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Social care: forthcoming Green Paper (England)

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Summary

This House of Commons Library briefing paper looks at the forthcoming Green Paper on social care for adults, whose publication has been further delayed – it will now be published "at the earliest opportunity".

In the March 2017 Budget, the Conservative Government said that it would publish a Green Paper on social care, in order to allow a public consultation to be held. This followed its decision in July 2015 to defer the introduction of a cap on lifetime social care charges and a more generous means-test that had been proposed by the "Dilnot Commission" and accepted in principle by the then Coalition Government – these changes have since been postponed indefinitely.

During the subsequent 2017 General Election campaign, the Conservative Party made a manifesto commitment to introduce the Green Paper and also made a number of pledges regarding how individuals pay for their social care.

The publication of the Green Paper has been delayed several times: it was originally due to published in "summer 2017". The latest position is that it will be published "at the earliest opportunity", although the Health and Social Care Secretary had previously said in January 2019 that he "certainly intend[ed] for [publication] to happen before April [2019]". According to media reports, the most recent delays are attributed to the Government concentrating on Brexit and also a lack of clarity and detail about the proposals to be included in the Green Paper.

The original rationale for the Green Paper was to explore the issue of how social care is funded by recipients, and a number of policy ideas have reportedly been under consideration for inclusion in the Green Paper including:

- a more generous means-test;
- a cap on lifetime social care charges;
- an insurance and contribution model;
- a Care ISA; and
- tax-free withdrawals from pension pots.

Other topics that the Government have said will be included are integration with health and other services, carers, workforce, and technological developments, among others. The Government will also consider domestic and international comparisons as part of the preparation for the Green Paper.

Social care is a devolved matter. This note relates to England only.

A list of other Library briefings on social care can be found at the end of this note.

1. Timeline of key events

- March 2017 – in his Budget Statement, the Chancellor of the Exchequer announced there would be a social care Green Paper. The then Health Minister stated that it would be published in the summer of that year;
- May 2017 – in its General Election manifesto, the Conservative Party committed to publishing the Green Paper;
- June 2017 – after the election of a minority Conservative Government, the Queen's Speech stated that the Government would "work to improve social care and bring forward proposals for consultation";
- July 2017 – in regard to social care reform, the Government said: "we cannot wait any longer – we need to get on with this" and said that the Green Paper would be published "at the end of this year";
- November 2017 – the Government stated that the Green Paper would be published by the parliamentary summer recess in 2018 (end-July 2018) and would "focus on care for older people". A "parallel programme of work" would consider issues specific to working-age adults with care needs;
- December 2017 – the Government announced that the cap on social care would not be introduced in April 2020 (having previously been deferred from April 2016) but did not set a new implementation date;
- January 2018 – lead responsibility for the Green Paper transferred from the Cabinet Office to the renamed Department of Health and Social Care (DHSC);
- March 2018 – the then Health and Social Care Secretary, Jeremy Hunt, set out the seven principles that would "guide the Government's thinking ahead of the social care green paper";
- June 2018 – Mr Hunt announced a further delay in the publication of the Green Paper to the "autumn" of 2018;
- July 2018 – Matt Hancock appointed Health and Social Care Secretary;
- October 2018 – the Government reverted to a single social care Green Paper for all adults, dropping the "parallel programme" for working age adults. The timescale for its publication is tweaked by Mr Hancock to "before the end of the year";
- December 2018 – the Government stated that publication will occur "at the earliest opportunity";
- January 2019 – Mr Hancock told the House that he "intends" for the Green Paper to be published "by April";
- April 2019 – the Daily Mail reported that there is "no prospect" of publication "until Brexit is resolved" according to a "Whitehall insider", while there are other reports of a lack of detail about the possible proposals for inclusion. The Government repeats that publication will occur "at the earliest opportunity".

2. What to expect from the Green Paper

It might be reasonably expected that the Green Paper will be a comprehensive and thorough assessment of how recipients pay for their social care, and also considers in detail other important factors relevant to a new, sustainable, funding model.

The Green Paper is not the first time the issue of social care funding has been considered by or on behalf of the Government: the Commission on the Funding of Care and Support chaired by Sir Andrew Dilnot (and known as the "Dilnot Commission") undertook a comprehensive year-long study which was published in July 2011 and included not only key principles – such as a cap on lifetime social care charges – but also recommended parameters for them. Some ten years earlier, the Royal Commission on long-term care had considered the same issues.

Having been announced in March 2017, the Green Paper's gestation period is already over two years which presumably should have allowed sufficient time for the development and finessing of ideas. This compares to the time from inception to reporting of the "Dilnot Commission" (12 months) and the Royal Commission (15 months).[1]

It might be expected that the Green Paper will build upon these previous in-depth studies, and perhaps will include matters such as:

- new, and perhaps radical, solutions to the issue of social care funding as well as an assessment of existing approaches;
- detailed information about proposals (rather than high-level principles) and their likely effect across the population e.g. inter-generational, income groups;
- a roadmap to implementation with a detailed timetable;
- a number of scenarios influenced by variables such as demographics and technology;
- the impact on social care markets, as most social care is currently provided by the private sector (see section 6)

The publication of the Green Paper will presumably provide a clearer idea of the financial support individuals might be entitled to in the future – and how they can start planning their own finances for that. Social care providers will also appreciate the move towards a resolution of this important issue and thereby be able to better plan (and invest) accordingly.

However, the Green Paper will only be a consultation, and further clarification of the Government's policy intent will have to wait until it publishes its response to the consultation.

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[1] The Government has not said how much preparation work for the Green Paper has cost; when asked to provide this information, it replied that a calculation of the cost "could only be obtained at disproportionate cost" [PQ 222754 21 February 2019]

3. Background and announcement

As the then Minister responsible for the Green Paper, Damian Green, told the House in November 2017, "reform of this vital sector [of care and support for older people] has been a controversial issue for many years, but the realities of an ageing society mean that we must reach a sustainable settlement for the long-term".[2]

Box 1: How do people pay for social care at present?

While the NHS is mostly free at the point of use (except e.g. dentistry, prescriptions for some groups), this is not the case for social care, something that many do not realise until they, or a relative or friend, need social care.

A means-test is applied to determine if someone requiring social care support is eligible for local authority funding support.

At present, care home residents with capital (which may include the value of their home) below £23,250 are eligible for such support and even then they have to contribute their income (and some of their capital if in excess of £14,250) towards the cost on an ongoing basis.

For those receiving social care in other settings, such as at home, local authorities can establish their own frameworks for charging (if they decide to charge) which must be at least as generous as the care home means-test. A key difference is that the value of a person's home is always excluded (or "disregarded") from the domiciliary care means-test.

There is no limit to the amount an individual can spend on social care funding during their lifetime, which can lead to "catastrophic" social care bills of tens of thousands of pounds for some people.

However, if someone qualifies for NHS Continuing Healthcare because their needs are primarily health-related, then both their health *and* social care costs are met in full by the NHS without any financial contribution required from the person receiving the care at the point of use.

Further information can be found in the Library briefing papers Social care: paying for care home places and domiciliary care (England) and NHS Continuing Healthcare in England.

Since 1997, there have been a number of Government reviews of social care and how it is funded (see box 2), most recently the "Commission on the Funding of Care and Support" chaired by Sir Andrew Dilnot.[3] The Commission proposed a cap on lifetime social care costs and a more generous means-test, among other measures, which the then Coalition Government accepted in principle (although it revised the details of the Commission's proposals).[4]

The *Care Act 2014* laid the legislative foundations for the new approach, but in July 2015 the newly-elected Conservative Government announced that the introduction of the cap and more generous means-test, as well as some other reforms, would be postponed from April

2 HCWS258 16 November 2017

3 See the Library briefing paper, Social care: Government reviews and policy proposals for paying for care since 1997 (England).

4 See the Library briefing papers, Social care: Announcements delaying the introduction of funding reforms (including the cap) (England) and Social care: how the postponed changes to paying for care, including the cap, would have worked (England).

2016 to April 2020 (this April 2020 date was itself dropped in December 2017 and no new date set).[5, 6]

In his March 2017 Budget Statement, the Chancellor of the Exchequer, Philip Hammond, announced that "the Government will set out their thinking on the options for the future financing of social care in a Green Paper later this year".[7]

The Budget "Red Book", published by HM Treasury, added further details on the rationale for the Green Paper:

> In the longer term, the government is committed to establishing a fair and more sustainable basis for adult social care, in the face of the future demographic challenges set out in the OBR's [Office for Budget Responsibility] Fiscal Sustainability Report. The government will set out proposals in a green paper to put the system on a more secure and sustainable long term footing.[8]

Box 2: Social care Green Paper: haven't we been here before?

The Government's announcement that it would publish a Green Paper to consult on the future of social care funding is not the first attempt by it to address this topic in recent years:

- 1999 – Government-appointed Royal Commission publishes its proposals – including a more generous means-test and free personal and nursing care – which were only accepted in part in England by the then Labour Government;
- 2009 – Labour Government's Green Paper proposes a National Care Service, and a subsequent White Paper proposes the introduction of a two-year cap on social care charges initially, followed by free social care after 2015;
- 2011 – Commission on the Funding of Care and Support, set up by the Coalition Government, proposes a cap on lifetime social care charges and a more generous means-test;
- 2014 – Coalition Government legislates to implement the Commission's recommendations with cross-party support, but in July 2015 the newly-elected Conservative Government postpones their introduction from April 2016 citing funding pressures and a lack of preparedness by local authorities,[9] and in 2017 further postpones (indefinitely) their coming into force.[10]

In addition, there have been a number of other studies into the funding of social care; for more information, see the Library briefing paper, Social care: Government reviews and policy proposals for paying for care since 1997 (England).

During the 2017 General Election campaign, the Conservative Party made a number of pledges regarding how individuals pay for social care,[11] and said that they would honour the commitment they had made in the March 2017 Budget to publish a Green Paper:

> An efficient elderly care system which provides dignity is not merely a function of money. So our forthcoming green paper will

5 HC Deb 7 December 2017 c1235

6 While the introduction of the cap has been postponed pending the publication of the Green Paper and the outcome of the consultation, the Government has yet to clarify the timetable for the introduction of the more generous means-test which was part of its response to the Dilnot Commission, which the now Department of Health and Social Care has previously said was also due to be introduced in April 2020 [Email to the House of Commons Library from Department of Health officials, 21 July 2015].

7 HC Deb 8 March 2017 c818

8 HM Treasury, Spring Budget 2017, HC1025 2016-17, 8 March 2017, p47, para 5.6

9 HLWS135 17 July 2015

10 See the Library briefing paper, Social care: Announcements delaying the introduction of funding reforms (including the cap) (England).

11 See the Library briefing paper, Social care: the Conservative Party's 2017 General Election pledges on how individuals pay for care (England).

> also address system-wide issues to improve the quality of care and reduce variation in practice. This will ensure the care system works better with the NHS to reduce unnecessary and unhealthy hospital stays and delayed transfers of care, and provide better quality assurance within the care sector.[12]

The first Queen's Speech of the current Parliament stated that: "My Ministers will work to improve social care and will bring forward proposals for consultation".[13]

Box 3: What is a Green Paper?

Green papers are consultation documents produced by the Government. The aim of this type of document is to allow people to give the department feedback on its policy or legislative proposals. They are often followed by a Government response to the consultation – sometimes in the form of a White Paper – setting out the next steps. It can be the case that legislation, such as an Act of Parliament, is required to implement changes.

12 Conservative Party, The Conservative and Unionist Party Manifesto 2017 – Forward, Together: Our Plan for a Stronger Britain and a Prosperous Future, May 2017, p65

13 HL Deb 21 June 2017 c6 and 10 Downing Street, The Queen's Speech and Associated Background Briefing, on the Occasion of the Opening of Parliament on Wednesday 21 June 2017, 21 June 2017, p58

4. The principles guiding the Government's thinking

In a speech on 20 March 2018, the then Health and Social Care Secretary, Jeremy Hunt, outlined "the seven key principles that will guide our thinking ahead of the Green Paper", namely:

- quality and safety embedded in service provision
- whole-person, integrated care with the NHS and social care systems operating as one
- the highest possible control given to those receiving support
- a valued workforce
- better practical support for families and carers
- a sustainable funding model for social care supported by a diverse, vibrant and stable market
- greater security for all – for those born or developing a care need early in life and for those entering old age who do not know what their future care needs may be.[14]

Mr Hunt added that "innovation is going to be central to all of these principles: we will not succeed unless the changes we establish embrace the changes in technology and medicine that are profoundly reshaping our world".

The former Health and Social Care Secretary concluded his speech by saying:

> By reforming the system in line with these principles everyone – whatever their age – can be confident in our care and support system. Confident that they will have control, confident that they will have quality care and confident that they will get the support they need from wider society.[15]

The new Health and Social Care Secretary, Matt Hancock, reaffirmed the seven principles during a debate on social care in October 2018, and told the House: "those will be the principles behind the Green Paper, and I hope that we can build cross-party support for it".[16]

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14 Department of Health and Social Care, We need to do better on social care, speech, 20 March 2018
15 As above
16 HC Deb 17 October 2018 c737

5. How should individuals pay for social care?

5.1 The central purpose of the Green Paper

Notwithstanding the broad menu of issues that the Government has said that the Green Paper will cover (see section 7), the original rationale for a social care Green Paper was solely that the funding of social care should be explored.

When the Government announced that it would publish a Green Paper on social care in March 2017, the Chancellor of the Exchequer told the House simply that the Government would "set out their thinking on the options for the future financing of social care in a Green Paper".[17] The Government subsequently added that "the consultation [Green Paper] is looking primarily at the funding situation".[18]

The Chancellor has since acknowledged that the Green Paper would set out "the choices, some of them difficult, for making our social care system sustainable into the future".[19]

Given that, at the time of the Chancellor's announcement, the Government had already deferred until April 2020 (since indefinitely postponed) the introduction of the lifetime cap on social care charges and significantly more generous means-test that the 2011 report of the Dilnot Commission had recommended (and the then Government had agreed to and legislated for), it seems clear that a central intention of the Green Paper is to fill the policy lacuna that the policy deferral created.

5.2 The balance between individuals paying for social care and taxpayer support, and the forthcoming Spending Review

At present, individuals are ineligible for social care funding support until they meet the relevant means-test criteria (see Box 1 on page 7). Once they do, then local authority funded support – paid for by the taxpayer – helps to meet the cost of care.

In terms of the role of the taxpayer looking ahead, the Health and Social Care Secretary said that "we cannot rely only on the taxpayer to support the growing cost" of social care. He added that "some people propose the answer that the taxpayer should simply fund everything, but I do not think that that is a valid solution".[20]

The Government has also said that "reforms must be affordable and fair across the generations, including to working-age taxpayers".[21]

17 HC Deb 8 March 2017 c818
18 HL Deb 10 October 2017 c113
19 HC Deb 29 October 2018 c657
20 HC Deb 17 October 2018 c737
21 HL Deb 16 October 2018 c391

While the Green Paper is expected to consider possible reforms as to how individuals pay for social care, the issue of taxpayer-funded support is a matter for the forthcoming Spending Review.[22] It is not clear how the Green Paper will address the important issue of the role of the taxpayer if it is published before the outcome of the Spending Review 2019 is announced (for which a date has also yet to be determined).

