



response to

Shaping the Future of Care Together Green Paper

The National Association of Welfare Rights Advisers was established in 1992 and represents advisers from local authorities, the voluntary sector, trade unions, solicitors and other organisations who provide legal advice on social security and tax credits.

We strive to challenge, influence and improve welfare rights policy and legislation, as well as identifying and sharing good practice amongst our members.

NAWRA holds a number of conferences throughout the year across the UK, attended by members from all sectors of the industry. An integral part of these events are workshops that help to develop and lead to good practice.

Our members have much experience in providing both front line legal advice on benefits and in providing training and information as well as policy support and development. As such NAWRA is able to bring much knowledge and insight to this consultation exercise.

As a National Association specialising in Social Security Benefits and Tax Credits we will only be commenting on how we see the proposed changes affecting our clients and their entitlement to benefit coupled to a possible reduction in choice.

When we look at adult care we are not only looking at an individual, we will be looking at couples. One member of a couple may be retired and one may be of working age; one may need care and one may not. They may have joint savings and capital to consider.

Response to consultation question 1

We want to build a National Care Service that is fair, simple and affordable. We think that in this new system there are six things that you should be able to expect:

- *Prevention service*
- *National assessment*
- *A joined-up service*
- *Information and advice*
- *Personalised care and support*
- *Fair funding*

a) Is there anything missing from this approach?

b) How should this work?

A] is anything missing from this approach

When looking at the concept of care we must look at care not only being delivered as personal assistance in the form of physical support, care also comes in the form of supervision. AA and DLA Care are paid for both and in the instance of supervision the law only requires that the claimant reasonably required continual supervision during the day; or prolonged or at frequent intervals during the night. The differences between AA and a Community Care Assessment are particularly stark in relation to night-time needs. Adult Services department very rarely meet night-time needs and because of this they are often not identified in care plans. Essentially in most cases they are identified as medical needs and left to the PCT to meet. Not sure how this would work in local authorities took responsibility for AA assessments.

At present a significant number of clients have their care needs met and paid for through DLA Care, AA and Carers Allowance they may not wish to involve the authorities in their domestic arrangements other than claiming their entitlement to these benefits.

Awards of AA and DLA have significant impacts on child and pensioner poverty, promotion of independence, choice within the community and the removal of these benefits can only lead to an increase in pensioner poverty. AA and DLA along with the enhanced additional premiums paid out with the other benefits as a result of qualifying for AA or DLA are paid in respect of the additional living cost associated with living with a disability; they are not wholly awarded for the provision of care.

- **Increasing dependence:** The route to this vital extra income for those facing the additional costs of disability, would now be only via a social services assessment:
 - The overwhelming majority of current claimants are not, and may not want to be, involved with social services.
 - Such a move also runs counter to “promotion of independence” criteria in most joint Health, Social Care and Wellbeing Strategies.

NAWRA do not believe that the green paper gives enough consideration to the overall consequences of removing AA and possibly DLA Care. Entitlement to either of these two benefits gives rise to entitlement to higher rates of other benefits; e.g. Housing Benefit, Council Tax Benefit, Income Support, Employment and Support Allowance, Pension Credit, Tax Credits and Carers Allowance. Disability premium, severe disability premiums and Working Tax Credit disability element are added to the basic rates of benefit; in most cases it can be either the claimant or the partner who qualifies for AA or DLA to gain entitlement to these premiums. E.g. a person in work can have additional Working Tax Credit Severe Disability Premium if their partner is in receipt of DLA high rate Care or AA higher rate. The Green Paper is predicting an increase up to 50% in the cost of disability benefit within the next 20 years and predicting a 17% increase in the cost of long term care by 2027/28.

Removing AA and DLA Care to help fund a National Care Scheme will significantly increase the demand on the new service by bringing the residents who now claim AA, DLA and Carers Allowance benefits into the new proposed Care Scheme; this implementation will also remove an avenue of choice for these residents. NAWRA is therefore opposed to the removal of AA and DLA Care to fund part of the future National Care Service due to the reduction in choice and the possible knock on affect this will have on other aspects of the benefits scheme. We also believe that with the predicted shortfall in financial resources less residents will qualify for care and subsequently care service provision will deteriorate.

- **Can local authorities cope?:** Will any initial enthusiasm at local level at the promise of significant extra resources dwindle in the face of a whole new client group, new set of issues less related to social care/health provision and administration challenges?

NAWRA believe that before the fair funding question can be answered there needs to be full disclosure of planned future benefits changes which will be affected by the removal of AA and possibly DLA Care; e.g. DLA care awarded prior to 65th birthday will continue to be paid after the 65th birthday, it does not transfer into AA. The various Social Security Acts and Regulations determine who are entitled to benefit and how much benefit they should be paid; these Regulations and Acts are enforced in Scotland and Wales as well as England. NAWRA is concerned that whilst this Green Paper is only focused on a new National Care System for England there may be legislation changes that impact on Scotland and Wales and the Green Paper has failed to address this.

