Building Back Better?
The Proposed Plans for Social Care Explained.

The government's document titled "Building Back Better: Our Plan for Health and Social Care" introduces the new Social Care funding system, broadly based on the findings of the Dilnot Commission of 2011.

Whether this plan will make a marked difference to those self-funding care will depend on two important pieces of currently missing information. The amount that government will pay for care and how they will divide care fees between care and 'hotel' costs, which cover food, laundry and accommodation. Hotel costs can be significant and are not included in the cap on care costs.

Section 46 of Building Back Better states that Local Authorities will pay a '*fair price of care'* [SIC] but gives no indication how much that might be. Care homes would generally agree that current rates are less than the cost of provision.

The new scheme sets out to achieve four goals (in the Government's own words)

a) *to introduce a cap on personal care costs;*
b) *to provide financial assistance to those without substantial assets;*
c) *to deliver wider support for the social care system, particularly our brilliant social care staff; and*
d) *to improve the integration of health and social care systems.*

Parts c and d are beyond our remit, but let's consider a and b in more detail.

The Cap on Personal Care Costs

If we return to 2011, the Dilnot Commission recommended a cap of £35,000 while Andrew Dilnot stated on page 20 of his report that only "*A minority of people would reach the level at which the state steps in*". David Cameron's government increased the cap to £72,000 and it is now proposed at £86,000.

The cap works like this; you are given a 'care account' and every pound that you spend on care is recorded. When your account reaches £86,000 you will receive "*A Care Package funded by the State*", which is not necessarily the same as having all the fees paid for care in your chosen care home.

This is how it might work for someone receiving care in a residential dementia care home, assuming today's figures. My examples are based on the Band C rates that apply around our Worthing head office locality, which is defined as being for people who require "Specialist Dementia Care (intensive/complex)". West Sussex sets its rate at £626 a week for such care.

In 2011, Dilnot suggested that hotel costs would be £10,000 a year. If we apply the same inflation rate that was elsewhere applied to the cap, these would now be £12,000, or £230 a week.

Therefore, every week that you pay for your own care, £396 will be applied to your care account (that is £626 care fee less the £230 hotel cost). Taking no account of any inflation, either in care fees, hotel costs or the cap, this means that it will take 217 weeks before you reach the cap, which is four years and two months.

At that point you will receive "A Care Package funded by the State", which is likely to be the same £396 a week that was added to the care account.

If we assume that your income is £230 a week, your care fees are fully covered, and the cap has done its job. That's the theory so now let's now look at a more realistic example.

Section 43 states that '*once the £86,000 cap is reached, Local Authorities will pay for all eligible personal care costs. No-one will need to make a contribution from their income towards these care costs. People may choose to "top up" their care costs by paying the difference towards a more expensive service, but this will not count towards the cap'*. This appears to accept that the care costs covered by the cap and the allowance for hotel costs will only cover a basic level of care.

I am not aware of a local care home where you can buy specialist dementia care for £626 a week. The starting point is around £1,000, but you would be more likely to choose one charging at least £1,200. This means that for every week you stay in care you are paying a top up of £574, so after 217 weeks when the cap kicks in you will have spent an extra £124,558, in addition to the £86,000 cap giving a total spend of £210,558.

If the '*fair price of care'* is more realistic, the cap could be a genuine benefit, unless hotel costs are set at a higher level than I have assumed. The example given by the Government shows the cap being reached after three years and four months.

Financial Assistance to those without Substantial Assets

The key change here is the definition of 'Substantial Assets'. For the past decade this has been frozen at £23,250 but from October 2023 this will rise to £100,000 and the lower limit will rise from £14,250 to £20,000.

Section 43 also states '*If a person's total assets are between £20,000 and £100,000, their Local Authority is likely to fund some of their care. People will be expected to contribute towards the cost of their care from their income, but if that is not sufficient, they will contribute no more than 20 per cent of their chargeable assets per year. If by contributing towards care costs, the value of a person's remaining assets falls below £20,000, then they would continue to pay a contribution from their income but nothing further from their assets*'.

This sounds as though the current 'tariff income' provisions will continue to apply. The difference between the upper and lower limits is £80,000 so in year one the 20% contribution would be £16,000.

Let's take our example above to calculate how this might work in practice. Here we will assume that the person moves into care with £100,000 of assets, so the cap will not apply.

Under the present system, you are not allowed to make a 'first person top up' when you reach the upper funding limit. This means that you can only buy care at the local authority funding limit. A third party, such as a family member can choose to top up your care.

In this example the local authority would find a care home that would accept their £626 a week fee. They will charge you all your £230 weekly income except for the personal expenses allowance, which is £25 a week, so you will contribute £205 a week. You will also contribute £16,000 a year or £307 a week. Therefore, of the care fee of £626 a week, you will be paying £512, and the Local Authority will be paying £114.

At the end of the year your assets will be £64,000 above the £20,000 lower limit, so your contribution at 20% will be £12,800 or £246 a week, so the Local Authority will pay £175 a week.

