

Paying for Care: Third-party top-ups and cross-subsidies

Foreword by Dr Clive Bowman, Chairman, CCC

What is CCC?

CCC was founded in 1992 as the Continuing Care Conference. Uniquely, CCC draws its members from across the entire spectrum of care provision, commissioning, advice and advocacy and funding, and from across the commercial, charitable and public service sectors. CCC's members have a shared interest in improving the care of older people in the UK based on an equitable and sustainable structure of funding.

CCC's mission statement is as follows:

"We believe that all older people in Britain should live their lives in dignity, comfort and in a place of their choosing. We want all elements of society to make the necessary individual and social investment to ensure that happens. Our task is to ensure that policy-makers pursue this goal and to encourage the public to join with us in our mission to persuade them to do so.

CCC has always sought to make constructive contributions to policy debates, based on the experience of our members. While campaigning to end the notorious complexity of the care system, we recognise that many of the issues we describe are themselves complex. We aim to present our concerns clearly and transparently – and not to over-simplify, scaremonger or create easy scapegoats.

Why is CCC publishing this?

Quite simply, CCC is publishing this paper because third-party top-ups and the hidden cross-subsidy of care costs are matters of deep concern to – and a top priority for – our members. Why? Because the current practices are inequitable and they have evolved by stealth from a position where top ups are paid for "extra services" over and above needed care to a point where they are becoming necessary to secure care. Fundamentally, the way that top-ups are now required is symptomatic of the chronic under-funding of care and a cause of distress to care recipients and their families and to many of those who have to adopt such practices.

What does CCC want?

CCC seeks an extensive development of policy on funding for and access to care, on the principle that the provision of care is based on the needs of the individual rather than the method by which an individual's care is funded, or their ability to pay. Only those who have genuinely exercised choice should expect to pay "top-ups".



Paying for Care: Third-party top-ups and cross-subsidies – key points

Concerns across the spectrum

This *Insights* paper presents the issues and dilemmas surrounding third-party top-ups and cross-subsidy of care costs from the point of view of a policy adviser, a care-home owner, a local authority commissioner of care, a lawyer, a specialist financial adviser and a provider of charitable funding to those seeking care. The contributors are CCC members and non-members alike. What is remarkable is the similarity of many of the points they raise, though much insight can be gained from the differing perspectives they bring to the debate.

The problem in brief

Care fee top-ups

A care fees top-up should only apply for services or facilities in excess of those identified in a professionally assessed statement of need e.g. a view of the ocean or facilities for a pet. However, the need for a third-party top-up is often confused with whether or not a local authority can afford a placement in a particular home.

Care costs are increasingly falling on friends and relatives, both in terms of the number and the amounts, where residents require someone to top up the difference between the actual fees of the care-home and what the local authority will agree to pay.

According to Laing & Buisson, in the late 1990s about 14 per cent of residents funded by local authorities received third-party top-ups. By 2004 an Office of Fair Trading (OFT) Market Study found that 33 per cent of residents interviewed who were funded by a local authority had a third party making up the difference. Worryingly, 40 per cent of local authorities responding to the survey thought that more top-ups were being paid than they knew about because they were being negotiated directly between the home and the relatives, outside the terms of the local authority contract.

The payment of third-party top-ups is far from transparent, because individuals do not know whether they are paying for services genuinely over and above their assessed needs or merely making up for inadequate local authority payments.

Care fee cross-subsidies

A fair proportion of 'self-funders' are paying substantial amounts extra for the same level of care as local authority funded residents – in effect, paying a hidden cross-subsidy other residents and, ultimately, to the state.

Care-homes that accept the local authority fee level argue that to remain viable they need to charge more to those funding their own care. The OFT found that about 20 per cent of homes had different charges for 'self-funders' than for similar care provided to local authority-funded residents. Laing & Buisson put the difference at between £50 and £100 a week. The King's Fund report, *Securing Good Care for Older People*, was given information from one provider in the south where the differences between what the LA pays and the fee level for self-funders ranged from £133 to £219 per week.

