Equity Release Council

Solving the social care funding crisis:

Perspectives on the contribution of property wealth

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Foreword

David Burrowes, Chairman of the Equity Release Council

The UK's adult social care funding crisis is one of the most pressing domestic issues facing the Government and our ageing society, compounded further by Covid-19.

A decade on from the Dilnot Commission being set up, a range of funding solutions for the UK's care sector are still being debated and discussed ranging from caps on care costs, increased taxation, a social insurance fund, free personal care and a National Care Service while unmet and under met care needs continue to grow as our population ages.

As a result, the last ten years were christened a 'lost decade' by research published in the Journal of Social Policy which reinforced a point made by many observers that social care is becoming unsustainable as the gap between need and funding has widened due to the lack of policy action.[1]

Against this challenging backdrop, this discussion paper from the Equity Release Council, supported by Pure Retirement and My Care Consultant, explores how individuals can use their property wealth as part of a broader solution to meet care funding needs. The option of unlocking property wealth in later life can help meet care needs in a range of individual circumstances, supported by robust advice processes to ensure good consumer outcomes.

By complementing other sources to fund at-home care needs, the value tied up in Britain's homes can mitigate and delay the need to seek residential care by enabling people to fund care services in their homes or make adaptations to their properties so they can live there independently for longer.

Our own research has shown 67% of over-50s are determined to remain in their own homes if they ever need care in future. This desire grows stronger with age and is shared by 76% of those aged 70+.[2]

The UK is currently sitting on over £4 trillion in property wealth, making up 40p in every £1 of over 65s' household wealth.[3] It makes sense that this resource should form part of the conversation about meeting the pressing social and economic need to find a sustainable solution to funding long-term care.

The contributors to this paper come from varying backgrounds – including politics, academia and industry – and bring different perspectives to the debate. While property wealth has a vital role to play, there are challenges to overcome – not least the fragmented and opaque nature of the current system and a lack of widespread public understanding of the issue.

As government, policymakers, industry and households across the country strive to resolve the care funding crisis, we hope this contribution to the debate will aid progress towards a solution that is fair and sustainable in the long-term.

[1] A lost decade? A renewed case for adult social care reform in England, Jon Glasby, Yanan Zhang, Matthew R. Bennett and Patrick Hall, August 2020.

[2] Independent research on behalf of the Equity Release Council among 2,505 UK adults aged 16+, conducted January 2021.

[3] Equity Release Council supported by Key, Beyond bricks and mortar: The changing role of property in later life financial plans (June 2019).

Finding a sustainable solution for adult social care funding

Jim Boyd, Chair – Long Term Care Committee, Equity Release Council

Jim Boyd is CEO of the Equity Release Council. At Partnership Assurance then the UK's largest long term care insurer, he led the campaign which resulted in a duty being placed on local authorities to direct citizens who need care to financial advice under the Care Act.

In 2018 Jim presented to the Citizens Assembly on the Long Term Funding of Adult Social Care about the role of financial products and intergenerational fairness, which informed the House of Common's joint Select Committes' inquiry. Jim was formerly an expert adviser in the Department for Work and Pensions.

The Adult Social Care funding debate is arguably the UK's most pressing domestic issue.

It is typified by rising costs (in England in 2018/19, the total expenditure on adult social care by local authorities was £22.2 billion, up £800 million from the previous year) and increasing demand for services. People are living longer with multiple or complex needs requiring social care.[4]

This is a complex debate that requires a long-term sustainable solution, and ultimately an agreement about how assets are shared across generations. This has inevitably meant that a search for a simple solution has been hard to find.

The value of housing wealth

We have been seeking to support this debate by looking at ways in which housing wealth, which often represents the largest asset people hold (the average UK house price – November 2020 was £249,633),[5] might support the elderly to meet their care costs recognising that:

- Most of us want to live independent lives in our own homes for as long as possible[6]
- The costs of care homes are high (residential homes range from £27,000 to £39,000 annually and £35,000 to £55,000 if nursing is required)[7]

[4] Key Facts and Figures about Adult Social Care – November 2019, King's Fund.

[5] UK House Price Index – Land Registry data.

[6] Almost three in four (72%) want to live in their property as long as they can and this 'home for life' mentality grows stronger with age: rising to 77% among those aged 65-74 and 89% beyond 75. Equity Release Council, Beyond Bricks and Mortar: the changing role of property in later life financial plans (June 2019) Sponsored by Key (p.14).

[7] Laing & Buisson (2018).