5.3 What matters should be considered?

In addressing how individuals fund their social care and the pros and cons of various options, a number of issues will presumably need to considered in the Green Paper including:

- cost – a key factor in why previous proposals have fallen,[23] it will be important for options to be fully costed, perhaps against a range of different parameters (e.g. different levels of a lifetime social care cap, if so proposed);
- risk-pooling[24] – to what extent will the proposals pool risk, and will risks be pooled across the population or within specific groups?;
- catastrophic care costs – some people require intensive social care support over an extended period (an event which cannot always be foreseen), leading to a rapid depletion of their capital: will the proposals address this issue?;
- individual contributions versus taxpayer contributions – where should the balance lie between the two, and should this vary across e.g. income brackets or age;
- social care versus other costs – should solutions cover only personal social care costs or other matters such as "hotel costs" (for those residing in a care home), and should they cover all or only a certain percentage of any care costs arising;
- encouraging saving for social care – what can be done to encourage people to plan ahead in case they require social care;
- inter-generational fairness – where will the burden of funding fall, especially in the early years of the scheme as it is being established;
- retrospectivity – how will any new proposals apply to those currently receiving social care, or people already approaching an age where social care is likely to be needed;
- application to younger adults – will any proposals differentiate between those adults who are younger and therefore had less opportunity to save for their social care;

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22 PQ 213300 31 January 2019

23 For example, when the Government decided in July 2015 to postpone the implementation of the life time social care cap and more generous means-test, one reason cited was that "a time of consolidation is not the right moment to be implementing expensive new commitments such as this" [HLWS135 17 July 2015]

24 More commonly referred to in reference to insurance, where a group of individuals at risk of suffering significant financial hardship from an unexpected event (such as the catastrophic costs of needing intensive and/or prolonged social care in this case) pay premiums and can make a claim if the event occurs:

- interaction with NHS funding support – currently, if someone's needs are primarily health-related, they are eligible for NHS Continuing Healthcare (CHC) meaning all their costs, including a care home place, are provided free at the point of use: will this change?

5.4 Reported proposals under consideration for inclusion

The Health and Social Care Secretary told the House that the Green Paper would "bring forward a range of ideas to address the long-term challenge" of funding social care.[25]

From information provided by the Government and also in media reports of the pre-publication discussions that the Department of Health and Social Care has undertaken with interested parties, it appears that there a number of proposals as to how individuals fund their social care that are being considered for inclusion in the Green Paper.

A more generous means-test

At present, someone requiring social care is only eligible for local authority funding support towards the cost if:

- for care home residents, they have assets below £23,250 (which may include the value of their home);
- for people in other settings, if they have assets below the limit set by their local authority (which cannot be lower than £23,250). The value of their home is always excluded from the means-test.

The figure of £23,250 has remained unchanged since April 2010, although both the 1999 Royal Commission and the 2011 "Dilnot Commission" both recommended introducing a significantly more generous means-test.[26]

During the 2017 General Election, the Conservative Party's manifesto proposed "three connected measures" to reform the social care means-test, including revising the means-test upwards to £100,000:

> First, … the value of the family home will be taken into account along with other assets and income, whether care is provided at home, or in a residential or nursing care home.
>
> Second, to ensure this is fair, we will introduce a single capital floor, set at £100,000 […]
>
> Third, we will extend the current freedom to defer payments for residential care to those receiving care at home, so no-one will have to sell their home in their lifetime to pay for care.[27]

Given that these were manifesto pledges, it would be expected for the Government to include them in the Green Paper.

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25 HC Deb 17 October 2018 c736

26 For more information, see the Library briefing paper Social care: Government reviews and policy proposals for paying for care since 1997 (England).

27 Conservative Party, Forward, Together – Our Plan for a Stronger Britain and a Prosperous Future, May 2017, p65

Cap on lifetime social care charges

Brief background on past pledges to introduce the cap

The Dilnot Commission recommended – and the then Coalition Government accepted – that there should be a cap on lifetime social care charges. Legislation was passed for its introduction in the Care Act 2014, and the Coalition Government stated that it would be brought into force in April 2016 at the level of £72,000.

However, shortly after its election the Conservative Government announced in July 2015 that, contrary to its manifesto pledge to implement the cap in April 2016, its introduction would be "deferred" until April 2020 (but did not specify at what level the cap would set).

In December 2017, the Government said that the April 2020 implementation date would not occur either but did not state a new date, so effectively postponing its introduction infinitely .

The Conservative Party's position during 2017 General Election campaign

In its manifesto for the 2017 General Election, the Conservative Party's manifesto did include a more generous social care means-test, but made no pledge to introduce a cap on lifetime social care charges. Indeed, the manifesto appeared to reject the idea of a cap that the Dilnot Commission has proposed, saying that its proposals were "more equitable, within and across the generations, than the proposals following the Dilnot Report, which mostly benefited a small number of wealthier people".[28]

During an interview on BBC Radio 4's "Today" programme on the morning of the manifesto's launch, the then Health Secretary, Jeremy Hunt, was asked about the cap and was perhaps more explicit, stating: "not only are we dropping it [the cap] but we are dropping it ahead of a General Election and we're being completely explicit in our manifesto that we're dropping it".[29]

Less than a week after the manifesto's launch, the Prime Minister stated that the cap had not been dropped. Mrs May said that an "absolute limit" – widely interpreted as meaning a cap – on how much people would have to pay for social care would be included in the social care Green Paper, but did not state what level the cap would be set at:

> This manifesto says that we will come forward with a consultation paper, a government green paper.
>
> And that consultation will include an absolute limit on the amount people have to pay for their care costs.
>
> So let me reiterate.
>
> We are proposing the right funding model for social care. We will make sure nobody has to sell their family home to pay for care. We will make sure there's an absolute limit on what people need to pay. And you will never have to go below £100,000 of your savings, so you will always have something to pass on to your

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28 Conservative Party, Forward, Together – Our Plan for a Stronger Britain and a Prosperous Future, May 2017, p65

29 BBC Radio 4, Today, 18 May 2017 (at 2:15:11)

> family … I think it is the right way forward because it is the right way to deal with this problem that we all face and we need to deal with it now.[30]

Recent Government statements on the inclusion of a proposal for a cap in the Green Paper

- November 2017 – "we will consult on options which will include a capital floor [i.e. means-test] and an absolute limit [i.e. cap] on the amount people who can be asked to pay, and are keen to hear different views on the cap, both its level and design";[31]
- January 2018 – "the Government has committed to publishing a Green Paper … This will include consulting on a limit on the care costs that individuals face";[32]
- March 2018 – it was reported that the then Health and Social Care Secretary, Jeremy Hunt, when "asked directly if … there would be a cap on what any individual had to pay, replied: 'Yes.'".[33]

Reported disagreement within Government about whether to include a proposal for a cap in the Green Paper

On 22 February 2019, the Daily Telegraph reported that there was a disagreement between the Prime Minister and the Health and Social Care Secretary as to whether the Green Paper should include a proposal for a cap on lifetime social care charges.

The Telegraph reported that:

> Theresa May has been warned by her Health [and Social Care] Secretary that plans for a £100,000 care cap will cost billions and lead to significant tax rises". Mr Hancock reportedly told the Prime Minister that "he is 'concerned' that the cap, which he says could cost up to £3.4billion, is being included in a forthcoming green paper … [and] it 'confers a significant benefit to the well-off at the expense of the general taxpayer', adding that 'raising taxes is likely to be the most promising choice to fund this'.

The Telegraph observed that Mr Hancock's "stark warning highlights the scale of the divisions at the highest level Government over its social care policy".[34]

Insurance and contribution model

In October 2018, the Health and Social Care Secretary told the House that he was "attracted" to an "insurance and contribution model" for paying for social care by individuals, and added "there are many different potential details in how such a model can be delivered".[35]

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30 Welsh Conservatives, Theresa May: Speech at the Welsh Conservative Manifesto Launch, 22 May 2017; Q&A available online at: https://www.youtube.com/watch?v=8GMsk7f3_3o

31 PQ 110250 7 November 2017

32 PQ 125114 30 January 2018

33 "Jeremy Hunt confirms individual costs for social care to be capped", *The Guardian*, 20 March 2018

34 Daily Telegraph, Exclusive: Theresa May warned plans for £100,000 cap on care costs will require significant tax rises, 22 February 2019 [subscription required]

35 HC Deb 17 October 2018 c737

His comments followed the publication in June 2018 of a joint select committee report, "Long-term funding of adult social care". The committees in particular highlighted models of "social insurance systems" in Germany and Japan.

The committees recommended that "an earmarked contribution, described as a 'Social Care Premium', should be introduced, to which individuals and employers should contribute. This can either be as an addition to National Insurance, or through a separate mechanism similar to the German model".[36] The committees proposed that this "Social Care Premium" should be paid by anyone over 40 years of age and that "specific consideration should be given to setting a minimum earnings threshold for the Social Care Premium".

The Government has yet to publish its formal response to the committees' conclusions and recommendations, as would normally be expected, contending that it would be "premature" to do so before the Green Paper was published.[37]

However, during a debate on the report on the Floor of the House, a member of the Housing, Communities and Local Government Committee asked the Health and Social Care Secretary about the "social-insurance recommendation", saying: "will the Secretary of State agree at least to consider the proposals and recommendations that were delivered on a unanimous cross-party basis?". In response, Mr Hancock told the House:

> Yes, absolutely. I am considering them. In fact, I shall go further and say that I am attracted to the insurance and contribution model. There are many different potential details in how such a model can be delivered, but I am very much taking that Select Committee report into consideration as we draft the Green Paper.[38]

On the same day as Mr Hancock was making his comments in the Commons, an answer given to the Lords to a written parliamentary question (about the cap) stated that:

> The Green Paper will bring forward ideas for including an element of risk pooling in the system, which will help to protect people from the unpredictability of care costs. An updated impact assessment and any relevant costings will be provided as part of the Green Paper publication.[39]

The term "risk pooling" in this context could mean providing insurance to individuals (in full or In part) against the risk of catastrophic lifetime social care charges.

The development of a social care insurance scheme could involve the public or private sector (or both). However, in terms of the private

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36 Health and Social Care and Housing, Communities and Local Government Committees, Long-term funding of adult social care, 2017–19 HC 768, 26 June 2018, p44, para 94

37 Department of Health and Social Care, Letter to the Chairs of the Housing, Communities and Local Government Committee and Health and Social Care Committee, 5 September 2018, p1

38 HC Deb 17 October 2018 c737

39 PQ HL10494 17 October 2018

sector's involvement in such an insurance scheme, Legal & General, described as one of the UK's leading financial services companies, "warned that insurance is not the way to solve Britain's growing care crisis" according to a Financial Times (FT) report published in December 2018.

The FT reported that Legal & General's chief executive, Nigel Wilson, had said: "we are not trying to create long-term care insurance, which has been tried in the US and failed".[40]

Furthermore, as part of the Government's planning to introduce a cap on lifetime social care charges in April 2016, it would have created "a supporting private insurance market". When it announced that the cap would be deferred, one reason cited by the Government was that "there are no indications the private insurance market will develop as expected".[41]

Care Individual Savings Account (Care ISA)

The Daily Telegraph reported in August 2018 that "the Government is considering launching a 'Care Isa' which would be exempt from inheritance tax, in an effort to solve the country's social care crisis". The features of the Care ISA were reported to include that:

- it would be "capped to reflect care costs";
- "any amount unspent could be passed on to the holder's family when they die … exempt from Inheritance Tax [IHT]".[42]

However, it was reported in the FT Adviser that, in response to the Telegraph's article, financial service providers had said that "introducing a Care Isa could prove costly as uptake may be too small to prove a significant business opportunity".

The article noted that the Care ISA "could prove too niche", given "not many people end up paying inheritance tax", "pensions already allow members to save for care", and "a mere quarter of people need to pay for care". It was also noted that LEBC Group, an independent financial advisory company, had "warned the majority of Isas were held in cash, which would not withstand the rising cost of care and rate of inflation".[43]

The Chair of the Health and Social Care Select Committee, Sarah Wollaston, tweeted that the reported Care ISA "won't solve the care crisis at all". She contended that under the proposals:

> There is no pooling of risk. It only 'solves' it for a small minority of wealthy people who can afford to invest and whose families

40 "Insurance is not the answer for UK social care woes, says insurer", Financial Times, 28 December 2018 (subscription required)
41 HLWS135 17 July 2015
42 "'Care Isa' exempt from inheritance tax may be launched by government in bid to solve social care crisis", Daily Telegraph, 18 August 2018
43 "Providers see no business case for Care Isa", FT Adviser, 21 August 2018

> benefit from paying lower tax on their inheritance if not used for care.[44]

The Association of Accounting Technicians (AAT) highlighted that "the 'free of inheritance tax' selling point" of the reported Care ISA was "very misleading given ISAs have been free of inheritance tax since 6 April 2015 (for spouses and civil partners)". The AAT added that:

> ISA savers have been permitted to make use of the ISA benefits that their deceased spouse or civil partner had built up in any ISAs they had, if they passed away on or after 3 December 2014.
>
> This is designed to enable married ISA savers, or those in a civil partnership, to inherit their partners tax-advantaged savings (Cash ISA, Stocks & Shares ISA or Innovative Finance ISA) when their partner dies. Protecting the savings of the 150,000 married ISA holders who die every year. So, the announcement that this new Care ISA would be exempt from inheritance tax is somewhat underwhelming.

and observed that:

> With regard to the creation of yet another ISA, Association of Accounting Technicians (AAT) has long highlighted that there is now an ISA for every day of the week and that they need simplifying and rationalising rather than increasing.[45]

It was also reported by FT Adviser that research by the Just Group had found that "the average amount of savings accumulated in a Care Isa would not be enough to pay for residential care in later life". Its research found that while "the average stay in a care home was 130 weeks", the average ISA holder "has not built up enough to pay for even a single year of care", despite ISAs being introduced some 20 years ago. It added that "it's difficult to imagine how a new Care Isa could suddenly spark the dramatic shift in savings that will be needed to meet these potentially huge residential care bills in the future".[46]

In an opinion piece in the FT Adviser, Kelly Greig of Irwin Mitchell Private Wealth noted that while the idea of a Care ISA had attracted some criticism, "it is at least an idea which may have some attractions. It is not true to say that only wealthy people have Isas and so, asking people to pay into an Isa which they can control and which gives a potential IHT saving on their death, may be palatable".

