

DRAFT

KENT COUNTY COUNCIL'S RESPONSE TO 'SHAPING THE FUTURE OF CARE TOGETHER' – THE GREEN PAPER ON CARE AND SUPPORT

This draft response will be further revised following Chief Officer Group, Cabinet and County Council consideration.

A glossary of acronyms is attached as Appendix A.

1. Introduction

(1) Kent County Council endorses the view that the current system of social care is not fit for purpose. We agree with the aspiration to build a social care system that is fair, simple and affordable and therefore welcome the Green Paper and the opportunity it gives us to feed into the design of a new system.

(2) Kent is the largest Council with Adult Social Services Responsibilities in England; it contains some of the most deprived areas in the South East; it consists of large coastal areas which contribute to it having above average residential home capacity. This, combined with its proximity to London, leads to many individuals being placed from out of area that can then end up becoming our funding responsibility under the Ordinary Residence rules.

(3) Kent has a strong track record in pioneering transforming adult social care in its broadest sense, and is already delivering many of the components of the 'expectations' set out in the Green Paper.

(4) Against this backdrop our delivering of social care has been assessed as three stars by the Commission for Social Care Inspection (CSCI) since the star rating system was introduced, all the while supporting individuals right down to the Moderate Fair Access to Care Services (FACS) eligibility criteria. Kent has had to raise additional funding through local taxation, but has managed to maintain a non-residential charging policy which is generous by comparison with many other authorities. We also believe Kent County Council is best-placed to serve the care and support needs of its citizens, and has demonstrated that it can do this both efficiently and to a high standard, with a national reputation for innovation.

(5) The issues covered in the Green Paper raise important legal, democratic accountability and financial questions, and we believe it is important to build a new system that has cross party and public support, and is sustainable in the long term.

(6) Fundamentally, we believe that the new system should be based on a 'partnership' between the individual and the state, which must include a strong role for local, democratically accountable government.

(7) Kent recognises that the current system is not sustainable given the demographic pressures and their financial implications. In line with the demographic changes across England set out in the Green Paper, population forecasts for the Kent County Council area project an increase in people 85 and over from 29,300 in 2006 to 64,500 in 2026, which represents a doubling in this age group.

(8) We have taken the decision to respond to this consultation from the point of view of Kent as a strategic authority. We have carried out our responsibility to stimulate debate about these issues and encouraged individuals and organisations in Kent to respond themselves to the consultation. However we have not attempted to incorporate these views into our response given the tight timescale in order to enable elected Members to debate such important and complex issues fully in advance of submission.

(9) In the following response, rather than answer the questions set, we have commented on what we consider to be the main issues raised in the Green Paper.

2. National Care Service

(1) The concept of the 'National Care Service' is not well defined in the Green Paper. To the extent that it could mean a national care offer or entitlement based around the six expectations, we would support it. However, we would not support a 'National Care Service' if this is intended as a body controlled by central government as this would create a democratic deficit, by removing local political accountability for social care.

(2) We would particularly oppose any move which removed a local authority's ability to decide how much should be spent on social care in their area and to raise extra revenue from Council Tax, if required.

(3) It is clear that there is inequality in the provision of social care across the country. The Fair Access to Care criteria introduced in 2003 attempted to bring greater standardization and transparency to the system. Despite this it allowed local authorities to decide the level of eligible need to use in their area. This effectively sanctioned the continuation of the so called 'postcode lottery'. This clearly disadvantages some people needing care and support and dissuades people from moving to new areas in the country, a right everyone should be able to enjoy. This is particularly relevant in Kent as we operate to the Moderate criteria, unlike many authorities in the surrounding areas. However, we believe that the best way to address this is for government, through reform of the current funding system, to provide increased funding for the social care sector rather than taking power away from local accountable bodies.

(4) (a) We believe that the Green Paper does not adequately address the issue of the health/social care divide, which is clearly one of the issues of most concern to people with high level needs for care and support. In this respect, an aspiration to create a national care and health offer could have been helpful.