- Making simple changes to a home might help people live there longer; by moving a wet-room or bathroom downstairs, adding stairlifts, handrails or adapting household gadgets and equipment to help people cook, clean and get dressed
- The ability to change the home environment to meet changing care needs supports Government thinking to focus on preventative solutions
- Only a minority of Local Authorities now pay for people with low and moderate care needs. The ability to fund the time of a care worker to come to your own home to provide help and care might in turn reduce growing levels of unmet need, preventing escalation to more substantial or critical needs

People can either downsize or release equity from their properties to fund these needs. Either way property has an important role to play supporting those who wish to live longer independent lives in their own homes (and in cases fund residential and nursing care needs).

Changing consumer attitudes to housing provides solutions for policy makers

The Council's research demonstrates an important attitudinal shift by consumers is taking place to the use of property to fund their needs in later life. 51% of homeowners aged 45+ see money invested in property as part of their later life plans. Specifically, 37% of people aged 65+ see the money invested in property as part of their plans to pay for care if needed.[8]

Research conducted by Dr Louise Overton[9] – referenced in her contribution on page 10 of this report – challenged the notion that the use of housing equity to fund care costs is prohibited by people's strong attachment to their homes either for inheritance purposes or for cultural reasons. Instead, a sense of unfairness arose from people's sense of being betrayed by political rhetoric, having been encouraged to behave responsibly throughout their working lives by saving and investing in housing.

Objectives for sustainable reform

We believe any sustainable, long-term, care funding solution should provide certainty and enable the young to trust that they can save for a service which they will ultimately receive, and be guided by the following objectives:[10]

- Perceived as fair across generations, reflecting the changing realities of an ageing population and reducing tax base. An explosion in state-funded care costs most likely defers the costs of payment to future generations or transfers wealth from younger cohorts to the elderly through direct taxation
- A primary level of care to be funded by Government either through taxation, national insurance or also a 'social insurance fund' – with the option to fund further levels of care by private provision including equity release
- Simple for consumers to understand

[8] Beyond Bricks and Mortar p.20.

[9] Dr Louise Overton, University of Birmingham, lecturer in Social Policy and Deputy Director of Centre on Household Assets and Savings Management (CHASM).

[10] The Committee wishes to thank Steve Groves, Chair of Key Group and Retirement Bridge for his input.

- A major public information campaign that explains the current challenges in terms of the health and care systems across the UK together with the solution and the role of financial advice and other professional services such as legal support
- Deliver a solution that works for an average earner. Citizens pay for their care until they deplete their assets below a savings threshold (£23,250 in England) and fall back on the state. This is a barrier to saving for care costs for those with limited assets who subsidise the state by postponing their entitlement to support. They receive little assistance and risk all their assets. The current system is often perceived as rewarding profligacy and punishing prudence
- Delivers mechanisms that encourage consumers to think about care funding at an earlier stage than at the point of an immediate need, for example through a centralised, national service helping the public to understand the nature of the typical care journey. This includes providing increased access to regulated paying for care advice, and signposting to care navigators so consumers with an immediate need are presented with meaningful choices about the care they receive, and decisions are made not under stress nor without proper information
- Political Consensus

We believe property must form part of this solution.

“More people would prefer to take out a loan against their home to fund home adaptations and/or care support than sell their home to fund a move into residential care.[2]”

How can we pay for Social Care fairly?

Rt Hon Damian Green, Member of Parliament for Ashford

Damian is a former financial journalist, educated at Reading School and Balliol College, Oxford, becoming President of the Oxford Union in 1977.

He worked in the No.10 Policy Unit from 1992-94. Damian was first elected to Parliament in 1997, representing the Ashford constituency. From 2012-14 he was Minister of State for Policing, Criminal Justice and Victims, and in 2016 Secretary of State for Work and Pensions. He was First Secretary of State and Minister for the Cabinet Office from June-December 2017.

Damian serves on the Digital, Culture, Media and Sport Select Committee, is Chairman of the APPG for Longevity and Co-Chair of the Adult Social Care APPG.

Even before the ravages of Covid ripped through our care homes, it was unquestioned that we need a massive improvement in the way we provide social care in this country. After the experience of the last year it is more urgent than ever. We don't have enough people providing help at home. We don't have enough care beds available. New pressures have been added, and real misery caused, by Covid. But the underlying crisis is still there.

Why is it so difficult for governments to solve? The problem is that every solution requires more money from somewhere, and every political party has played short-term politics with the issue at some stage in British politics. In 2010 the Labour proposals were condemned by Conservatives as a Death Tax, and Labour were out. What goes around comes around, and in 2017 the ideas in the Conservative manifesto, more generous than the existing system, were badged the Dementia Tax, and dreams of a large majority disappeared overnight.

