

Charges for residential accommodation

Response to the Consultation Paper from the Joseph Rowntree Foundation (JRF):

1. The Secretary of State has identified the shortcomings of the current charging system for residential accommodation. Research funded by the Joseph Rowntree Foundation confirms that there are considerable problems with the current arrangements at a number of different levels.
2. There is strong resistance from older people to the requirement to sell their homes in order to fund their care. A study carried out by Janet Askham and colleagues *To have and to hold. The bond between older people and the homes they own*, JRF 1999 found considerable resentment among owner occupiers about the possibility of having to sell their home. They felt they had worked hard to be a home-owner compared to renters who were often viewed as getting everything for nothing. They were not simply concerned with the issue of inheritance; their own identities were firmly entrenched as owner-occupiers.
3. There are problems in seeing housing equity as a source of funds for paying for care. The regulations require the value of a resident's property to be disregarded if a spouse; other relative over 60 or incapacitated; or a child under 16 continues to occupy it. The changes that are taking place in society are leading to situations where there are a wider range of people with an 'interest' in a house than was the case in the past. The Askham et al study found that the increasing numbers of adult step-children in society could lead to housing equity being shared between them and a widowed step-parent. This could reduce an individual's capacity to move and also lead to pressure being put upon them to go into institutional care to free up the equity.

There can also be people living in the house who do not fit into the current exemption categories. In the Askham *et al* study of the 86 different homes studied, 11 had adult children currently living there. Six appeared to have lived with their parents on a long-term basis (ie had not left home), three had returned as a result of a breakdown in their marriage, one as a result of ill health, and one with his wife and children largely for financial and housing reasons (p 34). Trying to extract housing equity to pay for care in these situations could cause considerable trauma to the individuals concerned and lead to the need for state support at some point in the future.

4. There is widespread failure to understand the capital limit rules by local authority employees and family caregivers alike. Research by Fay Wright, *Continuing to care. The effect on spouses and children of an older person's admission to a care home*,

JRF 1998 found that care managers may be just as confused as caregivers about how a couple's savings should be treated (p 61). Some respondents had personal experience of local authority treatment of property rights that contravened national guidelines. There were cases of local authorities successfully claiming the capital difference when a house was sold to move into smaller property. (p 60). Fay Wright makes the point that the financial complexity of the admission to a care home causes considerable confusion for relatives at a time when they are often anxious and stressed because their partner or parent is entering a home.

5. The difficulties of the current charging regime do not lie only with the rules on capital. Fay Wright's study also looked at the direct costs to spouses of their partner entering a residential or nursing home. She found that pensions were cut. A couple's state retirement pension was split in half and only since April 1996 has there been an occupational pension disregard. Some wives have had to claim income support which they found a devastating experience after a lifetime of paying their own way. In some cases husbands have always managed the financial affairs so wives find themselves at a particular disadvantage in having to take on these tasks at a time of emotional upheaval.
6. The fees paid to a care home are unlikely to meet all the costs that a resident will have. The adequacy or otherwise of the Personal Expense Allowance (PEA) is related to the fee charged by the home. In many cases it is insufficient to meet the costs of hairdressing, chiropody and clothing that residents need, let alone any 'treats'.
7. This research suggests that the problems surrounding charges for residential accommodation go wider than the issue of housing equity, despite the public perception that this is the main issue.
8. There is a temptation to seek a 'quick fix' to these problems, for example by raising the capital limit significantly. The Foundation has not funded any work that has looked at the implications of this, although I believe that some has been carried out. It is difficult to see how the current situation can be made to work better without a more radical reorientation of the system.
9. An important contextual matter to bear in mind when considering who pays for residential accommodation is the whole relationship between supply and demand. At the present time there is a shortfall of up to £100 per week between the fee offered by statutory services and the actual costs of placement in residential and nursing homes. But the fees paid by many social services departments are below the cost levels required by an efficient provider of good quality care. William Laing who is an expert on paying for care issues; carried out a study for the Foundation which was published in

1998 on [*A fair price for care? Disparities between market rates and state funding of residential care*](#) (York Publishing Services for JRF). For there to be sufficient places in residential and nursing homes to meet the need - or even the demand - then the fees paid for this accommodation by the State, either through the benefit system or by local authorities, will have to increase. In a study just published [*Preserved Rights: A Socially Excluded Minority*](#) William Laing points out that there are many thousands of older people locked into preserved rights and who are becoming increasingly financially distressed. Many residents on 'preserved rights' are having their fees topped up by relatives or charitable bodies. William Laing suggests that preserved rights be abolished and that all funding and care management responsibilities be transferred to local authorities.

