RCN Policy and International Department

Social Care in England

A guide for nursing staff

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SOCIAL CARE IN ENGLAND – A GUIDE FOR NURSING STAFF

This summary paper provides a brief overview of the current state of play regarding social care provision in England and covers:

- the current system and its problems
- changes consequent from the Health and Social Care Act 2012
- recent proposals for reforming the system
- RCN policy positions in relation to the current system and proposed changes.

The first in a series of briefing papers on integrated care, picking up on the themes outlined in this paper, will be published in the spring.

Background

Social care is the provision of personal care, protection or support services to children, young adults or adults in need or at risk, or with needs arising from illness, disability, old age or poverty. Its main aims are to protect people from abuse or neglect, prevent deterioration of physical and/or mental health, reduce isolation and promote independence and wellbeing. Social care services therefore play an extremely important role in supporting some of the most vulnerable people and in many cases provide very good services, however it's a sector under ever-increasing strain.

Current situation

Social care in England is a complex, confusing and bureaucratic means tested service with inconsistent access throughout the country.

Local authorities are responsible for providing social care services and have a duty to assess anyone who appears to need the community care services they provide. Assessments are carried out to establish an individual's needs; however, eligibility criteria are set locally so there is nationwide variation in access to services.

The financial assessments undertaken by local authorities look at income and savings, including pensions, some benefits and any other assets, in order to calculate how much an individual must contribute; in some cases people may not need to contribute anything.

Social care is currently funded either by the individual, or by their Local Authority. However, if an individual's primary need for care is health related, then in some cases the NHS will pay for or provide care (including care home fees) through 'continuing healthcare', or as part of a joint package of care.

Local authority spending on social care has fallen for four years in succession. With 87 per cent of local authorities setting their eligibility criteria at substantial or higher, it has become much harder for people to access care, especially if they have moderate needs.[1]

The NHS and its nursing staff, both in the acute and community settings, have to fill the gaps in social care provision.

RCN Members have described the social care system as:

- **unfair -** With eligibility criteria for free social care being decided locally, this has created a postcode lottery and unequal service provision across the country.

- **confusing -** The complex funding system, with no clear line between where social and health care start and end, sees service users often confused about how their care will be funded.

- **inadequate** - Investment in social care has increased by only 0.1 per cent per year in real terms since 2004[2]. Unmet social care needs are invariably met by the NHS therefore impacting on health care services staff and funding.

- **poor quality** - There is rising concern regarding the quality of care highlighted by a number of high profile scandals and reports in the media about poor treatment in social and health care settings.

- **unsustainable** - Increasing demand due to demographic change and rising expectations from service users wanting to live independently for as long as possible, in an environment where the working age population is decreasing as a proportion of the total population.

[1] http://www.kingsfund.org.uk/sites/files/kf/field/field_publication_summary/social-care-funding-paper-may13.pdf
[2] http://www.ageuk.org.uk/professional-resources-home/public-affairs/reportage/past-issues-of-reportage/reportage-july-2011/viewpoint-social-care/

A complex system

The social care system often leaves individuals and families confused and frustrated as to what help, if any, they are entitled to; and in an increasing number of cases leaves people facing large and unexpected bills. As Local Authorities set their own eligibility criteria, where a person lives determines what care they get and how much it costs.

Under the current means-testing arrangements, anyone with assets of more than £23,250 must pay the full cost of their care. This leaves one in 10 people over 65 facing costs of more than £100,000. Eligibility criteria for council-funded services have been tightened so much that in most areas only those with very high needs now qualify for help.[3]

Fifty seven per cent of individuals fund in full or in part their residential and nursing care, but a substantial number are having to fall back upon council budgets; 24 per cent of self-funders of residential care exhaust their resources and end up requiring public funding.[4] The system is coming under significant financial strain as a result of increasing demand for services and cuts in local authority budgets.

Facing more spending cuts and a need to deliver further efficiency savings; an ageing population; and a recognition that too many patients aren't getting the services they need, or in the right setting - the system is in crisis.

Reforming the system

The Dilnot Commission

An independent commission, set up by the Government and headed by Andrew Dilnot, was asked to recommend a fair and sustainable funding system for adult social care in England. The commission presented its findings in July 2011. The main proposals included; introducing a cap on the amount that individuals would pay towards their care needs, a universal deferred payment scheme and a new national system of eligibility and needs assessments to ensure consistency and portability between local authorities (see Appendix 1 for a detailed list of recommendations).