However, Mr Greig went on to say that "as ever, the devil is in the detail", including for example "how much could be transferred into such a product", "whether access could be obtained for other purposes", "what care would be included" and also "when would it be able to be used". She also noted that "married couples will soon have a £1m allowance for IHT on death; IHT planning is, therefore, somewhat

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44 Twitter, Sarah Wollaston MP, 18 August 2018 3.15pm; see also "Government's 'care Isa' plan dismissed by Tory health committee chair", The Guardian, 19 August 2018

45 Email from the Association of Accounting Technicians to the House of Commons Library, 20 August 2018

46 "Savings from Care Isa 'won't be enough' to fund care bills", FT Adviser, 9 October 2018

irrelevant when assets get below this level, and yet this is still a level at which an individual would have to pay for their own care".[47]

Tax-free withdrawals from pension pots

In February 2018, the Daily Mail reported that "pensioners could be given a tax break to pay for their own care under plans being considered by the Treasury. Officials are weighing up a move to allow tax-free withdrawals from retirement savings to solve the care funding crisis, the Mail understands". The article noted that "insurance premiums would be taken directly from pension pots under rules that allow over-55s to dip into their retirement savings".

The money withdrawn would have to be used to buy "a care insurance policy that would pay out if they needed care later in life".

Royal London, which the Daily Mail cited as having proposed this approach, reportedly said that "its plan will work only if insurers launch new policies priced at around £100 a month".[48]

Given the issues around the development of a wide-scale social care insurance market by the private sector (see above), this could affect the success of this policy.

5.5 New funding proposals and the wider care market

In considering the most appropriate funding model for social care, one important consideration will be the state of the care market – both for domiciliary care and care provided in a residential or nursing home setting.

The Government has said that the Green Paper will "have to consider the shape of the market and making sure that the whole system is put on a sustainable basis for the future".[49] Indeed, one of the seven principles that are "guiding the Government's thinking" ahead of the Green Paper is: "a sustainable funding model for social care supported by a diverse, vibrant and stable market".[50]

This issue is considered in more detail in the next section.

47 "Is the Care Isa missing the point?", FT Adviser, 4 September 2018
48 "Pensioners may get tax break to pay for care", Daily Mail, 19 February 2018
49 HL Deb 10 October 2017 c113
50 Department of Health and Social Care, We need to do better on social care, speech, 20 March 2018

6. Uncertainty about funding and the social care market

Social care providers have two types of clients:

- those in receipt of local authority funding support towards the cost[51] (as they meet the means-test criteria);
- self-funders who pay for their care in full, and tend to pay more on average (see box 4).

A marked shift in the equilibrium between self-funders and local authority funded clients could have profound implications for many social care providers.

Box 4: Self-funders tend to pay higher rates

A November 2017 Competition and Markets Authority (CMA) report found that, for the care home market, self-funders are charged on average 41% more than clients receiving local authority funding support for the same level of service.[52] Social care providers tend to "cross-subsidise" the two groups,[53] because local authorities can negotiate lower fees because they have much more purchasing power than an individual self-funder and can negotiate rates close to cost.[54]

Should there be a significant increase in the proportion of clients in receipt of local authority funding support relative to self-funders (for example through a significantly more generous means-test), then some providers could find many of their self-funded clients – who as noted above typically pay more – suddenly becoming eligible for local authority funding support. This could mean that revenue for the provider drops suddenly (assuming no change in the funding rates paid by local authorities). LaingBuisson have termed this risk "payor shift".[55]

To the social care sector, the forthcoming Green Paper appears to present a high likelihood of the payor shift risk crystallising, which could have a high impact for some social care providers (especially those that rely on cross-subsidisation of their clients). This appears to be the case given the nature of the ideas that are reportedly being mooted for

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51 Even when someone meets the means-test and so is eligible for local authority funding support, they are still required to pay all of the income towards the cost less any "disregarded income" and also less the weekly Personal Expenses Allowance (care home residents) or Minimum Income Guarantee (other social care recipients). For more information, see the Library briefing paper Social care: paying for care home places and domiciliary care (England).

52 Competition and Markets Authority, Care homes market study – Final report, November 2017, p40, para 2.40

53 This is because local authorities has monopsony purchasing power – one buyer, many sellers (due to the fragmented nature of the social care market). In contrast, an individual self-funder lacks such negotiating power. Some providers with a mix of clients charge self-funders more to compensate for the lower fees paid for their local authority supported clients, which is known as "cross-subsidisation".

54 Care homes, for example, are able to charge "third party top-ups" where the rate of local authority funding support is not sufficient to meet the stated fee level. The charging of such top-ups reduces or eliminates the financial cost of taking clients eligible for local authority funding support, but third party top-ups but not be an option for all clients.

55 LaingBuisson, Care Homes for Older People – UK Market Report (29th edition), July 2018, p129

inclusion in the Green Paper (see section 5) and also the backdrop of a general political consensus that people should receive more support with social care funding.

Further, the longer the Green Paper takes to be published, the longer the uncertainty persists for the social care market. As the CMA noted in its November 2017 on the care home market, while "significant reforms" were needed for it to be stable and, in the future, to grow, it added that even if such reforms were put into place:

> unless there is greater confidence in future revenues, investors will not be attracted to build the capacity needed.
>
> […]
>
> The government has stated it will publish a green paper on care and support for older people by summer 2018 [since revised to "at the earliest opportunity"]. Decisions on the future of policy on social care for the elderly are essential. The uncertainty on future funding policies and frameworks means that the sector will further struggle to attract the investment needed to build the capacity required.[56]

It is worth noting that when the CMA published its report, it had been only eight months since the Government had announced in March 2017 it would publish the Green Paper. It is now 26 months and counting, and given the Green Paper will only be a consultation when it is eventually published, it may be many more months, or even years, yet before social care providers have a clear picture of the key social care funding policies affecting their businesses in the long-term.

Also, the Green Paper will be published against a backdrop of earlier reviews that have not been implemented,[57] something that is likely to dent confidence in a long-term resolution being implemented this time round.

As such, social care providers have faced, and continue to face, an extended period of considerable uncertainty. This is likely to hinder investment, as the CMA noted.

A good example of its impact might be the fact that the "Big Four" care home groups – which account for 14% of all beds – are all currently up for sale.[58] Three of the four (HC-One, Barchester and Care UK) have been on sale for around a year now, while the creditors of the fourth – the heavily indebted Four Seasons Health Care Group – launched a sales process in January 2019, and in April 2019 placed the two companies holding the Group's debt into administration.[59]

Any potential bidder for one of the Big Four – or for that matter any social care provider – might be deterred by the lack of certainty and

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56 Competition and Markets Authority, Care homes market study – Final report, 30 November 2017, p18, paras 57 and 60

57 For more information, see the Library briefing paper Social care: Government reviews and policy proposals for paying for care since 1997 (England).

58 As of 30 April 2019, see "Care home operator Four Seasons appoints administrators", Financial Times, 30 April 2019

59 See the Library briefing paper, Four Seasons Health Care Group – financial difficulties and safeguards for clients.

information about how the issue of social care funding will be settled. And even if they are not, their financial backers are likely to consider it a significant risk that could result in a premium being placed on any loan (e.g. a higher interest rate), should they decide to lend at all.

Given the financial pressures social care providers already face from the local authority fees they receive, the absence of sufficient investment risks destabilising the sector and increasing the chance of provider failure.

Box 5: The current financial state of social care providers in general

An important factor in a social care provider's business model is likely to be selecting the mix of self-funders to local authority supported clients (although local socio-economic factors will also be of relevance).

Those social care providers with a business model based on a greater share of clients in receipt of local authority funding support, especially those with significant debts, are already struggling to be profitable.[60] For the care home market, the consultants LaingBuisson note that there has been a "decline in [the] underlying profitability of the major care home groups with high exposure to state paid fees" since around 2010.[61]

Similarly, in the domiciliary care market, LaingBuisson noted that "the profitability of homecare providers with a high exposure to public sector funding has collapsed".[62]

In contrast, for some businesses with a greater proportion of self-funding clients – who typically pay more for the same level of service than those clients receiving local authority funding support[63] – the picture has been relatively more rosy recently; for care homes, LaingBuisson described the outlook as "eminently sustainable".[64]

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60 For example, in December 2017 the creditors (led by H/2 Capital Partners) of the Four Seasons Health Care Group – the UK's second biggest care home provider – took effective of the Group. In addition, Allied Healthcare, described as "one of Britain's largest domiciliary care providers" was "sold just weeks after the care regulator warned it was on the brink of bankruptcy and may have to cease providing services". ["Four Seasons closer to control by biggest creditor", Financial Times, 7 February 2018 and "British home care group saved by last-ditch sale", Financial Times, 30 November 2018]. For more information, see the Library briefing paper, Four Seasons Health Care Group – financial difficulties and safeguards for clients.

61 LaingBuisson, Care Homes for Older People – UK Market Report (29th edition), July 2018, p109

62 LaingBuisson, Homecare and Support Living – UK Market Report (2nd edition), April 2018, p84

63 This is because local authorities has monopsony purchasing power – one buyer, many sellers (due to the fragmented nature of the social care market). In contrast, an individual self-funder lacks such negotiating power. Some providers with a mix of clients charge self-funders more to compensate for the lower fees paid for their local authority supported clients, which is known as "cross-subsidisation".

64 LaingBuisson, Care Homes for Older People – UK Market Report (29th edition), July 2018, p109 and p124; LaingBuisson, Homecare and Support Living – UK Market Report (2nd edition), April 2018, p84

7. Confirmed contents of the Green Paper

The Government has said that the Green Paper will look at social care more broadly, and not just how individuals have to pay for it:

> To achieve reform where previous attempts have failed, we must look more broadly than social care services alone, and not focus narrowly on questions of means-testing, important though these are.[65]

To date, the Government has confirmed that the Green Paper on social care for older people will cover the following issues in addition to the central issue of how individuals pay for social care (see section 5):

- the Competition and Markets Authority's (CMA) care home market report published on 30 November 2017[66] – in March 2018 the Government published its response to the report,[67] and stated that the Green Paper would "take forward" the issues raised by the CMA;[68]
- market stabilisation – the former Health and Social Care Secretary said that this was "one of the key parts" of the Green Paper that the DHSC was working on, adding that "we have seen a number of care homes go under … Our particular concern is … people in the advanced stages of dementia who might not be able to get the care that they want. This is a key focus of our work";[69]
- market shaping and capacity – the DHSC said that the Green Paper will "consider the fundamental issues facing the care system, including the future sustainability of the market, capacity planning and market shaping responsibilities", which are currently the responsibility of local authorities as set out in the Care Act 2014;[70]
- integration of health and social care – the Government said the Green Paper "naturally needs to look particularly at the interaction between health and social care".[71] In October 2017, Mr Hancock told the House: "I agree … that we need to make sure we get more funding and better integration between the healthcare and social care systems";[72]
- holistic and person-centred – "the whole purpose of having a Green Paper and a debate is to make sure that we consider this issue not in a silo, but holistically [e.g. with housing], with a person-centred approach";[73]

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65 HCWS258 16 November 2017
66 Competition and Markets Authority, Care homes market study, webpage updated 22 March 2018
67 Department of Health and Social Care, CMA care homes market study: government response, 5 March 2018
68 PQ 116913 5 December 2017 and Department of Health and Social Care, CMA care homes market study: government response, 5 March 2018, p7, para 2.9
69 HC Deb 6 February 2018 c1348
70 PQ 143779 17 May 2018
71 HL Deb 16 March 2017 c1950
72 HC Deb 17 October 2018 c735
73 HC Deb 7 December 2017 c1239 and PQ 126945 9 February 2018

- housing – the Government has said that "housing will be a crucial part of considerations for reform of care and support", adding "we intend to set out proposals for existing, new, and specialised housing, to ensure people can live in a 'safe and suitable' home, for as long as possible".[74] The former Health and Social Care Secretary said that the Green Paper will have a "significant chapter on housing";[75]
- the role of carers – "the Green Paper will include a focus on unpaid care and how our society supports carers as a vital part of a sustainable health and social care system".[76] The Government said that it was "committed to making sure that the issues raised with us through the call for evidence on carers [i.e. the "Carers strategy: call for evidence"] in 2016 are central to any proposals for the wider social care system" in the Green Paper.[77, 78, 79] The Government has said that "the call for evidence was launched in preparation for a Carers Strategy. The announcement of a Green Paper on Care and Support for Older People presents an opportunity for a more fundamental approach to tackling the challenges carers face, by considering them alongside our strategy for social care".[80] In June 2018, it published its response to the call for evidence and the Carers Action Plan 2018-20, and in October 2018 the Health and Social Care Secretary told the House that "the Green Paper will go further and propose how society can strengthen support for carers as a vital part of a sustainable health and social care system";[81]
- workforce – in response to the question, "what assessment his Department has made of the effect of the UK leaving the EU on the availability of non-UK EU nationals to work in the social care sector", the Parliamentary Under-Secretary for the then Department of Health said "we are aware that our challenge … is to ensure the [adult social care] workforce has the right number of people … with the right skills … That is why we have set out a plan to attract and retain talented staff, backed by an additional £2 billion investment in the sector over the next three years and a commitment to publishing a Green Paper by summer 2018, setting out proposals for reform to ensure sustainability in social care in the long term".[82] In addition, it said that "the results of the consultation … on the draft Health and Social Care Workforce Strategy … will inform both the final strategy and the Green Paper on care and support for older people, both due later this year".[83] In March 2019, the Government said that the Green

74 PQ 152243 19 June 2018
75 HC Deb 8 May 2018 c519
76 PQ 112788 21 November 2017
77 HC Deb 7 December 2017 c1236
78 GOV.UK, *Carers strategy: call for evidence, closed consultation*, accessed on 10 April 2019
79 In June 2018, the Government published the Carers Action Plan 2018 – 2020, which it said was "a staging post between now and the intention to introduce fully fledged policy proposals [in the social care Green Paper] in due course" [HL Deb 7 December 2017 c1200, see also p8 of the Action Plan].
80 Department of Health and Social Care, How can we improve support for carers? – Government response to the 2016 carers call for evidence, June 2018, p5
81 HC Deb 17 October 2018 c737
82 PQ 902945 14 December 2017
83 PQ 142452 14 May 2018

Paper would include "a vision for [the social care] workforce and proposals to boost recruitment and retention in the longer term";[84]

- the links between care for older people and children – Mr Hancock said in October 2018: "the Green Paper will … look at … how we can combine a home with high-quality care, and at the links between the care of children and of the elderly. I have seen how such links can benefit both groups, helping children's development and tackling the scourge of loneliness that elderly people too often face";[85]
- social isolation and loneliness – in response to a parliamentary question on this topic, the Government said that the Green Paper "will set out a number of proposals to help older people live healthier, longer, and more independent lives";[86]
- technological developments – "our vision for care … must consider how care is provided at present and challenge the system to embrace new technology, innovation and workforce models which can deliver better quality and value";[87]
- preference towards domiciliary care – Lord O'Shaughnessy said that "what everybody wants—the cared-for person and those looking after them—is to stay in their homes and remain independent for as long as possible, which is why so much more care must be delivered in the home";[88]
- domestic and international comparisons – "international comparisons of different funding systems are being actively explored in preparation for the Green Paper"[89] – it will also include a review of social care policies in the other nations of the UK.[90] Mr Hunt said that "we need to look at models from all over the world and learn from the progress that has been made, although I think it is also fair to say that I do not think that anyone has really cracked this to their own satisfaction. I still think that everyone is wrestling with this huge challenge of the growth in older people".[91]

84 PQ 225454 5 March 2019
85 HC Deb 30 October 2018 c802
86 PQ 154719 21 June 2017
87 HCWS258 16 November 2017 and PQ 126945 9 February 2018
88 HL Deb 16 October 2018 c393
89 PQ 119650 19 December 2017
90 HC Deb 7 December 2017 c1240
91 Health Committee, The Work of the Secretary of State, HC 523 2017–2019, 23 January 2018, Q167

8. A Green Paper for all adults

The Green Paper will cover all adults – this seemed to be the case implicitly when the Green Paper was first announced, but during its development the Government announced that it would focus on care for older people, with a separate "parallel programme" of work for working age adults taking place (although not necessarily resulting in a Green Paper for this group). The position has now reverted to a single Green Paper for all adults.