So we have a system on the brink of collapse, but until now we have lacked the political will to save it. The vast majority of people agree that we need to spend more on social care. At the same time, they are insistent that they should not themselves pay any extra tax. We need a serious national conversation about this.

Social care, especially for the elderly is too often opaque to those trying to understand it, with no apparent logic to the conditions which receive free NHS treatment, and those which do not. It is also apparently unfair in not rewarding a lifetime of prudence. Those who have saved feel that their savings will simply disappear, while those who have not saved receive the same level of care.

Less well known is the fact that funding social care out of council tax means that local authorities are reluctant to allow too many care homes to be built. An ageing population means that already more than two fifths of council spending goes on social care. This figure will only increase over the years, so councils are fearful that all their other services will be swamped by the rising demands of the social care system.

The failures in social care put unnecessary extra pressure on the NHS. Indeed, the new generous funding plan for the NHS depends on the assumption that we develop a social care system which keeps people out of hospital longer and discharges them in a smooth and timely fashion.

I have published a paper for the Centre for Policy Studies “Fixing the Care Crisis” which dealt specifically with the problem of care for older people.

A new system will need to meet five objectives.

1. It will need to provide enough money to cope with an increasingly ageing population
2. It will need to be fair across generations, meaning that today’s working taxpayers are not asked both to pay for their own care and the care of the generation above them
3. It needs to be fair between individuals, ensuring that no one has to sell their own home to pay for care, and ending the “dementia lottery” where one condition is treated on the NHS and another is not
4. It must lead to an increase in the supply of care beds and retirement housing
5. In an ideal world it should secure cross-party consensus, with an extensive consultation before the law is changed

We should look as a model to the pension system. In recent years, the basic State Pension has been increased significantly, taking many pensioners out of poverty. At the same time most people save additionally through their working years to provide comfort and security in old age. Auto-enrolment has been a great cross-party success story, encouraging millions more to save towards extra security in old age. The benefits will not come for decades, but they will be huge when they arrive.

Similarly, just as the basic State Pension has been improved in recent years, I believe we should offer a Universal Care Entitlement, offering a better level of care both for homecare and residential care. For those who need residential care this would cover the core residential costs. Needs would be assessed locally but the money would come from central Government. This would take away the pressures on local councils.

Will this involve extra money? Of course it will. Estimates range up to £8billion a year. This is serious money, but not a big problem for the Treasury to find to improve a vital service, as recent spending commitments have shown. Any suggestions for an increase in tax or National Insurance will be controversial, but politicians need to be honest about this. If the public want extra spending, the Government will have to raise more money to pay for it.

In addition, we need to find an acceptable way to allow those with the capacity to improve their own provision to do so. This would come through a Care Supplement, a new form of insurance designed specifically to fund more extensive care costs in old age.

This is just like the private pension system, which for millions of people tops up their state pension. It would allow people to buy insurance at the level they can afford to provide peace of mind. It would not be compulsory, (as pension auto-enrolment is not compulsory) so could not be stigmatised as a Death Tax or Dementia Tax. People could save for it over many years or make a one-off payment, possibly using equity release from a part of their house value at a suitable time in their lives.

This could be a key new role for equity release. Most older people have the vast bulk of their savings tied up in an illiquid asset, and many of them do not want to move. The over-65s have something like £1.7 trillion of equity tied up in their houses, so a small sliver of this would give people full peace of mind in old age, whatever happens to their health and ability to look after themselves.

These ideas would take the burden of social care funding away from local authorities, and even more importantly offer certainty and security to the increasing numbers who will need social care in old age. No one would have to sell their house and see their inheritance disappear. Everyone would have the chance of receiving better care. Fewer people would be left unnecessarily in hospital beds as they wait for social care to be available.

None of this is easy and it will take political courage. But it is absolutely necessary if we are to provide peace of mind and security to frail elderly people who richly deserve it.

“A majority of UK adults are concerned that the care system is too expensive (63%), lacks public funding (64%) and is not fit for purpose (57%).[2]”

“47% of UK adults believe everyone should have access to state funded care support, up to a certain level, with the option to top this up from their own finances. Fewer people believe care should be entirely state or self-funded.[2]”

Opportunities and challenges for equity release to fund adult social care

Dr Louise Overton, School of Social Policy, University of Birmingham

Louise is Assistant Professor of Social Policy in the Department of Social Policy, Sociology and Criminology at the University of Birmingham; and Deputy Director of the Centre on Household Assets and Savings Management (CHASM). Louise's work focuses on understanding and addressing the risks, challenges and inequalities associated with financing later life in three key policy areas: housing equity, pensions and long-term care. Louise's extensive research on equity release has been instrumental in influencing policy and practice developments in the equity release and later life lending sphere.

