Identifying a fairer system for funding adult social care

Viewpoint
Informing debate

October 2009

This *Viewpoint* argues that analysts and commentators have paid insufficient attention to equity in adult social care. It sets out a framework for identifying a fairer system (based on five key questions that assess policy proposals) and uses this to evaluate the Green Paper *Shaping the future of care together*. This analysis shows that the Paper represents an advance on previous government statements on adult social care, but lacks important detail, particularly on funding options.

Key points

- To what extent is the Government seeking to ensure that arrangements for the care and support of older people are fairer than they are at present?
- Previous reviews of adult social care have acknowledged the importance of fairness in assessing the merits of different models of support and care, but have generally given greater prominence to funding rather than equity issues.
- The Green Paper does not contain sufficient detail to determine whether or not it will lead to a fairer settlement.
- Detailed, costed proposals are still needed before any of us can support any particular funding model. The need now is to show in detail how people on different incomes may 'win' or 'lose' under any new set of proposals.
- If people will have to pay more than envisaged for care and support, they need to know – better the certainty of bad news than the uncertainty of current arrangements.

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Introduction

Unease about inequalities has surfaced in a number of policy debates in the last year or so. In 2001 Tony Blair argued that David Beckham was entitled to earn as much as he wanted. After a slew of stories about excessive bonuses and pensions in the banking sector and elsewhere, it is difficult to imagine any politician making a similar statement today. Similarly, there is concern that efforts to improve the life chances of young children in lower income households, or to reduce the incidence of teenage pregnancies, have had limited effects. Further progress depends on tackling deep-seated structural problems, which will not be easy.

For anyone involved in the debate about care and support for older people, there is a sense of déjà vu. Ever since the 1996 Joseph Rowntree Foundation (JRF) report on continuing care (*Meeting the costs of continuing care*), followed by the 1999 Royal Commission and other key pieces of evidence, there has been a widespread view that the current funding arrangements are unfair. There is agreement on this point across the political spectrum, but agreement has not so far led to action.

Background

Policy-makers working on the funding of adult social care have an important advantage over their colleagues working on reforming the banking system, or Parliament itself, because they have a number of detailed analyses on which to draw. The current funding arrangements have been in place for so long that the problems and policy options are well understood. For example, there have been the outputs of JRF's Paying for Long-term Care Programme (see Hirsch, 2006), the Wanless report on social care for the King's Fund (2006), the Caring Choices report on the future of care funding (2008), and recent work by the International Longevity Centre (e.g. Lloyd, 2008) and the Local Government Association (2009). The Royal Commission on Long Term Care (1999) and the Government's response (Department of Health, 2000) serve as grim reminders of the scope for political failure in this area (see Keen, 2008). The consequences are still evident ten years later.

The conclusions from the most careful analyses include the following:

- The current system is underfunded, incoherent and unfair.
- There has been little substantive change in England in the last 15 years, but some significant changes in Scotland.
- There is no realistic prospect of a 'big bang' solution, akin to creating an NHS-like system with free social care at the point of delivery.
- It looks as if there will have to be an element of compulsion, involving individuals making contributions to an insurance fund.
- The idea of giving individuals their own budgets, to cover at least some of their social care needs, has gained rapidly in popularity in the last few years.
- Any new system will have to be seen to be fairer than the existing arrangements. Those most disadvantaged by the current system are those whose incomes take them just above a number of means-test thresholds and who cannot afford to pay for long-term care.
- The uncertainty and complexity of the current system lead to a great deal of distress among older people.

The reports contain a wealth of detail, and there is no merit in restating the analyses here. There is, though, one important topic that merits further consideration – fairness. The best reviews have acknowledged the importance of fairness in assessing the merits of different funding proposals, but have done so in the course of analyses that have given greater prominence to other important issues, such as ensuring a basic minimum level of care.

This Viewpoint works the other way round, starting with fairness and then moving on to consider the implications for funding. It discusses five key questions that form a framework for identifying a fairer system, and then uses this to analyse the proposals in the Green Paper *Shaping the future of care together* (HM Government, 2009).

