

**21 December 2009**

**“Shaping the future of Care  
Together” – Council’s response to  
the Green Paper**

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**Report of Lorraine O’Donnell, Assistant Chief Executive**

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**Purpose of the Report**

- 1 To advise members of the Council’s response to the “Shaping the future of Care Together “ Green paper incorporating the views of the Adults Well-being and Health Overview and Scrutiny Committee, and advise members of an additional consultation launched by the Department of Health in respect of the “Personal Care at Home Bill”.

**Background**

- 2 At its meeting held on 29 October 2009, the Adults, Well-being and Health Overview and Scrutiny Committee received a presentation regarding the Government’s “Shaping the future of Care Together” Green Paper.
- 3 At the conclusion of the presentation members agreed that a response to the consultation questions posed within the Green Paper would be forwarded to the Council’s Adults, Well-being and Health Service for incorporation into the Council’s formal response by Friday 6<sup>th</sup> November 2009.

**The Council’s Response**

- 4 A copy of the Council’s response to the Shaping the future of Care Together” Green Paper is appended together with the views of the Adults, Well-being and Health Overview and Scrutiny Committee.

**The Personal Care at Home Bill**

- 5 The Personal Care at Home Bill, was announced in the Queens Speech on the 18<sup>th</sup> November 2009. This was followed by the launch of a public consultation on proposals for regulation and guidance in relation to the Bill, which was released on the 23<sup>rd</sup> November 2009 by the Department of Health.

- 6 The purpose of the Bill is to:
- Assist around 400,000 people with care needs.
  - Offer for the first time free personal care at home for those with the highest needs, regardless of means.
  - Be the first step towards setting up a new National Care Service as proposed in the 'Shaping the Future of Care Together' Green Paper.
7. The government estimate that the cost of implementing this Bill is £670 million a year. Of that, £420 million would be required in annual funding provided by the Department of Health and £250 million a year from councils, found from efficiency savings. The closing date for consultation responses is the 23<sup>rd</sup> February 2010. Further information regarding the Bill and responses to the consultation can be made at, [http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH\\_109139](http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_109139).

### **Recommendation**

- 8 The Committee is invited to receive the report and note the Council's response to the Green Paper and the comments made by the Adults, Well-being and Health Overview and Scrutiny Committee, and

### **Background Paper(s)**

1. "Shaping the Future of Care Together" Green Paper
2. Minutes of the Adults Well-being and Health Overview and Scrutiny Committee – 29 October 2009.
3. Department of Health Consultation on the "Personal Care at Home Bill"

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**Contact: Feisal Jassat, Overview and Scrutiny Manager**  
Tel: 0191 383 3506 E-Mail [Feisal.jassat@durham.gov.uk](mailto:Feisal.jassat@durham.gov.uk)

**Author: Stephen Gwilym, Principal Overview and Scrutiny Officer**  
Tel: 0191 383 3149 E-Mail [Stephen.gwilym@durham.gov.uk](mailto:Stephen.gwilym@durham.gov.uk)

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## **Durham County Council's Adults Wellbeing and Health Response to Shaping the Future of Care Together Green Paper Consultation Questions**

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**1. The Government want to build a National Care Service that is fair, simple and affordable. They think that in this new system there are six things that you should be able to expect:**

- **prevention services**
- **national assessment**
- **a joined-up service**
- **information and advice**
- **personalised care and support**
- **fair funding**

**a) Is there anything missing from this approach?**

The six categories of expectations are a solid foundation to build a National Care Service. A number of these expectations are reflected in the 2007 Putting People First Concordat. The proposed National Care Service which requires a national assessment system is particularly welcomed to produce consistency across the country. Fair charging services are also welcomed due to current inequalities that exist which mean some people refuse services because they have to pay for them. The implementation of these expectations will be crucial to ensure that a National Care Service is fair, simple and affordable throughout the country.

