

Consultation response

The King's Fund response to the Department of Health Consultation on Personal Care at Home – proposals for regulations and guidance

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The King's Fund is a charity that seeks to understand how the health system in England can be improved. Using that insight, we help to shape policy, transform services and bring about behaviour change. Our work includes research, analysis, leadership development and service improvement. We also offer a wide range of resources to help everyone working in health to share knowledge, learning and ideas.

This paper is a formal response to the Department of Health's draft guidance on proposals for regulations and guidance in relation to the draft legislation on personal care at home currently before Parliament. The King's Fund has previously commented on this proposal in its response to the Green Paper *Shaping the Future of Care Together* (www.kingsfund.org.uk/document.rm?id=8470) and in its evidence to the Health Select Committee inquiry into social care (www.kingsfund.org.uk/document.rm?id=8458).

We welcome the government's commitment to addressing the need for social care funding reform. Its expression, in the form of the personal care at home proposals, is clear evidence of political will and policy intent. The principle that people should be supported to live independently in their own homes, including the offer of intensive reablement to make this possible, is the right one. However, it is not clear whether the proposals, in their current form, will improve current arrangements or are the right starting point for comprehensive reform. There are serious concerns about how the policy will be funded and implemented, and the unintended consequences that could arise for people with care needs and for wider system change.

In summary, these concerns are described below.

1. Funding

Knowledge about people who pay for their own care is very limited, a conclusion we originally identified in The King's Fund review of social care funding (Wanless 2006), a more recent assessment of the evidence concludes that this is still the case (Henwood and Hudson 2009), which means it is difficult to predict how many people might come forward to request free care. The impact assessment confirms that there is 'inherent uncertainty' in quantifying these numbers, yet the proposals say 'there is a finite amount of money available for this policy' (p6). Under current funding arrangements, responsibility for this shortfall would fall on local councils and could be addressed only by restricting further the definition of 'highest need', by diverting resources from other services or increasing council tax. There is a further assumption that councils will be able to find £250m efficiency savings, in addition to the 3 per cent annual savings they are required to make and a further £250m specified in the Pre-Budget Report. For a policy that will significantly raise public expectations of the care system and at a time of increasing constraints on public spending, the funding assumptions on which it is based seem fragile and unsustainable.

2. Outcomes

There are substantial risks that the Personal Care at Home policy for many people will produce worse outcomes than the current system in five ways.

- It will complicate a system which people already find confusing by introducing new dividing lines:
 - between people with 'highest' and high needs that will involve an extra layer of needs assessment to identify help needed with 'activities of daily living'
 - between people with highest needs of care at home, which will be free, as opposed to care in residential settings, which will continue to be means-tested. In practice, these demarcations will engender further perceptions of unfairness, not unlike those associated with 'continuing health care'.
- It will not benefit the majority of the 1.8 million people using care services, but rather the relatively well-off people who will be relieved by the taxpayer of paying for their own care will benefit the most.
- The policy will create perverse incentives – for councils, it will tilt the financial playing-field towards residential care, where net costs to cash-strapped councils will be much lower than funding free care at home; but for individuals it will work in the opposite direction, creating an incentive to stay at home to avoid means-tested residential care, even though this might be the more appropriate care setting.
- Together these difficulties could cause significant tensions between frontline professionals charged with assessing needs and arranging care, commissioners, and not least individuals and their relatives and carers. When care decisions frequently arise at times of crisis, personal distress or vulnerability, the operation of the care at home policy could become a source of further confusion and anxiety.
- The policy will involve at least £670 million additional public spending on adult social care, without producing a single extra hour of care. Given the extent of unmet need and the pressures on existing services, it is questionable whether this offers the best outcomes for this level of investment.

3. Impact on reform of the social care funding system

Many of these concerns stem from the policy having arisen in isolation from mainstream policy development – it did not feature at all in the government's thinking expressed in the 'Big Care Debate' about the Green Paper *Shaping the Future of Care Together* or the previous public engagement exercise *The case for change – why England needs a new care and support system*. It contradicts the government's previous messages in these exercises that free personal care funded through taxation was not affordable or fair to future working-age generations.

The care at home proposals send a contradictory message. That £670 million has been identified so readily (£420 million from central Department of Health budgets) – without any indication of what activities will be reduced or priorities changed – suggests that a better funded system can be achieved without difficult choices between competing priorities for diminishing public spending. This does not help to raise public awareness of the fiscal challenges in paying for the care needs of an ageing population and may undo some of the progress achieved in last year's Big Care Debate.

Although assurances have been given that free care at home is a stepping stone towards the establishment of a national care service, the nature of the destination, and the route, remains unclear. The relationship between free care at home and the overall funding options set out in the Green Paper has not been spelt out.

There is no indication of how the policy fits with the wider and longer-term reforms that everyone accepts are needed. The result is a lack of policy coherence and clarity that will undermine efforts to build an 'unstoppable momentum for change'.

Conclusions

Further work is needed in thinking through the impact of the proposals on costs, outcomes and wider system reform. The proposed implementation date of October 2010 is ambitious in view of the unresolved issues about the funding and operation of the policy.

Many of the specific questions in the consultation, especially those to do with funding, cannot be considered without a clearer overall policy framework through which the proposed national care service will be developed. For example, the formula to be used for distributing the grant to councils will depend on whether the government wishes to pursue a fully national system of funding or a part national/part local system, as set out in the Green Paper. That in turn depends on fundamental questions about the nature of the proposed national care service and the role of local authorities within it.

Whatever the merits of the limited form of free personal care proposed, its value can be assessed only in the context of a comprehensive programme of reform that addresses weaknesses in the current system in its entirety, rather than piecemeal proposals. Prior to *Shaping the Future of Care Together*, The King's Fund set out four key tests against which proposals for reform should be judged – they should be fair and affordable, understandable, effective and enduring (The King's Fund 2009). We urge that these are used as benchmarks to guide the evolution of further proposals.

References

Derek Wanless (2006). *Securing Good Care for Older People*. London: The King's Fund.

Henwood M and Hudson B (2009). *A Parallel Universe? People who fund their own care and support: A review of the literature*. ADASS/LGA/JRF.

The King's Fund (2009). Parliamentary briefing: forthcoming Green Paper on funding social care in England, May 2009. Available at: www.kingsfund.org.uk/document.rm?id=8304 (accessed on 29 January 2010).