Care England response to the Kingsmill Review of Exploitation in the Care Sector

Introduction:

Care England is the leading representative body for independent care services in England. We work on behalf of small, medium and large providers and speak with a single unified voice for both members and the whole care sector. Our membership includes organisations of varying types and sizes, amongst them single care homes, small local groups, national providers and not-for-profit voluntary organisations and associations. Between them they provide a variety of services for older people and those with long term conditions, learning disabilities or mental health problems.

We understand the importance of skilled, caring and knowledgeable staff in delivering compassionate, high quality and caring services to individuals. We recognise that in securing the delivery of care in this manner, it is important that staff are supported in both the setting that they work in and by the system as a whole. We therefore welcome this call for evidence and its implicit desire to create and sustain the circumstances in which quality care can be delivered

The primary impediment to this ambition is the fact that local authorities and increasingly CCGs do not pay care providers the true cost of care. Consistent cuts in local government funding over the past few years have resulted in LAs neglecting their responsibility to commission services in a responsible and most importantly sustainable way; as a consequence, providers and service-users have had to pay the financial and emotional costs that this funding gap imposes.

On account of residential care providers housing some of the most vulnerable people in society, we do not think that it is acceptable for local authorities to treat commissioning as an exercise in crude procurement and believe that the current funding gap in social care is the key factor that underpins the majority of the financial issues experienced across the sector at the moment.

We believe that the most valuable thing that central government could do to alleviate the burden on providers, would be to work with local government to ensure that they pay a fair price for the services that they commission, in addition to eradicating burdens unnecessarily imposed upon providers by the state, such as them being categorised as VAT exempt, rather than VAT zero rated, which can cost them up to £50,000 per year.

Providers and politicians of all stripes are united in their desire to provide elderly people and people with complex needs with the care and support that they deserve. We therefore welcome the Kingsmill Review and hope that it will lead to policy proposals that deal with the pressing funding issues that providers face before they reach crisis level.

Consultation responses:

1a) Personal budgets are currently being piloted in adult social care and substantive results from this 2 year pilot should be available over the coming year. It is therefore not known at this stage how delivery would look like if they are rolled out across the country, and when PBs became available to all those receiving residential care, the emphasis on personalisation would mean that there would and should be no uniform approach taken in this area.

b) Providers have stated how difficult it is to recruit personnel into this sector for a variety of different reasons. Firstly, the sector faces competition from higher-paying counterparts such as retail and cannot compete;

secondly, many positions within social care require particular skills sets – such as nursing – which are often hard to find; and finally, the extortionate amount of regulation facing anyone who wants to pursue a career in the care sector, exemplified by the Joseph Rowntree Foundation's recent report that detailed that around 20% of a care worker's time is taken up by paperwork, discourages people from applying for jobs in the sector – a problem exacerbated by the fact that providers do not always have the funding to support career progression. Subsequently, on many occasions, providers recruit from abroad due to both the lack of a sufficient skills base and a lack of desire on the part of the UK workforce, to perform many of the positions that the sector offers.

As a point of information on migration: as Camilla Cavendish noted in her report last year, the duties that care workers carry out are in no way low-skilled. She stated that:

> *Helping an elderly person to eat and swallow, bathing someone with dignity and without hurting them, communicating with someone with early onset dementia; doing these things with intelligent kindness, dignity, care and respect requires skill.*[1]

As a consequence, we are once again bemused by the implication that care workers are low-skilled and that migrant workers could somehow undercut those working in the care sector by carrying out the work that they do for a lower wage. The skills required to deliver care to a high quality preclude one's nationality (ability to speak the language aside) and if such skills cannot be sourced at home, providers face a duty to seek them abroad, so as not to impinge upon the quality of care that their service delivers.

c) Funding in this area is means-tested, and consequently, around 175,000 people pay for their care themselves with 143,000 people having their care paid for entirely by the state. In addition to this, there are 56,000 people between the minimum and maximum threshold of the means test, who have their fees paid for in part by their local authority, but who also have to fund part of their care themselves.[2]

However, as stated in the introduction, there are multiple different issues associated with funding in the care sector. One of the most notable issues is that of top-up fees, which should only be charged to an individual when they are receiving a certain service- the provision of which goes above and beyond what a local authority is expected to fund. Despite this, the funding gap in social care has resulted in a situation in which providers have been forced to make up for the shortfall in funding by charging individuals and their families top-up fees for services that should be – but are not being – covered by the council.

The misuse of top-up fees and issues surrounding funding in general have made us worried that if personal budgets are to be rolled out across the country in adult social care, there would be nothing to stop LAs using this change to further cut their costs. If such an eventuality were to occur, it would most likely precipitate a very serious sustainability crisis across the sector, which would profoundly impact upon both the Health Service and the individuals who use care services.

2a) This is a question for providers to answer.

b) See above.

c) Roughly a third of commissioning is carried out by CCGs, a third by local authorities, whilst a third is funded by the individual themselves. As we have stated, CCG and LA commissioning consistently fails to offer providers a fee that reflects the true cost of care, which means that providers have less or even no money to invest in

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[1] Camilla Cavendish, *An Independent Review into Healthcare Assistants and Support Workers in the NHS and Social Care Settings*, July 2013.

