

# Briefing

## THE DILNOT COMMISSION REPORT ON SOCIAL CARE 13 July 2011

### Key messages

- The need to secure a sustainable funding settlement for social care has never been more urgent, with local government and NHS finances under significant pressure and demand for services increasing as the population ages.
- The Dilnot report offers a credible and costed way forward – the government must move quickly to undertake detailed work on its recommendations and honour its pledge to publish a White Paper followed by legislation in 2012.
- We welcome the prospect of cross-party talks – previous attempts at reform have failed due to lack of political consensus, and this report offers a framework for a lasting settlement that all the political parties should be able to support.
- The budget deficit is not a reason for delay – questions of affordability go beyond the current economic situation, and the additional public spending needed to fund the proposals is less than 0.25 per cent of GDP.
- Many of the Commission's other recommendations involve minimal costs and command universal support among stakeholders – detailed work to implement these proposals need not wait for funding issues to be resolved and should begin now.

### Background

The current social care system is widely regarded as inadequate, unfair and unsustainable. Under the means-testing arrangements, anyone with assets of more than £23,250 must pay the full cost of their care. This leaves 1 in 10 people over 65 facing costs of more than £100,000. Eligibility criteria for council-funded services have been tightened so that in most areas only those with very high needs now qualify for help. The system is coming under significant financial strain as a result of increasing demand for services and cuts in local authority budgets – we estimate that a £1.2 billion funding gap could develop by 2014.

The Dilnot report honours the coalition government's commitment to establish an independent commission to report within a year on how to deliver a fair, affordable and sustainable funding system for social care in England. It follows several failed attempts at reform, most notably the report of the Royal Commission established by the Blair government in 1999, and the previous government's proposals for a National Care Service, which were aborted before the general election.

The King's Fund has a longstanding interest in the reform of social care funding. In 2006, we published *Securing Good Care for Older People: taking a long-term view* following a major review of social care led by Sir Derek Wanless. This proposed a 'partnership model' under which responsibility for the costs of care would be shared between the individual and the state. In March 2010, we published *Securing Good Care for More People: Options for reform*, which updated the 2006 report and set out a revised version of the partnership model.

## The Dilnot report

The Dilnot recommendations aim to eliminate the catastrophic care costs faced by some people by capping the maximum amount individuals contribute over their lifetime, beyond which the state will meet all future funding. By limiting people's liability in this way, the Commission expects a market to develop for financial products so that people can insure themselves against the cost of their contribution.

### *Key recommendations*

- The contribution any individual makes towards the costs of their care, excluding general living costs, should be capped at between £25,000 and £50,000, with the Commission recommending the cap should be set at £35,000.
- The asset threshold above which people in residential care are liable for the full cost of their care should be increased from the current level of £23,250 to £100,000.
- People in residential care should make a standard contribution to cover their general living costs of between £7,000 and £10,000 a year.
- Eligibility criteria for services should be set nationally as part of a clear national offer, and needs assessments should be 'portable' between local authorities.
- A new information and advice strategy should be developed, a national awareness campaign should be launched to encourage people to plan ahead and the deferred payment scheme should be improved.
- Social care and welfare benefits should be better aligned, Attendance Allowance re-branded and carers' assessments improved.
- Integration between social care and other services, especially the NHS, should be improved, and a stronger emphasis placed on prevention.

If the Commission's recommendations are implemented in full, it forecasts that no-one would have to spend more than 30 per cent of their assets to fund their care. It estimates that its recommended changes to the funding system would require £1.7 billion in additional public expenditure (0.14 per cent of GDP) if the cap on individual contributions is set at £35,000, rising to £3.6 billion (0.22 per cent of GDP) by 2025/6.

The government has welcomed the Commission's report as 'an immensely valuable contribution to meeting the long-term challenge of an ageing population'. There will now be a period of engagement with stakeholders before a White Paper on social care reform (including the government's response to the Law Commission's report on modernising social care law) and a 'progress report' on funding reform are published in spring 2012. The Secretary of State has said that legislation will follow 'at the earliest opportunity'.

## Commentary

The King's Fund welcomes the Dilnot report. While further work is required on the detail, it offers the prospect of a lasting settlement based on a partnership approach in which costs are shared between the individual and the state in an open and transparent way – a principle we have long argued for.

### *Funding*

The proposals to cap individual liability for the costs of care and to raise the upper threshold for the means test would represent a substantial improvement on the current system and ensure that people in every income group are better off. This would avoid placing disproportionate costs on the taxpayer, compared to the costs of providing free personal care, while protecting people from the worst excesses of the current system and the cliff-edge of the present means-testing arrangements. Raising the upper threshold of the means test to

£100,000 would involve a relatively modest cost of £100 million. These changes will particularly benefit those on modest incomes, who are heavily penalised under the current system. The level of the contribution to general living costs – suggested at between £7,000 and £10,000 a year – and how this is balanced with the level of the cap will also be important in determining the cost of the proposals and the affordability to individuals.