(b) However, we recognise that the Green Paper does not represent an end point in the 'Big Care Debate' and that proposals for the future of care and support, and its relationship with healthcare, will continue to develop. We also appreciate that there may be further developments to explore following the Prime Minister's statements regarding care and support on 27 September.

3. National Assessment

(1) The proposal to have a national, portable assessment is something which we would agree with in principle. However we do have concerns about where the threshold would be set and whether this would disadvantage Kent's residents. Kent County Council has delivered to the Moderate level ever since the implementation of the Fair Access to Care Services criteria in 2003, and would be opposed to any system that prevented us continuing to provide services to people at this level of need.

(2) The stated aim in the Green Paper is to place prevention at the heart of any new system and this may indicate that a universal threshold would be at least equivalent to Moderate, if not lower. CSCI's review of eligibility criteria for social care, *Cutting the Cake Fairly*, documented existing tensions between FACS and personalisation, prevention and low-level services. One of the proposals put forward during the engagement process carried out by CSCI was to merge the moderate and low bands into a separate 'prevention' band. This would be something we would support. However unless sufficient funding is available in the new system this may not be achievable, as councils are already finding it increasingly difficult to maintain existing levels of service.

(3) The introduction of a universal threshold, if equivalent to Moderate or lower, would potentially lead to extra funding being given to those authorities who were not yet offering services down to the chosen level. This could disadvantage Kent and other authorities which are currently able to provide services down to Moderate level.

(4) The proposal to have the same proportion of a person's care and support costs paid for wherever they live is attractive superficially as it appears equitable and may make it easier for disabled people to move around the country. However we do have certain reservations about this proposal:

- We think the amount of money the proportion translates into should be determined locally, based on local market conditions
- Unless we were assured of sufficient funding from national government to provide services, we would be loath to give up the discretion available in the charging regime for non-residential services, since this provides councils with another mechanism to keep eligibility levels low within existing funding. In 2007 Kent took the decision to increase the percentage of available income used for charging purposes from 65% to 85%. This was done so that eligibility criteria could be maintained at Moderate.

4. A joined up service

(1) Creating a more joined up service is an admirable aim, but difficult to achieve. In particular, we believe more should be done to strengthen joint working between health and social care services – though we acknowledge and welcome the fact that much has already been done to align health and social care provision, for example by the creation of joint delivery teams in the areas of learning disability, creating a single inspection and regulation body and a single set of performance indicators and the work around the Common Assessment Framework

(2) There are many good examples of joined-up working in Kent, particularly between Kent Adult Social Services, health services and the voluntary sector. The development of preventative services relies heavily on partnership working across the Health and social care sectors (see section 5 below)

(3) KASS and both Kent PCTs have agreed to adopt Functional Assessment in Community Environments (FACE) with the principle of 'do once and share'. We are currently in discussions with the Department of Health about piloting the CAF FACE forms for claiming Attendance Allowance.

(4) (a) In the long term complete merging of funding streams would seem to be a more efficient way of distributing the finite resources available and we would be interested in working with government to test how this may work in Kent.

(b) Specifically one of the proposals around a joined up service in the Green Paper is to completely merge disability benefits for older people (mainly Attendance Allowance) with the current funding for social care. We believe this should be given serious consideration as it may offer the best of both systems. Advantages may include:

- Universal entitlement to at least a set proportion of care costs (from AA)
- Entitlement only after an assessment providing eligibility is kept low (from the current social care system) – this could help guarantee that support would go to those who needed it most
- Advice and help on how to best meet identified needs (from the current social care system)
- Ability to spend the money on whatever the individual feels best meets their needs (from AA). This would, however, require a change in the current legislation governing councils with adult social services responsibilities' (CASSRs) duties towards people assessed as requiring their support. Even with Personal Budgets paid as a Direct Payment, we still have a duty to ensure that the money given is spent on meeting assessed need.

