



**RCN Policy and International Department  
Policy briefing 20/12  
July 2012**

# **RCN briefing on social care reform**

**RCN Policy and International Department**  
020 7647 3723  
policycontacts@rcn.org.uk  
[www.rcn.org.uk/policy](http://www.rcn.org.uk/policy)

## Introduction

The long awaited care and support white paper and an accompanying draft bill and progress report on funding reform were published on 11<sup>th</sup> July 2012.<sup>1</sup> Much of the content of the white paper and bill were derived from the Government's consultation on social care reform that the RCN responded to in December last year.<sup>2</sup> The draft bill covers changes to legislation that would be required to implement the Government's vision for reform, as outlined in the white paper, and the Government has asked for views and comments about the bill. The funding progress report follows the Government's consideration of the Dilnot Commission's recommendations on social care funding, published last year.<sup>3</sup>

Informed by stakeholders including the RCN, all three documents outline the case for reform, and the scale and urgency of the challenge is alarming.<sup>4</sup> The current system is complex and confusing, unfair and subject to a postcode lottery, and failing to deliver preventative care or to provide adequate and system-wide, quality care. In addition, the system is under critical pressure, in light of the ageing population, people living longer with long term conditions and disabilities and rising expectations. The documents include many important steps to help address some of these challenges, which will be looked at in this briefing. However, funding reform - undoubtedly crucial to the success of any reforms - has not been delivered by the progress report and is again on hold until the next Comprehensive Spending Review (expected in 2015).

This briefing examines the detail of the white paper, draft bill and funding progress report and reflects on the positives and negatives in relation to the RCN's positions and how changes will impact on service users and patients, their families and carers, and care and support staff.

## Nursing and social care

Over many years, the RCN has played a significant role in the debate around social care reform due to the key roles nursing staff play working within and across the health and social care systems, including:

- Nursing staff play a distinct and critical role in health and social care as they frequently work on the interface of the two care systems.
- Often the lead in the patient journey, nurses are frequently responsible for resolving confusion over why and when care is free and when service users must pay - a time-consuming, duplicative and bureaucratic process, which ultimately takes them away from frontline care delivery.

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<sup>1</sup> The white paper; <http://www.dh.gov.uk/health/2012/07/careandsupportwhitepaper/>; the care and support draft bill; <http://www.dh.gov.uk/health/2012/07/careandsupportbill/>; and the progress report on funding reform; <http://www.dh.gov.uk/health/2012/07/scfunding/>. The draft bill also includes legislation to create Health Education England, which is not covered in this briefing.

<sup>2</sup> [http://www.rcn.org.uk/\\_data/assets/pdf\\_file/0009/419517/61.11\\_Caring\\_for\\_our\\_future.pdf](http://www.rcn.org.uk/_data/assets/pdf_file/0009/419517/61.11_Caring_for_our_future.pdf)

<sup>3</sup> The Dilnot Commission's report <http://www.dilnotcommission.dh.gov.uk/our-report/>

and the RCN's response to the Dilnot consultation:

[http://www.rcn.org.uk/\\_data/assets/pdf\\_file/0009/359991/Future\\_funding\\_of\\_care\\_and\\_support\\_in\\_England\\_-\\_Exec\\_Summary.pdf](http://www.rcn.org.uk/_data/assets/pdf_file/0009/359991/Future_funding_of_care_and_support_in_England_-_Exec_Summary.pdf)

<sup>4</sup> [http://www.rcn.org.uk/\\_data/assets/pdf\\_file/0004/438367/04.12\\_Social\\_Care\\_Briefing\\_Feb2012.pdf](http://www.rcn.org.uk/_data/assets/pdf_file/0004/438367/04.12_Social_Care_Briefing_Feb2012.pdf)

- Nursing staff often have to deal with the impact of delayed transfers of care, stemming in part from disputes over who pays (lack of capacity in the NHS or local authority are also factors).
- Too often, nursing staff discharge a healthy patient into the community, only to see them readmitted into the acute setting weeks later due to inadequate community care and support – the so-called ‘revolving door’.
- High levels of unmet social care need and care needs’ escalation mean it is again nursing staff, both in the acute and community settings, and the NHS who fill the gaps in social care provision. This year 75% of RCN members responding to a survey on community nursing said the pressure on their team had increased as a result of social care cuts.<sup>5</sup>