Fairness

Everyone agrees that a fairer adult social care system is needed. The Government acknowledged this in 2000 in its response to the Royal Commission on Long Term Care, and restated its position in 2007:

We agree that there is a need to explore options for the long term funding of the care and support system, to ensure that it is fair, sustainable and unambiguous about the respective responsibilities of the state, family and individual. (HM Government, Putting people first, p. 1)

This quote helps in focusing on two points. First, there would be no need to worry about fairness if people were all similar in important respects – if they all had similar incomes and a similar likelihood of needing care and support. But they are not. People differ in their personal circumstances, including age, disabilities and incomes. It follows that there will be people on lower incomes who need care and support, and it is to be expected that under any notion of fairness these individuals will be given access to more care resources than they are able to buy for themselves. Second, government policy plays a key role in determining the fairness or otherwise of the care and support that people receive. The current debate is substantially about the Government's role as both purchaser and supplier of health and social services. This central dichotomy lies at the heart of welfare reform, and the Government's intentions as both purchaser and supplier need to be made transparent, so that we all understand what the state will and will not provide in the future.

The key question is: to what extent is there a desire to equalise the care and support that people on lower incomes receive, compared with the care and support that people with high incomes might buy for themselves, or people with close families receive informally? In order to specify what a fairer system would look like, five questions need to be answered.

Question 1 – What is the scope of the reform programme?

In later life, spending typically exceeds income. Some households have occupational pensions, housing and other assets on which to draw. But the state also plays a key role in supporting older people's needs. At present, cash benefits include the state pension, Pension Credit, Winter Fuel Payments, Attendance Allowance and Disability Living Allowance. Other important support for older people comes in kind, including free bus passes, free TV licences, Council Tax Benefit, free health care and some social care.

There is a trade-off here between the desirability of maximising the resources that could be drawn on to fund a future system on the one hand, and the practical challenges involved in reviewing many systems and services simultaneously on the other. In the current economic climate, it has become easier to cast the net widely and look at the full range of state support. Responsible commentators have argued that Attendance Allowance, Disability Living Allowance and the very large sums spent on NHS care in the last year of life need urgent review in their own right (Health Committee, 2009).

Question 2 – What is to be distributed?

Given the current complicated picture of social care services and funding, it is not immediately obvious what needs to be equalised to ensure fairness. One answer is to aim to equalise access to the resources that people require, which in practice means ensuring that the state will make up any funding shortfall among the less well off.

However, there is an important alternative, with echoes in the work of economist Amartya Sen (1992) and writers on the ethics of care (e.g. Held, 2006). They would argue for the need to seek to maximise the opportunities of vulnerable people, and of their carers, to be active participants in society – i.e. a much broader way of thinking about achieving equity and fairness. Money certainly matters, but it is a means to a broader social end.

By its nature, adult social care involves a complicated mix of formal and informal support, and financing by both individuals and the state. If the focus is on distributing financial and other resources, then arguably this misses the point. The aim is to maximise older people's capabilities to take part in human society as full and active citizens. This said, in practice careful thought is needed as to the best use of scarce public resources, and hence pounds and pennies.

Question 3 – What distributive principle should be used?

Once it has been decided what is being distributed, it is necessary to identify rules for distributing it. A number of philosophical traditions are of help here. Three have dominated the social policy debate in recent times: utilitarianism, John Rawls' theory of justice (1999, originally published in 1971), and Amartya Sen's notion of capabilities.

Utilitarianism rests on the idea that any given action should be judged on the basis of its contribution to the overall utility of a population. If one adds together individuals' utilities, or preferences, for a course of action then it is justified if the total benefits that accrue to a population are increased, and if not, then it is not. In Jeremy Bentham's phrase, it is the doctrine that: "Each [is] to count for one, and none for more than one". It also underpins the concept of cost-benefit analysis: that it is worth proceeding with a policy intervention if the public's assessment of the benefits of the intervention exceeds its assessment of the costs.

Utilitarianism can also help to assess fairness between generations, also known as intergenerational equity. The broad principle is that one generation should not take more out of the collective resource pool than it puts in. Auerbach et al. (1994) showed how current citizens may borrow from future generations by issuing debt. These future generations will have to pay higher taxes and consume less than if they were treated 'fairly'.

The weaknesses of utilitarianism have been debated over a long period. One problem is that it is difficult to make interpersonal comparisons. Another is that utilitarianism does not offer specific proposals about distribution: the focus is on maximising utility, rather than on the details of how it is distributed across a society. The benefits of some policy actions may exceed the costs, but the beneficiaries may be relatively rich while the losers are less well off.