(c) However there are various issues which need to be explored regarding any such proposal in respect of Attendance Allowance and other disability benefits. These issues include:

- Would eligibility for care and support be set at a level comparable with that for current disability benefits?
- Would people have the same freedom as they currently do with disability benefits to use it for what they feel is best? If so, this would require legislative change, as outlined above.
- Would there be transitional arrangements for people in receipt of disability benefits when any change was made to the system?
- At the moment receipt of Attendance Allowance acts to passport people and their carers to extra benefits. A mechanism would be needed to make sure people didn't lose out if AA were to be phased out.

5. Prevention, Personalised Care and Information/Advice

(1) The emphasis on prevention, personalised care and support and providing high quality information and advice is particularly welcomed. These are integral to the direction of travel already spelled out in 'Our Health, Our Care, Our Say' and 'Putting People First'. Kent is fully behind these objectives and has already implemented a number of innovations to transform social care in the broader sense.. These include:

- Offering Telecare since 2004
- Whole System Demonstrator/Telehealth partnership with local PCTs – Kent now has over 900 people using Telehealth, the largest project in Europe
- Providing a website to enable people to carry out a 'self assessment' of their care and support needs anytime of the day or night, since 2004
- Working with service users, representatives from local voluntary organisations and carers to develop our Information, Advice and Guidance Policy. The policy will ensure a good standard of information is given to any person requiring it, irrespective of their eligibility for public funds or support from Kent Adult Social Services.
- Implementing Self Directed Support to meet the personalisation agenda including:
 - Offering Personal Budgets to new clients since April 2009.
 - Over 900 service users using the ground breaking pre-loaded Kent Card for their Direct Payments
 - Offering Enablement Support for up to 6 weeks free of charge to new clients
 - Introducing Support Planning to enable outcome focused support and increased choice and control of support options.
- Using Partnerships for Older People Projects (POPPS) funding to provide:
 - Community Matron Support Workers who work with people who have long term conditions
 - Community Information Liaison Assistants who have produced information directories for services within local communities.
 - Care Navigator Service which will visit a person's home to explore community solutions to meet need and provide community information.

(2) Prevention is at the heart of the Directorate's approach to promoting independence and ensuring services are personalised. It has a long legacy in Kent through funding and collaboration with Health, housing and the voluntary sector. There are many examples of our preventive approach, as set out above. The fundamental principle is to take a wide angled view of social capital while maintaining our eligibility criteria at Moderate, despite significant financial and demand pressures at the higher end.

6. Funding Options

(1) The commitment to find solutions for how the system can be funded is very welcome, as the current arrangements are not sustainable. However it raises a number of important questions, some of which we believe have been given insufficient attention in the Green Paper.

(2) We believe that the basis for any new system should be a partnership between the individual and the state. There are various ways this can be structured and we outline below how we feel the Voluntary Insurance option could work in Kent. Although we acknowledge the difficulties inherent in the fully tax funded option, we would have preferred to see more analysis of this option in the Green Paper rather than it being simply ruled out.

(3) We agree in principle with a system in which everyone, regardless of means, receives at least a set proportion of the cost of their care. In a sense this already exists because Attendance Allowance, which in theory is awarded for care needs, is given regardless of means. If AA were to be abolished and the funding transferred to the social care budget, it would be logical to provide a similar level of funding to all, regardless of means.

(4) The proposal that everyone should receive some state funding, regardless of means, would inevitably lead to a huge increase in the numbers of people being assessed and funded through councils with adult social services responsibilities (CASSRs). We believe there is insufficient analysis in the Green Paper about the implications of this, in particular the legal and financial consequences.

(5) CASSRs currently have a responsibility to ensure that assessed needs are being met. Unless legislation was changed, this duty would extend to new clients accessing support through the local authority. There would potentially need to be many more staff involved in the council's assessment, monitoring and review process

(6) Currently, KASS has about 34,000 clients at any one time. However, if we use receipt of disability benefits as a measure of those with social care needs, there are approximately 100,000 people in Kent who could potentially become clients of KASS (60,000 people entitled to Disability Living Allowance (DLA), of which 12,000 are over 65, and 38,000 entitled to Attendance Allowance (AA)¹). Using these figures as a rough indication would suggest that we could potentially be supporting three times the number of people we do now, before we take into account any demographic changes. Moreover, it is difficult to accurately predict the likely additional numbers without knowing the threshold a person would need to pass before receiving support under any new system.