Given that total public funding for social care for working age adults is the same as for those adults aged over 65 (see Box 4), it could be argued that a Green Paper that focused on over-65s would have been an incomplete analysis of the adult social care funding landscape.

Box 6: Total public social care funding for working age adults is the same as for those aged over-65

As the Institute for Fiscal Studies (IFS) and The Health Foundation have noted:

> While much of the public discussion about the organisation and funding of social care centres upon care for individuals in old age, publicly funded social care is used by individuals of all ages and, in fact, only a minority goes on those aged 65 and over. Social care spending on children amounted to £9.9 billion (32% of the total). The remaining £21.2 billion was spent on adults, with approximately half of this spent on individuals aged 65 and over.
>
> […]

Recipients of care under the age of 65 tend to have higher costs than individuals aged 65 and over. As a result, there are more recipients at older ages even though the costs are split equally. For example, in England, adults aged 18–64 represented 33% of adult social care recipients but accounted for half of all spending on adult social care.[92]

When the Government initially announced the social care Green Paper in March 2017, it was stated that it would address social care for adults – with no distinction made on the basis of age.

In November 2017, however, the Government announced that the Green Paper would "focus on care for older people" although it added that "many of the issues and questions about the sustainability of the care system will be relevant to adults of all ages". Therefore:

> To ensure that issues specific to working-age adults with care needs are considered in their own right, the Government will take forward a parallel programme of work which is being led jointly by the Department of Health [now the Department of Health and Social Care] and the Department for Communities and Local Government [now the Ministry of Housing, Communities and Local Government], which will focus on this group.[93]

Further information on the "parallel programme" looking at working-age adults was provided by the Parliamentary Under-Secretary for State at the Department of Health, Jackie Doyle-Price in December 2017;

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92 Institute for Fiscal Studies and The Health Foundation, Securing the future: funding health and social care to the 2030s, May 2018, p11 and footnote 15

93 HCWS258 16 November 2017

replying to a point made by the Shadow Minister for Mental Health and Social Care, Barbara Keeley, the Minister said:

> On working-age adults, the hon. [honourable] Lady is right to some extent in that there are some common issues in the adult social care system that affect both care for the elderly and care for working-age adults, and those common issues will be considered as part of the Green Paper process. At the same time, however, we are going through massive change in how we deal with people with disabilities. We have the very brave ambition of getting more and more people into work and we are on a journey of getting people with learning disabilities out of long-term residential care and into work in the community, and that brings a separate set of challenges. That work will go on in parallel, but the work on the Green Paper will look at the common issues as well as at the specific area of care for the elderly. I hope that gives her some reassurance. We cannot look at this in a silo … Care for the elderly and care for working-age adults face very distinct challenges, and I do not think we should diminish either constituency by grouping them all together.[94]

Ms Doyle-Price's equivalent in the House of Lords, Lord O'Shaughnessy, added that while there would be "a parallel programme for working age adults … it is of course separate from social care for older people".[95]

In May 2018 the Government said "the Green Paper will inevitably cover a range of issues that are common to all adults with care and support needs, whether older people or those of working age".[96]

In terms of taking forward work on the parallel programme, in January 2018 the Government said that it was "developing plans for engaging stakeholders in this work" and that it would "ensure that the views of people who use social care services, including disabled working-age adults, closely inform this work as it progresses".[97]

The Government did not state in what form the outcomes of its parallel programme for working age adults would be published, and made no commitment to publish a social care Green Paper for working-age adults.

However, in October 2018, the Government stated that the Green Paper would cover all adults – both of working age and over retirement age. Lord O'Shaughnessy told the House of Lords that:

> One thing I can tell the House is that the Green Paper we will publish this year will deal with adults of not only retirement age but working age. Those were two separate streams that were working in parallel, but they will be contained within the same Green Paper.[98]

94 HC Deb 7 December 2017 c1239
95 HL Deb 7 December 2017 c1201
96 PQ HL7419 14 May 2018
97 PQ HL4545 22 January 2018
98 HL Deb 16 October 2018 c392

9. Collaboration in developing the Green Paper

9.1 Cross-departmental involvement and input from independent experts

Development of the Green Paper is being overseen by an "Inter-Ministerial Group … and as part of this initial engagement we have asked a number of independent experts in this area to provide their views to the group".[99]

As of November 2017, the make-up of the Group included Ministers drawn from: the Cabinet Office; HM Treasury; and the Departments of Health (now Health and Social Care); Communities and Local Government (now the Ministry of Housing, Communities and Local Government, or MHCLG); Work and Pensions; and Business, Energy and Industrial Strategy.[100]

The list of the independent experts supporting the Group (as of November 2017) is:

- Caroline Abrahams – Charity Director of Age UK
- Dame Kate Barker – former Chair of the King's Fund Commission on the Future of Health and Social Care in England
- Sir David Behan – Chief Executive of Care Quality Commission
- Dr Eileen Burns – President of the British Geriatrics Society
- Professor Paul Burstow – Chair of the Social Care Institute for Excellence
- Jules Constantinou – President-elect of the Institute and Faculty of Actuaries
- Sir Andrew Dilnot – former Chair of the Commission on the Funding of Care and Support
- Baroness Martha Lane Fox – Founder and Executive Chair of Doteveryone
- Mike Parish – Chief Executive of Care UK
- David Pearson – former President of the Association of Directors of Adult Social Services and Corporate Director for Social Care, Health and Public Protection at Nottinghamshire County Council
- Imelda Redmond – National Director of Healthwatch England
- Nigel Wilson – Chief Executive of Legal and General.[101]

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99 HCWS258 16 November 2017
100 PQ 110250 7 November 2017
101 GOV.UK, Government to set out proposals to reform care and support, press release, 16 November 2017

Lord O'Shaughnessy assured Peers that "experts will be fully engaged in the Green Paper, providing advice to Ministers and supporting engagement. There is no point in having such an august group and not drawing on their expertise".[102]

9.2 Consultation with stakeholders and users

As part of the development of the Green Paper, the Government said in December 2017 that it was:

> starting a process of initial engagement over the coming months through which the Government will work with experts, stakeholders and users to shape the long-term reforms that will be proposed in the Green Paper … We are … engaging closely with key stakeholders, and with people who use services and their carers. The Government will host a number of roundtables to hear a range of perspectives from those representing different constituencies, including carers, service recipients, providers, health services, financial services providers, local government, and working-age adults.
>
> […]
>
> We have already written to the chairs of relevant all-party parliamentary groups to invite them to meet us to discuss their priorities and perspectives on reform.[103]

The Government noted that the voluntary sector would also be "closely involved".[104]

In May 2018, the Government said that:

> In developing the Social Care Green Paper, the Government is taking the time needed to debate the many complex issues and listen to the perspectives of experts and care users, in order to build consensus around reforms which can succeed.[105]

and that:

> The Department [of Health and Social Care] has undertaken a period of engagement where the Government is working with experts, stakeholders and users to shape the long-term reforms that will be proposed in the Green Paper.[106]

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102 HL Deb 7 December 2017 c1200
103 HC Deb 7 December 2017 c1235
104 HL Deb 7 December 2017 c1202
105 PQ HL7419 14 May 2018
106 PQ 148655 6 June 2018

10. Delays in publishing the Green Paper

To date, the scheduled publication date of the Green Paper has been missed five times:

- it was originally due to be published in "summer 2017";
- this was changed shortly after the General Election by the re-elected Conservative Government to "the end of the year" [i.e. 2017];
- a revised publication date of "by summer [Parliamentary] recess" – i.e. 25 July 2018 (announced in November 2017);
- a new publication date of the "autumn" of 2018 (announced in June 2018). This was tweaked to "before the end of the year";
- in January 2019, in regard to publication the Health and Social Care Secretary told the House: "I certainly intend that to happen before April";
- May 2019 – despite Mr Hancock's intention, the Green Paper remains unpublished with media reports stating that it will be delayed "until Brexit is resolved".

The current position is that it will be published "at the earliest opportunity".[107]

As noted in section 6, the ongoing delays to the Green Paper could be affecting the wider social care market, most of which is delivered by private sector for-profit companies.

10.1 Previous delays

As noted above, when the Government first announced its intention to publish a new Green Paper on social care in the Spring 2017 Budget statement, the Chancellor told the House that it would be published by the end of 2017.[108] Indeed, the then Health Minister, Philip Dunne, told the House later in March 2017 that "it would be fair to say that it is expected to be published in the summer".[109]

Following the June 2017 General Election, the re-elected Conservative Government said in July 2017 in regard to social care reform that "we cannot wait any longer—we need to get on with this" and that the Green Paper would be published "at the end of this year".[110]

However, over the summer of 2017 the Government changed its position, saying instead that it would "provide further details on the next steps on social care in due course".[111]

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107 PQ 212355 29 January 2019
108 HC Deb 8 March 2017 c818
109 HC Deb 14 March 2017 c48WH
110 HL Deb 6 July 2017 c987
111 For example, see PQ 922 27 June 2017, PQ 3910 12 July 2017, PQ 5983 21 July 2017, and PQ 110250 7 November 2017.

In November 2017, the then First Secretary of State and Cabinet Office Minister, Damian Green – who at the time was leading the Government's work on the Green Paper (see section 12) – said that the Green Paper would be published "by summer recess 2018", a reference to Parliament's summer recess (which started on 25 July 2018).[112] The "precise timings", the Government subsequently said, "will be confirmed nearer the time".[113]

With just over one month until the scheduled publication, in June 2018 the then Secretary of State for the Department of Health and Social Care – which had taken over responsibility for the Green Paper from the Cabinet Office in January 2018 – announced a further deferment to the "autumn" of 2018.

Mr Hunt made a statement to the House on 18 June 2018 following the Prime Minister's announcement of a new long-term funding plan for the NHS (see box 5).[114] Noting that the plan would be published later in the year, the then Health and Social Care Secretary said:

> While the long-term funding profile of the social care system will not be settled until the spending review, we will publish the social care Green Paper ahead of that. However, because we want to integrate plans for social care with the new NHS plan, it does not make sense to publish it before the NHS plan has even been drafted, so we now intend to publish the social care Green Paper in the autumn around the same time as the NHS plan.[115]

Box 7: The Green Paper and the NHS Long-term Plan

In March 2018, the Prime Minister told the Liaison Committee of the House of Commons that there was a "need to get away from this annual approach to the NHS budget" in order for "the NHS to plan and manage effectively".

Ms May therefore proposed "a sustainable, long-term plan that should build on the work of the five year forward view but we should look beyond it to a plan that allows the NHS to realise greater productivity and efficiency gains" and said that the Government would "come forward with a long-term plan". A "multi-year funding settlement in support of the plan" would be made, which was "consistent with our fiscal rules and balanced approach, but ensuring that the NHS can cope with the rising demand ahead of the spending review".[116]

On 17 June 2018, the Prime Minister announced additional annual increases in funding for the NHS of 3.4% per annum, amounting to an extra £20.5 billion a year by the 2023/24 financial year.[117, 118]

In a statement to the House the following day, the then Health and Social Care Secretary provided further details in his statement entitled "NHS Long-Term Plan" (or "NHS Plan" for short) which provided more details on the 10-year plan, including the integration of health and social care:

> For our most vulnerable citizens with both health and care needs, we also recognise that NHS and social care provision are two sides of the same coin. It is not possible to have a plan for one sector without having a plan for the other. Indeed, we have been clear with the NHS that a key plank of its plan must be the full integration of the two services. As

112 HCWS258 16 November 2017
113 PQ 112555 29 November 2017
114 "NHS funding: Theresa May unveils £20bn boost", BBC News, 17 June 2018
115 HC Deb 18 June 2018 c52
116 Liaison Committee, Oral evidence: The Prime Minister, HC 905 2017–19, 27 March 2018, Q76
117 "NHS funding: Theresa May unveils £20bn boost", BBC News, 17 June 2018
118 HC Deb 18 June 2018 c52

> part of the NHS plan, we will review the current functioning and structure of the Better Care Fund to make sure that it supports that.[119]

After the summer parliamentary recess, reference to publication in the autumn was replaced to "later in the year",[120] and, as stated by the Health and Social Care Secretary, "before the end of the year".[121]

10.2 The current situation

In mid-December 2018, in response to a question to the Health and Social Care Secretary asking "whether he plans to publish his [social care] green paper before 31 December 2018", the Government replied:

> An ageing society means that we need to reach a longer-term sustainable settlement for social care and we recognise that parliamentary colleagues will wish to engage thoroughly in the debate following publication. Therefore, given wider events, we will be publishing the Adult Social Care Green Paper at the earliest opportunity in the new year.[122]

A parliamentary question was tabled asking the Government to "define when the earliest opportunity is to publish the Social Care Green Paper". In response, Ms Dinenage told the House that:

> The Social Care Green Paper remains a priority for this Government. The Department is working hard to publish a Green Paper setting out proposals for reform at the earliest opportunity. Unfortunately we cannot currently confirm a publication date.[123]

A hopeful note was struck by Mr Hancock that the delay would not be too long – responding to a tweet of a front-page headline in The Times which stated "Social care reform threatened by Brexit turmoil", the Health and Social Care Secretary tweeted in reply on 19 December: "Don't recognise this at all. Putting finishing touches on the Social Care Green Paper ready for publication in the New Year".[124]

However, it was reported in mid-February 2019 that the Health and Social Care Minister, Caroline Dinenage, had said that debate over the UK's departure from the European Union ("Brexit") was the reason for the latest delay.[125]

It should be noted, though, that, despite the ongoing uncertainty over Brexit, the NHS Long-Term Plan was published in early January 2019.