**Getting the social care system right is therefore critical for both the sustainability of the NHS and for the quality of care the care systems together can provide.**

## **The care and support white paper and draft bill: key principles**

*Our vision is one that promotes people’s independence and wellbeing by enabling them to prevent or postpone the need for care and support. We will also transform the system to put people’s needs, goals and aspirations at the centre of care and support, supporting people to make their own decisions, to realise their potential, and to pursue life opportunities.*

Care and support white paper, 2012

The Government’s vision as outlined above is one which the RCN fully endorses - prevention and people having control of their care are clear areas of failure in the current system. However, as with many visions, it is the detail behind it that is of critical importance.

## **Key actions: Prevention**

Most local authorities currently only provide for care needs that are either substantial or critical (and therefore neither low nor moderate care needs<sup>6</sup>), and this care is only free for those with the lowest means. As a result many people’s social care needs are left unmet, and it is only when needs escalate or money runs out that services are provided free. In our responses to related Government consultations<sup>7</sup>, the RCN identified the lack of prevention in the current system as a key issue as:

- It deprives service users of their independence as their needs escalate and they require more care and support.

<sup>5</sup> [http://www.rcn.org.uk/\\_data/assets/pdf\\_file/0003/450525/09.12\\_The\\_Community\\_Nursing\\_Workforce\\_in\\_England.pdf](http://www.rcn.org.uk/_data/assets/pdf_file/0003/450525/09.12_The_Community_Nursing_Workforce_in_England.pdf)

<sup>6</sup> For more on criteria s see, for example:

<http://www.plymouth.gov.uk/homepage/socialcareandhealth/adultsocialcare/socialcaresupporteligibility.htm>

<sup>7</sup> See for example: [http://www.rcn.org.uk/\\_data/assets/pdf\\_file/0009/359991/Future\\_funding\\_of\\_care\\_and\\_support\\_in\\_England\\_-\\_Exec\\_Summary.pdf](http://www.rcn.org.uk/_data/assets/pdf_file/0009/359991/Future_funding_of_care_and_support_in_England_-_Exec_Summary.pdf)

- It fails to sustainably use scarce resources since care services (both social services and the NHS) have to provide for more costly, severe and complex care needs as a result.

The 'key actions' that the Government have identified to build a preventive care system in the white paper and draft bill include:

- **Placing a duty on local authorities to commission and provide preventive services.** This duty is important as clearly such services must exist so that low and moderate care needs can be provided for in a community. However, the question over whether people will be able to fund these services themselves remains.
- **Stimulating the development of initiatives that help people share their time, talents and skills with others in their community (i.e. a time bank).**
- **Developing and implementing new ways of investing in supporting people to stay active and independent, such as Social Impact Bonds.**
- **Establishing a new capital fund, worth £200 million over five years, to support the development of specialised housing for older and disabled people.** A new duty will be placed on local authorities to ensure that adult social care and housing departments work together (and the NHS will be expected to give particular consideration to developing housing for older and disabled people). This is symbolically important in recognising the links between services, and the social determinants of care needs, an issue which the RCN has worked with stakeholders to highlight.<sup>8</sup>
- **Other actions include measures to support volunteering schemes and contributions from individuals to their communities – or 'supportive networks'.** The measures reflect this Government's 'Big Society' approach, one whose impact and influence must not be too heavily relied upon, since communities, families and carers already do much to assist people in need of care.

**Whilst the RCN recognises that these actions are important steps, it has made clear in its consultation responses that a preventive approach requires investment.**

Prevention can neither be done 'on the cheap', nor primarily by communities made of people with many pressures of their own to cope with. It is also important to recognise that savings will be made across the two care systems - savings from investment in low social care needs will produce savings through less demand on NHS care. Hence, a joined up approach (possibly virtual) to financial accounting across the systems must be considered for the benefit of the public purse at large.