(7) It is acknowledged that the Partnership model on its own would leave many people unable to cover the full cost of their care. The Green Paper indicates that the least well off would get the whole cost of their care paid for by the state, but a significant number of people would fall outside of this safety net. It is this cohort which would need a mechanism for funding the remaining cost. Kent County Council believes this mechanism should be voluntary insurance.

(8) We believe that the Voluntary Insurance scheme could work along the lines of the evidence submitted by Kent to the Wanless Report in 2006. We carried out research into the Long Term Care Insurance model in 2004 with a leading insurance company and were keen to do further analysis in order to build a case for some type of central government subsidy to bring down the cost of insurance to the customer. However at that time national government did not wish to fund further modelling work. We provide further details of our proposal as Appendix B to this response.

¹ These figures include both those people in receipt of these benefits as well as those with 'underlying entitlement', that is those people whose benefits have ceased after entering long term residential / nursing care.

(9) A key point stressed in the Green Paper is that the costs of 'care and support' should be viewed as being distinct from the costs of 'housing and living', the rationale being that everyone is expected to buy their own food and pay their own bills and rent / mortgage whether or not they have care and support needs. Thus, if someone is in need of residential care, they will be expected to pay for their own accommodation costs as they would if they were living in the community. We have concerns about this approach as clearly in many cases the care and support required is inextricably linked to the type of accommodation, such as a residential care home. No consideration is given to the fact that many people in later life will have paid off their mortgages, so it does not follow that accommodation costs in a care home equate to housing costs in the community.

(10) It is estimated that about half the cost of living in a residential care home is for the board and lodging element (i.e. accommodation). The proposals in the Green Paper do not solve the problem of people possibly having to sell their homes or at best, losing much of the equity in their properties.

(11) We believe that incentives to save for one's old age are not sufficiently considered in the Green Paper. The proposal to offer some state funding to all, regardless of means, goes some way to address a perceived disincentive to save. However, several times in the Green Paper it is stated that more help will be given to people who are "less well off", without defining what that means. If the government is proposing to use the current system of means testing for residential care to determine who gets full help (as opposed to only a proportion), then this system needs to be reviewed and possibly reformed.

(12) Finally we have serious concerns regarding potential massive financial risks if local authorities would have to administer all the money given to individuals and any 'deferred payment' system for a person's contributions.

7. Role of local government

(1) We believe that local government should decide how much money people should receive towards their assessed care and support needs. Local government is best placed to understand and respond to the needs of their populations, including the variations within a large and diverse county such as Kent, which covers one of the most deprived districts in the South East (Thanet) and one of the least deprived (Sevenoaks).

(2) Moreover, should the ability to determine how much care should cost locally be taken away from CASSRs, it would partially limit our ability to shape the market of care and support providers. We strongly agree that market shaping should be a key element of our ongoing role in delivering care and support.

(3) As we have stated above, we have an excellent track record for innovation and delivering good outcomes, as assessed by CSCI (now CQC). We have maintained eligibility criteria at the Moderate level for the last six years, with cross-party backing from County Councillors.

(4) As public finances will be tight for the foreseeable future whatever Government is in power, we would wish to maintain our ability to raise extra money locally through council tax, and as a Total Place Pilot, make best use of all the resources already deployed in Kent. Missing this opportunity will undermine the aspiration in the Green Paper that early intervention and prevention should be cornerstones of care and support in future.