[3] http://www.kingsfund.org.uk/sites/files/kf/field/field_publication_file/briefing-dilnot-commission-social-care-jul11.pdf
[4] http://www.lgiu.org.uk/news/think-tank-warns-of-looming-crisis-of-support-for-self-funders/

Proposals for change

The **Health and Social Care Act 2012**, and the **Care Bill** which is currently working its way through parliament, includes proposals to change funding, workforce training, regulation and monitoring of providers and promoting the integration of health and social care, specially to:

- implement the **Dilnot** Commission's proposal to **cap** the costs of social care to the individual at **£72,000 (from April 2016)**; this is a higher cap than the commission recommended

- introduce a **universal deferred payment scheme** and make it mandatory for local authorities to give anyone who cannot afford residential care without selling their home, the choice to defer their care fees; it also allows authorities to charge interest

- use **national eligibility criteria**, that will set a minimum threshold for people's care and support needs which must be met by local authorities in all areas[5]

- promote **integrated health and social care services**, the Care Bill will provide a mandate for more formalised integrated ways of working between the two sectors, not least by giving local councils a duty to promote integrated services[6]

- share learning from **14 pioneer integrated care initiatives,** which have been introduced throughout the country, with all areas to support the delivery of the £3.8 billion Integration Transformation Fund (now called the **Better Care Fund**) - a pooled fund between local government and health to promote better integration of health and social care.

> "While it will be for commissioners, working with local providers, to develop and fund better and more integrated patterns of care, **Monitor's** role as the sector regulator will be to work with others, particularly commissioners, to remove any barriers and consider how to enable integrated care provision."[7] **Monitor**

[5] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209595/National_Eligibility_Criteria_-_discussion_document.pdf
[6] https://www.gov.uk/government/policies/making-sure-health-and-social-care-services-work-together
[7] http://www.monitor-nhsft.gov.uk/regulating-health-care-providers-commissioners/enabling-integrated-care

Personalisation

In addition to these proposals, from April 2014 anyone receiving NHS continuing healthcare will have a '**right to ask'** for a **personal health budget** (PHB). PHBs are based on personal budgets already used in social care. A personal budget is a sum of council money that is used to arrange and pay for individual care and support. The amount depends on needs identified and agreed in an individual's support plan and can alter as needs change.[8] A PHB is NHS money, and has a similar aim, to help people have more control over their care and include them in the care planning process. Both personal budgets and PHBs can be either direct payment to the individual or held by a third party; the money can be used for a wide range of services.

Local Authorities will have a legal responsibility to provide a care and support plan (or a support plan in the case of carers) and a legal responsibility to review the plan to ensure needs are being met. They must also plan to make it easier for people to combine their personal health budget with their personal (social care) budget, if they have one.

[8] http://www.ageuk.org.uk/documents/en-gb/information-guides/ageukig26_personal_budgets_inf.pdf?dtrk=true

Impact of the Health and Social Care Act 2012

Organisational

Clinical Commissioning Groups (CCGs) have replaced Primary Care Trusts as the commissioners of most services funded by the NHS in England.[9]

> "CCGs will need to develop the capacity and capability to deliver PHBs, as they are obliged to give serious consideration to requests for PHBs."[10]

Health and Wellbeing Boards have been established as grand committees of Local Authorities, with a key task of identifying local need and provide the strategic framework that health and social care commissioners use to guide future policy, service planning, and investment.

Regulation and Monitoring

The 2012 Act requires that all providers of adult social care services in England, including local authorities, the NHS and independent providers, must **register with the Care Quality Commission (CQC),** the independent regulator of health and adult social care providers in England, and meet safety and quality requirements.

New plans to **check, inspect, rate** care homes[11] and other social care services have been proposed by CQC, and an engagement exercise with key stakeholders regarding the inspection process began in October 2013; to be followed in spring 2014 with a full public consultation.

By March 2016 every care home and adult social care service in England will be awarded one of the following **ratings** by the CQC.

- Outstanding
- Good
- Requires improvement
- Inadequate

[9] http://www.kingsfund.org.uk/publications/clinical-commissioning-groups
[10] http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm131008/wmstext/131008m0001.htm#131008m0001.htm_spmin12
[11] Care homes may be privately owned or run by the voluntary sector or local authorities. There are two main types of care homes, 'residential', care homes without nursing care; and 'nursing', homes that provide nursing care.

Inspection teams will also include more expert inspectors, specialist advisers, and people who have experience of receiving social care services **(Experts by Experience)** – the CQC is also considering using mystery shoppers and hidden cameras.

The CQC will also **monitor the finances** of care home providers that would be difficult to replace if they were to go out of business. It also plans to take **tougher action** on services that do not meet standards, particularly those that do not have a registered manager in place.

Patient and public participation

The Healthwatch Network, comprising **Healthwatch England** and **Local Healthwatch** (which replaced Local Involvement Networks, or LINks), has been established as the independent consumer champion for health and social care, to work at both national and local level to gather and represent the views of the public and service users.

Workforce

Health Education England (HEE) has been established to provide national leadership for health and public health training and education.