It is estimated that around 75 per cent of people will require some social care in their lifetimes, with 10 per cent incurring costs of over £100,000.[11] This percentage is predicted to rise as the UK continues to see a rapidly ageing population.

However, the market for pre-funded long-term care plans has disappeared, with no currently active providers in this market or in the market for long term care bonds. Immediate needs annuities and Deferred needs annuities are available, but poorly understood by the general public,[12] and these products are designed to pay for care costs at the point of need, rather than planning ahead for the possibility of needing care.

Therefore, the proportion of the population who have to pay for care using their own resources (self-funders) is likely to rise as fiscal pressures on care systems continue to impact on eligibility levels. In England, many local authorities have raised eligibility thresholds for care funding contributions, so only those with high needs and very limited resources receive support. Anyone with assets or income over £14,250 has to make a contribution towards the costs of their care, while those with £23,250 or more must fund all of their care.

The concentration of housing wealth among over 55s could, in theory, be used to help people meet care costs in later life, and there is increasing policy interest here.

> *“Half (50%) of UK adults have not thought about how they will pay for long-term care if they need it in later life, rising to 55% among over-50s.[2]”*

[11] Commission on Funding & Care Support, 2011; Fernández & Forder, 2010.

[12] Partnership, 2016, Care report 2016: 5th care index. London: Partnership. Available at http://www.justadviser.com/documents/partnership/care-report-2016-ltc-4288.pdf

In 2013, the House of Lords Select Committee on Public Service and Demographic Change found that £280 billion in housing wealth was 'available' to be released. It emphasised the importance of 'an effective equity release market', to 'enable more people to use their assets to help pay for the cost of their social care, to adapt their homes, and to support their incomes'.[13] More recently, the Treasury has indicated that in the longer-term people should expect to pay for their care and other costs from their own equity (although they may not be saying this explicitly).[14]

Yet despite growing interest in the potential for housing wealth to fund adult social care, equity released for this purpose remains uncommon,[15] suggesting there remains a gap between the expectations of policy makers and the preferences and practices of older homeowners. Most older people live in mainstream accommodation and wish to continue living in their current property, so the ability to adapt the home to meet changing needs will be increasingly important.

Housing wealth cannot fill the gap borne by diminishing public resources, but equity release could play an important role in reducing the growing level of low to moderate unmet need, thereby preventing escalation to more substantial and/or critical needs. Our research has shown that people feel more comfortable about using equity release to pay for care at home than in a residential setting,[16] so there is an opportunity for the industry and government to send a clear message that equity release offers a (partial) solution here. Indeed, the Universal Deferred Payment Scheme applies only to care in an institutional setting, so commercial equity release products may be more aligned to older people's preferences for ageing in place, and to achieving the Government's aspirations of 'transform[ing] the social care system to focus on prevention and the needs and goals of people requiring care'.

Notwithstanding this potential, systemic and attitudinal barriers remain. For instance, research by Baxter et al on financial advice about paying for care[17] found that there is a fundamental lack of trust between the stakeholders involved in later life social care.

While local authorities and financial advisers often wanted the same outcomes for individuals, there was a failure to recognise this. Local authorities were often reluctant to signpost self-funders to financial advisers who could offer a range of funding options, due to the fear of liability for poor advice, and financial advisers saw local authorities as a source of misinformation, not acting in clients' best interests. A much greater level of cross sector trust and awareness is therefore required if the potential for equity release to play a role in meeting social care costs is to be achieved.

More fundamentally, perhaps, the success of any housing asset-based care funding system is likely to be determined, in no small measure, by the extent to which the responsibilities placed on home owners to self-fund (while the state continues to provide a safety-net for those who do not hold sufficient assets) are perceived as 'fair'. Our research on attitudes to paying for care amongst equity release consumers[18] found that perceptions of fairness operate on two intersecting planes: across and within generations. We found little evidence that reluctance to pay for care using housing equity was rooted in strong support for inheritance, or in cultural attachments to the owned home. Rather, perceptions of unfairness were associated with intra-generational disadvantage for responsible saver-citizens who had 'done the right thing', by paying taxes and mortgages.

[13] House of Lords, Select Committee on Public Service and Demographic Change (2013), Ready for Ageing? London: The Stationary Office (pg 138).

[14] Scanlon et al, 2020, Later Life borrowing in a world that's living longer, LSE report for Family Building Society.

[15] Scanlon et al, 2020; Key, 2019, UK Equity Release Market Monitor.