8. **Concluding Remarks**

As our response makes clear, Kent County Council welcomes the Green Paper's drive towards greater personalisation, closer working between health and social care, and a fairer and more sustainable long-term funding regime. However, for any reform of the social care system to be successful, it is important to build on and learn the lessons of previous experience. Based on our long and successful experience of delivering high-quality social care services, we believe that Kent County Council has an important contribution to make to the development of social care reform. We would welcome the opportunity to co-operate with national government in future to explore specific aspects of this area of work.

Appendix A: Glossary of acronyms

AA	Attendance Allowance
CAF	Common Assessment Framework
CASSRs	Councils with Adult Social Service Responsibilities
CQC	Care Quality Commission
CSCI	Commission for Social Care Inspection
DLA	Disability Living Allowance
FACE	Functional Assessments in Community Environments
FACS	Fair Access to Care Services
KASS	Kent Adult Social Services
LTCI	Long Term Care Insurance
PCT	Primary Care Trust
POPPs	Partnerships for Older People Projects

DRAFT

Appendix B: Kent County Council's research into Long Term Care Insurance

In Kent there is a sizeable proportion of older people who start off paying for social care as self-funders, but whose assets then erode to a level at which they need to approach Kent County Council for funding under the means-testing rules.

We carried out research into the Long Term Care Insurance (LTCI) model in 2004 with a leading insurance company and with the advice of the Association of British Insurers. The plan was to offer a new partnership insurance product, targeted either at people from middle age to retirement with middle incomes and a property, or at people with retirement pension lump sums. The LTCI partnership product would create a new category for Kent social services of "fully funded through insurance". There would be no need for a means-test for policyholders.

Aside from financial considerations, Kent County Council was also aware that many self-funders may be inappropriately admitted to care homes in the absence of any care management advice. The proposed LTCI scheme therefore included care management in the expectation that more people would then be supported to remain in their own homes.

Under the scheme eligibility of the policyholders for care would be assessed by Kent County Council, and this assessment would be accepted by the insurance company. Any future payout by the insurer would be on the basis of the Kent County Council eligibility criteria in force at the time the policy was originally taken out, thus protecting the policyholder against changes over time. Those criteria would have to be very clearly delineated, which would be one of the challenges of the scheme.

Kent County Council's proposed LTCI scheme followed certain guidelines, which could be followed by other councils around the country:

- The "partnership" would be between the council and a single insurance company (although one insurer might have agreements with several councils in order to spread the risk)
- The product would be priced on the basis of premiums that were simple to understand, age-related and gender-related.
- The policy would be significantly less expensive than current long-term care products
- In the pricing it was assumed that Attendance Allowance would always be put towards the costs of the care package (this could be substituted with the 1/3 or 1/4 state funding contribution suggested in the Green Paper).
- The benefits would be portable, and could be used to pay for care in another local authority area if the insured person moved
- There could be the choice of Standard level and Enhanced level cover
- The LTCI would be separately targeted but ideally with an option to "package in" with a Stakeholder Pension in order to encourage pension saving

Financial modelling was carried out to demonstrate the impact of the proposed insurance partnership on various types of user. The LTCI greatly reduced the financial burden on self-funders, but also alleviated the costs to Kent County Council. However more work is needed to look at the impact of KCC having to carry out the needs assessment and on their legal obligations under the current legislation.

It was always anticipated that poorer users who could not afford the LTCI premiums would not be affected by the scheme and would continue to be supported by KCC.

The challenge, as always with LTCI, was whether the estimated premiums would be affordable. The insurance company produced draft premiums varying from £20 a month for a 45-year-old man to £110.75 a month for a 75-year-old woman. Subsequent estimates were higher and it was considered that this level of premiums would not be taken up by enough consumers to create a viable product.

Kent County Council was keen to do further analysis in order to build a case for some type of central government subsidy to bring down the price. It was suggested that this could possibly be through council tax reductions for policyholders, or tax breaks on policy premiums. Wider savings might be achieved because case management would help self-funders postpone residential care and offer preventative measures which would reduce demands on free NHS nursing. Unfortunately we were unable to persuade government to fund further modelling on how such a scheme could be implemented.

DRAFT