Service user/carer involvement and expertise are referred to throughout the Green Paper as an essential element of the new service. This involvement is implied and referenced throughout the six expectations highlighted, however to ensure this essential element remains at the forefront of the National Care Service, 'Service User/Carer Involvement/Partnership' could become an additional expectation. This would ensure service user and carer involvement and partnership would remain at the forefront and not overlooked or marginalised as an 'add on' rather than as an integral part of the new service. This could include standardised methods of partnership working with service users/carers, the sharing of good practice and examining how to engage with user-led organisations and engaging individuals who do not access user-led organisations.

Safeguarding could also be an additional 'expectation' under the proposed National Care Service. This would raise the profile of safeguarding issues and highlight the vulnerability of some service users/carers. Measures need to be incorporated throughout the new National Care Service to ensure appropriate protection is in place to safeguard and protect vulnerable people from harm.

## **b) How should this work?**

In order to ensure the above mentioned suggestion to include 'Service User/Carer Involvement/Partnership' as an additional expectation under the National Care Service works, several steps will be needed. A National Care Service should work by putting service users/carers at the forefront and ensuring service users/carers are engaged in true consultation at local levels to determine the barriers people face and to identify the key issues for users of the service. Service users/carers should be treated as 'experts' as identified in Putting People First. In order to achieve this the National Care Service could outline and provide guidance regarding appropriate consultation methods and techniques to enable effective partnerships with service users/carers.

The introduction of a national assessment system would have implications for the use of the current FACS eligibility criteria. Under the proposed system it would not be acceptable for different local authorities to use different approaches as this would prevent national consistency. However currently, some local authorities only provide a service to those with critical and substantial needs, while others provide services to all four levels of identified need.

'A joined-up service' approach has been around for many years, however to ensure this expectation is met the organisations highlighted in the Green Paper would be required to deliver a far more comprehensive 'joined-up' working approach than ever before. This 'joined-up' working including the private sector and voluntary organisations will take time to fully develop as issues still exist regarding shared IT systems. However the impact of a squeeze on public expenditure will have a substantial impact upon the progression of development work. The JSNA and other joint plans and budgets will become increasingly important to the success of joined-up working.

Accurate, easy to understand and up-to-date information and advice are essential to ensure people are fully informed and therefore have greater choice and control. Local councils working with partners, including the voluntary sector are ideally situated to meet this demand. The provision of information and advice will be essential in assisting people to take up personalised budgets, access preventative services and support people with care needs. A National Literature or National Information/Advice Service could be developed to ensure consistency throughout the country and improve standards of information provision.

Fair funding will be integral to the realisation of a National Care Service. Personalisation means individuals having choice and control over all the public support he/she receives from a wide range of services such as adult social care and support, health, education, leisure. Bureaucracy and barriers which currently separate funding streams, such as the benefits system, will need to be removed to enable fair funding and the personalisation agenda to be fully realised.

- 2. The Government think that, in order to make the National Care Service work, they will need services that are joined up, give you choice around what kind of care and support you get, and are high quality.**

**a) Do you agree?**

A more joined up working approach with a focus upon partnership is strongly supported as this continues to be a complex working area for professionals. It is also agreed that shared goals and joint ways of working can assist to transform the experiences of people who need care.

The statement that local authorities are best placed to make sure that there is a wide range of services available in the local area and to encourage new services is strongly supported. The green paper states that local authorities will also play a crucial role in making sure services at a local level are of high quality, working in partnership with the public, private and independent sectors to ensure all relevant resources, expertise and services work effectively together, this statement is also strongly supported.

It is acknowledged that councils have a vital role to play in shaping the local care market, especially through the up-take of Direct Payments and Individual Budgets.

**b) What would this look like in practice?**

The changes outlined in the green paper will affect thousands of organisations and the staff working in them across the country. All of these staff will be central to a change of culture to make care and support reform a reality. Staff will require the right training and skills to provide the care that people want. A shift in service provision may have an impact upon staffing levels as some functions may decline or disappear while other functions may experience a growth. There is a need to improve the quality, skills and training of social care staff, to improve management and increase motivation. These are essential elements to ensure services can move forward to fully meet the needs of users. However funding from Government in terms of grants will be required to ensure the costs of these substantial staff development needs can be met.

