity is lost to develop integrated care and support and health responses to the needs of people and communities.

The Government has made much of the benefits of extending deferred payments. However, the ADASS budget survey 2012 showed that councils have already made deferred payments to around 8,500 people to a total value of £197m (an average of £23,000). Councils are not banks and the **implication of this level of debt in an already overstretched system needs urgent attention.**

Details

The headline features of the **White Paper** are as follows:

- The Government intends to legislate to give councils a clear duty to incorporate **preventive practice and early intervention** into commissioning. This will be built into the social care and public health outcomes framework.
- A range of measures is proposed to **promote community development and social action** as part of a preventive approach. These include stimulating the development of initiatives to help people share their time, talent and skills. Trailblazers are proposed from April 2013 as well as

- encouraging the use of Social Impact Bonds.
- There will be a new duty to ensure **adult social care and housing** work together. The Government will work with the national improvement body for Home Improvement Agencies to extend their service to more people who fund their own adaptations and make sure people obtain timely support in securing home modifications.
 - Legislation is planned to give adult social care services a power to assess young people under 18, to **assist their move from children to adult services**.
 - A **capital fund of £200m over 5 years** from 2013/14 will help further develop specialist housing for older and disabled people. This probably equates to around 4 schemes per year.
 - A national information website will be established. To aid the development of **local online services**, £32.5 million will be available in 2014/15. There is encouragement too for comparison websites for people to give feedback and compare provider quality.
 - Access to **independent advice** will be improved to help people eligible for financial support from the local authority to develop a care and support plan.
 - The **Care and Support Bill** addresses the Law Commission recommendations for a new, simplified statute incorporating among other things:
 - National minimum eligibility threshold.
 - The entitlement will be portable if users and carers move to another council area, with councils required to maintain services until a reassessment is completed.
 - Extend the right to an assessment to more carers (currently only those with substantial caring responsibilities) and give carers a clear entitlement to support for their own wellbeing.
 - People will have a legal entitlement to a personal budget.
 - Provide clarity on ordinary residence.
 - Councils will be urged to rule out **contracting by the minute**.
 - The Government plans to consult on further steps to ensure **service continuity** for users if a provider goes out of business.
 - Dignity and respect will be at the heart of a **new code of conduct** and minimum training standards for care workers. There is no mention of any plan to introduce any registration scheme; in this respect the Government's position is unaltered.
 - A new **Leadership Forum** will be established by March 2013 to bring together leaders from all parts of the sector to lead these reforms.
 - The Government also plans to work with care providers, users and carers to develop a **sector-specific compact** to promote culture change and skills development.
 - There are plans to **train more care workers**, mainly through doubling the number of care apprenticeships to 100,000 by 2017.
 - A **Chief Social Worker** will be appointed by the end of 2012. This role covers children's and adult services and was included in the Munro report recommendations.
 - Pilots will be developed to test the benefits of **direct payments for people in residential care**.
 - Additional resources will be **transferred from the NHS** to local government (through the same mechanism as the previous transfer): £100m in 2013/14 and £200m in 2014/15 to help better integrate care and support. 10% of this will be used to meet reform implementation costs.
 - There will be a requirement that the NHS works with councils and local carers organisations to agree plans and budgets to **identify and support carers**. A working group will consider issues how carers can carry on

working.

- There will be legislation to ensure that all agencies work together at a local level to **prevent abuse**. This places local Adult Safeguarding Boards on a statutory basis.
- There will be new funding system for **palliative care** in 2015. Investment in the pilots will be doubled to £3.6m. Under this all health and social care would be free to people once they are on the end of life locality register.
- Steps will be taken to clarify who is responsible for **care and support in prisons**.
- Payments to **veterans** under the Armed Forces Compensation Scheme will not be required to be used to pay for social care arranged by councils.

A Care and Support Transformation Board and Care and Support Implementation Board will oversee the reforms. The LGA expects to be represented at both levels and to play its part in the working groups proposed to work through the details of implementation.

Progress report on funding

The separate progress report on funding accepts the following principles of the Dilnot Commission:

- Financial protection through a cap on costs
- Extended means test
- National minimum eligibility criteria
- Deferred payments available to all, with a consultation on how interest is levied by councils

The Government will not commit to a new funding model at this stage. That will be considered as part of the next Comprehensive Spending review. As part of this the Government wants to explore further options they believe are consistent with the Dilnot report but at a lower cost namely:

- Level of the cap (say at £75,000 rather than £35,000). The Government has no firm view on the level.
- Choice about whether to have financial protection through voluntary opt-in or opt-out schemes to give protection in return for specified payments.

A working group will be set up with the financial and insurance sector to consider the requirements of a new system, tax implications and how to help people plan.

Summary of financial announcements

£100m in 2013/14 and £200m in 2014/15 to be transferred from NHS to councils under Section 256 with similar conditions to previous transfer. 10% likely to be for reform implementation costs

£200m capital spread over 5 years for specialist housing schemes

Start up funding of £32.5m from 2014/15 to develop local online information services

Investment by NHS in end of life care pilots to be doubled from £1.8m to £3.6m

Next steps

The Care and Support Bill is now open to consultation and pre-legislative scrutiny. The Bill will be formally introduced in the third session of Parliament in 2013.

There will be the opportunity for councils to comment in detail on clauses on line,
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which is a first for Government.

Membership of the proposed Boards will be confirmed shortly. A number of working groups will study the detailed implications of the White Paper and the Bill between now and 2015 when much of this is expected to take effect.

The White Paper refers to the LGA's Efficiency Programme that is supporting 44 councils with a range of themes.

The LGA will provide further briefings at key stages of the legislative process and will continue to lobby Government on funding through our *Show us you care* campaign.