Where this becomes interesting is if your income is a little higher, say £20,000 a year. Now your weekly contribution after personal expenses is £359, plus the £307 tariff income, giving £666 a week, so you would potentially be worse off by claiming from the local authority; I suspect that as '*you will pay no more than 20% of your assets'*, you would only contribute £267 a week from your assets so that the full £626 care fee is covered, with the Local Authority paying nothing. You would still benefit from being a Local Authority funded resident and so have access to their buying power.

Whether this will work will come down to whether the industry and the government can agree a fair rate for care. With current rates I suspect that care providers will be reluctant to accept making a loss on residents that still have £100,000 of assets. If they can break even, or even make a modest profit they may accept this. There will always be a fair number of homes that will only accept their published fees and people may be reluctant to claim at £100,000, if it means they leave their chosen home.

Other Thoughts

<u>Home Care</u>

Care at home is increasingly popular but the report barely mentions it, other than to say that your property remains disregarded if you are receiving care there. This is likely to mean that people funding care at home are unable to access the low-cost borrowing offered by local authorities under the Deferred Payments Agreement.

Local Authorities will usually assess people for a maximum for four care visits a day at home, with care above this, needing to be provided in a residential care home setting. It is likely that contributions to a care account will be based on the equivalent of a care home amount or four care visits a day.

This is a wasted opportunity. Many people would like to fund care at home using the value in their homes. This omission condemns them to continuing to use commercial lending schemes which potentially negatively affect benefit entitlements.

<u>Section 40</u>

"We will also tackle persistent unfairness in the social care system. Under the current system, people who fund their own care often pay more than people who are funded through their Local Authority for equivalent care. For the first time, using legislation included in the 2014 Care Act, we will ensure that self-funders are able to ask their Local Authority to arrange their care for them so that they can find better value care".

This is an acknowledgement of a problem that has persisted for years. Imagine a care home that has 20 residents and needs to charge each resident £1,000 a week to be viable. If one person runs out of money they have a difficult choice. They can either ask that resident to leave, or they can accept Local Authority rates for that person (let's assume £626 a week again) and charge each of the remaining residents an extra

£20 a week or £1,040 a year. Now we effectively have a system where the local authority is being subsidised by those that are privately funding their care.

Self-funders will be able to ask the Local Authority to arrange their care, but will care homes accept local authority rates for people who have assets? Will Local Authorities pay a fair rate for care that is recognised by the care industry?

Attendance Allowance

Under the present system when someone is privately funding their care, providing they require 24-hour a day help, they are entitled to Attendance Allowance at the higher rate of £89.60 a week or £4,659 a year. This non-means tested benefit ceases when funding from a Local Authority commences so, unless the rules change, it would be lost when your assets reach £100,000. There is no indication whether it will be lost when you reach the care cap, but under today's rules, '*a Care Package funded by the Local Authority*' would mean this benefit would cease.

Complexity

The new scheme is potentially even more complex than the one that it replaces. I have avoided discussing in detail parts of the existing scheme that are likely to continue such as Attendance Allowance, NHS Funded Nursing, the Deferred Payments Agreement and Continuing Healthcare.

The care cap will create its own new bureaucracy. Currently, depending on the locality, only between a third and a half of people moving into care require an assessment from Social Services of their care needs.

In future, every person who feels that they may need qualifying care will request an assessment, and if they fail the assessment this time, they will want another as soon as their condition changes. Once someone is assessed as needing care, the Local Authority must decide how much of that care expenditure qualifies towards the care cap. Every penny of that expenditure will then need to be recorded and an ongoing total monitored.

This will be a huge additional task for Local Authorities. Based on experience and the above figures it is likely that a good proportion of this effort will be entirely wasted as those people will never qualify for the benefit from the care cap.

Summary

The new care arrangements may provide some additional benefit to self-funders that benefit from longevity. However, the Prime Minister promised that the scheme would prevent people needing to sell their homes to fund care and, unless the hotel rates remain low and care fee rates are more generous than expected, this is unlikely to be the case.

The complexity of the scheme means that the cost of explaining and administering it will be enormous and may ultimately be greater than the benefits paid out to care residents. Unless responsibility for care funding is moved from Local Authorities, the system I have described will need to be replicated across all 24 county councils and 128 unitary authorities in England.

Overall, a system that attempted to meet the care costs of everyone by reforming the Attendance Allowance benefit to cover residential care would seem to be a less costly method of helping everyone. This could be coupled with the higher £100,000 funding limit and a fair price of care, meaning that those whose money expired could remain resident in their chosen homes in most circumstances.

Assessing property for care, whether at home or in a care home would mean that everyone would be treated the same regardless of where they received their care. People would have access to the Deferred Payments Agreement for funding care at home and would also contribute to the cost of the scheme. Currently someone with a multi-million pound property can qualify for state funded care visits at home, whilst a person in residential care with a £150,000 flat is required to pay.

Overall, whilst the higher £100,000 upper funding limit is welcome, the new arrangements otherwise do not necessarily offer value for money and have the potential to increase unfairness with benefits going to the wealthy, whilst those with less may find themselves in a similar situation to where they are now.

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