Councils could provide additional support for small voluntary organisations, for example, with the tendering process, to stimulate the market place and share best practice. Smaller local voluntary organisations are providing valued services using innovative models, yet would require additional support to compete in the market place.

For services to be fully joined up between the NHS and the new National Care Service IT systems will need to be introduced nationally, to enable this to work across the country.

## **What are the barriers to making this happen?**

The new system will represent a challenge for many organisations. To ensure joined up working councils will have a role in assisting private sector organisations and the third sector, (which nationally provide over two-thirds of care and support services) to adjust to a different way of responding to people's wishes and needs. Joined up working presents many difficulties as different organisations have different cultures, aims and objectives. There are costs associated with this development in terms of levels of staffing and staff development in the third sector. This creates a commissioning pressure for councils as more money will be required to achieve the increased choice and flexibility of services that are desired.

Development of joint IT systems would be a major implication for councils as this is a logistically difficult and costly issue which is yet to be resolved on a national or local basis between health and social care. There are barriers of cost and practicality issues regarding joint systems, such as data protection. The national NHS system which is still being rolled out, has proved to be very expensive and has had numerous problems. Joint working with other organisations would make this process increasingly complex and expensive to resolve.

Listening to people's views plays an important part in making sure that services are of good quality and can assist councils to ensure that the right services are available. The green paper places a strong emphasis upon the importance of community engagement with users, user-led organisations and the third sector. Therefore councils will need to continue to seek views and build upon existing mechanisms to ensure a clear, consistent and joined up approach to consultation.

The Green Paper does not address the barrier of family cultural changes. In today's society families are often more widespread and not able to provide as much support as they would like to. Also due to the changing nature of families, for example, an increase in single person families, this can mean some families have a smaller support network.

### **3. The Government is suggesting three ways in which the National Care Service could be funded in the future:**

- **Partnership – People will be supported by the Government for around a quarter to a third of the cost of their care and support, or more if they have a low income.**
- **Insurance – As well as providing a quarter to a third of the cost of people's care and support, the Government would also make it easier for people to take out insurance to cover their remaining costs.**
- **Comprehensive – Everyone gets care free when they need it in return for paying a contribution into a state insurance scheme, if they can afford it, whether or not they need care and support.**

**a) Which of these options do you prefer, and why?**

All of the funding options outlined would be impacted by the anticipated future squeeze on public expenditure. There is insufficient detail in the Green Paper to enable a comprehensive analysis of the three funding options proposed to determine the cost of implementing any of the options at a local level. Full costings of the options is essential to make an informed choice over which funding option would be the most suitable.

The green paper is not explicit in outlining what impact the funding options would have upon the expectations placed upon Local Authorities. Consideration and detailed proposals are required to determine how Local Authorities would be supported to provide the services outlined in the proposed National Care Service. These proposals would need to fully acknowledge the limited resources of local authorities, and the complex demands placed upon them to continue to deliver high quality services. These significant issues need to be taken into consideration when determining the appropriate funding options for the National Care Service.

The funding options focus upon older people, leaving the implications for those of working age unclear. The Green Paper does not detail how a new National Care Service would support the increasingly complexity and number of people with severe impairments who are living longer. The Kings Fund state that, the biggest current pressure on council's social care budgets are from learning disability services. Therefore more information is required to outline how the needs of working age people will be addressed and funded.

In order to create a fairer funding system then the total amount of money available in the current system, including health should be examined to determine if certain funding streams could be brought into a wider social care funding pot.

The funding options do not explain the extend to which preventative services would be free or form part of the funding system.

**Partnership Model**

The partnership model which is the foundation for all three models suggests integration of some disability benefits, such as Attendance Allowance, with social care funding. Benefits such as Attendance Allowance are valuable to people as they also act as a gateway to other funding streams. This is potentially a huge policy shift and would have significant implications for recipients of these benefits as well as councils current charging practices.

It could also be debated that amalgamating benefits such as Attendance Allowance into social care funding will not generate a significant amount of extra funds as those people currently receiving Attendance Allowance will still require funding in the future. The Green Paper does not specify which other benefits may be included, so therefore raises questions as to whether other benefits such as Disability Living Allowance and Carers Allowance will be included.