Further, the proposal by the then Health and Social Care Secretary to publish the social care Green Paper "around the same time as the NHS plan" (as noted above) was unfulfilled.[126]

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119 HC Deb 18 June 2018 c52
120 HL Deb 16 October 2018 c391
121 HC Deb 17 October 2018 c733
122 PQ 199475 13 December 2018
123 PQ 211201 30 January 2019
124 Twitter, Matt Hancock 19 December 2018 1.13AM
125 "Brexit has delayed plans to deal with adult social care crisis, minister admits", Evening Standard, 12 February 2019
126 HC Deb 18 June 2018 c52

During the debate that accompanied the publication of the NHS Long-Term Plan in January 2019, Mr Hancock made a fresh commitment in regard to the social care Green Paper, saying in regard to its publication: "I certainly intend that to happen before April".[127] However, like many before it, this publication date came and went.

With media reports in February 2019 that dialogue was ongoing between the DHSC and Number 10 regarding the possible inclusion of a cap on lifetime social care charges in the Green Paper,[128] it seemed that the inclusion of at least one major policy proposal was yet to be settled.

Further, it was reported by Public Finance that "delays to the social care green paper are a result of the need for 'greater consideration' of proposals". It added that Glen Garrod, president of the Association of Directors of Adult Social Services, had said that "some of the proposals in an early version of the green paper are 'less well developed than others'".[129] In addition, the Director of Policy and Development at the charity Disability Rights UK, Sue Bott, noted that "some of the proposals discussed with ministers at roundtables on the green paper lacked detail", saying: "it was a weird meeting – we were being urged to be as supportive as we could, which was strange because we didn't know much about the detail".[130]

The ongoing issue of Brexit, as noted by Ms Dinenage, appears, it might be fair to speculate, to be hindering the capacity of the Government, including at the highest levels, to resolve such key issues as the inclusion of the cap. Indeed, on 29 April 2019 the Daily Mail reported that, according to a "Whitehall insider", there was "no prospect" of the Green Paper's publication happening "until Brexit is resolved":

> A senior Tory source admitted: 'I'm not aware of any fixed point for its publication. It won't be any time soon.'
>
> Another Whitehall insider confirmed there was no prospect of it being brought back until Brexit is resolved, adding: 'Social care is high on the list of issues that are just too difficult at the moment.
>
> "Nothing is going to happen while Brexit is up in the air, and even then it is hard to see how we'd do it. You'd need consensus on the way ahead and a parliamentary majority to push it through – and we are a long way from either".[131]

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127 HC Deb 7 January 2019 c69

128 Exclusive: Theresa May warned plans for £100,000 cap on care costs will require significant tax rises, Daily Telegraph, 22 February 2019 [subscription required]

129 "Details delay social care green paper", Public Finance, 15 April 2019

130 Disability Rights UK, Lack of detail is delaying the social care green paper, 16 April 2019

131 "New social care betrayal: Plans to fix our system's crisis are delayed AGAIN as experts warned that 60,000 elderly people died while waiting for help", Mail Online, 29 April 2019

11. Implementation date

In December 2017, the Government was asked:

> what the timetable is to (a) publish recommendations and (b) bring forward legislative proposals as a result of the Green Paper.

The reply given by the then First Secretary of State did not address this question,[132] and no indication has been given by the Government on how swiftly progress will be made once the Green Paper is published.[133]

The answer to a very similar question tabled in March 2018 likewise did not provide information on when any recommendations would be published or legislation brought forward following the Green Paper.[134]

The Green Paper itself will be "subject to a full public consultation, providing a further opportunity for interested parties to give their views".[135]

It might be expected that, following the consultation, a Government response will be published (perhaps in the form of a White Paper) setting out how it has responded to comments and will take matters forward.

It is possible that primary legislation (i.e. an Act of Parliament) might be required. However, the Care Act 2014 already includes legislative provision for the means-test (already in force) and the cap on lifetime social care charges if this route is chosen.[136] While secondary legislation would be needed to bring into force the provisions relating to the cap and also to spell out the details of the cap, such as the level of it, in terms of Parliamentary business this is generally a relatively quick and straightforward process compared to introducing primary legislation.

As an indication of how quickly, or otherwise, implementation may occur, the rescheduled April 2020 date for the introduction of the cap on social care costs has itself been dropped in order to "allow for fuller engagement and the development of the approach" – as such, it appears that implementation will not occur before April 2020 and perhaps not until some time after.[137]

In his June 2018 statement, Mr Hunt noted that "the long-term funding profile of the social care system will not be settled until the spending review".[138] The Spending Review will be announced some time in 2019 although a precise date has yet to be set.[139] It is therefore not clear at this stage if the Government response to the Green Paper consultation will be completed in time to feed into the Spending Review.

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132 PQ 117823 13 December 2017
133 For example, see HL Deb 7 December 2017 c1201
134 PQ 133954 27 March 2018
135 PQ 112555 29 November 2017
136 Section 15 of the Care Act 2014 makes provision for the introduction of a lifetime cap on social care costs.
137 HC Deb 7 December 2017 c1235
138 HC Deb 18 June 2018 c52
139 HC Deb 13 March 2018 c719; PQ 147475 4 June 2018

12. Changes of lead department

The lead minister for the Green Paper is the Health and Social Care Secretary, Matt Hancock.[140]

Initially, it seemed that the then Department of Health (DH) was the lead department responsible for drafting the Green Paper following the Chancellor's announcement in March 2017.[141]

From November 2017, the Cabinet Office, and specifically the then First Secretary of State, Damian Green, took responsibility for leading the Government's work on developing the Green Paper.[142]

However, following the resignation of Mr Green and the subsequent January 2018 Government reshuffle, responsibility for the Green Paper transferred to the renamed Department of Health and Social Care (previously the DH).[143] The DH had long been responsible for adult social care and social services policies,[144] although the delivery of social care is the responsibility of local authorities with funding from the Ministry for Housing, Communities and Local Government (MHCLG).[145]

The Secretary of State, then Jeremy Hunt (now Matt Hancock), assumed lead ministerial responsibility for the Green Paper.

It was reported that "local government experts [had] voiced fears that work on the social care green paper – already delayed from last autumn [2017] to this summer [2018] – will be slowed down as a result of the move" of responsibility for the Green Paper from the Cabinet Office to the DHSC:

> Richard Humphries, senior fellow – policy, the King's Fund, said: "In the short term, there is a risk that momentum will be lost as the team [working on the green paper] is drawn from across Whitehall. You can't assume it will all move, lock stock and barrel, to the DH[SC].
>
> "The deeper concern is whether the DH[SC] will have the same clout as the Cabinet Office in negotiating a new funding settlement from the Treasury. Social care is a challenge for the whole of government, and the risk of hiving it off to one spending department means it will be competing against all other spending departments."
>
> He added: "The DH has a long track record of producing green papers on social care but will the next one make any difference?"[146]

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140 PQ HL4666 25 January 2018

141 For example, the then Parliamentary Under-Secretary at the Department of Health, David Mowat, answered a parliamentary question about the Green Paper in March 2017 (PQ 68147 21 March 2017), indicating that responsibility lay with the then Department of Health.

142 Centre for Policy Studies, Fixing the Care Crisis, April 2019, p17

143 PQ 123733 23 January 2018

144 The Department for Education is responsible for children's social care and social services policies.

145 Previously called the Department for Communities and Local Government (DCLG) prior to January 2018.

146 "DH-written social care green paper could 'lack weight with Treasury'", *Local Government Chronicle*, 9 January 2018

In July 2018, as part of a wider Government reshuffle, it was announced that the new Health and Social Care Secretary would be Matt Hancock, replacing Jeremy Hunt who had held the position (and the predecessor role of Health Secretary) since 2012.

13. Commentary related to the proposed Green Paper

13.1 Communities and Local Government Select Committee's March 2017 report and response

In its March 2017 report, *Adult social care funding*, that was published after the Budget Statement, the Communities and Local Government Select Committee said that it "welcomed" the announcement that a social care Green Paper would be published, noting that "the need to find a way to fund social care for the long-term has now become urgent".

Evidence received by the Committee had suggested a number of funding proposals for social care, including a hypothecated tax[147] and a mandatory social insurance mechanism.

The Committee said it was "vital that political parties across the spectrum, together with the social care sector and the wider public, are involved in the process of reaching a solution" – reiterating the call previously made by its Chair and the Chairs of the Communities and Local Government Committee and the Public Accounts Committee[148] – and said that "the solution needs to be implemented in the next spending round".[149]

In its response to the Committee published in October 2017, the Government said that it wanted to "ensure there is a balanced package of reforms that supports quality and dignified care, but which is financially sustainable for current and future generations". In terms of wider involvement, the Government said it was "committed to listening to a wide range of views on how to reform the social care system and will want to work with key partners to shape proposals going forwards".[150]

13.2 Reaction to the November 2017 written Ministerial statement

Following the November 2017 written statement on the Green Paper by the Government which set out the (then) revised publication timetable

147 A hypothecated tax is where the money raised from a specific measure e.g. a 1p rise in income tax rates, is ring-fenced and spent on a specific policy e.g. social care funding.

148 Communities and Local Government Committee, Letter to the Prime Minister: Health and Social Care, 6 January 2017

149 Communities and Local Government Committee, Adult Social Care, HC 1103 2016–17, 31 March 2017, p60, para 160 and p64, paras 164 and 165

150 Department for Communities and Local Government, Government Response to the Communities and Local Government Select Committee Report: Adult Social Care, Cm9501, October 2017, p19, paras 91 and 92

of "by summer recess 2018" and some details of its contents,[151] *Community Care* reported that:

> Jeremy Hughes, chief executive of the Alzheimer's Society, said it was "reassured" that the government was "setting out its commitment to address the social care crisis so that real action can begin".
>
> He added: "The [2017 general] election showed that the public are hungry for social care reform, but with the paper not expected until summer, they will have had another year of waiting. If there has been no true progress by then we, and people with dementia, will be asking big questions of the government."
>
> Margaret Willcox, president of the Association of Directors of Adult Social Services (ADASS), also welcomed news of the green paper, saying: "It is right that all members of society, many of whom are likely to need some form of care in their lives, will have a say on the future funding of care and delivery of care services.
>
> "We are also encouraged that the Government will undertake a parallel programme of work focusing on issues for working-age adults, as financial pressures due to the increasing care needs of younger adults with disabilities or mental health problems are now greater than those due to supporting older people, which our Budget survey highlighted this year.
>
> […]
>
> Dr Anna Dixon, chief executive of the Centre for Ageing Better, welcomed the government's plans to consult with care users ahead of the publication of the green paper.
>
> She said: "As the Government have recognised in their announcement today, we need a long-term sustainable funding solution for adult social care that means everyone has good access to good quality social care when they need it. Action also needs to be taken now, including increased funding for social care in the autumn budget."[152]

An article by the *The Guardian's* public services editor contended that while, "at last[,] we have some details of the government's long-awaited consultation on reform of long-term care", it added "but let's be clear: this will not be a *social care* green paper", and went on:

> In one sense, as Green said, [the Green Paper] is broader than social care services and broader than funding alone: it will "incorporate the wider networks of support and services which help older people to live independently, including the crucial role of housing and the interaction with other public services".
>
> In another sense, however, it is far narrower. Care for younger adults, which accounts for almost half of all council spending on adult social care and includes the fastest growing element, learning disability, is to be excluded from the green paper. Instead, it will be reviewed by "a parallel programme of work" led jointly by the departments of health and communities and local government.
>
> […]

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151 HCWS258 16 November 2017

152 "Green paper on older people's social care to be published by summer 2018", *Community Care*, 16 November 2017

> Calls for an all-age approach were supported even by some of those named as advisers on the green paper, while Victor Adebowale, the crossbench peer and chief executive of care provider Turning Point, simply tweeted #notgoodenough.
>
> Other critics have pointed out that there is no care users' or workers' representation among the 12 experts, who will "provide advice and support engagement in advance of the green paper". Trade union Unison branded this "a huge mistake".[153]

13.3 Independent Age's "7 tests" for the Green Paper (January 2018)

In January 2018, the charity Independent Age set out seven tests for the social care Green Paper "if it is to deliver real change", namely:

> Set out an ambition for a social care system that is fairer, more transparent and more sustainable than our current system.
>
> Be based on a thorough understanding of people's experiences of using and delivering the services today.
>
> Go beyond narrow questions about social care funding and finance and tackle problems related to housing, regional variation and the social care market.
>
> Demonstrate a clear aspiration to end poor quality and to create real choice for all users.
>
> Identify the key questions to address, commit to the widest possible consultation and set out a clear plan for action.
>
> Create an urgent plan for action, with reforms underway by the end of this parliament and a clear vision for future sustainability.
>
> Be politically feasible but also command the support of all parties so whatever reforms are proposed they have a strong prospect of lasting for more than a single parliament.[154]

13.4 Health Foundation and King's Fund report (May 2018)

The joint report, entitled *A fork in the road: Next steps for social care funding reform*, considered "the costs of social care funding options, public attitudes to them – and the implications for policy reform".

The report noted that "social care is facing high growth in demand … growing at an average rate of 3.7% a year", while "at the same time, we project growth in spending on social care of just 2.1% a year".[155] In this context, the report sought to "identify and make explicit the advantages and disadvantages, impact and consequences of adopting one option over another".

- The report's authors noted that:

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153 "Government plans to reform England's social care are an opportunity missed", *The Guardian*, 17 November 2017

154 Independent Age, Launching our seven key tests for the Government's green paper, 31 January 2018

155 Health Foundation and King's Fund, A fork in the road: Next steps for social care funding reform, May 2018, p2

> While a joint health and social care budget might support progress towards more integrated care, it will not alone generate additional revenue for either health or social care, nor change eligibility for care. Therefore, we do not explore this option in detail in the costing analysis but do consider the issue of further integration between health and social care in the context of reform and public attitudes.[156]

There were four options proposed in the report which "focus on changes to public provision of social care for older people"; the authors noted that "there is far greater scope for funding older people's social care by drawing on personal and property wealth than there is for funding working-age adults' social care, where a fully tax-funded solution is likely to be the only appropriate approach".[157]

The report's four options

"'Improving' the current system – and maintaining or restoring access" (options 1 and 2)

This approach would mean "retaining the existing social care system but seeking incremental improvements over time". It would have the benefit of avoiding "major reform", something which successive governments had faced "great difficulty" in achieving. However, making "small improvements would not address many of the fundamental problems with the current system", while "even substantial levels of new money would not fix the issues of the system's complexity. Nor would it protect people against catastrophic care costs".