## **Key actions: People in control of their care**

Most people are unaware that social care is not universally free, and that it is subject to a postcode lottery so that different levels of care need and financial means are provided for across the country. This makes it hard for people to plan and take control of their care,

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<sup>8</sup> [http://www.rcn.org.uk/\\_data/assets/pdf\\_file/0007/438838/01.12\\_Health\\_inequalities\\_and\\_the\\_social\\_determinants\\_of\\_health.pdf](http://www.rcn.org.uk/_data/assets/pdf_file/0007/438838/01.12_Health_inequalities_and_the_social_determinants_of_health.pdf)

and users, carers and staff experience difficulty in accessing and navigating care services and systems.

This has been an area where the RCN has lobbied tirelessly since our members tell us about the detrimental impact the current system has on the patient journey and experience:

- It takes care staff away from delivering frontline care as they are often responsible for resolving who pays for care – eligibility assessments are time-consuming, often duplicative and bureaucratic. The process is stressful and confusing for patients, their carers and families, and frequently causes delayed transfers so that their needs are not appropriately met and the care they experience is not integrated.

In its reforms, Government says putting people in control of their care and support , through using tools such as personal budgets and direct payments, will help drive up quality in care provision. It has also recognised that being in control requires an understanding of care options, how the system works and how best to be supported.

The key actions the Government has highlighted to help put people in control of their care fall into measures seeking to improve information and people's understanding of the system and care options, and measures to raise quality.

## Key actions: Information and understanding

- **From 2015 introducing a minimum eligibility threshold to ensure greater national consistency in access to care and support, and ensuring that no-one's care is interrupted if they move (portability).** This measure responds to the RCN's concerns about user and patient confusion about their entitlement to care. Portability is a welcome step in providing integrated care to those who move around the country. However, it remains to be seen whether all unnecessary assessment duplication will be removed through this measure as the receiving authority will still carry out a needs' assessment. The RCN also believes that a national minimum eligibility criteria in Continuing Health Care to ensure the consistency, fairness and ease of access and understanding for patients.
- **Choice over who carries out the assessment – an ambition that many new providers will offer assessment services.** In its response to the Future Forum on integrated care the RCN highlighted single assessments, single entry points and multi-disciplinary team working as pivotal facilitators to delivering integrated care.<sup>9</sup> The RCN would like the Government to reflect on how such approaches would work with outsourced assessments. Crucially, the RCN believes the input of professional and clinical care staff in the assessment process is essential in preventing needs' escalation. The RCN would be keen to see more details about this measure.
- **Establishing a new national information website, to provide clear and reliable source of information on care and support, and investing £32 million in better local online services.** Whilst information provided over the internet will

<sup>9</sup> [http://www.rcn.org.uk/\\_data/assets/pdf\\_file/0018/415251/59.11\\_NHS\\_Future\\_Forum\\_recommendations\\_to\\_Government\\_Vers\\_2.pdf](http://www.rcn.org.uk/_data/assets/pdf_file/0018/415251/59.11_NHS_Future_Forum_recommendations_to_Government_Vers_2.pdf)

undoubtedly be useful in assisting some people to make choices about care, it is not clear how information provided online will help all groups of people to do this alone and without additional personal support - there still needs to be accessible information in other formats tailored to different groups.

- **Every registered residential or home care provider will have a provider quality profile on the NHS and social care information website – the information provided will grow over time to include a range of information including basic provider details, CQC inspections and quality rating.** The RCN has repeatedly asked that information about care homes can be more transparent and more detailed to enable service users to make real and informed choices about their care.
- **Working with a range of organisations to develop comparison websites that make it easy for people to give feedback and compare the quality of care.** The RCN believes that there may be a role for CQC in providing this website and for a link to be made with the NHS choices website.<sup>10</sup>

## Key actions: Raising quality

- **Legislating to give people an entitlement to a personal budget – a personal budget must be included in the care and support plan.** The RCN fully supports people having control over their care and of person-centred or personalised care.<sup>11</sup> However, the RCN does have concerns that personalised care and personal budgets are wrongly conflated – personal budgets are one way to deliver personalised care. With this in mind, the RCN has always maintained that personal budgets, and personal health budgets, must remain optional – crucially as they may not be the preferred or most appropriate solution for some people, particularly those most vulnerable. Furthermore, Government must work with stakeholders to consider how to minimise bureaucracy and disputes over who pays for what aspects of care when personal budgets and personal health budgets are integrated. With integration in mind, the RCN also maintains that all care relating to health care needs remain free at the point of need (i.e. no top-up payments).
- **Piloting the use of direct payments for people who have chosen to live in residential care.** The RCN has already asked for more information about how this would work in practice.
- **Rule out crude ‘contracting by the minute’, which can undermine dignity and choice for those who use care and support.** Community nurses have often raised the impact of providing care by the minute on the service user and the quality of care they receive as a result, the RCN therefore welcomes this measure. However, this approach to commissioning care has been taken as a result of funding shortages, hence funding reform again remains paramount.
- **Consulting on further steps to ensure service continuity for people using care and support, should a provider go out of business.** When Southern Cross, the