[2] Independent Age, *Care Home Top-up Fees: The Secret Subsidy*, July 2013.

training or refurbishments that they would otherwise carry out. To our knowledge, zero hour contracts are very rare – if not, non-existent – across residential care.

d) We have always supported the NMW as long as this centrally imposed cost is met through LAs and CCG commissioning. However, a rise in the National Minimum Wage would be detrimental to providers' already constrained budgets if not funded through council and CCG contracts, and would most likely result in severe implications in terms of providers' financial sustainability.

e) The impact of this would be to that morale would fall even further than it has already fallen in the sector.

3a) It is not easy to recruit or retain staff. The reasons for this on the recruiting side can include:

- Limited supply especially in certain geographical areas;
- Limited supply in particular skill sets particularly nursing;
- The current difficulties for a care worker to progress to the role of nurse;
- The lack of available funding to support career progression given the demographic workforce profile;
- Difficulty in attracting school leavers to the sector;
- Competition from within the sector and from organisations in other industries.
- Difficulty recruiting due to pay. Also in some areas where jobs are available in an affluent area it is difficult for people on lower pay to afford to commute.

As discussed briefly earlier in this response, another issue in this regard is the regulatory burden placed upon providers. To demonstrate the gravity of this problem, when interviewed by the Joseph Rowntree Foundation, one care home manager stated that paperwork takes up approximately 20% of her time, i.e. one whole working day.[3] Consequently, some homes have dealt with this by establishing a division of labour amongst their staff between those responsible for caring and those responsible for paperwork. This dramatically affects the morale of the latter group who cannot perform the duties that they entered the care profession to carry out. Furthermore, the fact that care homes are regulated by multiple different bodies, has resulted in providers having to unnecessarily duplicate a lot of information that they provide for the benefit of regulators who do not co-ordinate their duties. Streamlining the regulatory framework would ease the burden upon providers, leading to increased recruitment and retention, and positive change in terms of the quality of the service delivered.

Lack of support for career progression can also negatively impact upon staff retention, which creates further costs for providers. Problems in retention can be seen through the microcosm of West Sussex, where Skills for Care estimated staff turnover at around 25% across the sector. When it costs £3,500 to advertise and fill a vacancy, such a high turnover represents a large financial cost to providers in relation to their overall operating budget.

However the sector does what it can to seek solutions and good practice can be seen for example in the Skills for Care 2013 document, Finders Keepers. Regardless though, the funding difficulties underlie all efforts to address the difficult recruitment and retention issues faced by this sector.

b) This is a question for providers.

c) See above.

d) See above.

[3] The Joseph Rowntree Foundation, *Is Excessive Paperwork in Care Homes Undermining Care for Older People?,* February 2014.

e) If providers cannot recruit staff with the necessary skills base, this is obviously going to have an impact upon the quality of care delivered. Furthermore, the regulatory burden has also resulted in staff spending less time caring for service-users and more time sat behind a desk, which also has a massive impact on quality.

4a) The underlying issue underpinning the financial problems that threaten to overwhelm the care sector is the issue of funding. Until local authorities and CCGs pay providers a fee that reflects the true cost of care when commissioning services, the sustainability of providers will continue to remain uncertain. When the care sector deals with some of the most vulnerable people in society, casting the financial sustainability of providers in doubt for the sake of cutting local authority costs appears to be a dereliction of a government's most sacred responsibility to care for its most needy.

One way forward must be to ensure effective oversight of local authority and CCG commissioning. There exists in legislation powers that allow CQC to regulate commissioning of social care services, but this power is not currently used by the regulator and will cease to exist if the Care Bill is passed in its current form. Care England simply proposes that central government act on behalf of service-users to hand this responsibility back to CQC to allow it to assess commissioning regularly and not as proposed by exception, to ensure that local authority commissioning is conducted in an ethical and transparent way.

b) This is a question for providers.

c) A number of ways in which commissioning, ownership and workforce organisation models could be improved can be found in *Finding Common Purpose*. This report co-written by ADASS and the Care Provider Alliance, suggests the idea of secondments between commissioners and providers for short periods and shared learning networks to discuss issues and seek solutions. Furthermore, the same report suggests that tendering exercises could be used by commissioners to encourage providers to innovate and consequently produce effective outcomes for service-users.[4]

Such measures would both ensure that the toxic relationship that has developed between commissioners and providers can be healed by encouraging a shared understanding of the work that each does, whilst this commissioning model would mean that local authorities would have to commission for outcomes rather than commissioning based on cost, therefore meaning that they would be under far more pressure to offer a price that is fair.

d) One way in which this could be done would be to provide high profile support for the Social Care Commitment – a compact between employers and employees, designed to ensure that employers value their employees and that employees carry out their duties with dignity and compassion for the people they care for. More details on the Commitment can be found at: https://www.thesocialcarecommitment.org.uk/Home/About.

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[4] ADASS and The Care Provider Alliance, *Finding Common Purpose*, November 2013.