In terms of intergenerational equity, it is easy to evaluate whether some generations are imposing unfair tax burdens on others, but more difficult to analyse the impact on equity of other forms of intergenerational transfer, such as bequests and care provision, which are both especially relevant for this study. That said, utilitarianism is important because it requires policy-makers to consider the trade-offs involved in any decisions they make – who wins, who loses and whether superior alternatives are available.

The second tradition centres on the work of John Rawls. He was particularly interested in the distribution of 'primary goods', which include income and wealth, liberty and self-respect. His 'difference principle' essentially stated that the ways in which any new resources are distributed across a society are justified if the distribution helps to improve the circumstances of the least well-off person in that society. Rawls stated that:

> The intuitive idea is that the social order is not to establish and secure the more attractive prospects of those better off unless doing so is to the advantage of those less fortunate. (Rawls, 1999, p. 65)

Furthermore, the distribution should be consistent with a 'just savings' principle and fair equality of opportunity (op cit, p. 266). In the context of this Viewpoint, the just savings principle refers to obligations to future generations, and might include developing an affordable social care system for people who will need it in the future. Clearly, this echoes the concept of intergenerational equity discussed above. Fair equality of opportunity expresses the concept that access to key resources should be assessed on the basis of merit or need, irrespective of income or geography. Note that these two ideas might have different policy implications. One leads to ensuring that the least well-off people receive the services and support they need in the long run, while the other focuses attention on equitable access at a particular point in time (such as the period of the next Comprehensive Spending Review).

It is important to stress that Rawls' ideas have been subject to extensive criticism (Kymlicka, 2004). For example, Sen (1992) made it clear that he admired Rawls' work, but took issue with Rawls' ideas about primary goods, arguing – as noted above – that a much broader conception of well-being should be used. Application of Rawls' ideas may also lead to issues of fairness in relation to those whose circumstances are only slightly better than the least well off in society. This is an especially important issue for long-term care. Nevertheless, even allowing for these important critiques, Rawls' ideas have been the starting point for many of the serious commentators on poverty, gender and other sources of inequality.

Sen's notion of *capabilities* shares many features with Rawls' arguments. Sen argued that one should decide between different social states by comparing the set of capabilities they provide to citizens. This takes the focus away from individual consumption towards the ability of individuals to lead a truly 'human' life: to exercise choices in a meaningful way. It places weight on the distribution of resources within society, a feature entirely absent from the utilitarian approach.

Martha Nussbaum (2000) provided a set of key capabilities to help to answer the question: "what activities characteristically performed by human beings are so central that they seem definitive of a life that is truly human?" These have become extremely important in the development literature and underlie the creation of the Human Development Index (HDI) by the United Nations Development Programme (see http://hdr.undp.org/en/mediacentre/news/title,15493,en.html). This index is used as a shorthand measure of the capabilities available to ordinary people in different countries and is widely viewed as a better shorthand indicator of the circumstances in which people live rather than the more utilitarian gross domestic product (GDP) per capita. Thus countries might have a high GDP per capita because of mineral wealth, but would score badly on the HDI if life expectancy were short or adult literacy low. Similar arguments can be made within the UK, for example about the importance of ensuring that people on lower incomes can participate fully in society (Hirsch et al 2009).

As far as is known, the notion of capabilities has never been specifically applied to assessing fairness in relation to long-term care policies. To start this process, some of Nussbaum's capabilities are listed below, with their particular relevance for older people:

1. Life. Being able to live to the end of a human life of normal length; not dying prematurely, or before one's life is so reduced as to be not worth living. Central to the dignity of older people.

2. Bodily health. Being able to have good health; to be adequately nourished; to have adequate shelter. Provides a reason to focus on health provision for older people, on the quality of the food they are able to access and on the suitability of their accommodation.

3. Bodily integrity. Being able to move freely from place to place; to be secure against violent assault. Need to support mobility for older people and to protect them from abuse.

4. Senses, imagination and thought. Being able to use the senses, to imagine, think and reason, and to do these things in a 'truly human' way. Being able to have pleasurable experiences and to avoid non-beneficial pain. Illustrates the need to provide stimulation for older people and to avoid inappropriate drug interventions.

5. Emotions. Being able to have attachments to things and people outside ourselves; to love those who love and care for us, and to grieve at their absence; not having one's emotional development blighted by fear and anxiety. Helps to focus on the provision of an environment in which older people can interact among themselves and with others.

6. Affiliation.

    1. Being able to live with and towards others, to recognise and show concern for other human

beings, to engage in various forms of social interaction; to be able to imagine the situation of another.