In terms of funding models, the authors modelled two funding proposals: "from no change to the current system and keeping pace with pressures, to more widespread improvements to the system by returning to levels observed in 2009/10":

- Maintaining the system at 2015/16 levels and keeping pace with pressures would require additional investment of £4bn more by 2020/21 than was spent in 2015/16. This is £1.5bn higher than our projection of additional spending by local authorities based on current trends. By 2030/31, an extra £12bn would need to be spent, £6bn higher than projected spending plans … It is not enough to lead to real improvement. This just stops the system declining any further, but does not address issues such as fewer people receiving care or market instability (although some level of improvement is possible through efficiency savings).
- Restoring the system to 2009/10 levels and restoring the level of eligibility that existed at that time (perhaps through changes in the eligibility criteria) would require an additional £8bn in 2020/21 above estimated plans. Projecting forward to 2030/31, the funding gap grows to £15bn … This level of investment could indeed improve access and quality without primary legislation, but the major concerns over the design of the system even at that time, would go unresolved if this option was taken. It is

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156 Health Foundation and King's Fund, A fork in the road: Next steps for social care funding reform, May 2018, p13

157 As above, p13

> true that genuine efficiency gains will have been made since 2009/10, so the actual cost could be lower if these have been sustained".[158]

"Free personal care – broadening the offer" (option 3)

Following the model of free personal care adopted in Scotland in 2002, "aligning eligibility with health, free personal care would also remove one of the biggest national obstacles to integration of health and social care". It was observed that "by supporting older people to live at home, helping to prevent costly hospital admissions, and delaying the need for residential care, the system may have resulted in lower total government expenditure as compared with no policy being in place", and that "the model has proved popular and durable in Scotland and is now being expanded to adults of working age".

The report estimated that "free personal care could require around an extra £6bn in 2020/21 and £8bn by 2030/31, compared with continuing levels of access and quality under the current system. This would increase the estimated funding gap to £7bn in 2020/21 and £14bn in 2030/31".

However, the actual costs might be higher because of two factors: firstly, it would only "expand the number of people [with severe need] who could access publicly funded personal care by removing the means test from these services … If improving the needs threshold [to e.g. high or moderate need] were also to be included, this would add considerably more to the total cost". The report also cautioned that "it is likely that, initially at least, the costs could be higher due to behavioural effects. In Scotland, introducing free personal care created unexpected levels of increased demand for domiciliary care which we might also expect to occur in England".[159]

"The 'cap and floor' option – protecting people from catastrophic costs" (the Conservative Party's pledges made at the 2017 General Election) (option 4)

Noting the Conservative Party's 2017 General Election pledges – an unspecified cap on lifetime social care charges, and a more generous £100,000 means-test limit[160] – the report noted that while this would mean a "more generous system for some, offering protection against catastrophic care costs", there was "a question as to whether this alone is the best use of increased spending on social care, given the complex pattern of 'winners' and 'losers' (some of whom will make big gains)".

Much would depend on the actual level of the cap and the floor i.e. means-test limit, and even then "many people would still be liable for relatively high costs – including all care which falls outside of needs eligibility".

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158 Health Foundation and King's Fund, A fork in the road: Next steps for social care funding reform, May 2018, pp14–16

159 As above, pp16–18

160 For more information, see the Library briefing paper Social care: the Conservative Party's 2017 General Election pledges on how individuals pay for care (England).

In addition, the manifesto proposal to bring the value of the home into the means-test for those in receipt of domiciliary care "would reduce the incentive for people to remain in their homes (although it is difficult to predict how behaviours would change in practice)", and so run contrary to "current health and care policy [which] is aimed at supporting people to live independently, and avoiding the need for long-term care as far as possible".

Assuming the cap is set at £75,000, the cost of the "cap and floor" policy would be "an additional £4bn in 2020/21 and an extra £6bn in 2030/31 above the costs of maintaining the current model. Introducing this model could therefore increase the total projected funding gap against our estimated budget from £1.5bn to £5bn in 2020/21, and from £6bn to £12bn in 2030/31".[161]

Raising funds to pay for the cost

The report set out a number of proposals to raise additional funding to pay for social care which could top an additional £15 billion per annum by 2030/31 under the most costly option (namely, returning access to social care to 2009/10 levels). The proposals included:

- taxing or redirecting spending on older people;
- taxing wealth; or
- the introduction of a hypothecated social care tax;

The report considered the advantages and disadvantages of the last option in more detail. The report noted that "it would be likely to require very substantial tax increases to bring about improvements (and to be worth the upheaval)", and that "a hypothecated tax for social care would be a major change from the current system of public finance in the UK".

However, "a key weakness" of a hypothecated tax would be that "any 'take' will rise and fall with the economy, rather than being aligned to changes in need or demand"; this may require the establishment of a "stabilisation fund" to smooth the level of funding over the economic cycle (albeit by weakening the link between taxation and expenditure). It could also "risk exacerbating the separation between the health and social care systems", while a hypothecated social care *and* health tax "would be a huge undertaking which risks leaving social care as the poor neighbour".[162]

Other matters explored in the report

The report also "aimed to explore the public's knowledge and experience of social care in general, but also how people responded to the options we put forward, and what values and beliefs were brought into play as they reacted", and found that:

- "the public has limited knowledge of what social care is";

[161] Health Foundation and King's Fund, A fork in the road: Next steps for social care funding reform, May 2018, pp18–20
[162] As above, pp21–25

- "the public has even less knowledge of how social care is funded";
- "when informed, people think the current funding model needs to change";
- "underlying public beliefs about the role of government and fairness need to be recognised". In particular, "views on the role of government as a vehicle for resolving the failures of the current system revealed a paradox. On the one hand, there was agreement that the system was not working and government needed to take a leading role in fixing it. On the other hand, some people were not convinced that government was capable of providing a lasting solution to the problem and did not trust them to do so".

In terms of the options for the future funding of social care, it was noted that:

> Most people in our deliberative events favoured the idea of the state having most responsibility for funding social care. The National Centre for Social Research's British Social Attitudes survey found that most people (55%) favoured options where responsibility was shared, namely 'means tested' (30%) and 'means tested and capped' (25%), whereas 41% favoured 'the government (paid for by taxes)'.[163]

The report's conclusions

Under the heading "pulling it all together: policy implications for social care reform", the report stated that:

> The combined strands of this work represent some of the most comprehensive recent work to identify, analyse and quantify options to reform social care funding, and to understand the wide range of public attitudes to them.
>
> Together, they confirm a widely held belief in public policy circles: while the case for change is overwhelming, reforming social care will not be easy. Our key lessons for policymaking are set out below.

The "headlines" from the section included:

- "revision or full reform? There is a need for more consensus on the problem(s) we most need to solve to decide on the type and scale of response required";
- "sustaining the current social care system will be expensive. While wider reform would cost even more, it may be better value than continuing with a flawed approach";
- "while most people favour a balance of funding between the state and individual, many believe social care should be wholly tax-funded";
- "identifying the best source of any additional money will be a major challenge, whether for the individual or government";

[163] Health Foundation and King's Fund, A fork in the road: Next steps for social care funding reform, May 2018, pp5 and 27–39

- "the public wants to be able to 'follow the money'. While hypothecation is problematic in policy terms, its popularity might be an enabler of reform";
- "there is now a clear fork in the road for policy reform";
- "'doing nothing' or 'doing as little as possible' is not safe, and is no longer an easy option";
- "to support solutions, people need much better understanding of the problems and solutions. But politicians are not the best people to provide it".[164]

While in conclusion the report's authors repeated that they had not sought to set out the answer to social care funding, they argued that "consensus must be quickly sought about whether to address concerns on current access and quality, equity and complexity, or protection against major costs and encouraging an insurance market", adding that "it is unlikely that all these issues can be addressed immediately, so prioritising them is the essential first step to producing a lasting solution", and said that the Green Paper process "must lead to major improvement".[165]

13.5 Joint Select Committee's report (June 2018)

In June 2018, the Housing, Communities and Local Government, and the Health and Social Care Select Committees of the House of Commons published their joint report, "Long-term funding of adult social care".

In drafting its report, the committees drew upon the substantial body of written evidence it had received and also the two oral evidence sessions held, where a number of witnesses were called to give oral evidence although this did not include any civil servants working directly on the Green Paper or Government ministers.

Describing the social care system as "not fit to respond to current needs, let alone predicted future needs", the report called for the Green Paper to be the "catalyst for achieving a fair, long-term and sustainable settlement".[166]

The committees said that they "support the provision of social care free at the point of delivery as a long-term aspiration. In principle, we believe that the personal care element of social care should be delivered free to everyone who has the need for it, but that accommodation costs [for care home residents] should continue to be paid on a means-tested basis".[167]

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164 Health Foundation and King's Fund, A fork in the road: Next steps for social care funding reform, May 2018, pp40–49
165 As above, p50
166 Health and Social Care and Housing, Communities and Local Government Committees, Long-term funding of adult social care, HC768 2017–19, 27 June 2018, p3
167 As above, p3

The report set out six principles "which we recommend should underpin future decisions about funding social care", namely:

- "good quality care" – "Funding should be sufficient to achieve the aims of social care … This will require universal provision of high quality, personalised care delivered by a stable well-paid and well-trained workforce alongside well-supported carers to a wider group of people than currently receives care, all within a navigable and accessible system. It should also aim to address the current levels of unmet and under-met need";[168]
- "considering working age adults as well as older people" – "The Green Paper will focus solely on social care for older adults … At the very least, the Green Paper should be closely linked with the parallel programme for working age adults, clearly setting out how its proposals impact on funding for that age group. The Green Paper should consider both".[169] [at that time, the Government had stated that the Green Paper will "inevitably cover a range of issues that are common to all adults with care and support needs",[170] see section 3 of this briefing paper];
- "ensuring fairness between the generations" – "Contributions towards the cost of care should be fairly distributed between generations … Older people could be expected to continue [*sic*, contribute?], while taking into account the fact that they have contributed throughout their working lives via taxation. However, over the longer term, the distribution of wealth between the different age groups may change, with corresponding implications for fairness, suggesting that a flexible solution is required";[171]
- "aspiring over time towards universal access to personal care free at the point of delivery" – "Currently, the burden of the cost falls on individuals in an unfair distribution depending on diagnoses … The balance needs to be redressed, aspiring over time and moving towards, as funding permits, universal access to sustainably funded social care, free at the point of delivery";[172]
- "risk pooling—protecting people from catastrophic costs, and protecting a greater portion of their savings and assets" – "A cap on the amount of care costs a person paid would pool the risk, distributing the costs of very high care needs across the society. The level of protection (and therefore the costs of this policy) would depend on the level at which the cap is set, and determining this figure requires financial modelling and extensive consultation. Raising the means test threshold (the 'floor') is another way of enabling people to keep a greater proportion of their assets; again, the costs would be shared across society. Providing free at point of delivery care for those assessed as

168 Health and Social Care and Housing, Communities and Local Government Committees, Long-term funding of adult social care, HC768 2017–19, 27 June 2018, p17, para 36
169 As above, pp17 and 18, paras 37 and 38
170 PQ HL7419 14 May 2018
171 Health and Social Care and Housing, Communities and Local Government Committees, Long-term funding of adult social care, HC768 2017–19, 27 June 2018, p18, para 40
172 As above, p19, para 42

having critical or substantial care needs would be another way of protecting people from this risk";[173]

- "'Earmarked' payments" – "people are generally willing to contribute more to pay for social care if they can be assured that the money will be spent on this purpose. 'Earmarking' taxation[174] can help to give confidence and accountability over spending";[175]

In summary, the joint report recommended:

- "raising additional funding" with additional local funding streams (e.g. business rates) together with national funding measures including:
  - "an additional earmarked contribution, described as a 'Social Care Premium', should be introduced" payable by those over 40 years of age (although possibly with a minimum income threshold);
  - the possibility of extending this approach to the funding of the NHS, and "in the long term, we believe there is a strong case for reimagining this as 'National Health and Care Insurance'";
  - "a specified additional amount of Inheritance Tax should be levied on all estates above a certain threshold and capped at a percentage of the total value";
- further integration of health and social care which "has the potential to improve outcomes and we recommend that local attempts to better integrate services continue apace";
- the establishment of a "cross-party parliamentary commission" which "offers the best way to make desperately needed progress on this issue".[176]

Ordinarily, the Government is expected to produce its response to a select committee report within two months of its publication. However, the Government has stated that to ensure its "response is aligned to the policy proposals that the Green Paper sets out on the long-term funding of social care", it would send the Committee' its response in the autumn – presumably at the same time or shortly after the publication of the Green Paper.[177]

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173 Health and Social Care and Housing, Communities and Local Government Committees, Long-term funding of adult social care, HC768 2017–19, 27 June 2018, p20, para 44

174 As noted in the report, also referred to as hypothecated taxation.

175 Health and Social Care and Housing, Communities and Local Government Committees, Long-term funding of adult social care, HC768 2017–19, 27 June 2018, p20, para 46

176 As above, pp4–5

177 Health and Social Care and Housing, Communities and Local Government Committees, Letter from the Minister of State for Care regarding the Government's response to the joint report on the long term funding of adult social care, 5 September 2018

13.6 Local Government Association's "green paper" (July 2018) and response (November 2018)

Publication of the LGA's green paper

With the Government's Green Paper delayed until the autumn of 2018, in July 2018 the Local Government Association (LGA) decided to launch their own "green paper" – a consultation – on social care entitled "The Lives We Want to Lead".

The LGA argued that "too often adult social care is seen as an adjunct of the NHS, existing simply to relieve pressure on hard pressed acute services". While social care and the NHS are "inextricably linked", the LGA contended that social care "should be seen an essential service in its own right and the people who work hard to deliver the service should be seen as just as valuable as staff in the NHS".[178]

As other reports have noted,[179] the LGA also said that there was a social gap funding gap of, in its estimation, £3.56 billion by 2025 assuming the same level of services are provided as now, and said that "this must be closed as a matter of urgency", otherwise:

> we will see a worsening of the consequences of funding pressures we have seen to date. These include fewer people being able to get the high quality care they need, providers under increasing threat of financial failure, and a disinvestment in prevention driven by the requirement to meet people's higher level needs. In particular, funding pressures on social care have severe consequences for the NHS, increasing demand on hospitals and more costly acute care.[180]

The LGA noted that "the question of how we pay for adult social care for the long-term is therefore getting even more urgent. The fact the question has remained unanswered for at least the last two decades shows the scale of the challenge" and argued that, in contrast to the NHS, "in part, that difficulty stems from a lack of awareness amongst the public of what adult social care is, why it matters and how it is funded":

> It is a far less clear cut picture in adult social care [compared to receiving treatment on the NHS]. Not all care needs count as 'eligible' for support under the legislation, and the amount you have to pay depends on the level of your own financial resource, which itself is treated differently depending on whether you receive care at home or in a care or nursing home. If you have more than what many would say is only a modest degree of savings, you pay for everything yourself becoming one of a growing population of 'self-funders' who are largely left to navigate the system themselves and make their own arrangements. Without the right information and support, wrong decisions can be made, personal savings can reduce rapidly and

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178 Local Government Association, The lives we want to lead, July 2018, p12
179 See the Library briefing paper Adult Social Care Funding (England) for more information.
180 Local Government Association, The lives we want to lead, July 2018, pp12–13

> people fall back on publicly-funded care, compounding the pressure on local services.[181]

The LGA's "green paper" stated that it "deliberately steers clear of pushing particular solutions at this stage", but rather "articulates why this debate is so important, the scale of the challenge and the sorts of questions we need to tackle to drive the conversation forward".[182]

In the chapter "Setting the scene – the case for change", the LGA set out analysis on the key issues for social care, namely:

- why does social care matter?;
- social care innovation and improvement'
- the role of digital and technology;
- the need for continuous improvement;
- the funding challenge and its consequences;
- the Care Act: a legal foundation for care and support.