[16] Overton, L. and Fox O'Mahony, L. (2015) The Future of the UK Equity Release Market, https://www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/CHASM/2015/future-of-uk-equity-release-market-consumer-insights-and-stakeholder-perspectives-2015.pdf

[17] https://www.york.ac.uk/spru/projects/independent-financial-advice/

[18] Overton, L. and Fox O'Mahony, L. (2017) Understanding Attitudes to Paying for Care amongst Equity Release Consumers: citizenship, solidarity and the 'hardworking homeowner', Journal of Social Policy, 46, 1, 49-67

“Over one in five (22%) UK adults are unaware that many people have to contribute to social care costs in later life.[2]”

An important aspect of our findings was the feeling that those with assets should self-fund were a betrayal of the political rhetoric that had encouraged them to behave responsibly throughout their working lives, saving and investing in housing, such that they resented being asked to (continue to) pay for themselves in later life. The belief that some people, and not others, reach later life with higher levels of income and assets because they are the ones who have 'worked hard and done the right thing' – while those with lower, or no, housing wealth are undeserving squanderers – appears rooted in the official discourse of the 'ownership society' and reinforced by political rhetoric of the 'hardworking homeowner'.[19]

This narrative may be operating as a barrier to more widespread support for the use of housing wealth to pay for care and dis-incentivising those who might otherwise benefit from drawing on housing equity to help them live independently for longer.

[19] For example, when Health Secretary Jeremy Hunt announced the latest reforms to social care funding in 2013, he said:' . . . the issue of social care has been ducked by successive governments, leading to an unfair system that has seen people selling their homes and losing nearly everything they've worked for to pay for their care. With us, that unfairness is ending. These historic reforms will give everyone the protection they want in their old age and save the family home. And they prove once again that despite these tough economic times, this government is determined to get behind everyone who has worked hard and done the right thing... ' (Department of Health, 2013)

Asset rich and cash poor – could equity release bridge the gap to help fund care?

Paul Carter, CEO of Pure Retirement

With over 35 years of financial sector experience and stints at industry-leading names such as Prudential and Aviva Paul Carter has built up a wealth of experience which he's currently using to spearhead one of the market's great equity release success stories, Pure Retirement. In addition, Paul also sits on the Equity Release Council's board and plays an active role in the development and growth of the equity release field as a whole.

It's safe to say that the issue of long-term care has been a thorny topic for those in power, and a point of concern for the general population, for a considerable amount of time, and the pandemic has only served to amplify the underlying issues surrounding care provisions for a vulnerable section of society.

Recent research from Canada Life has highlighted the shifts in landscape that have occurred as a result and which (like working patterns) could become a mainstay of regular life, as and when relative normality resumes. The research has found that 55% of those questioned were rethinking their care plans as a result of COVID, and were undecided on how they'll fund it; 19% of those previously open to care homes were now erring away from it, and of that particular sub-section 38% were looking to move either to assisted living or to smaller and more manageable properties.

It also comes at a time when people are accessing and draining their savings at an alarming rate, to the extent that the pensions regulator has expressed concern that 42% of pension pots are being raided at 'unsustainable' rates (i.e. at more than 8% annually). This is naturally understandable given the wider environment, but raises the question: if existing savings are being regularly accessed to fund everyday expenses, how will both current and future retirees fund any care provision they may need in later life?

Looking at the wider landscape, housing equity is a natural conclusion, given the state of over-50s property ownership. Additional research from Canada Life released in October has highlighted that there's a combined UK total of £591 billion of unreleased equity (with the South East totalling £123 billion – the equivalent of £107,966 per household). These figures highlight the level of property wealth held by those in later life at present, and by extension the degree to which it could potentially be used to fund their care in the future.

Additionally, over-50s have benefited from recent rises in house prices. Research from SunLife has shown that over the past 20 years over-50s homeowners have seen their average property value rising from £113,000 in 2000 to £240,000 in July 2020. Significant rises in house prices in July and August have also meant that the average house value among over-50s rose over £7,000 in those two months alone.

With the data supporting the idea that the current generation of retirees potentially face a future where they're asset rich and cash poor, property may play a vital role not only in retirement planning as a whole, but also specifically when it comes to long-term care.

Those who do explore equity release will be greeted by a market which has not only grown immensely over the past couple of years, meaning there are more plans than ever available to choose from (in 2020 a new product was released every 28 hours, and as of August 2020 there were 535 whole-of-market plans available, a 510% increase from 2017), but have also become ever more flexible as the market adapts to changing customer needs.

Figures released by the Equity Release Council in August 2020 highlighted a 126% year-on-year increase in the number of plans catering for sheltered or age-restricted accommodation, and by September 60% of products were available to potential customers who owned (or were looking to own) those types of properties. This means that those looking to move to such facilities could still access the additional funding needed to receive these levels of care in later life, while existing plan holders could potentially transfer their plan to an age-restricted property if required.

