Health and Care Bill

Consideration of Lords amendments (Commons)

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Introduction

The pandemic has had an adverse effect on older people's physical and mental health. While many older people were already dealing with significant health challenges before the pandemic, a combination of lockdowns, social distancing measures, loss of routine and support – as well as limited access to services to manage pre-existing or newly emerging health conditions – means millions of older people have seen their health decline.

Around a quarter of older people – 4 million – are now living in more physical pain than they did before the pandemic, while around 4.3 million older people now can't walk as far. Just over half of older people – 8.7 million - feel less confident to go to a hospital appointment than they did at the start of the pandemic and around 6 million older people feel less confident to go to their GP surgery.

It is likely that the implications of the pandemic on older people's health and care needs will be long lasting, and without the right support could be irreversible. More than ever before older people will need timely access to high-quality health and social care.

We welcome the ambitions in the Bill to improve health and care for all through increased integration, joined-up planning, and prevention. To improve the health and social care for older people the Bill needs to deliver truly integrated working across health services, public health and social care. The Bill's ambitions cannot be delivered without a clear workforce plan across health and social care, support to unpaid carers and a clear plan for addressing health inequalities. The impact of the pandemic has not been felt equally, with older people among the groups that have disproportionately suffered throughout the last 24 months. Some of this impact comes from a legacy of age discrimination and unequal access to care. We expect existing statutory bodies covered by the Bill to comprehensively demonstrate their adherence to their duties under the Equality Act 2010.

The Covid-19 pandemic laid bare the deep systemic inadequacies of the current social care system which has had catastrophic consequences for millions of older people, families, and carers. While we are pleased that the Government has announced action on social care reform, for millions of older and disabled people who need care now it will be many years before they may benefit from the proposed reforms.

Age UK was very disappointed with the Government's proposed change to the care cap which meant that everyone, regardless of means, would pay the same contribution to their care costs. This proposed change significantly watered down the Government's plan for a cap on catastrophic care costs and did so in a way that protected only the better off, contrary to the Government's 'levelling up' agenda. This follows the Government failing to give social care the financial settlement it needed at the spending review and admitting that most of the money raised by the National Insurance Health and Care levy would go to the NHS.

We were pleased that following debate and scrutiny of the Government's proposed changes in the Lords Peers made the right decision to remove 'Cap on Care Costs for Charging Purposes' from the Bill. Age UK hopes this sends a clear message back to the Government to reconsider this unfair change to the care cap. Should the Government attempt to reintroduce this amendment, we urge all MPs to vote against it.

Secretary of State's Functions: reporting on assessing and meeting workforce needs

The Secretary of State for Health and Social Care should, at minimum, have a duty to publish a biennial report on the health and social care workforce.

We are disappointed that the Bill simply requires the Secretary of State to report on the healthcare workforce once every five years and does not set out proposals to tackle either the immediate shortfall in staffing or the serious and persistent shortages in the social care workforce.

We have seen over the last two years how interdependent our health and social care systems are, and how difficulties finding appropriate residential care beds and domiciliary care staff for people in their homes has not only triggered a tsunami of unmet need in our communities but delayed the timely discharge from hospital for many older people.

The success of Integrated Care Systems relies on effective collaboration between the NHS, Local Authorities and social care providers. The absence of current, reliable data on our health and care workforce is a real impediment to effective planning, and the ability to identify service and skills gaps and take early action is limited.

Age UK has joined a coalition of almost 100 organisations urging the Government to put the health and care workforce on a sustainable footing to close the data gap, reporting every two years to enable timely workforce planning.

We were pleased to see that the amendment tabled by Baroness Cumberlege, requiring the Secretary of State to lay before Parliament a regular, independently produced biennial report of workforce numbers across the health and care sector, was accepted by Peers. We hope that the Government does not attempt to remove this amendment from the Bill as it comes back to the Commons.

The pandemic has highlighted the immense dedication and compassion of many care staff and how valuable they are to our society. Yet despite being a vital and skilled role, social care is not generally viewed as a professional career and social care workers have been consistently underpaid and undervalued. We agree with the Government in its social care White Paper, *People at the Heart of Care*, committing to ensuring that "those working in social care feel recognised, rewarded and are equipped with the right skills and knowledge".

Registration of social care workers would provide reassurance to older people in receipt of care and their loved ones, and over time would help to demonstrate that care workers meet an agreed national set of standards for their professional skills. It also has the potential to develop opportunities for career progression and improved pay and conditions. Investment in the workforce and parity with health care is essential if recruitment and retention are to be achieved.

Age UK wants to:

- *Encourage the Government to retain the amendment which requires an independent biennial report on both the health and social care workforce to be laid before Parliament.*
- *Encourage the Government to bring forward proposals to register the care workforce working in CQC registered services as a first step towards the professionalisation of care workers.*

Hospital Discharge

The discharge to assess model must be matched with funding for community health and care services, clear statutory guidance that includes standards on accountability and safeguards, and respect and deference to patient and family choice. As a step in a permanent change to how hospital discharge works, it cannot ultimately succeed without full reform of the social care system.