In terms of the funding of social care, the LGA's viewpoint was that "adult social care funding is at its absolute limit", and that the Government's responses to the challenge of adult social care funding in recent years had been "short-term and incremental in nature" and, while "helpful", each "mechanism has its limitations and they have not been sufficient to deal with all short-term pressures, let alone address the issue of longer-term sustainability".

The LGA was also concerned that "the major Government narrative and focus of attention has been on services to support older people, largely overlooking the fact that much of the growth in cost pressures comes from the increasing needs of working age adults".[183]

The "green paper" also set out the LGA's views on the consequences of adult social care, namely: quality; provider market stability; unmet and under-met need, and by association escalating problems; and the impact on carers and workforce.

The LGA set out six options for changing how social care is funded:

> In thinking about how we can make the system better there are two broad categories of changes to consider. The first, shaded in the table below, are primarily about making the current system work as intended and relate to implementing statutory duties fully. These would help stabilise the 'here and now', help address the consequences of underfunding as described above, and create a more solid foundation from which to deliver the second, unshaded, options in the table. These are additional proposals for change, which would help address the separate set of concerns identified above that are more to do with notions of fairness, complexity and transparency. They would signal a change to current requirements (although the 'cap and floor' would only require implementation of current legislation, not a new Bill).[184]

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181 Local Government Association, The lives we want to lead, July 2018, , p13
182 As above, p15
183 As above, p42
184 As above, p53

A copy of the table setting out the six options is reproduced below.[185]

	CHANGE	RATIONALE	COST 2017/18	COST 2024/25
Funding existing requirements	**1. Pay providers a fair price for care** (LGA and many others)[1]	The stability of the provider market is central to the provision of high quality care and support that meets people's needs and helps keep people independent at home. Enabling councils to pay a fair price for care (based on cautious industry estimates of what is needed) would help prevent providers ceasing trading and/or handing back contracts, and help to prevent a 'two tier' system between publicly funded care and privately funded care.	£1.44 billion	£1.44 billion
	2. Make sure there is enough money to pay for inflation and the extra people who will need care (LGA and many others)[2]	Without funding for core pressures, unmet need is likely to continue to grow, pressures will build on the provider market and its workforce, and the impact on unpaid carers will continue to increase.		£2.12 billion
	3. Provide care for all older people who need it (based on estimates of unmet need amongst older people by Age UK)[3]	Tackling unmet need amongst people with care needs, would help maintain people's independence and prevent the deterioration of people's conditions and would help allow informal carers to continue their caring role.	£2.4 billion in addition to 1 and 2 above	£3.6 billion, in addition to 1 and 2 above
	4. Provide care for all people of working age who need it (estimates based on broad assumptions set out below)[4]	As above	£1.2 billion, in addition to 1 and 2 above	£1.4 billion, in addition to 1 and 2 above
Reforms to extend entitlements	**5. 'Cap and floor'**	A cap on the maximum costs an individual could face, along with a more generous lower threshold in the financial means test, would protect people from 'catastrophic costs' and more of their asset base. The cost depends entirely on where the cap and floor are set. The Health Foundation and King's Fund modelled costs based on a cap at £75,000 and a floor at £100,000 (as per Conservative proposals at the 2017 General Election)[5]		£4.7 billion[6], in addition to 1 and 2 above
	6. Free personal care (Health Foundation/ King's Fund and Health and Social Care/ Housing, Communities and Local Government select committees)[7]	Free personal care would improve access to social care by removing the current means test and help people to remain independent at home. It would apply to everyone who needed care. Decisions would be required on the level at which the offer applied and what would count as 'personal care'. Accommodation costs – including in residential care – would continue to be the individual's responsibility.		£ 6.4 billion[8], in addition to 1 and 2 above

The LGA also considered how these changes could be funded, noting that "there has been considerable helpful recent debate about the different ways additional funding could be raised. They have included taxes on income, on property wealth, and cuts to other public spending". The document summarised these in a table on pages 58 and 59, but also noted other approaches, such as bringing the value of the home into the social care means-test for someone receiving domiciliary care, and the reform of benefits for social care recipients. In terms of its own position, the LGA said that it was:

> not suggesting a preferred option. However, we are clear that a mix of solutions is likely to be required, both to reflect the scale of the funding challenge we face, which will continue to grow over time, and to reflect different individuals' and different generations' particular circumstances … Potentially difficult reforms to deliver a sustainable and fully funded care system in

[185] Local Government Association, The lives we want to lead, July 2018, p54

> the future stand a greater chance of success if they are built on a degree of political consensus which can deliver cross-party co-operation, particularly in a parliament with a narrow majority.[186]

The consultation sought views on 30 questions and the deadline for submissions is 26 September 2018, with the intention that, having analysed the responses, the LGA would publish a response in the autumn of 2018.

The LGA's response to the consultation

The LGA duly published its response in autumn 2018, noting that its "green paper" had garnered over 500 submissions from "across the general public, people who use services, councils and other interested and significant organisations and sectors".

The report noted that there were areas of "clear consensus on key elements of the debate":

- "there is universal agreement that the current situation is unsustainable and, in turn, is failing people on a daily basis, with people not living their life to the full";
- "adult social care matters. It is a service that supports, fulfils and enables all aspects of a person's life".
- the LGA noted that there was also a "willingness to engage with the questions that need to be posed and, most crucially, willingness to support – or, just as important, accept – the type of solutions that are needed to secure social care, but which may hitherto have been considered politically unpalatable or inexpedient".
- together, "consensus and willingness are key foundations for change" the LGA said.[187]
- in terms of the details of the policy proposals, the LGA's consultation findings included:
- "looking to the medium- and long-term, … there is no clear and widespread support for implementing a cap on care costs and a floor for asset protection. Free personal care had slightly greater support for the medium-and long-term, but it was still not selected by a large proportion of respondents (just over one in 10 of those who answered)";
- in terms of how to pay for social care for the long-term: "the consultation revealed that the most popular potential solution is increases to National Insurance" … a clear majority (67 per cent) recognised it is fair for people to pay for some of their care costs if they can afford to do so, and a significant proportion (45 per cent) went further, agreeing that it is fair for people to pay for all of their care costs, if they are able to";
- on the question: "How important or not do you think it is that decisions about adult social care and support are made at a local level?", the LGA noted that "over half of those who responded to

[186] Local Government Association, The lives we want to lead, July 2018, pp57 and 60
[187] Local Government Association, The lives we want to lead – LGA Consultation Response, November 2018, pp4–5

> this question felt it is important that decisions about adult social care and support are made at a local level. Many of these respondents felt that a 'one size fits all approach' was not viable, primarily due to the varying characteristics of local authorities and their residents".[188]

13.7 County Council's Network report (July 2018)

The County Council's Network (CCN) – which represents all 27 county councils and 9 county unitary authorities – published a report in July 2018 entitled "Sustainable County Social Care". It described the prevailing situation as follows:

> County authorities continue to face significant financial, demand and quality challenges in relation to both adult and children's social care, at a time when local government funding is due to undergo its biggest reform for a generation. Added to this, adult social care is facing the perfect storm of an ageing population, rising demand, reducing Government funding and increasing public expectations.
>
> The result is that adult social care is now faced with a funding crisis in the short, medium and long-term due to the absence of significant, meaningful and sustainable reform. This has resulted in senior politicians, council chief executives, directors of adult social services and sector experts, amongst others, stating that social care is at 'tipping point'.

The Network contended that, given the funding pressures, the "consequences of continuing with the existing funding and service provision mode" would mean that local authorities would have to "make reductions to services to the statutory minimum, or the cessation of locally valued discretionary services".[189]

The CCN's recommendations regarding "financing sustainable social care" were that the Green Paper should include:

- "a range of fully costed reforms to deliver a sustainable financial settlement for adult social care in the short, medium and long-term for public consultation";
- ensuring that social care is not the poor relation to the NHS: "financial reforms must mirror the length and ambition afforded to any future announcement on NHS funding to support the delivery of health and social care integration in the medium to long-term";
- the introduction of a cap and a more generous means-test "to ensure that no-one is faced with catastrophic care costs";
- a "range of options available to them to allow them to save for their future care needs, and pay for their care", including allowing those in receipt of domiciliary care to apply for Deferred Payment

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188 Local Government Association, The lives we want to lead – LGA Consultation Response, November 2018, , pp8, 9, 21,

189 County Council's Network, Sustainable County Social Care, July 2018, p5

Agreements and the development of financial products such as insurance.

In addition, the CCN called for "local care markets must be placed upon a sustainable footing", and that the "Government must work with the NHS and local authorities to develop realistic expectations for the integration agenda in the short, medium and long-term" to help deliver "whole-person integrated care", as well as providing for "early intervention and prevention". It also made a number of proposals under the heading "delivering housing to meet social care needs".[190]

13.8 Independent Age report (September 2018)

In its report "A taxing question: how to pay for free personal care", the charity Independent Age considered a number of possible ways to raise sufficient funds, mainly through the taxation system, to "stop any further decline in social care and support" and given that "urgent action is needed now to stop any further decline in social care and support" of a system that "is on the brink of collapse".[191]

The report's analysis was conducted by Grant Thornton UK LLP and the Social Market Foundation against three scenarios: maintaining current levels of support, secondly, the Government's preferred cap and floor reforms (a £75,000 cap and a £100,000 means-test) and, thirdly, introducing free personal care.

The nine policy options to raise additional funding for social care that were analysed were:

1 Increasing Income Tax by 1%

2 Increasing National Insurance for both employees and employers by 0.5%

3 Charging National Insurance to the working population over the age of 65

4 Introducing an age-related levy of 0.7% to the working population aged 40 and over

5 Introducing a one-off payment at age 65

6 Increasing Inheritance Tax by 2%

7 Increasing Council Tax by 3%

8 Increasing Corporation Tax by 1%

9 Increasing business rates by 3%

The report noted that, of its proposals and "based on the view that any new funding policy option should seek tangible improvements in social care provision", it was "clear that some of the prescribed funding options, in isolation, will not deliver this. These are increasing business

190 County Council's Network, Sustainable County Social Care, July 2018, pp7–8
191 Independent Age, A taxing question: how to pay for free personal care, September 2018, p4 and p24

rates or Corporation Tax, increasing Council Tax or Inheritance Tax, or charging National Insurance for the over 65s".

It did say, however, that increasing Income Tax or National Insurance, or introducing an age-related levy at 40 years old, or a lump sum contribution of £30,000 at 65 years old would "yield significant income to help fund social care reform".[192]

Nevertheless, the report noted that:

> No one funding option will sufficiently address the funding gap and the necessary reforms to create a social care system that meets the needs of older people in the future.
>
> Funding options that do raise significant amounts of money to pay for reforms to the social care system will not keep pace with the ever-widening funding gap. This means additional action and commitments will be required. This could be done by:
>
> 1. Increasing the level of tax-take on any new funding option: this will ensure sufficient funding is raised to address the need for social care reforms or
> 2. Tax now, tax later: accepting that there will need to be two tax rises between now and 2030/31 to address the funding gap and;
> 3. Addressing the demand for social care, not just plugging the gap: by realigning current public spending to deliver a wholesale transformation of public health and prevention. This could be done by better utilising the NHS budget towards these goals, and increasing public health budgets with the aim to reduce demands on high cost health and social care provision.[193]

The report also considered the introduction of a £75,000 cap on lifetime social care charges and a more generous £100,000 means-test. While noting that the more generous means-test would "allow more older people with modest assets to benefit from means tested support" from local authorities, Independent Age contended that the introduction of a cap "which does not include hotel costs for residential care, would be of limited benefit to the majority of older people" and would "also unlikely to [be of] benefit those with low domiciliary care needs, even if they are chronic and experienced over a long time". For those with the highest care needs, "even with the cap … [they] will continue to incur costs well in excess of £100,000".

The report contended that "there is a relatively small difference between the costs of the government's proposal to introduce a cap and floor and the option to introduce free personal care for all older people based on current eligibility criteria" – their estimate was that "in 2020/21, the difference in costs between cap and floor reforms and free personal care equates to £1 billion, rising to £2 billion in 2030/31".[194]

Independent Age argued that "introducing free personal care will result in significant benefits for all older people, enabling them to live in their

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192 Independent Age, A taxing question: how to pay for free personal care, September 2018, pp25–26
193 As above, p5
194 As above, p25

own homes for longer and supporting them to live independent lives for as long as possible".[195]

The charity added that the introduction of free personal care:

> would also reduce delayed transfers of care (DTOC), and promote the integration of health and social care – two key government priorities. In Scotland, where personal care has been free for those aged over 65 since 2002, there has been a significant decrease in the number of DTOCs, and the increased spending on social care has resulted in lower spending overall on health and care for older people.
>
> From a political perspective, aligning a new tax with something those who pay will get in return is an easier sell than purely increasing tax to fund a social care system that, in many cases, is not meeting the needs or expectations of the public. It also meets the test of fairness, as well as being universally accessible.[196]

In conclusion, the charity said that:

> Independent Age is calling for the introduction of free personal care for older people. Initially this will be based on current eligibility criteria, but the ultimate goal is that all older people who need personal care will receive it free at the point of need.[197]

Independent Age also called for "immediate funding to ensure the funding gap does not increase as a minimum", and to "commit within the NHS 10-year plan, and social care reforms, to radically reform public health and preventative care, to enhance older people's independence".[198]

13.9 Centre for Policy Studies report (April 2019)

In April 2019, the former First Secretary of State, Damien Green, who was the lead Minister for the social care Green Paper for three months from November 2017 until January 2018,[199] published a report entitled "Fixing the Care Crisis" published by the Centre for Policy Studies (CPS).

Mr Green called for "a good level of care [that] must be free to all at the point of use, regardless of circumstances" and added that any new social care policy "must also fulfil four key principles":

1. It must provide more money for social care and ensure it is spent wisely. […]
2. The system must be fair across generations and medical conditions, and to those who have saved. […]
3. The system must increase the supply of reasonably priced care options and retirement housing. […]
4. The system should aim to secure public and cross-party consensus.[200]

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195 Independent Age, A taxing question: how to pay for free personal care, September 2018, p5
196 As above, p25
197 As above, p5
198 As above, p26
199 Centre for Policy Studies, Fixing the Care Crisis, April 2019, p17
200 As above, pp6 and 7

To deliver these changes, Mr Green proposed a "Universal Care Entitlement" plus an optional "Care Supplement".