Care funding: evidence of distress

Counsel and Care reports that in the last six months of 2006 some 22 per cent of its helpline enquiries related to care-home funding and that this was an increasing trend. Age Concern, whose helpline receives calls on a wide range of topics, reports a similar experience. Evidence from a community care lawyer cites “a significant increase” in the use of top-ups to pay for basic assessed care by local authorities in the past ten years and calls attention to the resulting hardship suffered by family members who are often retired and on low fixed incomes themselves. NHFA care advice line reports that many callers are stating that it is not possible to find a care home place in their local authority without paying a top-up. This clearly contravenes the binding Directions on Choice which state that local authorities should not set an arbitrary rate for the amount they are prepared to pay for a care home place if places are not available at that rate.

What can be done? What must be done?

CCC's full *Insights* paper sets out a range of proposals, as a contribution to the wider debate on the funding of long-term care.

Asked what one change would make a much-needed difference, our contributors offered the following key points.

From the policy adviser's perspective

Only those who have genuinely exercised choice should be expected to find top-ups for the fees. It should not matter to the homes, in any way, how the person is funded. The price charged must be based on the cost of running a home and meeting that person's needs rather than on how the person is funded.

From the commissioner's perspective

Where homes do require a top-up, additional services will be clearly priced and publicised (as per OFT recommendations). The only gap between a statutory fee and a non-statutory fee will be for items on the third-party top-up list. This will not preclude prices a) being established at a local level and b) reflecting individually assessed levels of need.

From the legal adviser's perspective

Local authorities should arrange the accommodation for all care-home residents who want it and then charge individuals according to the statutory means test. This would enable self-funders to benefit from block contracting or other local agreements and would end the current cross-subsidy.

From the care-home owner's perspective

Somewhere, the shortfall in funding has to be met; the way it is met MUST become regulated to prevent this institutional abuse being perpetrated by the state.

From the financial adviser's perspective

There is an obvious need to increase the funding to local authorities, ring-fenced for purpose with strict guidance on what is a fair rate to pay. To be rid of both third-party top-ups and cross-subsidies local authorities need to pay a commercial rate for a care-home place. This could be determined by the Commission for Social Care Inspection (CSCI) or equivalent taking into account regional variations of costs and capital requirements. It should not be the current self-funding rate but lower – because as local authorities pay more, private payers should pay less. Perhaps a median rate should be set as the standard. Alternatively, in order to facilitate choice, the funding for care-homes could be passed back to central government, leaving local authorities only with the responsibility of assessing need. Once a need was identified, the service user would apply directly to the Department for Work and Pensions (DWP) for the funding.

From the charity / benevolent funder's perspective

What is needed is for realistic care assessment and for funding to be adequate to meet assessed needs. Cross-subsidies should not be required and neither should charity grants be routinely needed for a statutory service. Charities providing discretionary charitable grants should not be put in the position of being asked to sign contractual third-party agreements.

Conclusion

CCC seeks to persuade the Government and all those with an interest in developing a sustainable care funding system to recognise the endemic problems we highlight and to work towards ending the abuses described. With the exhaustive research work on care funding undertaken by the Wanless Review of Social Care and the Joseph Rowntree Foundation and the ideas being contributed by many organisations to the Comprehensive Spending Review, now is the time to act to address the deep-seated funding issues of which the inappropriate use of third-party top-ups and cross-subsidies are growing symptoms.

One outcome of the next Comprehensive Spending Review and any debate on funding for long-term care **must** be that people should be expected to find top-ups for fees *only when they have been given a genuine choice between care options* and have chosen the more expensive one. The price charged must be based on the cost of running a home and of meeting the person's needs. It should not be based on how that person is funded.

Acknowledgements

Thanks are due to all those, CCC members and non-members alike, who contributed views, statistics and case studies to this paper. CCC is pleased to bring together such a forceful body of evidence to support its case; however, it should be noted that the views expressed in the perspectives contributions remain the views of the individual authors rather than CCC policy.