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Care in Crisis

Castlebeck Care and Southern Cross - just two of the care companies who have hit the headlines in 2011. Horrific abuse was uncovered at one of Castlebeck's homes for vulnerable adults, and Southern Cross, Britain's largest care homes operator, went into administration, leaving its 31,000 residents uncertain as to their futures. While the facts differ, the question arises as to how much do we really care about how the vulnerable in our society are treated?

If one used the level of state investment as a reflection of how much we do care, then an outsider would have to say that we didn't care much at all. The social care sector is massively under-resourced and is reaching financial breaking point. This article looks at how we ended up at this critical juncture and the shortcomings of the present system. We will then look a little closer at the reasons for the Southern Cross collapse, before examining the timely recommendations of the Dilnot Commission Report on Fairer Care Funding.

Causes of the crisis

The National Assistance Act of 1948, subject to numerous amendments since then, remains the basis of current adult social care funding in England. The present system seeks to provide care and support through a means-tested system delivered at a local level by local authorities. People with assets over £23,250 receive no financial state support and need to fund their own care. The level and type of state support for people with assets below this threshold depends on their needs and their income.

There are currently different rules for domiciliary and residential care. In residential care, someone's housing assets (as long as there is no partner or dependent still living in the home) are

taken into account in the means test.

While this system does allow resources to be targeted at those with the lowest means and highest needs, the evolution of the system, the legislation and social developments has led to many shortcomings. Means-testing itself will also remain persistently unpopular for those with wealth who feel that they should not be penalised for having worked hard throughout their lives.

The flaws in the present system are fundamental.

People are exposed to potentially very high care costs and there is no way they can protect themselves from such costs. Some may even be forced to sell their home to pay for care. When a person reaches 65, he is not able to predict what his future care costs will be and this leads to fear and uncertainty as to what to do.

Furthermore, the current system delivers inconsistent services throughout the country. Each of England's 152 local authorities carry out their own financial assessments with charging policies for domiciliary care being set at a local level. This inevitably leads to a "postcode lottery" for provision of care where different people with similar needs are receiving varying levels of care across the country. Furthermore, a person's initial entitlement to support may vary dependent on where they live. Each local authority sets a "needs threshold" for eligibility to means-tested support. While in 2005/06, 60% of local authorities set thresholds at "substantial" or "critical", this has risen to 82% of local authorities in 2010/11.

Service users and their families complain that the system is complex and difficult to understand.

How far employers should go in accommodating the religious needs and requirements of staff is an issue that typically polarises opinion.

There is not enough access to advice and information and the wider care and support system is not properly joined up with, for example, people frequently becoming confused as to the difference between social care and NHS funding (the latter being free at the point of delivery).

These systemic shortcomings are further concentrated by demographic and societal change. The number of over-65s is expected to grow by 50% over the next 20 years, with the number over-90s nearly trebling. As a country we will need to spend a larger proportion of our national income on care and support. Societal changes have also taken their toll on the availability of informal care usually provided by family members - women are now likely to be participating in the formal labour market, and there are increasing numbers of people who do not have children or who are single and therefore depend upon the state-offered care packages.

Bullets

- Around one in ten over-65s face future lifetime care costs of more than £100,000.
- Since 2004, net spending on older people's social care has risen by just 0.1% per year in real terms, a total of £43million, while real spending on the NHS has risen by £25billion.
- Based on present policies, public spending on long-term care will rise from 1.2% of GDP in 2009/10 to 2% in 2039/40.
- Public sector commissioners are underpaying older people's care homes an average of £60 per week per resident (this rises to £120 per week in the South East).
- Geographical discrepancies means that an older resident in Tower Hamlets will benefit from five times higher spending than an older resident in Cornwall.
- Age discrepancies mean that in the 15 years from 1994/95 real spending has increased by more than 150% for younger adults, as against an increase of just 70% for older people.

With all these gloomy statistics and the evident history of under-funding in the area of social care, particularly for the elderly, one could be forgiven for thinking that care homes operators would have always made unlikely investments for private equity firms? The crisis at Southern Crisis shows us that this is not the case and that there has certainly been a silver lining for some.

In fact, not so long ago, running care homes seemed a relatively straightforward way of making money in a country with an ageing population. Many elderly were bankrolled by local authorities which meant that private-sector operators received a steady stream of income from the tax-payer. Companies were able to borrow easily at low interest rates, and for a while even the local

authorities agreed to annual fee increases ahead of the rate of inflation.

In 2003, Southern Cross owned over 100 homes and was bought a year later by US private equity group Blackstone for £167m. Blackstone made a decision to separate Southern Cross's operating company from its property assets, selling off then leasing back the care homes and using the proceeds to take over other operators - a common sale-and-leaseback model. While property prices were on the rise and borrowing was cheap, property speculators were happy to invest and Southern Cross were happy, astonishingly in hindsight, to agree upwards-only rents.

Blackstone floated Southern Cross for £640m in 2006, making a total profit of £1.1bn on its original investment. But when the financial crisis hit, Southern Cross became crippled by a decrease in the fees local authorities were prepared to pay, while at the same time being locked into rising rents. They also faced increased operating costs because the government was encouraging the provision of longer care at home and therefore the residents coming into the care homes required a higher level of care.