Mr Green explained that the Universal Care Entitlement would mean adopting "the state pension as the explicit model for the social care system". The Universal Care Entitlement, Mr Green explained:

> would guarantee a decent level of care in both homecare and residential settings, and basic accommodation costs if residential care is needed. This would give peace of mind to all older people whether or not they needed domiciliary or residential care. This level could then be topped up as people wanted.
>
> The Universal Care Entitlement would operate in a similar fashion to the NHS tariff – delivered locally, but funded nationally. The care people received would have a cost attached, varying according to locality and type of care. They would know that they were entitled to a specified number of hours of domiciliary care per week, or a place in one of a range of care homes which included a set level of service.

Access to the Universal Care Entitlement would be subject to a "needs assessment, undertaken by local authorities".

However, in terms of the actual amount of funding assistance provided, Mr Green was less certain, saying those in care homes "might" receive £2,000 a month, for example, but saying that "the Government should obviously consult widely on the exact level". Nevertheless, Mr Green asserted that, while "in all cases people would be able to make top-up payments for additional services, … the assigned level of care would be a right – whatever their circumstances".[201] The level of care to be provided under the Universal Care Entitlement would be a "good level of care", citing a definition provided in the joint select committee report of June 2018, "Long-term funding of adult social care" (see section 13.5).

Mr Green went on to contend that his proposal would "encourage wider availability of more ambitious residential care, and spur the whole sector to improve". A further likely benefit, he argued, was that "the profitability of providing these additional services would draw investment into the care home sector overall and keep prices low".[202]

In terms of the cost to the taxpayer, Mr Green provided the following calculations:

> The Scottish system provides free personal and nursing care, at rates of £171 a week for personal social care and an extra £78 if nursing care is also required. This takes care of personal hygiene, diet, mobility, treatments and personal assistance – similar to our Universal Care Entitlement, although it does not cover core accommodation costs. The total cost is £123 million a year. If we were to add the cost of basic accommodation on top, it would double to £246 million a year (these are obviously approximate figures).
>
> Adjusting for the size of England's population the change would mean roughly £2.5 billion extra cost per year, in terms of

[201] Centre for Policy Studies, Fixing the Care Crisis, April 2019, p19
[202] As above, p20

> supporting basic care needs for those who currently have to pay in directly.[203]

To fund this, Mr Green proposed taxing the Winter Fuel Payments for older people, unspecified savings from central and local Government expenditure, and a increase in the National Insurance rates of 1 percentage point for the over-50s (the latter described as a "last resort").[204]

Mr Green believed that the Universal Care Entitlement by itself was not enough: "to be truly sustainable, we need to encourage private provision as well, particularly for the more expensive non-care elements such as more expensive housing, which can help the sector overall". He therefore advocated a "Care Supplement" which would be "a new form of insurance designed speficially [*sic*] to fund more extensive care costs in old age, such as larger rooms, better food, more trips, additional entertainment and so on".[205]

Mr Green said that "the inspiration for this would be the private pension system, which sits alongside and supplements the state pension – and is, increasingly, the norm". However, the system he described would, the former Minister acknowledged, have some key differences from the pension system:

> Instead of simply receiving back whatever amount was in your pot, you would pay a set level upfront for one of a tier of products – for example, a £10,000, or £20,000, or £30,000 package, which promised a specified level of care in addition to that provided under the Universal Care Entitlement.
>
> These products would be standardised rather than personalised – in other words, insurers would not be able to charge you more because of what their testing had found in your genome, or because you had a family history of dementia. The reason for this is that, as mentioned above, social care needs are unpredictable.[206]

Mr Green acknowledged that such a system would require a "functioning insurance market", something which to date has been elusive in England (see section 5.4). However, Mr Green argued that "by pooling risks, the insurers offering these products will be able to guarantee good treatment – while cross-subsidising the most expensive patients with those whose needs end up being less intensive (or who do not end up needing care at all)".

He added that for those who could afford such additional insurance, Mr Green said that they would "have a guarantee that that is the limit of their costs – with no need to run down assets or sell your family home".[207]

The Care Supplement would be voluntary; Mr Green said that "people will have a choice about whether to pay, rather than seeing their tax bills inexorably rise". While advocating that "information and

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[203] Centre for Policy Studies, Fixing the Care Crisis, April 2019, p21
[204] As above, p22
[205] As above, p23
[206] As above, pp23–24
[207] As above, p24

education" would be "vital" to ensure a sufficiently high take-up, Mr Green also said that the Government should not only "nudge" but "if necessary, shove" people towards it.[208]

Based on assumptions about housing wealth and the proportion of people wishing to purchase the Care Supplement, Mr Green estimated that, as a minimum, it would attract £4 billion of funding per annum, most of which would come from the release of housing wealth.[209] For those that chose not to purchase the Care Supplement, should they subsequently wishes to receive a higher standard of care beyond the Universal Care Entitlement they might have to sell their home or find alternative means to do so. He added that:

> Since contributing would be encouraged rather than compulsory, the Care Supplement would not be a tax, or any kind of state confiscation of wealth. It would instead encourage more people to save more for their old age, without introducing any new element of compulsion. This would be clearer and fairer than the current system of state and private provision.[210]

The Universal Care Entitlement (and Care Supplement) would both be met directly from central Government, rather than the current system where central Government funding is channelled to local authorities who then provide funding support for those eligible. Mr Green's proposal would mean, in terms of who funds social care, a return to the situation prior the changes brought about by the NHS and Community Care Act 1993.

Mr Green contended that the current system "discourages investment in new care home facilities by penalising councils which support it and discouraging councils from giving planning consent for new retirement housing developments", and noted that:

> At a Centre for Policy Studies debate on housing for the elderly last year, many councillors said that they had directly been told by other councillors that they could not support housing for older people in their area, because it would destabilise the local care system and effectively create a significant additional cost burden for the local council.

Mr Green said that a consequence of his funding proposals would be that, "for councils, the reformed system … would break the link between size of the elderly population and pressure on social care budgets". The would allow those councils to "feel that they could expand the supply of local care provision and retirement housing", and that:

> because the system will not be paid for by councils, their role will be to oversee and supervise. This will help to encourage an honest assessment about needs in the local area, as it will no longer be in councils' interest to discourage the construction of care facilities.[211]

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208 Centre for Policy Studies, Fixing the Care Crisis, April 2019, p24
209 As above, pp25–26
210 As above, p27
211 As above, p29–32

13.10 Independent Age report on a cap and catastrophic costs (April 2019)

Further to its September 2018 (see above), in April 2019 Independent Age published a report entitled "Free personal care: how to eliminate catastrophic costs", which also included a detailed analysis of the effect of a cap on lifetime social care charges across a number of possible parameters. The charity explained that their new report built on their earlier report "and focuses on one of the significant benefits of free personal care, namely, how it can eliminate catastrophic costs for all older people receiving care".[212]

Describing the current system as "in crisis" and "chronically underfunded", the report repeated the charity's call for the introduction of free personal care in England for all older people who needed it, and provided further analysis in support for their position and against the idea of a lifetime cap for social care charges.

Independent Age contended that "free personal care would also remove the unfairness in our health and social care systems, whereby someone who has a long term health condition, like cancer, gets all of their treatment free at the point of use, while someone else, who develops dementia, will be subject to a means test and may end up spending huge amounts on care for the remainder of their life".[213]

Noting that, for those living in a care home, lifetime costs include both the cost of the social care and also the "hotel cost" of being provided with accommodation – which they said "can be around two thirds of the total cost of staying in a care home". Independent Age said it was "crucial" that "any reforms to the social care system also protect older people from catastrophic hotel costs".

Independent Age said that "currently, approximately 143,000 older people face 'catastrophic lifetime costs' of £100,000 or more – that's more than one third of those in residential care".[214]

Independent Age went on to argue that the term "catastrophic lifetime costs" should be defined as spending 50% of more of a person's wealth on care costs, rather than a fixed financial amount.[215]

Independent Age noted that its proposal of free personal care:

- would reduce the number of people facing care costs in excess of £100,000 from 143,000 to 80,000;

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[212] Independent Age, Free personal care: how to eliminate catastrophic costs, April 2019, p4

[213] As above, p2

[214] As above, p2

[215] Independent Age provided the following example: "Let's say Susan has assets of £800,000. If she needs to pay £100,000 for her care, she is spending 12.5% of her total wealth on her care. David has assets of £130,000. If he needs to pay £100,000 for his care, he is spending 77% of his total wealth on care – more than six times as much proportionately as Susan. So having a single figure to define catastrophic costs doesn't work". [Independent Age, Free personal care: how to eliminate catastrophic costs, April 2019, p5]

  - of the 80,000, "catastrophic care costs" (as defined as over 50% of their assets) would affect 16,000 – 4% of people in residential care. Independent Age called for a safeguard to help this group;

- would mean, for people receiving domiciliary care (and therefore only facing social care costs), that the risk of catastrophic care costs would be eliminated (assuming they didn't move into a care home);
- would "allow older people to stay in their homes for longer" and "support the integration of health and social care, and reduce the cost of delayed transfers of care";
- "could be introduced at a similar cost (to the Government) to a cap on care costs" (although this depends on what level the cap would be set at).[216]

The report also dismissed proposals for a lifetime cap on social care charges, arguing that it would "fail the majority of older people", noting that "if the cap is set at too high a level, many older people in residential care will not live long enough to reach it"; for example:

- a £35,000 cap would only be relevant after 3 years in care;
- a £72,000 cap would only be relevant after 6.1 years in care;
- a £100,000 cap would only be relevant after 8.5 years in care.[217]

In addition, a cap that only took into account spending on social care – as previously proposed by the Government[218] – would "take no account of hotel costs and therefore leave many older people at risk of catastrophic hotel costs".

Independent Age noted that a £100,000 cap that also included hotel costs would only be relevant after 3.1 years in care and affect 34% of people in residential care.[219]

The report added that "analysis shows that a cap on care costs would be inefficient, and even at its lowest level would deliver poor value for taxpayers' money". The report included the following graphical representation of the winners and losers from different levels of the cap (see overleaf):[220]

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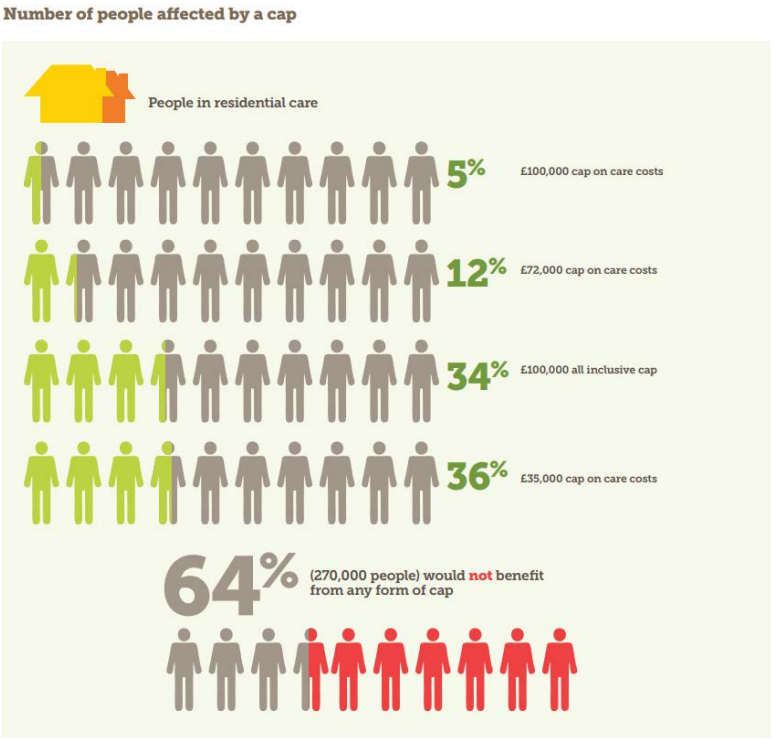
216 Independent Age, Free personal care: how to eliminate catastrophic costs, April 2019, pp3
217 As above, pp3 and 10
218 For more information, see section 2.3 of the Library briefing paper, Social care: how the postponed changes to paying for care, including the cap, would have worked (England).
219 Independent Age, Free personal care: how to eliminate catastrophic costs, April 2019, pp3 and 10
220 As above, pp3, 10 and 11



13.11 Other relevant reports

- The Institute for Fiscal Studies (IFS) and the Health Foundation's "Securing the future: funding health and social care to the 2030s" report (May 2018) noted that "to maintain social care services at the levels available in 2015–16 would require spending to increase by a projected 3.9% a year over the next 15 years" in England.[221] The report considered possible tax changes to fund additional social care and health expenditure, but noted that there are "a number of concerns specific to social care funding" which it considered in section 4.7;[222]
- AgeUK published "An international comparison of long-term care funding and outcomes: insights for the social care green paper" in August 2018, written by Incisive Health. The paper considered different approaches to long-term care across a group of countries (namely, France, Germany, Italy, Japan and Spain), and how they compared to the system in England. AgeUK said that it was "notable that England has a stricter means test than the other countries examined in the report";[223]
- Care Quality Commission's (CQC) "State of Care" report (October 2018) – the report by the regulator for England considered the current state of the adult social care market, describing it as "fragile", and drew upon analysis from AgeUK among others. While noting the additional funding provided for the NHS and social care that had recently been announced, the CQC warned that this extra money "risks being undermined by the lack of a

221 Institute for Fiscal Studies and The Health Foundation, Securing the future: funding health and social care to the 2030s, May 2018, pp65 and 107
222 As above, p163
223 AgeUK, England the 'poor man' of group of developed countries when it comes to funding care for older people, press release, 29 August 2018,

similar long-term funding solution for social care". The report did not put forward policy proposals in regard to social care.[224]

[224] Care Quality Commission, The state of health care and adult social care in England 2017/18, October 2018, p4

Other Library briefing papers on adult social care

- Social care: paying for care home places and domiciliary care (England)
- Adult Social Care Funding (England)
- Health and Social Care Integration
- Social care: Government reviews and policy proposals for paying for care since 1997 (England)
- Social care: the Conservative Party's 2017 General Election pledges on how individuals pay for care (England)
- Social care: care home market – structure, issues, and cross-subsidisation (England)
- Social care: Announcements delaying the introduction of funding reforms (including the cap) (England)
- Social care: how the postponed changes to paying for care, including the cap, would have worked (England)
- Social care: Recent changes to the CQC's regulation of adult residential care (care homes)
- Four Seasons Health Care Group – financial difficulties and safeguards for clients

Version control (from version 3.0 onwards)

3.0	27/6/18	Revised date of publication added, new section 5 on the NHS inserted and sections 11.3 and 11.4 added
4.0	15/8/18	New format used, sections 10.4 and 10.6 added, section 5 incorporated into section 7 as box 3 and note checked
5.0	27/11/18	Updates to sections 1, 3, 4, 5, 7, 8 and 10, boxes 2 and 4 and new sub-sections 10.6 to 10.9 added
6.0	14/12/18	Deferment of publication until "first opportunity in 2019" added in summary and sections 1 and 7
7.0	8/4/19	Sections 2, 5 and 9.2 added and editing and restructuring changes
8.0	13/5/19	Media reports on further delay, and sections 5.5, 6 and 13.9 and 13.10 added

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