The Individual Budget pilots have shown it is difficult to pull these different funding streams together as legislation is required to enable this to happen in an effective manor.

The Institute for Social & Economic Research published a report by Berthoud and Hancock (2008) entitled 'Disability Benefits and Paying for Care', finding that half of all Attendance and Disability Living Allowance recipients also claim means tested benefits on the basis of a low income. Forty percent would therefore be below the Department for Work and Pensions (DWP) indicative poverty line of 60% of median income if their disability benefits (DLA/AA) were taken away.

Berthoud and Hancock's (2008) report also identified that the transfer of resources from social security benefits to the social care system would be likely to have the following outcomes:

- Deliver more care to a smaller number of people and less cash to a large number of moderately disabled people.
- Reduce resources to disabled people who have a partner or other family member to care for them.
- Make resource decisions less available as a right and involve means testing.
- Subject decisions on resources to disabled people to budgetary control rather than need.
- Reduce disabled people's ability to spend money as they choose and their sense of independence.

Berthoud and Hancock's (2008) report therefore anticipated that funding would not go directly to disabled people, but rather that this funding would be used to cover care costs. This would also mean that greater numbers of people would potentially lose a disability related benefit than the number of people who would gain access to social care funding. The green paper suggests a form of transitional protection at the point of reform, however this does not deal with the question of equity for following generations of claimants and clients.

### **Insurance Model**

Development of financial markets would need to take place to ensure the insurance options are viable. Due to the current economic down turn people may also have a lack of confidence in the insurance market. National Government and local councils would have a role to play in developing this market area to ensure a wide variety of choice existed and did not exclude certain groups of people which would be deemed to be high risk.

The Green Paper states that insurance products may not be available for people who were born with a care and support need as people cannot insure against the risk of something that has already happened. Although the Green Paper acknowledges this as an issue it does not offer any possible solutions. This could potentially lead to inequality in the system, between those who are able to get insurance and those who are unable to or have to pay significant premiums.

The Green Paper states "many people who were born with a care and support need would probably qualify for all their care free under the Partnership element..., since many are 'likely' to be on low incomes". This statement is not backed up with any data to support the numbers of people who would qualify and is based on the assumption that those born with care and support needs are 'likely' to be on low incomes. Disabled people, carers and older people are increasingly encouraged and supported to gain access to education and employment. With personalised services those with care and



support needs will have increased opportunities to gain meaningful employment leading to a reduction of people on lower incomes. This funding option could therefore generate a group of people who would be unable to purchase insurance due to insurance exclusion clauses or people who would be unable to afford significant insurance premiums added on due to existing care and support needs.

With the optional insurance model people may not anticipate and plan for future care needs until the need occurs at which point purchasing insurance may be financially unviable or impossible to purchase as highlighted above.

There may be an increase in the number of people wanting to access long term care if people feel they have 'paid' for services through insurance and therefore feel they are entitled to it. This would undermine the Green Papers and local councils aim for supporting people to stay at home for as long as possible.

### **Comprehensive Model**

The Green Paper states that a 'large proportion' of funding for the comprehensive model would come from general taxation, however it does not state what this might cost or explain how this is an affordable option.

### **Tax-Funded and Pay for Yourself Models**

These two options are ruled out in the Green Paper. As the Green Paper states that this consultation is a full and open debate about the future funding options of care and support, it would have been preferable to debate all of the options available.

## **b) Should local government say how much money people get depending on the situation in their area, or should national government decide?**

### **A Part-National, Part-Local System**

A part-national, part-local system would have the advantage of flexibility to local needs and services. Local circumstances such as rural/urban issues can be understood and taken into consideration. This would support the personalisation agenda as local flexibility will enable local variation in market costs to be factored in to ensure that individuals receive the care and support they need.

It would be welcomed if the Government set a national level of need at which someone becomes eligible for support. This however this will be a complex area as current national systems such as FACS and Continuing Health Care are interpreted locally in many different ways and are also subject to the impact of professional judgement.