<sup>10</sup> [http://www.rcn.org.uk/\\_data/assets/pdf\\_file/0004/426478/004208.pdf](http://www.rcn.org.uk/_data/assets/pdf_file/0004/426478/004208.pdf)

<sup>11</sup> [http://www.rcn.org.uk/\\_data/assets/pdf\\_file/0008/407825/6.11\\_Personal\\_health\\_budgets\\_15.09.11.pdf](http://www.rcn.org.uk/_data/assets/pdf_file/0008/407825/6.11_Personal_health_budgets_15.09.11.pdf)

largest care home provider in England at the time, failed the RCN raised its concerns for the residents and the impact that any move would have on their health – ultimately placing them at risk of increased morbidity and even mortality.<sup>12</sup> The College is aware of Government plans to introduce a health special administration procedure for private companies that deliver NHS services, which become financially unsustainable. The procedure would be based on existing corporate insolvency law.<sup>13</sup> The College would like more detail to understand how this will work in practice, and to be involved in the future consultation.

- **Placing dignity and respect at the heart of a new code of conduct and minimum training standards for care workers.** The RCN is part of the working group responsible for the developing the code of conduct and minimum training standards for care support workers. Such steps will help raise the quality of the workforce and improve safeguarding, but the RCN believes that a vital part to achieving both outcomes is the regulation of support workers.<sup>14</sup>
- **Training more care workers to deliver high-quality care, including an ambition to double the number of care apprenticeships to 100,000 by 2017.**
- **Investing a further £100 million in 2012/14 and £200 million in 2012/15 in joint funding between the NHS and social care to support better integrated care and support.** The RCN welcomes the Government's continued interest in developing a system able to deliver integrated care. However, resolving social care funding will ultimately underpin this, particularly since diverting the NHS' limited funds is not a sustainable solution.
- **The Government support's the Palliative Care Funding Review's recommendations<sup>15</sup>, and will introduce a new funding system for palliative care in 2015 - including a pilot and evaluation of free end of life social care.** The RCN welcomes this measure and hopes that free end of life social care does become a reality.
- **Actions also include measures to support carers, including giving carers the right to an assessment, and introducing a national minimum eligibility threshold for them to maintain their own health and wellbeing.** Nursing staff work with and are advised by carers, and are aware of the challenges carers encounter and of their crucial importance to the patient/service user.<sup>16</sup> Whilst carers already have a right to an assessment, however, this often does not result in services or support so that many end up giving up paid employment in order to provide care. The RCN is therefore keen that this measure does result in actual support for carers, rather than just more assessments.

<sup>12</sup> <http://nursingstandard.rcnpublishing.co.uk/news-and-opinion/news/southern-cross-staff-urged-to-stay-put>

<sup>13</sup> Department of Health, Securing continued access to NHS services:

Technical annex, 2011 [http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_129816.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_129816.pdf)

<sup>14</sup> [http://www.rcn.org.uk/development/health\\_care\\_support\\_workers/regulation](http://www.rcn.org.uk/development/health_care_support_workers/regulation)

<sup>15</sup> <http://palliativecarefunding.org.uk/PCFRFinal%20Report.pdf>

<sup>16</sup> [http://www.rcn.org.uk/\\_data/assets/pdf\\_file/0005/339710/Refreshing\\_the\\_national\\_Carers\\_Strategy\\_call\\_for\\_evidence.pdf](http://www.rcn.org.uk/_data/assets/pdf_file/0005/339710/Refreshing_the_national_Carers_Strategy_call_for_evidence.pdf)

Many of these key actions clearly respond to RCN concerns and reflect RCN positions. However, if people are to have real control and choice over their care, investment into appropriate support to enable them to do so will be required. Again funding reform is of paramount importance.