- **Nature of the budget transfer:** This may be an issue for LAs to worry about primarily but the answer may have a significant impact on those denied the right to claim AA by this change, and their ability to access alternative income
 - Will this be a one off transfer of the budgets aimed at new claims? Will it increase in future years both in line with inflation (as individual AA payments do) and in line with the general trend of growth in claimant numbers?
 - Or is this primarily a capping and cost saving exercise, at the expense of elderly and vulnerable people?

- Is this a move to introduce income related assessments onto some of the benefits scheme where income has never been an issue; the removal of AA and possibly DLA Care..
- The experience of HB transfer to Supporting People, or Part III rates to social services, would suggest a need for caution
- **Existing claims:** What will be the arrangements for the residents who already have existing claims?

B] How should this work

NAWRA is concerned that a national assessment could determine a resident had a level of care which due to lack of local funding could not be met, thus putting care in a similar postcode lottery as health. We could find ourselves in an environment where Central Government funding was insufficient for Local Authorities to meet their residents needs forcing them to finance any shortfall by raising the Council Tax, or, although it is not an option in the green paper run the National Care Service like the social fund, when the money runs out no one else gets care regardless of the national assessment.

- **A common assessment?:** There may be a superficial attraction in a single assessment process, in terms of the “customer” experience, but these assessments are for completely different purposes:
 - social care assessments are constrained by local resources (as assessed need has to be met), so these priorities may affect the assessment which may be affected by what can be realistically offered.
 - AA Decision Makers can consider all the reasonable requirements and difficulties that a claimant has.
- **Prioritisation:** In a common social services budget, it will be natural to prioritise resources on those most in need, reducing the preventative impact of AA awards, for those who could manage with the additional income of AA and the choices and informal care this opens up.

AA and DLA are claimed on a self assessment claim form and decision maker decides whether or not additional evidence is required before a decision can be made. NAWRA are concerned that the Green Paper does not address who or how an assessment will be undertaken to determine the level of care and the value of that care.

- **Rights v discretion:** Currently there are set criteria laid down in statute and case law against which to assess entitlement. Will this disappear in a more discretionary system, reducing claimant’s rights to fair and objective assessment wherever they may live?

NAWRA would ask that a challenge/appeal process should be included in the National Care Scheme whereby a resident could challenge the assessment on both the level of care and the amount of monies available for that care.

NAWRA questions the wisdom of removing AA to fund a National Care Service under the auspice that there will be an overall financial saving due to the belief that not all AA is spent on care. Part of the proposals for a new National Care Service are that a

Personal Budget can be handed out in cash; what safe guards are proposed to ensure that National Care Service monies are actually spent on care; if they are no safeguards are they not replacing like with like.

- **Prioritisation:** In a common social services budget, it will be natural to prioritise resources on those most in need, reducing the preventative impact of AA awards, for those who could manage with the additional income of AA and the choices and informal care this opens up.

NAWRA recommend that all Care budgets be ring fenced exclusively for the delivery of the care.

Response to consultation question 2

We think that, in order to make a National Care Service work, we will need services that are joined up, give you choice around what kind of care and support you get, and are high quality.

a) Do you agree?

B) What would this look like in practice?

c) What are the barriers to make this happen?

A] No comment on the issue of joined up services

B] No comment on the issue of joined up services

C] No comment on the issue of joined up services

Response to consultation question 3

The Government is suggesting three ways in which the National Care Service could be funded in the future:

- **Partnership** – People will be supported by the Government for around a quarter to a third of the cost of their care and support, or more if they have a low income.
- **Insurance** – As well as providing a quarter to a third of the cost of their care and support the Government would also make it easier for people to take out insurance to cover their remaining costs.
- **Comprehensive** – Everyone gets care free when they need it in return for paying a contribution into a state insurance scheme, if they can afford it, whether or not they need care and support.

a) Which of these options do you prefer, and why?

b) Should local government say how much money people get depending on the situation in their area, or should national government decide?

A] NAWRA can't see competitive insurance rates within the public sector being available for residents who are already suffering from ill health; this will disadvantage some residents. In the partnership approach if a resident has not made provision then the Government will still be left picking up the bill.

NAWRA prefers the Comprehensive option for funding. We have a sturdy National Insurance Scheme that helps look after us when we are: unemployed; unfit for work and retired. If either of the other two options are not compulsory then what is the point in paying into them when the Government will support you anyway. E.g. the Comprehensive approach would spread the cost of care across all those who could afford to pay thus ensuring equality in contributing to the scheme and could be deducted from wages "similar" to the National Insurance Contributions Scheme and spread over your whole working life.

B] National government should assess the level of care required and assess how much that care is going to cost; they should also assess how much, if any, the client must contribute towards their care package, then local government should deliver the service and collect the client's contribution. Unfortunately no two areas will have the same charges for care and there will be an element of postcode lottery whoever does the financial assessment; this will be no different to the benefit system and care home charges at present.