A part-national, part-local system encourages community engagement and the sharing of best practice at a local level. It also enables local accountability as decision making will still be made at a local level. With decision making taking place at a local level this also supports councils in 'joined-up working' with health, housing and other systems to provide improved outcomes for local people.

The disadvantages of this type of system are that it could be more complex than a fully national system and could still result in unfair distribution of funding, referred to as the 'postcode lottery'.

### **A Fully National System**

Having a fully national system would mean major changes to the way that councils raise and spend funding for care and support. Under this system it is likely that money would be raised nationally through taxes rather than some funds coming through council tax. National Government would decide how much funding people should get and local councils would be able to choose to add to this amount. This could have a significant impact upon the wide range of services council's commission and provide to local communities.

A fully national system would make it difficult for councils to tailor care packages to individuals needs and would have a substantial impact upon a council's control of costs. This system would also be less responsive than a locally-funded and locally-managed system. Councils would have fewer opportunities to be creative under this system, which would be in direct conflict with the personalisation and preventative agendas.

The advantages of this system are that it could end the 'postcode lottery' which currently exists and the system might be easier to be understood as it would be the same around the country.

# **DURHAM COUNTY COUNCIL'S ADULTS WELL-BEING AND HEALTH OVERVIEW AND SCRUTINY COMMITTEE RESPONSE TO THE "SHAPING THE FUTURE OF CARE TOGETHER" GREEN PAPER**

## **General Concerns**

The Committee acknowledge and accept the need for review based upon the impact that demographic changes will have upon the demand for and take up of social care services. It is undeniable that increased life expectancy; people living longer with disabilities and the decreasing ratio of working age people to those who are retired, will mean that people will need a system of social care that fits the needs of the 21<sup>st</sup> Century.

The Committee noted that the Consultation Paper indicates that "we need a system that's fairer, simpler and more affordable for all of us. One that ensures you get really good care wherever you live and provides whatever you and your family needs." Members felt overall however that more detail should have been provided within the consultation paper in respect of exactly what services the public could expect to receive in respect of:-

- Prevention Services
- National Assessment
- A joined up service
- Information and advice
- Personalised Care and Support
- Fair Funding

The Committee feel that the paper provides the bones of what a National Care service might look like but a considerable amount of flesh needs to be placed on the bones before any meaningful and informed comment from Local Government could be provided.

The Committee were concerned that whilst the consultation paper makes reference to the need for "joined-up" working, it is particularly silent upon the NHS family involvement/impact regarding social care.

Committee members also have concerns around the funding options in that they focus upon older people, while the implications for those of working age are not clear.

## **Question 1 - The Government's vision for the Future**

### **a) Is there anything missing from this approach?**

- As eluded to above, more detail is needed of how the funding options proposed within the Paper would work in practice and what this would mean in different circumstances. Case studies would have been useful to demonstrate this.
- There is no reference to an overarching strategy being developed to sell the proposals to the public in a user-friendly way.
- The future provision of continuing care was not included in the paper.

- What steps are to be proposed in the interim period leading up to the implementation of a National Care service in order to allow improvements in the service to be provided.
- Committee members were unsure about the potential impact of what was being proposed on the future funding of Adult and Social Care services provided by Local Government. Concerns were expressed that the proposals could see a shift in funding from Local Government to the health Service or indeed Private Sector Service providers.
- What are the proposals for Carers' support? The vision appears to focus on individuals and should also recognise the needs of those supporting them.

**b) How should this work?**

As highlighted above, Committee members feel that there is insufficient detail provided within the Green Paper on how a National Care Service should be delivered to allow explicit comments to be made.

Committee members acknowledge the importance of prevention services to promote healthier lifestyles but also that the provision of comprehensive information regarding the availability of Care Services and the associated costs/payment options for accessing these services is essential. Links with Local Authorities, Welfare Rights Advice service professionals and the private and third sector providers are also vital in this respect.

Discussion regarding the proposals for a National Assessment process centred on making sure that any assessment process and subsequent financial support/award must relate to the care needs of the individual and not merely revolve around a process of "means testing".

