

## Insights from differing perspectives

### Third-party top-ups and cross-subsidy: a policy-adviser's perspective

There is much discussion in the media about the costs of care, especially in care-homes, normally followed by the much-vaunted statistic of 70,000 people having to sell their homes to pay for care. But there are two other areas that the public might find equally shocking which are far less often mentioned. First, the costs are increasingly falling on friends and relatives, both in terms of the numbers and the amounts, where residents require someone to top up the difference between what the local authority will agree to pay and the actual fees of the home. Secondly, a fair proportion of those residents who fund their own care are paying substantial extra amounts for the same level of care when compared with local authority-funded residents – in effect, paying a cross-subsidy to the state.

The Choice of Accommodation Directions, introduced in 1992 ready for local authorities taking over the gate-keeping role for funding care in care-homes in 1993, had the laudable intention of making sure that individuals would continue to have as much choice as possible over which care-home to live in. In essence, local authorities can set a level they are prepared to pay for a person, having regard to his or her assessed needs. But if an individual wishes to move into accommodation that is more expensive than that amount will cover, then he or she can do so if there is a third party (and since 2001, in strictly limited circumstances, the person himself or herself) to make up the difference.

In responding to the consultation on the Directions in 1992, Age Concern stated:

*'It will be important to ensure that the possibility of choice does not evolve into creation of a moral obligation on relatives or charities to top up inadequate arrangements by local authorities.'*

Sadly, all too often this is exactly what is happening and it appears to be increasing. Market analysts Laing and Buisson report that in the late 1990s about 14 per cent of residents funded by local authorities received third-party top-ups. By 2004 a Market Study undertaken by the OFT found that 33 per cent of residents they interviewed who were funded by local authority had a third party making up the difference. Worryingly, 40 per cent of local authorities responding to this survey thought that there were more top-ups being paid than they knew about because they were being negotiated directly between the home and the relatives outside of the local authority contract. As Laing and Buisson put it *'Some local authorities which were in the past resistant to fees being subsidized in this way are now willing to accept that there is a real shortfall in fee levels and do not interfere with top-ups being negotiated with family members.'* The amount that is paid by friends, relatives and charities in topping up the levels paid by local authorities is unknown.

The payment of third-party top-ups is far from transparent as individuals do not know whether they are genuinely paying for services over and above their assessed needs or making up for inadequate payments from the local authority. Even less transparent is the element of cross-subsidy that has crept in over the years.

*'The difficulty of the shortfall led to what I consider an immoral two-tier charging system in some care-away-from-home establishments. Residents with assets – usually the proceeds of the former family home – who can therefore fund themselves for a few years until their assets run*

*out are charged between £40 and £90 a week more than other residents so that the proprietors can balance the books. That is immoral, but Ministers never refer to that cross-subsidy. Ministers cannot stay silent about the problem much longer.'*

This comment was made in a debate in Parliament by Jeff Rooker MP (now Lord Rooker) as long ago as 4 June 1992. It is not a problem that has gone away – but it is still one that is largely met with silence.

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

The OFT report suggested, perhaps naïvely, that if people had more information about fees *'The ability to raise prices for self-funders will be limited if older people and their representatives have enough information to identify and avoid homes that do this'*.

New regulations that came into force in September 2006 now require homes to state in their service-user's guides whether the terms and conditions (including fees) would be different where the care is funded in whole or in part by someone other than the service-user. However, it remains to be seen how clearly this is stated and whether it does enable prospective residents to avoid these homes. After all, they are rarely in a position to shop around. And the regulations certainly do not address the question of what happens if someone is already in a care-home which is then taken over by a different proprietor who operates differential pricing. As one relative whose mother now pays roughly £100 more for her care than local authority residents following a change of owner, has put it to us, *'Let me make it clear: negotiation is not a word that exists in the vocabulary of nursing home owners – it's a case of accept the rises or find another home. To quote an employee "she is a self-funded resident and we can charge her what we like." My mother's facilities at the home are exactly the same as the state-funded residents, she receives nothing extra for her higher fees. ... She, as are all self-funded patients, is treated as a veritable honey-pot for nursing homes who use them to subsidise state patients. Is this just?*

So where does this leave us in policy terms?

We have a "choice agenda", but what is the choice if relatives cannot find a home at the local authority price, some not even realizing that local authorities are required to provide homes that are suitable within their fee levels? They are left with little choice but to top up.

We have a "dignity agenda", but is it dignified for residents to be left knowing that they are reliant on others to make up the difference in fees? In many cases relatives have kept from the resident the fact that they are making extra payments, in order to spare their relative's feelings, but the care-recipient would be horrified if s/he found out.

We have a "well-being agenda", but often residents who have run down their capital through paying their fees are put through months of worry when they are settled in a home but fear they might have to move because the local authority refuses to meet the price of the home, or because their family can no longer meet the ever-increasing amount requested in top-ups.

New tensions are developing as local authorities move to more block booking of beds, in some cases restricting choice further for local authority-funded residents. It can also leave those funding their own care less choice as spaces are already allocated to local authorities, in some case forcing those funding their own care into homes away from their area or only the more expensive local options. On the other hand, the new individual budgets (if extended to residential care) could mean that more people will be purchasing their own care using this money and the market may need to adjust to far less local authority purchasing. But we must not forget the problems that existed before the community care changes when individuals purchased their care in care-homes using social security benefits that were often inadequate and left residents or relatives paying the difference.

It looks as if we are about to enter into a debate about long-term care funding and yet still have very little information about how much is being met from individuals through top-ups and cross-subsidy. One thing that must come out of the next Comprehensive Spending Review and any debate on funding for long-term care is that 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.

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**October 2006**