“Only 12% of adults aged 50+ have made plans to pay for long-term care in later life.[2]”

There's still a lot of work to be done in bridging the knowledge gap between the equity release industry and the wider public. Many either hold misconceptions or aren't aware of the ways it could potentially be used as a retirement planning tool, meaning that as an industry greater consideration needs to be given in terms of raising awareness of its potential uses and the possibilities it gives for people to receive the levels of care they desire or need, rather than what they can afford. With care costs sitting at around £600-£800 a week, and 55% of those surveyed by Canada Life not knowing how they'll fund it, it's arguably more important than ever that the wider public has a full understanding of all available options open to them.

With the effects of the pandemic accelerating the rate at which people are accessing their savings, it's a critical time to ensure this key message is widely communicated among relevant stakeholders.

Care in crisis and the need for clarity, guidance and advice

Jacqueline Berry, Managing Director, My Care Consultant

Jacqueline Berry is Managing Director at My Care Consultant (MCC), an organisation that provides care planning advice to older people, their family members, and their professional and legal representatives across the UK. MCC also delivers technical support and training to financial advisers.

Jacqueline launched the business in early 2016 with the aim to make independent, reliable care advice more accessible in the UK.

Jacqueline has 15 years' experience working within Financial Services, many of which have been spent helping financial advisers develop their propositions for clients in later life. She previously worked at Partnership Assurance now JUST, where she gained her extensive knowledge and experience of long term care as well as the Chartered Insurance Institute long-term-care qualification CF8.

Between 2010/11 and 2018/19 total spending on adult social care in England fell by £86 million in real terms, representing a 4% reduction in local authority spending. Repeated claims from government that spending is at an all- time high disguises the fact that such spending has failed to keep pace with the corresponding increase in demand, with spending per head having fallen by 6% per person over the same period.

Regardless of any debate around trends on spending, fulfilment or demand, there is an ever pressing need for an open and honest public debate about what kind of society we wish to be, resulting in a long- term funding solution for both health and social care that reflects a consensus view. Over 20 years have elapsed since the then Prime Minister Tony Blair promised to fix social care, since which we have had Royal Commissions, white papers, the Dilnot Commission and Report and seemingly endless debate without any significant change. Whilst progressive legislation such as the Care Act 2014 in England and the expansion of personal care to those under age 65 in Scotland should be seen as positive moves in the right direction, the time for more comprehensive and decisive action across the UK has been with us for some time now.

The UK context

Whilst the focus of this article primarily relates to England, the social care systems across the UK as a whole presents a challenge for those in need as well as those responsible for social care systems as they wrestle with increased demand, funding constraints and workforce challenges. From a navigation point of view, there are of course some fundamental differences in terms of eligibility for state funded social care across the UK, for example the distinguishable feature in Scotland of free personal care if delivered at home and a contribution to personal care if delivered in a residential setting. But even here, local authorities north of the border have flexibility in their interpretation and implementation of the free personal care guidelines that apply, undermining clarity and consistency of application as well as understanding amongst those in need.

In terms of how the UK care systems work, devolved governments set out the overall strategic framework and legislative basis for the delivery of adult social care, deciding outcomes which local authorities who have a statutory responsibility to provide adult social care services are expected to achieve. Unlike England however, the integration of health and social care has been a long-term policy objective of successive Scottish Governments. Indeed, since 2004 Scottish health commissioning and provision has been integrated under the management of NHS Boards. The NHS Reform (Scotland) Act 2004 also required NHS Boards to set up community health partnerships as a means of achieving greater integration within the NHS and between health and social care. Looking to the future, an independent review chaired by Derek Feeley, former director general of Health and Social Care in the Scottish Government, is due to report in 2021, having examined how adult social care can be most effectively reformed to deliver a national approach to care and support services.

This will include consideration of a national care service, a concept we suggest that at least needs wider consideration.

Regardless of what progress is made in respect of a national care service, more immediately both care navigations services in respect of non- regulated care advice and regulated paying for care advice continue to make a real difference to those with care needs across the UK. Even where the percentage of those who self-fund their social care is lower such as in Scotland, according to Laing Buisson approximately 36% of individuals in residential or nursing homes north of the border self-fund as do around 25% of care users in receipt of domiciliary, day or other care.

The current pandemic has of course no respect for geographical borders and has underlined the need for improvements and reform of the care sector across the UK. Indeed, Scotland is worth referencing again in this respect, with nearly half of all deaths linked to coronavirus in Scotland having occurred in residential care and nursing homes.