10. The Foundation cannot offer any simple solutions to the difficulties outlined in the consultation document and we cannot therefore answer any of the points raised in paragraphs 10 and 11 of the document. The contribution that we have made to addressing concerns of charging and the wider issues of long-term care lies in the report of the Inquiry carried out by the JRF on [*Meeting the costs of continuing care*](#). The report of this Inquiry was published in 1996. Among the recommendations the Inquiry made was that there should be a national entitlement to an agreed level of good quality care and that the distinction between health and social care should be removed, at the point of delivery, so that both were provided without a means test.
11. The Inquiry recognised that there was a considerable shortfall in the funds that were needed to pay for these services. Rather than suggesting that these funds should come out of general taxation, it was proposed that a new partnership between the state and individuals should be created. A new compulsory, funded, insurance scheme would ensure that those with sufficient income put money into a fund to pay for their future care.
12. The Inquiry did, however, recommend the continuation of means-testing for the accommodation costs of residential and nursing homes at least until the insurance funds had become established. The basis for this view was that if those who entered residential or nursing homes had continued in their own accommodation, they would have incurred costs in terms of rent or maintenance and would have had to pay for their meals. The Inquiry's view was that means-testing the accommodation element alone would considerably reduce the burden on individuals entering homes and their families. But it would also be important to ensure that the means-testing arrangements were simple, clear and thought to be fair by a majority of the population.
13. It is worth remembering that residential care is not only used by older people. It was

one of the limitations of the Royal Commission on Residential Care, that only one of the twelve chapters was devoted to people under 65. There is a significant danger that policies developed exclusively around the concerns of older people, might have less positive repercussions for other groups; a past example of this would be the unhelpful impact of the Registered Homes Amendment Act on 'adult placements' (see Robinson and Simons, 1996. Findings Ref: [SC71](#)).

14. Indeed we have particular concerns about the impact any changes to charges regimes will have on services to people with learning disabilities. Although in absolute terms (there are somewhere around 60,000 people with learning disabilities in some form of supported accommodation), residential care looms large; estimates of the proportion registered as either residential or nursing care run as high as 75%. Unlike older people, many adults with learning disabilities currently spend a large proportion of their adult life in residential care. Again, unlike most UK citizens, the vast majority of people with learning disabilities remain economically inactive throughout their life cycle. They do not have the opportunity to build up the resources that other people may use to purchase their care. For the vast majority, the issues of charging will therefore be a question of how such a system interacts with welfare benefits.
15. A number of points suggest themselves. Most younger adults living in residential care will have minimal disposable income. The PEA currently stands at just £15.45 a week. Further, out of this, most residents will be expected to save for holidays and clothing. As a consequence, opportunities for social participation, along with resident's autonomy and independence, will inevitably be severely compromised by having so few resources. Research consistently points to the social exclusion of people with learning disabilities living in residential services (Simons, 1998. [Findings Ref: SCR728](#)). It seems likely that the current charging framework for residential care is one of the factors that contributes to this situation. Given that one of the Government's key policy aims is to promote and support independence, there would appear to be a strong case for rethinking this aspect of the charging system.
16. In particular, the current charging system very effectively limits the amount that most residents with learning disability can gain from paid work to the Income Support Disregard (currently £15, although targeted in the budget to rise to £20). Effectively residential care acts as the most acute form of the 'personal care' trap identified by Kestenbaum and Carva (1998. [Findings Ref: SCR7118](#)). As LAC (2000) 11 notes, local authorities do have the discretion to increase the PEA to encourage independence for younger residents, particularly those who might wish to take up paid employment. However, we are aware of very few who do this other than on a tiny scale. The current national review of services for people with learning disabilities has

already highlighted the lack of access to employment opportunities by people with learning disabilities, and we anticipate that the outcome of the review will see increased efforts to address the barriers that exclude people with learning disabilities from the workplace. Again, the need for 'joined-up Government ' would suggest the need to address this very acute disincentive. Inevitably, this will also involve addressing Income Support regulations at the same time.

17. The current over-reliance on residential care within learning disability services is clearly part of the problem. The Joseph Rowntree Foundation has already presented those involved in the strategic review of learning disability services with evidence suggesting that a more plural system of housing and support services are needed. Indeed, we note the consultation paper on proposed changes to the Residential Allowance and Preserved Rights may well be helpful in this direction. However, it is equally important that any changes to the residential care charging framework do not create new 'perverse' incentives in favour of residential care. In this sense, charging for residential care cannot be divorced from policies on charging for *all* community care services.