The extent to which the financial services industry, particularly insurers, will respond depends on a stable policy environment, which in turn requires a broad consensus across the political parties that will endure beyond a single parliament and across several generations. Financial products linked to pensions or housing assets will require effective regulation and high-quality advice and information to gain public confidence.

Two particular policy issues demand attention from the government as a result of these proposals.

### **Current funding pressures**

The additional costs of £1.7 billion, rising to £3.6 billion by 2025/6, reflect the additional costs of implementing the new proposals only. The Commission acknowledges that the current system is underfunded and has not kept pace with demographic changes in relation to working age adults and older people. This has resulted in tighter rationing of services and rising levels of unmet need. The overall level of resources required by the current system was outside the Commission's terms of reference, but the report makes clear that in addition to funding for the new proposals, 'additional public funding for the means-tested system' will also be needed. Unless this is addressed, many of the well-chronicled problems with the current system will continue, including escalating levels of unmet need and underinvestment in preventive support. Until the current assessment system is replaced, the Commission's view is that entitlement to local authority funded services should be set at 'substantial' or above under the current Fair Access to Care Services (FACS) criteria.

### **The interface with home care**

Payments made by people to meet the cost of home care would count towards their maximum lifetime contribution. However, charging arrangements for home care would continue to be determined by local authorities, potentially creating an uneven playing field between home and residential care and the risk of perverse incentives for people to go into residential care. The report suggests that the government may wish to rationalise these arrangements, although it stops short of making a clear recommendation on this.

We have emphasised the growing importance of the NHS and social care systems supporting more people through care closer to home and avoiding the need for admission to care homes wherever possible. This also reflects people's preferences. Having one nationally determined policy on contributions for residential care and 152 different arrangements for the costs of care at home works against this objective and would be a continuing cause of confusion.

Adopting a single unified policy covering individual contributions to care in all settings would be complex, because current charging levels are based on the different circumstances of each local authority, and controversial, because housing assets would be included in the assessment of individual contributions for home care. Nevertheless, there is a strong argument for adopting this as a long-term goal as part of a staged approach to reform. The introduction of a universal deferred payment scheme would ease some of these difficulties and give people more choices about using their housing assets to pay for care.

### *Other recommendations*

#### **Disability benefits**

Aligning the assessment of disability benefits with the adult social care system so that people experience a simpler and more streamlined process is an admirable goal. We have argued that Attendance Allowance, for example, could be integrated with personal budgets to create a single, simplified funding stream. However, the experience of bringing together different

funding sources through individual budgets has not so far been encouraging.

### **National eligibility criteria**

While we welcome the proposal that eligibility for social care should be set nationally, replacing the FACS criteria with a new assessment measure may create difficulties in reconciling a new national 'offer' with the realities of wide variations in spending and resource levels across 152 local authorities. One person's localism is another's postcode lottery. Having a portable assessment may not entitle someone to the same level of service should they move to another local authority area. Local authorities would remain responsible for the commissioning and delivery of local services.

### **The NHS interface**

The report calls for more to be done to promote health and social care integration. The emphasis on this in the Health and Social Care Bill provides a significant opportunity, with new health and wellbeing boards acting as the driver for service integration at a local level. With NHS and local government budgets under significant pressure, it is essential to adopt a more unified approach and bring resources together through pooled budgets – this will deliver benefits for the NHS and social care alike.

The proposal to cap individual liability for care costs would significantly ease boundary disputes between means-tested social care and NHS continuing health care, which is free at the point of use. The report recognises that the assessment process for continuing care will need to be reviewed in light of the proposed national eligibility framework for social care, and how the proposed new, more objective assessment tool for social care would operate alongside existing assessment processes for continuing care. The Commission strongly supports the Law Commission's recommendation to put NHS continuing health care on a stronger statutory footing.

### **Making a start**

There are other recommendations of a more general nature that reflect the direction of existing policy – for example, a new information and advice strategy, a statutory duty on local authorities to provide advice and information, and better assessments for carers. These are uncontroversial but challenging goals and there is no reason why they should not be accepted in principle so that detailed work on planning and implementation can begin.

### **Conclusion**

The coalition agreement stated that the government understood the urgency of reforming the social care system. A year on, the need for reform is even more pressing. Where they have failed in the past, politicians from all parties must now seize the best opportunity in a generation to ensure that people can access the care and support they need in later life. With the number of over 85s set to double over the next 20 years, the question is not whether we can afford the Dilnot proposals but how can we afford not to.