> *“Only 5% of UK adults say they have involved a regulated financial adviser in the decision over care options for a parent or elderly relative.*[2] *”*

Problems with the current system

Whilst adequate and long- term funding is the primary challenge in respect of the care crisis, the inherent complexities within the structure of the care systems need addressing. The current devolved health and social care systems, much like some extended families, are fragmented across the UK. They are also inherently complex, meaning that for many in need of care, their family members or legal representatives, they are unfathomable and extremely difficult to navigate. Back in 2013, The Kings Fund report 'Paying for Social Care: beyond Dilnot' stated:

> *"Who pays for what across health and social care is confusing and incoherent. Reform has been made harder because of the fragmented way the social care system has evolved, leaving a system that is criss-crossed with fault lines between NHS and local authority social care, private and public funding, and private and public delivery."*

In our opinion, there has overall been no significant change from this position in the proceeding seven years.

Conflicts of interest also need to be addressed – when Sir Simon Stevens, CEO of NHS England uses a speech back in 2017 to outline the consequences for patient care of continuing constraints on NHS funding, how appropriate is it that eligibility to free NHS Continuing Health Care in England is in the hands of local Clinical Commissioning Groups?

The changing social care landscape

At the same time, we have also seen changes in the social care supply and demand. Not only is overall demand increasing, but the nature of demand is changing with a shift from residential towards domiciliary care, reflected in the rhetoric if not actions of both government and local authorities. Indeed, Secretary of State for Health and Social Care, Matt Hancock made a case for shifting resources from residential to domiciliary care at the recent House of Lords Economic Affairs Committee hearing on 30th April 2019. It would of course have been more encouraging if he had made the case for proper levels of funding for both.

Supply is also under threat. The evidence seems to suggest that spending cuts and increased eligibility thresholds have impacted more strongly in recent years on homecare than on residential care for older people. Indeed, in England many local authorities are no longer funding care for people with low and moderate care needs. A significant number of homecare providers have confirmed a loss of council funded volumes, some handing back contracts, and most reporting that growth in the market is now focused on privately and NHS funded homecare, with indications that this is likely to remain so at least for the foreseeable future.[20]

This threat to supply is also impacting on residential care. UK care home firms are under pressure from the perfect storm of funding cuts, crippling debt, rising costs and staff shortages. According to accountancy firm BDO, in the period between 2014 and 2016 there were an average of 69 care home company insolvencies per year. The number rose sharply to 123 in 2017 and another 101 collapsed in 2018. Major operators to suffer financial difficulty include Four Seasons Health Care, which has been put up for sale after rescue talks failed, seven years on from the high-profile collapse of Southern Cross.

[20] Source: Home Care in England: views from commissioners and providers, The Kings Fund, December 2018.

Of course, all this assumes a business as usual context. Covid-19 has singlehandedly thrown a spotlight on the perilous financial state of social care and despite short term government funding, a worsening pandemic may well be the final straw for both the NHS and local authority funded social care as we know it. Indeed, in respect of the latter we are already seeing examples of extreme financial fragility with the announcement in August 2020 that Liverpool's first council-built care homes in 25 years are set to shut after less than one year of operation, leaving 83 families scrambling to find homes for their loved ones.[21]

The critical role of guidance and advice

Putting Covid-19 to one side (if that's possible), it remains the case that the vast majority of those in need of care do not know where to go for advice in trying to get answers to urgent questions: where they can find appropriate care of a good standard; will their local authority, the NHS or any other third party help pay for it; what about state benefits; and if they have to pay, what are their options?

From a regulatory perspective, advice falls into two categories - non-regulated care advice that seeks to answer the questions above and regulated paying for care advice in respect of a personal recommendation as to the best way an individual should pay for their care if they have to following a local authority financial assessment.

Whilst some financial advisers offer advice in respect of both, many find it difficult to deal with the non-regulated aspects of care advice either because they don't have the detailed technical and practical knowledge required to do so (in part due to the fragmented and complex nature of the UK systems in play) or because their business models make it difficult to deliver this advice cost effectively.

Even when it comes to regulated 'paying for care' advice, there are several ways someone can do so, some of which involve the use of residential property and for many the optimal outcome will involve a combination of both property and non-property assets and income. For the financial adviser this means they will need to take a holistic approach and develop expertise in a number of areas including the growing later life lending market.