## The progress report on funding reform: key elements

Within the progress report on funding reform, the Government states that it supports the principles of the Dilnot Commission's recommendations of a capped based model – a cap on the lifetime care costs that people face of £35,000.<sup>17</sup> The Commission also suggested that the mean-tested threshold, above which they would be liable for their care costs, should be increased from £23,250 to £100,000. These proposals would cost the State around £1.7 billion. **However, critically the Government states:**

*“Whilst we support the principles of the approach recommended by the Commission, and it is our intention to base a new funding model on them if a way to pay for it can be found... Given the size of the structural deficit and the economic situation we face, we are unable to commit to introducing the new system at this stage.”*

Caring for our future: progress report on funding reform, 2012

The Government has, in principle, also supported the Commission's proposal that a cap should **exclude 'general living costs' for people in residential care of between £7,000 and £10,000 each year**, to reflect the costs people would meet at home.

In addition to the national minimum eligibility threshold and information improvement measures detailed in the white paper and draft bill, the other Commission recommendation the Government will implement is the **introduction of a universal system for deferred payments for residential care**. This means people will not have to sell their homes in their lifetime to pay for their care. This currently is the practice of some local authorities around the country, and a similar, voluntary concept to the so-called 'death tax'<sup>18</sup>. What is new is that local authorities will be able to charge interest on this payment.

Whilst acknowledging these small steps, since funding reform remains largely unaddressed, the RCN expressed its disappointment over the Government's failure to tackle this critical issue.<sup>19</sup> The RCN has repeatedly highlighted the urgency of social care reform. Most recently work included joint letters with the Care and Support Alliance and Age UK, and in March the College published a report on care homes.<sup>20</sup> The College is clear that any further delay in action not only detrimentally impacts on the health and wellbeing of many older people, but also costs the State more in having to provide for escalated care needs further down the line.

<sup>17</sup> The Commission stated that the cap should be between £25,000 and £50,000, but it felt £35,000 was most appropriate.

<sup>18</sup> <http://www.telegraph.co.uk/news/politics/7215876/Death-tax-plan-will-rob-four-million-of-inheritance-claim-Tories.html>

<sup>19</sup> [http://www.rcn.org.uk/newsevents/news/article/uk/rcn\\_social\\_care\\_proposals\\_only\\_a\\_start](http://www.rcn.org.uk/newsevents/news/article/uk/rcn_social_care_proposals_only_a_start)

<sup>20</sup> For example joint letters: <http://www.telegraph.co.uk/health/elderhealth/9362183/NHS-facing-colossal-care-bill-unless-system-is-overhauled-urgently.html> and <http://careandsupportalliance.wordpress.com/2012/05/08/open-letter-calls-for-leadership-on-social-care-from-pm/> and the RCN care home report:

[http://www.rcn.org.uk/\\_data/assets/pdf\\_file/0007/438667/Persistent\\_challenges\\_to\\_providing\\_quality\\_care\\_v5.pdf](http://www.rcn.org.uk/_data/assets/pdf_file/0007/438667/Persistent_challenges_to_providing_quality_care_v5.pdf)



The progress report offers further disappointment as it concludes that the Government will carry out further work 'with stakeholders and the Official Opposition' to consider the various options for reform' around the Commission's recommendations, with options including:

- The Government suggests that a voluntary, or opt-in, system could be developed. However, in view of people's current level of understanding about the social care system and it not being free, and how reticent people are to save for their retirements, has some clear drawbacks.
- It also suggests that the cap could be set higher, at around £50,000 to £75,000 for instance, and therefore cost the State less to implement. This alters the balances of the partnership that Dilnot found to be appropriate between the state and individuals in providing for their care.

Yet again funding reform has been considered too difficult for our political leaders. **The RCN will continue to highlight the critical importance and urgency of reform for patients, service users, their carers and families and staff across the care systems.**

## **Next steps**

The draft bill is open for consultation and the RCN will submit a response. If you have any comments or views that you would like to share about any of the issues above, or about social care reform more generally please email Laura Clarke, Policy and International, who will be leading the response at [laura.clarke@rcn.org.uk](mailto:laura.clarke@rcn.org.uk)