Committee members supported the concept of a joined up service although the Paper concentrates on health and social care, and appears to omit a number of key services that will be crucial in sporting health and social care including Supported Housing, Adaptations, Benefits. Furthermore, in order for services to be truly "joined up", it will be important for relevant agencies to share information where appropriate.

Building on this latter point, Committee members took advice from Age Concern representatives which pressed the importance on information and advice/support when explaining future models of Social Care provision arising out of the Green Paper. Specific areas raised in this respect was the provision of Financial advice to customers looking to access Care Services, particularly in respect of Benefits/savings thresholds.

**Question 2: Making the vision a reality**

The Consultation Paper explains that "in order to make the vision of a National Care Service a reality, there are three key changes we need to make to the Care and Support System. We need services that are joined up, a wider range of Care and support services and better quality and innovation."

**a) Do you Agree?**

As discussed earlier, Committee members feel the current system does need to change as it is seen as fragmented and unfair. However, Committee members consider that the proposals detailed in the Green Paper would require major changes to current systems and processes and are concerned that this could not be achieved without severe disruption.

**b) What would this look like in practice?**

Committee members were unsure what this new service would look like as the detail is missing from the Green Paper.

**c) What are the barriers to making this happen?**

Committee members considered resourcing to be vital to the success of the vision particularly in respect of the relationship and impact upon joined-up services between the health service and Local Government.

**Question 3: Funding Options**

The Government is suggesting three ways in which care and support could be funded in the future. These are:-

- Partnership: People will be supported by the Government for around a quarter to a third of the cost of their care and support or more if they have a low income
- Insurance: As well as providing a quarter to a third of the cost of their care and support, the Government would also make it easier for people to take out insurance to cover their remaining costs
- Comprehensive: Everyone gets care and support free when they need it in return for paying a contribution into a state insurance scheme, if they can afford it, whether or not they need care and support.

**a) Which of these options do you prefer and why?**

**General Points**

- Committee members emphasised the need to protect non-means tested benefits such as Attendance Allowance and Disability Living Allowance. Such benefits allow individuals to control which services they purchase and gives them the option to actively determine the support that they are provided with.
- Some Committee members held the view that having paid “taxes” all their working lives, individuals who have worked should expect to be provided with care and support after they retire.
- There is a critical role for Welfare Rights Services in providing advice and guidance to individuals explaining how they should be preparing for old age and looking after themselves.

- Committee members were concerned that the Green Paper relates only to England and that this promotes inequality within the United Kingdom with different models of Social Care provision and associated funding methods provided in Scotland and Wales.
- Why has the “tax funded” option been discounted when it would provided the basis for care package provision for those of a working age who retire after having contributed via taxation whilst working. Committee members favoured an overhaul of the N.I. Contributions system which could result in contributions being increased in lieu of post-retirement care services.
- Committee members also suggested that greater clarity is needed in respect of “accommodation costs” and the fact that these would not be included in any whole care package.

### **Partnership Model**

- Committee members welcomed the commitment of Government that a proportion of the cost of social care would be met from the Government for everyone and that those on the lowest income levels would receive more. There were some concerns that this might dissuade people from contributing further towards these costs and rely solely on state support.
- Committee members were also unsure as to what was meant by the “minimum care entitlement”

### **Insurance Model**

- Some Committee members had concerns regarding the viability of this model given that not every one would buy insurance on a voluntary basis
- Other concerns were expressed regarding how an Insurance based scheme would operate. Would premiums differ to reflect lifestyles, risk factors, lifestyles, health history etc? Would the scheme be operated by the Government or by the commercial insurance sector. Could some people find themselves “uninsurable”? What would happen to insurance premiums that went unclaimed?

### **Comprehensive Model**

- Committee members considered this option would work if people were given a variety of options as to how to pay under this scheme be that contributions over a lifetime, lump sum payment upon retirement or deferred payment following death from an person’s estate.
- One concern that was highlighted was that only 1 in 5 people currently needs long-term care. As such, this might mean that people would be expected to pay for a service that they weren’t going to receive.