2 Having the social bases of self-respect and non-humiliation; being able to be treated as a dignified being whose worth is equal to that of others.

7. Control over one's environment.

1. Political. Being able to participate effectively in political choices that govern one's life, which would naturally include participation by older people in decisions that affect their lives.

2. Material. Being able to hold property (both land and movable goods), and having property rights on an equal basis with others; having the freedom from unwarranted search and seizure.

Clearly, material well-being is important, but the capabilities approach focuses on the significance of social interaction, health, longevity and freedom from malicious intent. Such issues are absent from the utilitarian approach, which is entirely unspecific about desirable characteristics of human existence.

Question 4 – What are the priorities?

Rawls highlighted the important point that fairness has a number of dimensions, including fair access to resources and fairness in the relationship between generations. The capabilities approach highlights the ability to be a positive participant in society. Both approaches help to frame notions of fairness in relation to long-term care policy.

It is difficult to argue that frail older people requiring long-term care in the UK have unfettered access to all the capabilities listed above. For them, for example, control over their environment is generally more restricted than for the majority of adults. In a world of scarce resources, some might argue that such limitations are unavoidable. In practice, it may be necessary to achieve a balance between them. And to do this, a framework is needed for identifying capabilities, and for considering priorities and trade-offs systematically.

The literature suggests that older people seeking care in England do not have general access to the capabilities listed above. Equitable access to capabilities might suggest the following operational principles:

- Access to care should be irrespective of income or geography.

- Application of rules should be uniform in means testing and other contexts (e.g. the Local Government Association's comments on the Fair Access to Care rules, 2009).

- Consistent funding arrangements between health and social care should exist, so that qualification for free care does not depend on local interpretations of whether a problem is primarily one of health or of social care (JRF, 1996; Royal Commission on Long Term Care, 1999).

- Funding arrangements should ensure a fair distribution of responsibilities between government and citizens.

- The extent to which one generation helps to fund care for another should be managed. This includes the problem of ensuring that any new proposals are affordable in the longer term.

- The roles of carers and families more generally should be monitored. Writers on the ethics of care and leading feminist writers (Kymlicka, 2004; Okin, 1989) have pointed out that none of the older philosophical traditions deals properly with justice within families.

There are two possible responses to this list. The first is to recognise that policy-makers and commentators down the years have not explicitly stated which dimension of fairness they were prioritising. The second is to rank the items, making preferences explicit. There is a proper political debate to be had here. More than one ranking could be defended, depending on one's broad philosophical position.

Question 5 – Who are the losers in the care lottery?

Before finalising an approach to prioritisation, it is necessary to develop one further important aspect of long-term care funding. Individuals' need for long-term care, like the need for health care, is both diverse and uncertain. Some individuals will hardly require any care during their lifetime, while others may need care for a number of years. Much of the unhappiness that the present system causes centres on the arbitrary way in which care needs and their associated costs affect some individuals but not others.

Contrast this with the NHS, which is effectively a large insurance system providing health care free at the point of delivery. The insurance premiums for this care are effectively paid through the tax system and largely reflect individuals' ability to pay. Thus, the burden of health care costs is distributed reasonably fairly across the population.

This is not the case with the care system. If people are classified as requiring long-term care within the NHS (continuing care), all of their care costs will be met. If the eligibility criteria are not met, then the expectation is that charges will be levied. These charges vary by the service required and according to the means of the client. They can also vary across local authorities because the authority to charge is vested in local authorities under the National Assistance Act 1948. Although attempts have been made to reduce disparities among local authorities, there is currently no legal obligation on them to align charges.

Of course, many frail elderly people are unable to pay for their care, as they do not have sufficient income or assets. Their care is paid for by local authorities and by the Department for Work and Pensions through the benefits system. But those who have even a modest amount of assets may have to pay the full costs of their care. Kent County Council's recently published guidance on residential care charging makes the position abundantly clear: "Where your total capital including your property is over £23,000 you will have to pay the full cost of your stay" (Kent County Council Adult Social Services, 2009). Most councils across the UK use similar charging regimes.

Thus, those who require long-term care and have a modest amount of capital (and almost all homeowners' capital exceeds £23,000) will rapidly deplete that capital in paying for their care. According to Saga, the average annual cost of a residential home placement in 2008 was £25,000 (Saga press release, December 2008).