HEE is currently working to introduce a **new national certificate for care** to ensure **healthcare assistants** and **social care support workers** receive high quality induction in the fundamentals of caring.

What the RCN has said to date

Assessment

Care needs to be assessed in a simple and nationally consistent way; advice and information is required to help families plan for the future and guide them through the system; and better integration of NHS and social care services are needed to avoid delays in discharge from hospital and transfer of care to the home setting.

Integration

The RCN supports the principle of integration, providing coordinated, seamless, person centred care but are mindful of its full impact on nursing as well as potential access issues. While we recognise that localised services best serve local need, and therefore require flexibility to ensure services match requirements, integrated care should be provided to a nationally consistent and standardised way of working, to ensure that people have equal access to equal standards of care throughout the country. As well as being a point of principle, this will also help people, staff and those in receipt of care, who move from one location to another, to have a clear understanding of how the local system operates and what it delivers.

Funding

The social care system is chronically underfunded, the King's Fund reports that local authority spending on social care has fallen for four years in succession, and fewer people are using publicly funded care than ever before (Local Government Association (LGA) 2013). With 87 per cent of local authorities setting their eligibility criteria at substantial or higher, it has become much harder for people to access care, especially if they have moderate needs.[12]

The RCN strongly supports the principle that nursing care, including when delivered in a social care context, should be universal, provided free at the point of delivery, based on clinical need and not ability to pay, and preferably financed through taxation. Unless the current funding system is reformed, delivering integrated care will be problematic.

'Marketisation'

The RCN will watch with interest how integrated care is encouraged within an environment that is increasingly made of markets and subject to competition.

Achieving joined-up, integrated care and providing a seamless patient journey through social and health services will always be difficult while there is separate 'NHS money' and 'local authority money'.

[12] http://www.kingsfund.org.uk/sites/files/kf/field/field_publication_summary/social-care-funding-paper-may13.pdf

There needs to be evidence of how funding, allocated for integration; for example, the 'Better Care Fund,' is being invested, as well as a clear link between spending and delivery of targeted outcomes that benefit patients across health and social care.

Personal Health Budgets

The RCN has always maintained that personal health budgets should be optional since every individual, regardless of their long term condition or diagnosis has very different needs, which should be considered on a case-by-case basis. Again there is an issue with local variation of eligibility criteria for PHBs, which is not only confusing for patients, carers, family and staff but ultimately leads to unequal access to services across the country as well as problems with portability.

Workforce

Old regulations (Standard 31.2, 2000)[13] required Registered Managers of nursing homes to be Registered Nurses, now there are no legal requirements that a care home with nursing has a Registered Nurse as the Registered Manager; however CQC do check that where the Registered Manager is not a Registered Nurse there is a Registered Nurse who will provide clinical leadership.

The RCN continues to call for a mandatory system of regulation for all health care support workers (HCSWs). While we welcome the introduction of a new national certificate for care there is a need to ensure universal standards of quality and competence are in place.

The social care workforce suffers from high staff turnover, immense difficulty in recruiting staff, skills' shortages and a lack of standardised training. The community nursing workforce, which plays a key role in coordinating care that people receive in the community, is ageing and its numbers dwindling. The RCN believes that safe staffing levels and staff training are key to meeting rising care needs, and to improving and providing quality care in the community, therefore more funding is required to address the workforce issues.

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[13] http://webarchive.nationalarchives.gov.uk/20130401151715/https://www.education.gov.uk/publications/eOrderingDownload/RR495.pdf

Appendix 1 - Dilnot Commission recommendations and Government's response

Recommendation	Response
1. To protect people from extreme care costs, there should be a cap on the lifetime contribution to adult social care costs that any individual needs to make at between £25,000 and £50,000. Where an individual's care costs exceed the cap, they would be eligible for full support from the state.	Accepted – cap to be set at £72,000 from 2016, with a lower cap (to be decided) for working-age people.
2. To extend protection to people falling just outside of the means test, the asset threshold for those in residential care beyond which no means-tested help is given should increase from £23,250 to £100,000.	Accepted – the upper capital threshold for means-tested support will rise to £118,000 from 2016/17 (equivalent to £100,000 in 2010/11 prices) and the lower threshold to £17,000 (equivalent to £14,250 in 2010/11 prices).
3. Those who enter adulthood already having a care and support need should immediately be eligible for free state support to meet their care needs, rather than being subjected to a means test.	Accepted – there will be a zero cap for people who turn 18 with eligible care and support needs.
4. Universal disability benefits for people of all ages should continue as now. The government should consider how better to align benefits with the reformed social care funding system and attendance allowance should be re-branded to clarify its purpose.	The government has not commented on this recommendation.