Southern Cross's collapse, certainly attributable in part to a business model based on the kind of property speculation that governed the banking crisis, raises the question as to whether the private-sector can be trusted to provide social care for the vulnerable. Should the provision of care should be subjected to uncontrolled market forces where the pursuit of profits will always be a priority placed ahead of the need to care for vulnerable residents? Having visited many privately-run care homes where the standards of care are exceptional, I believe that private operators have provided invaluable investment to this industry which simply could not have been afforded by the public sector. I would go so far as to say that the private operators have led the way in improving standards of care in residential care homes, however what I am not certain of is whether private operators have a sufficiently long-term outlook to ensure that the needs of its vulnerable customers are prioritised, as opposed to the demands of its shareholders.

It is very clear that higher levels of supervision as to corporate structuring are needed and tighter regulations put in place. This is something that the Department of Health are looking into and one proposal is that operators take out bonds underwriting the continued care of residents in the

event of financial failure. This would certainly be a positive step but more is required.

Dilnot

It is against this background that Andrew Dilnot and his fellow commissioners presented their report, Fairer Care Funding, on 4th July 2011. The Commission was set up by the government in July 2010 and tasked with looking at the way that the care and support system currently works in England. The Report goes on to outline its recommendations for reforming the adult social care system.

Bullets - Dilnot Report Recommendations

- Capping an individual's lifetime contribution to care costs to £35,000, regardless of wealth.
- Raising the threshold for means-tested support from £23,250 to £100,000
- Those with support needs which continue into adulthood should be immediately eligible for free state support to meet those needs.
- Maintaining the payment of disability benefits to support and encourage independence, including re-branding of attendance allowance to improve take up.
- Charging for ongoing living costs (e.g. food and accommodation) within a care home environment, but capping such costs at £7,000-£10,000 per year.
- Setting a national threshold for care eligibility to avoid the postcode lottery for care services.
- Improving access to information and advice and investing in an awareness campaign.
- Improving carers' assessments to take place alongside the assessment of the person being cared for, and providing better support for carers generally.
- Improving the integration of adult social care with other services in the wider care and support system, e.g. the NHS.
- Collaboration between the government and the Financial Services Authority and other partner to develop greater support for those seeking information on financial planning for older age.

The Report has broadly been welcomed by commentators who would appear to agree with its opening key finding that the current adult social care funding system in England is not fit for purpose. Certainly, the Report positively addresses the concerns that many people have about their own future.

The Commission's core proposal, and the one which will be the subject of most political discussion, is to ensure that no one would have to pay more than 30% of their assets and savings towards meeting their care needs. This would be achieved by capping an individual's care costs to £35,000 and increasing the threshold for means-tested support to £100,000.

The estimated cost for a cap of £35,000 would be around £1.7bn in 2010/2011, or 0.14% of GDP. This is in addition to the cost of the current system which stands at £14.5bn, or 1.16% of GDP. Understandably, this price tag has received a cautious response from the Department of Health. Health Minister Andrew Lansley made a statement in the Commons welcoming the Report, while cautioning that the cost of the reforms would need to be weighed against other priorities and that "trade-offs" would have to be made.

The Report obviously anticipated this notion of "trade-offs" additionally set out the costs for setting the cap of an individual's contributions to £50,000, rather than £35,000, which would reduce the cost of the reforms to £1.3bn.

But is setting a universal cap for care contributions fair? £35,000 will still be regarded as a large amount for those with total assets of around £115,000 and it is those with assets of marginally over this amount who will still be facing handing over 30% of their wealth to pay for their care. Contrast this with those going into care with assets of over £350,000, who, under the new proposals, will be comforted by the fact that they will not have to hand over any more than 10% of their wealth to pay for their care, this percentage decreasing dramatically the richer the person is. One charity's chief executive has gone so far as to label the proposals regressive, describing them as a "care poll tax for the so-called "squeezed middle"".

This may explain the government's eagerness to reach cross-party consensus as to the way forward, and it has been suggested by government sources that Labour Party support for the Dilnot proposals would give the coalition government cover to enable them to help people rich in assets.

The proposal for one national threshold for care eligibility is certainly to be welcomed as it is wholly inequitable for people to be treated differently based solely on where they live. However, the Report goes on to recommend that a person should only become entitled state support when their needs reach a “substantial” level. This leaves those assessed as only having moderate or low levels of need as being ineligible for state support. Surely if the state supported those with only moderate needs, we could avoid or at least delay those same people developing more costly substantial or critical needs? This would illustrate a preventative response, rather than a reactionary one which the Report might appear to encourage.

At the moment, the government does not appear to want to speed ahead with the reforms, committing only to a consultation period at this stage, before the publication of a white paper on wider social care reform in the Spring, with a mere “progress report on funding” by way of direct response to the Dilnot Report. This will cause outrage among charities and lobby groups who were near-unanimous in calling on government to act without delay.

Conclusion

It is clear that action has to be taken and, whether the Dilnot reforms are adopted in full or in part, if at all, the Report is at least a sober analysis of the current social care system, and a worthy attempt at addressing people’s concerns about their future care and the funding of that care. It is most definitely a hook upon which to hang future discussions, but we are probably past the point of further prevarication, having reached a stage where affirmative action is not just advisable, but unavoidable.

What the care industry will resemble in the short and medium-term really depends on how hands-on the government is going to be as regards reforming the delivery of care. Private investment in the care industry and private operators should continue to play their part, but subject to more regulation. It seems that the funding issue is going to be “parked” for the time being, but if reforms are adopted which aim to manage people’s expectations as to future liability for those costs, then we can expect to see a significant growth in the availability of financial products to cover those costs. As long as such products are sustainable and subject to state regulation and approval, then they should provide security and choice for those who can afford

it.

More state funding is absolutely required - let us hope that the government retains the imagination to find ways of re-directing resources to this much needed area.

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