So the structure of long-term care charges seems to undermine two of the capabilities cited above: 'control over one's environment', and 'emotions'. The first of these capabilities indicates that one's goods should be 'free from unwarranted seizure'. Whether older people lose or retain their assets effectively depends on whether they are unlucky in the care-needs lottery. There would be much more justice in sharing the risk of long-term care needs collectively in the same way that health care risks are collectively shared through the tax system. Risk sharing in this way could be vital in protecting individuals' rights.

The second capability threatened by the structure of long-term care funding is "emotions". This capability suggests that one's psychological state should not be "blighted by fear and anxiety". But this is exactly the effect that the funding of long-term care has on some older people. They cannot be sure what kind of care they may require; the complexity of the benefits and charging system perplexes them, and they worry that care costs will take away any savings they may have. Others run down their assets in order to receive state funding for their care, imposing additional burdens on the state. And clearly, those who retain their assets in order to pay for care see this practice as unfair.

In many instances, the market system provides insurance to cover risks associated with adverse events, like having to find accommodation in a residential home. If all adults had to pay for care insurance in the same way they pay for car insurance, the uncertainty associated with care costs would be removed. Drivers with car insurance do not need to worry about the cost of a replacement engine. They know that if an accident damages their engine, the insurance company will pay for the repairs.

However, the private sector has not found the long-term care insurance market profitable and has largely withdrawn (Johnstone, 2005). Some countries, including Germany and Japan, have added long-term care to the national social insurance or tax system. This provides citizens with assured care following assessment. Glendinning and Bell (2008) point out that: "most other developed countries have universal social care arrangements, accessible to all those with defined levels of care and support needs, regardless of income or age".

Priorities: the National Care Insurance Scheme

On the issue of priorities, consideration of how earlier proposals for long-term care funding measure up against the fairness criteria examined above provides useful context for the discussion of the Green Paper in the next section. In 1996, the Joseph Rowntree Foundation put forward an insurance-based scheme for universal care provision in the UK. The National Care Insurance Scheme (NCIS) proposed that National Insurance contributions should be increased by 1.5 per cent to cover the costs of long-term care. JRF argued that this would be sufficient to meet the costs of care over a lifetime for someone on average earnings. In 2009-10, increasing the Class 1 employee main National Insurance rate by 1.5 per cent would raise £5.6 billion.

Key proposals of the NCIS included:

1. Setting national entitlements for care provision. This would remove the 'postcode lottery' aspect of current arrangements, which is deeply disliked by those who feel that they are disadvantaged because the local authority in which they live is less generous.

2. An agreed universal assessment system – important for the transparency and equity of the scheme.

3. Means-tested charging for accommodation in residential and nursing homes. Although the logical corollary would be to put in place similar charges for hospital stays, JRF argued that this would not be cost-effective. Accommodation charges form a very large proportion of the total costs of care homes.

Laing (2008) suggested that accommodation charges (staff costs, excluding nurses and care staff, plus capital costs) account for around 65 per cent of the total costs of care, even in nursing homes.

4. Each person would have a contribution record that could be added to through Additional Voluntary Contributions. The scheme did not include a provision for the Government to make contributions for carers who might lose time in the labour market, though this would seem a sensible addition.

5. If a person did not have enough in their care fund to cover care costs, the Government would cover the shortfall. If a person did not have sufficient funds to meet their accommodation costs, they would be expected to make good the shortfall.

6. Re-examining the capital limits by which the means test for accommodation costs would be implemented. Alternative proposals were provided, for example by Hirsch (2005).

7. Privately paying residents of care homes should not be allowed to claim Attendance Allowance; this money should be allocated to meeting those care costs not covered by the NCIS.

How might these proposals be compared against the existing care funding scheme using the notions of fairness set out in this *Viewpoint*?

1. Both protect the least well off (Rawls' criterion) by providing free care to those without the means to pay. But the NCIS would provide much better outcomes for those with modest savings because the risk of losing their assets would be covered by the insurance aspect of the scheme.

2. The NCIS would reduce the anxiety suffered by prospective care users by removing the lottery aspects of care funding. It scores higher on the emotion aspect of capabilities.

3. If the NCIS fund is managed actuarially, the care costs of one generation would not impinge on the next (Rawls' just savings principle and intergenerational equity).

4. Neither approach fully insures against the possibility of having to sell assets to pay for care costs, as accommodation costs are not covered under either scheme. With the NCIS, any surplus contributions may be set against care costs, but if there is no surplus then asset sales may be inevitable. This might be interpreted as failing in respect of the 'control over one's environment' capability, though provision of a national Home Equity Loans scheme (Hirsch, 2006) to pay for accommodation costs would offset this risk.