Discharge to assess describes an approach by which people leaving hospital have their onward needs assessed and care planned in the place they are living or recovering. For most people, this will be their own home but will also include both short and long stay care homes. We support the discharge to assess approach. It can speed discharge from hospital and provide a more realistic assessment of need that captures both the environment they will be living in and their wider support needs.

Discharge to assess will remove the requirement for local authorities to carry out a social care assessment before someone is discharged from hospital. In the right hands, this can allow flexibility in how discharge is managed and ensure that the onward provision of care is tailored to best meet that person's needs. However, without the right services in the community, people and families experiencing discharge to assess risk being left without adequate support and lacking even the safety net of being in hospital.

Evidence of this risk is already being felt by older people. In particular, the staffing crisis in domiciliary care services has made it incredibly difficult to both keep people out of the hospital and discharge them home. However, community health and care services were under severe strain before the pandemic hit and simply returning to that baseline would not be sufficient to fully realise the benefits of discharge to assess models.

We also need to ensure the effective monitoring of patients' journeys post-discharge, including recording and reviewing outcomes from care. We believe people going through discharge should have a clear timetable for receiving care in the community, which could include maximum waiting times for an assessment and subsequent receipt of care. This assessment should be coordinated across both health and social care but is focused on what will best support that person's immediate recovery and rehabilitation.

The future success of discharge to assess, therefore, is dependent on investment in services in the community and clear lines of responsibility for onward care when someone leaves the hospital, whether they are discharged into their own home or a residential setting.

This must include support and respect for patient and family choice. People should not feel pressured into being discharged somewhere that doesn't work for them in the long term just to achieve the goals of the programme. Incorporating their preferences and wishes, and what works for their family, should be enshrined in discharge to assess models.

Age UK was pleased to see amendment 113 inserted as a new Clause to the Bill which will retain the duty on an NHS or independent hospital to ensure a patient is safe to discharge from hospital and mirrors carers' rights established in the Community Care (Delayed Discharges, etc) Act 2003. We hope the Government will not seek to remove this New Clause from the Bill when it returns to the Commons.

Age UK want to see:

- *Assurances on the standards envisaged in the proposed statutory guidance for discharge to assess. These should include clear standards on accountability and safeguarding, respect for patient and family choice and should consider minimum service requirements, including maximum waiting times for assessment in the community.*
- *Discharge support adequately funded and focused on meeting patient goals from care.*
- *Encourage the Government to keep in the New Clause which will retain the duty on an NHS or independent hospital to ensure a patient is safe to discharge from hospital and mirrors carers' rights established in the Community Care (Delayed Discharges, etc) Act 2003.*

Cap On Care Costs for Charging Purposes

We are extremely disappointed that the Government attempted to make this change to their social care reform model, the impact of which would be very significant for those with longer care journeys, and people with modest income and assets.

The Government pledged to reform the social care system, which is overdue, but while we were supportive of the professed objective to protect individuals and families against catastrophic care costs, their amendment had the effect of significantly watering down the original proposals at the expense of people who have built up some assets over their working life but are by no means well off.

As originally envisaged, the amounts accrued towards the £86,000 cap on care costs were based on the actual cost of someone's care (within the limits of the budget set by the local authority). Wealthier individuals would be expected to pay the full cost up until the point they reached the cap, however people of more modest means would receive help towards their costs once their assets dropped below the £100,000 upper means test threshold. As a result, individuals with identical care needs would reach the cap after the same period, however, those on lower incomes and with more modest assets would have spent less out of pocket. The interaction between the cap and extended means test was intended to ensure the system was fair and provided vital extra protection for people who would otherwise still stand to lose most of their assets under the cap.

The Government's proposed changes to the care cap significantly alters the plans laid out in the Care Act 2014, meaning the amounts accrued towards the £86,000 cap are based solely on an individual's out of pocket contribution. As a result, everyone will be expected to make the full £86,000 cash contribution towards their costs regardless of their means. Although individuals will still qualify for means-tested financial support if their assets fall below £100,000, in practice, this will no longer act to protect people with more modest means and will simply see them contributing over a longer period.

Overall, the effect of this proposed amendment is that those with modest assets of between £106,000 and £186,000 in value will hardly be better off at all under the new scheme. This Clause would also be extremely unfair to those who have no assets and a modest income. It is clear that these changes have the potential to save the Government hundreds of millions of pounds, but at the

expense of those on low incomes, with modest assets and living in parts of the country where houses values are lower.

Age UK opposes any attempt by the Government to reinsert the 'Cap on Care Costs for Charging Purposes' amendment to the Bill.

Age UK want to see

- *No attempt by the Government to reintroduce a 'Cap on Care Costs for Charging Purposes' to the Health and Care Bill.*
- *If the Government reintroduces a 'Cap on Care Costs for Charging Purposes' we urge all MPs to vote against it.*

Get in touch with us

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