Dilnot Commission Report: Cicero Consulting Special 4 July 2011

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Foreword

The key finding of the Dilnot Report – published this morning – is unequivocal in its analysis, “the current adult social care funding system in England is not fit for purpose and needs urgent and lasting reform”.

The Report recommends capping the lifetime contribution to adult social care costs for an individual at £35,000. It also proposes increasing the asset threshold for those in residential care, with no-means-tested help, from £23,250 to £100,000.

The debate on the funding of adult social care is not new. Previous governments have attempted to address the funding of social care and found it either too complex or politically difficult. In February 2010, pre-General Election, the political parties failed to find consensus on a way forward, publicly blaming each over for a lack of progress.

It is against this backdrop, the budget deficit, and fundamental reform of public sector pensions, the NHS and banking sector that the Dilnot report is published.

Eyes will now be focussed on the Government, and HM Treasury in particular, and its acceptance – or not – of today’s proposals. Will the £1.7billion per year requested by Andrew Dilnot to implement his recommendations be delivered?

Dilnot himself recognises taxes may need to be raised to pay for his reforms. This is contentious enough in England, even without the comparison with Scotland, where adult social care remains free.

The question is whether the Government will seek to kick this issue into the long to medium length grass, as has been indicated by No 10? Alternatively, will the recommended cap on lifetime contributions and assets thresholds be watered down to such an extent that the opportunity for fundamental reform called for by Dilnot is missed?

The Labour Party is keen to showcase its willingness to work toward a cross-party solution to this issue. The Tories were the party seen to shy away in February 2010. Will they be persuaded by their Lib Dem colleagues not to do the same again? The political debate begins now.

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Key points

The rationale behind a 'better, fairer funding system'

- The Commission recommends that the means-tested asset threshold should rise from £23,500 to £100,000 for those in residential care;
- A cap should be created above which people cease to contribute to their social care. It has been suggested that the value of this cap should be set at between £25,000 and £50,000, with the Commission considering a figure of £35,000 to be "appropriate and fair". Below this figure would have eligibility drawbacks due to cost, and above this figure would be unworkable for those in the lower income quartile; and
- A standard amount should be contributed for cost of living expenses (food and accommodation) by those who are in residential care.

Making the system work for people

- National eligibility criteria and portable assessments should be introduced to ensure a fairer system across geographic boundaries;
- Those who have care and support during their pre-adult life should immediately be eligible for care without a means-test when entering adult care;
- Deferred payment should be available to everyone;
- The Commission calls for a rebranding of the Attendance Allowance; and
- An awareness campaign should be launched to help people understand the system and engage with it.

The wider care and support system

- The Commission is supportive of the recent recommendations made by the Law Commission including giving carers new legal rights to services and improving carers' assessments-and would like to see a statutory duty for the NHS and local authorities to work together.

The impact of the proposals

- Based on a cap of £35,000 the cost to the state would be around £1.3billion, although this figure will vary depending upon the cap level and the rate of living costs contribution that is mandated;
- Women will "benefit greatly" from the reforms, considering the average care costs for a woman over 65 are almost double that of a man; and
- The Commission suggests three possible ways by which the proposals could be funded:
    - additional revenue through general taxation;
    - reprioritisation of existing expenditure; or a
    - specific tax increase at least in part by those benefitting from the reforms.

The rationale behind a "better, fairer funding system"

The Commission's aim is to enhance the well-being of individuals, families and carers. To achieve this the Commission has recommended changing the present system of funding to offer protection for everyone against high costs; making the personal contribution easier by opening up a "viable space" for financial products; and ensuring that the care system is aligned with healthcare more broadly.

The Commission is suggesting capping benefit costs, as this would protect those with the highest costs and give peace of mind to the wider public who might have to pay high care costs. Once people have met their own needs "as best they can" they would become eligible for state funding.

The means-tested system will remain for those who cannot contribute, with the asset threshold cap for those in residential care raised from £23,500 to £100,000. This would prevent people from having to spend their entire property wealth in order to qualify for state support.

The cap on how much an individual should have to contribute to their own care is to be between £25,000 and £50,000, with the Commission suggesting a figure of £35,000. It is expected that only a third of people entering care – those with the greatest care needs – would reach this cap. The Commission believes this cap should not be above £50,000 as it would disadvantage those in lower income groups, but below £25,000 would have the eligibility drawbacks of a full social insurance scheme.

Means-tested support will remain, and will be administered by the local authority, for those whose individual income and assets are low enough. For those not eligible for means-tested support the local authority will calculate, using the assessed care package, at what point they will meet the personal contribution cap. From then on they will be eligible for free care from the state. This process can be reassessed and the timeframes adjusted if an individual's situation changes.

The Commission does not feel that having two systems – one for young people and one for people over the state pension age – is sensible, and is seeking one overarching system. It recommends that those who enter adult life with eligible care needs will be treated as having already met the care cap, as will those who develop a care need before the age of forty. After age forty the cap will rise as it is believed that people will have developed wealth by this point.

Age	Individual contribution cap
40	£10,000
50	£20,000
60	£30,000
65 (current state pension age)	£35,000

The costs of general living will be disentangled from the costs of care and capped, but the Commission feels that just as people would contribute to their cost of living were they at home so they should when in a residential home. The Commission has recommended setting the maximum contribution at £190 per week. The Commission also urges the Government to retain and consider increasing the Personal Expenses Allowance.

Making the system work for people

Universal disability benefits

The Commission's recommendations will not result in anyone losing their disability benefits. The new benefit suggested by the Commission will look like the Attendance Allowance (AA), but the Commission recommends that the AA is rebranded, as many people do not understand it. Those who reach the £35,000 cap should not receive AA in addition.