The Green Paper

The Green Paper, *Shaping the future of care together,* was published in July 2009 (HM Government). This section assesses the Green Paper's proposals against the fairness criteria set out in this Viewpoint, in the same way that the previous section assessed the 1996 JRF proposals.

The Green Paper identifies six key characteristics of any future service: better prevention, consistent application of rules in assessing needs, more successfully 'joined-up' services, better information and advice on care and support options, more personalised care, and fair funding. The list confirms the Government's stance on adult social care and a range of other welfare policies; it has consistently argued for fairer, more personalised and more integrated services for the last ten years.

The Green Paper also identifies five funding options:

1. Individuals meet their own costs. This option is ruled out, in part because it would perpetuate many aspects of the current unfair arrangements.

2. A partnership approach, which would guarantee a minimum level of care for those least well off, with individuals and the state both contributing to the costs of any additional care and support.

3. An insurance model, which would also guarantee a minimum level of care, with any additional costs met through private or social insurance. Views were invited on the way in which individuals would fund the insurance element – it might be in instalments or in a lump sum, with contributions possible before or after retirement or in one's will.

4. A comprehensive system, perhaps better referred to as a compulsory insurance model.

5. A tax-funded system, which would put adult social care on NHS-like financial footings. This option is ruled out because it "places a heavy burden on people of working age" (p. 108).

This list offers important clues about the Government's thinking. Few would defend option 1, and there is no need to spend any time on it here. Option 5 is more interesting – it is essentially the 'NHS option' preferred by the Royal Commission on Long Term Care in 1999. The Government rejected the proposal in 2000, arguing that as the number of older people increased, the NHS option would become unaffordable. This decision also had the effect of ruling out JRF's proposal for an

NCIS, funded through increased National Insurance contributions. Today, the Government's position is the same. This is practical politics: the Government strongly criticised the Royal Commission at the time, and cannot be seen to make a U-turn. More positively, the Government is stating clearly that it does not want the care and support costs of one generation to be borne by the next, in effect taking a clear position on Rawls' just savings principle and intergenerational equity.

This stance contrasts with that in Germany, which imposes a payroll tax of 1.7 per cent to fund long-term care. The Green Paper makes the point that people over retirement age in the UK collectively hold more than £932 billion in housing assets. This seems to imply that housing equity is a potentially more equitable source of long-term care funding. In Germany, house prices have been falling in real terms for almost two decades and the rate of home ownership is much lower than in the UK. In effect, the UK has a funding option which can be justified in terms of the 'just savings' principle that is not available to the German authorities.

This leaves options 2, 3 and 4, which are closely related to one another. Option 2 identifies a partnership model, which is broadly similar to that set out in the Wanless report for the King's Fund in 2006. Everyone on a lower income is guaranteed the care and support they need. People on higher incomes would contribute according to their ability to pay, with the Government paying the difference on a sliding scale. Option 3 sets out insurance-based methods of paying for the partnership model, while option 4 is compulsory payment into a single national pot. It seems reasonable, therefore, to say that the Green Paper presents a single option, with key details still needing to be decided.

Question 1 – What is the scope of the reform programme?

The Green Paper claims to be radical, and may in time lead to a decisive break with current arrangements, which would justify the claim. But it is mainly confined to the funding and provision of social care. It does not review the feasibility of moving substantial sums of money from the NHS to social care, or propose forfeiting free bus travel and TV licences in favour of funding basic care and support. On the other hand, it partially explores whether existing relationships between central and local government provide the best framework for delivering long-term care (p. 21), and discusses options for a *part-national, part-local* or *fully national* system.

Under the *fully national* system, the onus is very much on national delivery and funding mechanisms. Local authorities would focus on provision: assessing clients and commissioning services. They would have no role in collecting resources to pay for care, through council tax or other mechanisms. Utilitarians would be uncomfortable with this approach, given their usual presumption that the willingness to pay for care differs across areas; this might be reflected in variations in tax rates or the availability of local schemes to insure against care needs.

The substantial delays in tackling adult social care policy suggest that this is a true 'once in a generation' chance for reform. It is therefore a matter of some regret that the net has not been cast more widely. Whatever the outcome of the Green Paper consultation, and the result of the next general election, the result may well be a situation where groups of individuals have free TV licences but cannot afford some of the care and support they need.