5. People should contribute a standard amount – £7,000 to £10,000 yearly to cover their general living costs, such as food and accommodation in residential care.	Accepted – from 2016 people in residential care should pay a contribution of around £12,000 yearly towards general living expenses (£10,000 in 2010/11 prices).
6. Eligibility criteria for service entitlement should be set on a standardised national basis – in the short term at substantial – to improve consistency and fairness across England, and there should be portability of assessment.	Accepted – the Care Bill makes provision for a national minimum eligibility threshold to be in place from 2015 and the level to be determined through regulations.
7. The government should also urgently develop a more objective eligibility and assessment framework.	The government has said it will 'develop and test options for a potential new eligibility and assessment framework'.
8. To encourage people to plan ahead for their later life, the government should invest in an awareness campaign to inform people of the new system and the importance of planning ahead.	See below.
9. The government should develop a major new information and advice strategy to help when care needs arise, in partnership with charities, local government and the financial services sector. As proposed by the Law Commission, a statutory duty should be placed on local authorities to provide information, advice and assistance services in their areas, irrespective of how people's care is funded or provided.	Accepted – the government has committed to providing a 'clear, universal, and authoritative source of national information about the health, care and support system'. The Care Bill places a new duty on local authorities to ensure that information and advice is provided locally, and the government is setting up an expert working group with financial services, local authorities and the care sector to support the development of an information offer.

10. Carers should be supported by improved assessments and have new legal rights as recommended by the Law Commission.	Accepted – the Care Bill contains new provision to strengthen the rights of carers.
11. The government should make a clear statement that disability-linked annuities are permissible under current pension taxation rules.	The government has said it will clarify the tax treatment of disability-linked annuities.
12. The current deferred payment scheme should be extended so that it is a full universal offer across the country.	Accepted – deferred payments will be available in all local authorities from April 2015, as reflected in the Care Bill.
13. In reforming the funding of social care, the government should review the scope for improving the integration of adult social care with other services in the wider care and support system – in order to deliver better outcomes for individuals and value for money from the state.	Accepted – taken forward through new powers and duties in the Health and Social Care Act 2012, through the Care Bill and through the forthcoming Common Purpose Framework.

Source: Commission on Funding of Care and Support (2011)

http://www.kingsfund.org.uk/sites/files/kf/field/field_publication_summary/social-care-funding-paper-may13.pdf

Appendix 2 - Responses to the Care Bill

RCN - The RCN welcomes certain aspects of the reforms, such as:

- creating a preventative social care system
- joint working and providing integrated services across the UK
- the creation of Health Education England (HEE)
- mandatory regulation and training of health care support workers (amendment).

However, there are some aspects of the bill about which the RCN has some concerns, including:

- setting the cap at £72,000, which will help very few people and will still lead to many people being forced to sell their homes
- a lack of commitment to safe staffing levels
- the exclusion of a nursing representative being consulted by Health Research Authority.

Kings Fund - Important as it is, the Bill alone will not solve the social care funding challenge, nor will it deliver the change needed to meet future needs across the health and social care system. Reform will be difficult to implement during time of such extreme financial challenges - councils will be spending 20 per cent less by 2014 than they were three years ago on social care.

Nuffield Trust - The capped system has the potential to share the costs and risks of catastrophic care more fairly. “However, while this represents progress, the Government’s proposed new system is far from perfect – most people will worry that the cap is very high and it’s not clear that the Government has worked out how to pay for this in the longer-term. Most importantly, the proposals do not address the fundamental gap between the amount of public money being spent on social care and the pressures on the system”.

RCGP - Supports the duties it sets out requiring local authorities to promote integration, the lack of a joined up approach between primary care and social care in the community is a big barrier to better meeting the needs of these individuals. We're very interested in:

- getting greater clarity on how we are going to monitor and evaluate local authorities' progress in promoting integration
- exploring how information from an assessment of care and support needs will be shared with GPs and others in the NHS
- how Personal Budgets and Personal Health Budgets fit together – we'd like to see them merged where an individual is eligible for both.

We think it's particularly important that HEE is given powers to develop and implement a national, long-term workforce strategy, informed by the work of the Centre for Workforce Intelligence (CfWI).

SCIE - The Care Bill will strengthen sector's responsibilities and capacity. Under the Bill, local authorities will be required to provide or arrange services which can prevent or delay the need for more intensive care for all local people - including carers. SCIE also welcomes the requirement for all local authorities to have a Safeguarding Adults Board with as a minimum, representatives from the local authority, clinical commissioning group and the police.

Carers Trust - The Care Bill aims to simplify and improve on existing legislation for carers.

We are pleased with some of the changes to the Care Bill, which introduces:

- new improved rights for carers
- a cap on costs and social care funding reforms
- a focus on preventive and personalised services and improving individuals' well-being.

Carers Trust remains concerned about some parts of the proposed legislation and is seeking clarification on:

- charging of support provided to carers
- amendments to the duties for assessment and meeting needs which may make it possible for local authorities to unduly rely on carers.