Reason for the submission

The Green Paper is expected to focus on the funding of social care, the supply side. However, it will be very important it also addresses the demand side - the way needs are identified and resources allocated to them. The evidence indicates it is a system in great disarray, to a much greater extent than policy makers acknowledge. It is a system that:

- fails to target resources to real need and so delivers very poor value for money
- is disempowering and depersonalising for service users and carers
- creates needless dependency
- allocates resources extremely inequitably
- does not know the extent of real need and so denies the democratic process essential information to enable proper choices about spending priorities.

It is not only the extent of the disarray that is not acknowledged, neither is its source. This submission brings to the attention of the inquiry evidence and analysis that identifies the source of these ills along with proposed action for resolution.

1. While the gap between needs and resources is commonly held to be the root of social care’s ills, the evidence points to it being the way the tension between needs and resources is managed that is the root of the problems above. However real the gap between needs and resources may be – and as your ninth report from 2016/17 acknowledged, we cannot know what it actually is - for reasons set out below, addressing the way the tension is managed must be the prior challenge.

2. Councils have a proper democratic responsibility to ensure spending matches the budget the democratic process has made available. The problem is the approach used - the eligibility process. It is a circular process whereby a need is only deemed to be a need if there is resource to meet it. It is an approach that has been in place since inception of the service in 1948. Workhouses would close and councils would take responsibility for provision for older and disabled people. But there was no clarity at that time about what councils would actually do. Aneurin Bevan, as Minister for Health, told the Commons that councils would provide as much ‘as our resources will allow’. This set councils on the path of determining what they considered to be ‘need’ to be that which matched their resources. Eligibility criteria were the key device. It is the converse of the relationship between needs and resources that had been established for health the year before. Clinical need would exist if a person had something wrong with body or mind and there is an approved treatment for it – resources follow (albeit, perhaps, with a wait). The
contrast persists to this day. This argument is set out more fully in the link below to an article in the British Association of Social Worker’s Professional Social Work journal.

http://cdn.basw.co.uk/upload/basw_51900-10.pdf

The following link is to an article that explores the evidence further. It was published in Disability & Society, an international peer reviewed journal and is titled The Eligibility Question – the real source of depersonalisation


3. The way the eligibility process works explains why in your ninth report for 2016/17 you noted the following;

‘We are disappointed that so few councils have monitoring arrangements in place to identify unmet need. Without such arrangements, it will be impossible to understand the scale of unmet need’.

The circular definition of need means there is never any information about unmet need. Councils cannot recognise it. It calls into question the effectiveness with which the few councils who claim to monitor unmet need are doing so. The circular definition of need has been used by political and sector leaders, when under pressure about a funding gap, to be able to claim that all eligible needs are being met and therefore there is no funding gap. It is always a true statement, no matter the size of the budget.

4. The eligibility process has seriously malign effects at the individual level. Another observation in your ninth report from 2016/17 came from a service user, who when asked about ‘choice’, said;

‘There are choices, as long as it fits within the system or within their boxes. I feel like my life is a unique journey that doesn’t fit into any boxes, and nobody else has ever done it before, so my care needs to be truly unique. I would like it to be that somebody comes out and says, “So what is your life about?” and then, “How do we fit the care to that?” and not, “Okay, this is what we do.”’

This person is describing what it’s like to be on the receiving end of the eligibility process. Councils control the flow of needs they will fund by creating categories of needs into which people must fit. This shapes the assessment process. It is fundamentally depersonalising.

5. The eligibility process is not only depersonalising, it creates dependency and in a way that diminishes well-being. The ninth report noted the following;

‘Councils are coping with reduced budgets by providing care and support to fewer people and concentrating it on those with the highest needs’.

On the ground this means that the only way people can secure resource is to emphasise their deficits and downplay their strengths in order to be seen to be in the ‘highest needs’ bracket. This creates dependency. But it also diminishes well-being. Ipsos Mori, in a large scale study last year into unmet need (https://www.ipsos.com/sites/default/files/2017-07/unmet-need-for-care-full-
were surprised to find little relationship between the extent to which needs were met and well-being. When they subsequently talked to older people they identified how support was targeted at the wrong needs and what needs were met were met in a way that undermined their resourcefulness and independence. This finding powerfully resonates with data from new annual returns by councils. This shows that the service users of councils that spend the most on social care do not achieve any higher well being than the service users of other councils.

6. Finally the circular definition of need results in gross inequity. The Dilnot Commission in 2011 noted that people with similar needs received ‘very different’ levels of provision around the country. The Commission believed the answer was to have national eligibility criteria. However, this failed to understand the essential nature of the eligibility process. There are, in effect, as many eligibility policies as there are budget holders around the country. Local decisions are expressed in the language of the formal criteria which serves to create an appearance of consistency and equity. It is an entirely misleading appearance. In 2016/17, the lowest spending council spent £9.3K per service user and the highest £23.3K (having made an adjustment for regional differences in residential costs without which the difference would be greater). This is despite all councils supposedly working to the new national eligibility criteria. The following is a link to a short introduction by Professor Luke Clements – a much respected legal academic in the field of social care – to a recent paper that shows the failure of the new National Eligibility Criteria.

http://www.lukeclements.co.uk/facs-and-fiction/

7. It is important to acknowledge that the personal budget strategy has failed to deliver its ambition to personalise the support planning and resource allocation process. The meaning of what a personal budget is in law is completely different from the one set out in policy. In policy a personal budget is an up-front allocation of money; under the Care Act it is simply the financial value of the services the council offers. It is the latter definition that is being applied in practice. The link below is to a short post on the Department of Health’s social care blog that sets this out a little more fully.

https://socialcare.blog.gov.uk/2017/08/09/ten-years-on-what-can-we-make-of-personal-budgets/

8. There is a proposed solution. Eligibility of need must be replaced by affordability of need as the means to control spending. This will mean the following;

- Assessments of need will be free to establish what the real, lived experience of the needs of each individual are. This is what the service user you spoke to last year told you she wants

- Budget holders will have to make decisions case by case about which needs they can afford and which they cannot. This will expose any gap between needs and resources

- Even if not all needs can be met, resources will get the best value for money – measured by improved well-being - by being targeted at authentic need

- Equity will be established over time as it will be possible to monitor the levels of needs met and not met, with movement of resource as appropriate
• The democratic process will have information about the true extent of funding requirements.

9. In its current state, social care is not fit for the future;

• there can be little value in agreeing a new approach to funding while such poor value for money is being obtained through the way the funds are used
• integration with health will pose a further serious risk to the well-being of older and disabled people while social care is so weak. The political priority is the interface between health and social care, ensuring the smooth running of hospitals. Whilst this is without question important, as for health most social care takes place away from the interface. With social care unable to articulate its need for resources with credibility, there is a risk that resources will be sucked to the interface to the further impoverishment of support to older and disabled people away from it in their day to day lives.

10. The Green Paper is a golden opportunity to set social care on a path that will make it fit for a modern society. It must address not just the funding side, but the demand side too.

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