Question 2 – What is to be distributed?

This *Viewpoint* has argued that the focus has understandably been on the fair distribution of resources, including benefits and pensions, but that there should be more concern with promoting people's capabilities. It is disappointing that the Green Paper discusses the importance of improving the quality of people's lives and the volume and quality of care and support available, but does not show how any of the funding options would promote or undermine these.

There are two problems here. One is the lack of detail about the funding arrangements, a point discussed below. The other is that fairness – yet again – is not clearly defined. A number of sections in the Green Paper have 'fairness' in the heading, but do not discuss it at all, talking instead about spending money wisely (p. 61, pp. 85–6), which is really a statement about efficiency.

Fairness is also mentioned in relation to differences in the provision of services by local authorities (p. 42). The implication is that variations in levels of service provision across local authorities are widely perceived as unfair. If the majority view is that such variation in local authority provision is unacceptable because it is unfair. If this is the case, it is reasonable to question whether it is appropriate that local authorities should continue to play a key role in its delivery.

One possible justification for a continuing role for local authorities is that innovation at local authority level will help to discover "what works best and is best value for money in care and support" (p. 13). But this is an argument about the efficiency of local authorities, and not about the exercise of local democracy: it could equally apply to the NHS, which has a completely different governance structure.

A section headed "Unfairness in the current system" (pp. 96–7) is a little more illuminating. It mentions the need to use assets – including one's house and savings – to pay for care and accommodation, and the need to ensure that any future arrangements are affordable in the longer term. But the fairness issues at stake are not explained, nor how these issues might affect individuals' capabilities. The notion that accommodation costs might be drawn from someone's estate after they die (p. 20), while an improvement on the present system of contemporaneous payments, does not imply a 'fair' sharing of risk between those who require long-term care and those who do not.

Question 3 – What distributive principle should be used?

Given the absence of clear articulation of what the Government wants to equalise, it naturally follows that the Green Paper does not identify a distributive principle. However, it provides some useful clues. The partnership option would ensure that people on the lowest incomes will receive all the care and support they need (pp. 108–11). This could support Rawls' central principle: protecting the most vulnerable in society. There is discussion of personal budgets and the need to ensure that services are tailored to individuals' needs; this suggests recognition of the importance of promoting capabilities. It is also consistent with the utilitarian principle that individuals are the best judges of their own needs. The Green Paper makes the obvious link with Attendance Allowance (p. 103), which already exists as a form of personalised budget, but gives no clear message on how integration between personalised budgets and Attendance Allowance might be taken forward.

The proposals for 'national assessment' of needs – one of the six key characteristics of a future service – can be interpreted as a fairness criterion, and comments on the need for consistent application of rules in needs assessments run throughout the Green Paper. The Green Paper also recognises the crucial role of informal carers; this is an advance on the poverty of the long-term care debate in 1999 and 2000.

The policy prescription here is clear. The Green Paper contains a number of statements and claims about fairness, and it is possible to discern the outline of fairer funding arrangements. But the passages about fairness are dotted around the Green Paper, and do not reflect a consistent line of thought. An early task, therefore, is to organise the statements and claims into a single coherent framework and identify a distributive principle.

Question 4 – What are the priorities?

It seems that the Government is edging closer to a partnership funding model. This indicates that it is focused on protecting the least well off people in society and that its thinking is broadly utilitarian, because the funding options explore the extent to which people on different incomes will be able to pay for care, seeking the greatest good for the greatest number.

In practice, different funding models will help with several priorities at the same time. For example, if everyone pays into a single national insurance pot (option 4), it might be easier to ensure the consistent application of rules for qualifying for care and support, a clear demarcation of the boundary between the NHS and social care, and clarity for everyone about the amounts that the state and individuals would have to contribute. As an indication, under option 4, if a person wished to save to be able to make a £20,000 payment at age 65 into the collective care pot, starting at age 20, they would need to save just over £20 per month (assuming a real interest rate of 2.5 per cent). If, perhaps more realistically, a person started contributing at age 50, the monthly payment would be £92 per month. If instead a person did not save but used equity release at age 65 to raise the required £20,000, costs would be around £42 per month (assuming the same interest rate) until death, when the capital could be repaid.

As already stressed, however, the lack of clarity about objectives and a distributive principle mean that it is not possible to identify the Government's own rank order of priorities, or to be certain which funding model would help it to achieve its own top priorities.