Financial services products

There are currently no major financial services products that offer pre-funded insurance against social care costs, although there are products – such as equity release and immediate needs annuities – that can help people if they already have a care-need.

The lack of such products is partly due to uncertainty for pricing of such insurance, and also the lack of demand borne from the lack of understanding about the existing system. The Commission believes that by capping the overall risk the Government can encourage development of these products. The Commission considers disability-linked annuities, the release of housing equity and top-up insurance as financial the products most likely to fill the current void.

The Commission suggests that the Government set up a working group comprising of central and local government, the financial services industry and the Financial Services Authority (FSA) to consider how to enable development of the market.

The Commission also suggests making the deferred payment scheme universal. Its report adds that people who would be unable to afford care charged without selling their home should be able to make a deferred payment.

Helping people prepare

The Commission calls for a new awareness campaign that will explain the costs of care and the new systems being implemented. There is a need for better, basic factual information for carers, patients and the public in general. In light of this the Commission strongly supports the Law Commission's proposals for a new social care statute to replace duties on local authorities to provide information.

The Government should also work with the FSA to develop better access to information for those seeking to plan for old age.

A clear, national offer

There are currently 152 systems for access to care in the UK - one for each local authority. The Commission calls for this to be replaced by a clearer, more objective framework and portable assessments, and for eligibility criteria to be set nationally.

A new assessment measure should be developed with experts and should be both more objective and more easily understood. This system should focus on how to deliver the outcomes that people want as well as encourage information sharing to ensure a joined-up approach to care. The Commission suggests that the Government may wish to consult with the financial services sector as a single assessment scale would help to provide confidence in any new products.

The assessment should be maintained in case of moving to another local authority until the new local authority conducts an assessment themselves. Local authorities will remain at the centre of the social care system as the Commission believes that they are best placed to deliver the personalisation, quality and delivery that the Commission has envisaged.

Recognising the contribution of carers

Noting that approximately five million people provide care in the UK the Commission feels that this group needs proper and fairer assessment. The Commission strongly supports the Law Commission's proposals for carers having a right to services, and recommends that in future carers and those for whom they care are assessed at the same time.

The wider care and support system

In the current system the various mechanisms of care support overlap. Yet the Commission notes that the system is at its best when the different components are shaped around people rather than along administrative lines.

The Commission is broadly supportive of the direction of travel being taken by the Palliative Care Funding Review, which is looking into end of life care, and the Law Commission's proposals to place a duty on councils and the NHS to work co-operatively.

The impact of the proposals

Consideration is given to how the proposals will impact on the people for whom they are designed. Emphasis is placed on the creation of a clearer, fairer, more responsible and more transparent funding system. The proposed funding model has been assessed against five criteria: fairness; choice; value for money; sustainability and resilience; and ease of use and understanding.

The Commission suggests that in order to fund the contributory element of care costs (which will be capped) there is opportunity for the financial services industry to "provide products that give people even greater choice". The Report explicitly states that the proposals are "fully consistent with the personalisation agenda" by encouraging people to plan and prepare to make better choices about their care.

Capping and funding

The implementation of a limit on the amount that an individual will have to pay towards their care will, the Commission suggests, reduce fear and anxiety amongst individuals, and provide "greater peace of mind".

Benefitting women

Given the higher mortality rates of women, the Commission suggests that women will benefit "greatly" from the proposals. Care costs at age 65 are expected to be £25,000 for a man and £44,000 for a woman.

In a message to the financial services industry, the Commission refers to the Test-Achats case, stating that "when designing any financial products to support people in meeting their personal contribution, the financial services industry will also need to consider how to take forward the new EU directive requiring gender-neutral premiums for insurance products".

Potential further changes

In addition to today's proposals, a number of potential changes are suggested to the means-tested system. These include:

- the consistent treatment of housing assets;
- the introduction of a taper into the means-test; and
- a consistent approach to those receiving care through the NHS Continuing Healthcare system as those via the social care system.

The costs of reform

Given the politically sensitive nature of any financial strains on the public purse, the Commission's Report takes care in detailing predicted costs for implementation of its proposals. The Commission states its belief that the "current system has been underfunded in the past".

It is estimated that by introducing a cost cap of £35,000 with a general living cost of £10,000, implementation would cost £1.3 billion for "older people" in 2010/11.

The introduction of a cost cap for working age adults in 2010/11 would cost an estimated £0.3billion.
Changing the means-tested system to raise the threshold from £23,500 to £100,000 within the residential care means-test is estimated to cost an additional £0.1billion.

Paying for reform

Three potential ways of paying for the Commission's proposals are identified:

- additional revenue through general taxation;
- reprioritisation of existing expenditure; and
- a specific tax increase paid at least in part by those benefitting from the reforms.

The Commission suggests that the cap be uprated on a yearly basis similar to the basic state pension. It also suggests that the Government may choose to ask an independent body to periodically review the overall level of the cap.

Next steps

The Commission suggests a timetable by which to take forward plans for reform:

Date	Activity
July 2011	Commission on Funding of Care and Support reports.
December 2011	Government publishes White Paper bringing together Dilnot Commission work, that of the Law Commission and the Government's vision for adult social care. Government to set up three working groups: ○ one to develop a more objective, portable, national eligibility and assessment framework, and how this might alight with disability benefits; ○ one to look at how to support the development of new financial products; and ○ one to design a new national and local framework for information and advice for those who need care and for carers.
2012	Government introduces a Bill on social care. Government sets out a firm timetable for the introduction of reforms – including the capped cost element and changes to the means-tested system. Government runs awareness campaign and starts to implement an improved information and advice service in collaboration with stakeholders.
2013 onwards	Implementation of changes to the funding of adult social care.

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