Question 5 – Who are the losers in the care lottery?

The Green Paper provides average costs, but no details of the cost or value of the care and support that people in different income groups would receive. In particular, it does not identify a cut-off income below which the state would meet all care and support costs. It looks as if it would be higher than at present, but by how much is not known. It is not possible, as things stand, to come down in favour of a single option, because it is not clear who will win and who will lose, or by how much. Will the poorest households really get all the care and support they need? Will people whose income is just above the cut-off be able to pay their element of care and support costs?

However, the best of the analyses of the last few years can be drawn on to push the arguments a little further. As noted earlier, the available evidence and arguments would suggest rejecting private insurance, at least as a primary financing mechanism. Similarly, it is not obvious that a voluntary social insurance model would work, given the evidence that individuals – particularly those on lower and middling incomes – do not or cannot put aside money to increase their state pension pots. It is difficult to comment here on the proposals for paying lump sums, either before or after retirement; this needs further detailed analysis.

Tentatively, option 4 looks the most promising. JRF participated, with other organisations, in the Caring Choices consultations on the future of care funding (2008). This appears to have captured the perception, among many people, that an element of compulsion may well be necessary to ensure that the money is there to pay for care and support. If this view is correct, then option 4 would be preferred on fairness grounds. A large financial pot is needed to ensure that those who need the most care and support will receive it. Much of this is likely to be drawn from the equity in older people's houses, bearing in mind of course that not everyone has housing or other assets to draw upon. In terms of capabilities, option 4 clearly provides benefits over the status quo in relation to emotions, affiliations and control over one's environment.

Option 4 would guarantee that the least well-off people receive the care they need, and a partnership model could be used to ensure that everyone pays in according to ability to do so. It cannot be stressed enough, however, that detailed, costed proposals need to be seen in order to allow support for any particular funding model with confidence. Too many questions remain unanswered: for example, which if any of the proposals in the Green Paper protects the interests of informal carers? How do different versions of the partnership model compare in relation to promoting people's capabilities? Could a supplementary insurance scheme to cover accommodation costs be integrated with option 4? Will there be provision for local variation in the state insurance scheme, to take account of differences in costs and preferences at the local level?

Conclusion

This Viewpoint started by noting that the wind has changed, and that the widespread perception is that society is unfair in important ways (Reeves and Collins, 2009). The Green Paper picks up on this perception, and stresses the importance of finding new arrangements which are fair and seen to be fair. The partnership model, in whatever form it takes, looks as if it will be the vehicle of choice for navigating towards a fairer settlement.

The Green Paper moves the debate forward, but does not contain enough detail to determine that it will lead to radically better care and support. The need now is to identify a preferred funding model and show in detail how people on different incomes are likely to win or lose, working through the relationship between funding and fairness – in particular the extent to which people's capabilities will be enhanced. Only then will everyone be able to see, for the first time, exactly what the Government can be expected to pay and what people will have to pay for themselves. This is more, rather than less, important in a period of deteriorating public finances: if people need to pay more for care and support than envisaged a year ago, then they need to know.

There needs to be cross party consensus and the political will to make these changes happen. Better the certainty of bad news than the uncertainty of the current arrangements.

It is useful to reflect on the journey to the Green Paper. The 1996 Joseph Rowntree Foundation report *Meeting the costs of continuing care* considered many of the issues addressed in the Green Paper. It had to work out a preferred way of pooling the risks associated with the high costs of care and support in later life, and proposed a 'national solution'. The NCIS proposal differed from the partnership model mainly in the details of payment method. It advocated payment through enhanced National Insurance contributions rather than creating a funding pot separate from the tax and benefits systems. The way ahead is clear: detailed, costed proposals need to be seen, in order to debate the best way of ensuring a fair and lasting settlement.

About this paper

This paper was written by Justin Keen, Professor of Health Politics at the University of Leeds and David Bell, Professor of Economics at the University of Stirling. It continues the debate on reforming social care expressed in two previous JRF *Viewpoints*: Glendinning and Bell (2008) *Rethinking social care and support: what can England learn from other countries?* and Keen (2008) *Does anyone care about fairness in adult social care?*

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Published by the Joseph Rowntree Foundation, The Homestead, 40 Water End, York YO30 6WP. This project is part of the JRF's research and development programme. These views, however, are those of the authors and not necessarily those of the Foundation. ISSN 0958-3084

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