From the consumer perspective, many do not appreciate the importance of taking regulated paying for care advice, including the fact that only a regulated financial adviser with a designated care qualifications can advise on all ways of paying for care. This is because one way (and for many the only way that guarantees payment of care fees for life) requires paying for a product called an Immediate Needs Care Annuity the suitability of which can only be determined by a regulated financial adviser who has passed an exam on long-term care insurance recognised by the Financial Conduct Authority. In our experience of dealing with the general public, few understand this issue nor have even heard of this solution, and whilst it will not be suitable for everyone's' circumstances, understanding the cost of guaranteeing fees at a certain level for life is in our view the only way to properly assess the relative cost of all other ways of paying for care.

The supportive role of the Care Navigator

In recent years, financial advisers have looked to address these issues by developing a joint working relationship with a new breed of independent care navigation firms such as My Care Consultant. By dealing solely with all aspects of non-regulated care advice on a daily basis, and developing expertise through dealings with both theory and practical application, we are uniquely well placed to provide advice in respect of the more immediate and urgent needs of those looking for care. Furthermore, we are able to discuss the advantages and disadvantages of all ways to pay for care, the importance of seeking regulated financial advice and signposting to experienced and fully qualified local firms.

[21] Source: BBC, https://www.bbc.co.uk/news/uk-england-merseyside-53824568

The importance of residential property

Those that deliver good social care are, like those in health care, part of a skilled profession. Good care is complex and expensive. When it comes to the issue of personal contributions from those with the ability to pay, personal wealth for a significant number of people will tend to accumulate in only a few places, namely pension funds or residential property. Given income demands in retirement, the absence of a universal solution to paying for care and a move towards the provision of care at home, it seems self-evident that residential property will have a pivotal and increasing role to play in funding care.

Having said this, our politicians need to acknowledge past suggestions of using housing wealth to pay for care have been unpopular, especially where people feel it will reduce their ability to make a bequest and many will need to use property assets to supplement under- funded pension provision (both state and individual). This dilemma has not been helped by mixed messages in the past from governments about whether the home is a store of value to be used to subsidise later life costs or a protected asset that can be passed down through generations.

There are also significant geographical variations in property valuations and the extent to which available equity covers potential care costs. In addition, whilst the percentage trend in home ownership by age has increased for one age cohort, the over 65s, a significant percentage of older households are tenants, with some suggesting this will increase in the coming decades.

What needs to happen now

It seems clear that any long-term solution to the growing care crisis will require some level of personal contribution from those able to pay, so the debate around funding solutions as well as the challenge of how consumers make informed decisions and ensure good outcomes in future needs to be urgently addressed.

Given the increasing financial demands on many in later life (making assets and income stretch to cover ever greater lifespans), the sheer size of personal wealth sitting in residential property is likely to have a central role to play for many when it comes to paying for their care.

As such, governments would in our view be well advised to inject some clarity and consistency into their messaging around the use of residential property wealth. We also need an honest conversation and wider debate around what type of care system we want as well as how it should be funded. Do we want social care to be free at the point of need in much the same way as health care? Do we want social care to be free for those without the means to pay and a chargeable service for those who can pay? Or do we want something in between?

Thereafter, government needs to create and fund long-term sustainable solutions as well as instigate a public information campaign that helps encourage those that are likely to pay something towards their care about how they might do so, many years before they are in that position, as well as help funnel consumers to basic but reliable social and health care guidance. Here there is perhaps a bigger role for a centralised service helping the public understand the nature of the typical care journey, signposting to care navigators, regulated paying for care financial advice, and legal support at the earliest opportunity. Without this, people will continue to stagger from one source of information (or misinformation) to another as they seek to self navigate the care system that applies to them. The lucky ones will end up with support that helps deliver good outcomes. The unlucky ones will not. Regardless of how the Government intends to ‘fix the care crisis’, this effective lottery needs to change now.

Why independent legal advice is vital for clients in the care process

Peter Barton, Partner and Head of Equity Release at Ashfords

Peter specialises entirely in advising clients on Equity Release Schemes and has advised on many hundreds of Equity Release transactions having been qualified for 21 years.

Peter heads the Ashfords' multi award winning Equity Release department which annually represents over 7,000 borrowers in lifetime mortgages.

Peter is a member of Action on Elder Abuse, Solicitors for the Elderly, and the Alzheimers Society. He is one of the co-founders of the Equity Release Solicitors Alliance and a prominent member of the Equity Release Council.

Independent legal advice, as you would expect a Solicitor to say, is extremely important but none more so than for those in or heading into care. Legal advisers are there to ensure that people's intentions and wishes are fulfilled and that they do not accidentally fall foul of the myriad of often confusing rules that affect care, who pays for it and what you can do with assets.

Over the last 23 years I have seen the ages of borrowers and the purposes for the need for borrowing via equity release change dramatically. The incidence of cases where one of the stated purposes of the loan has been to pay for care needs – be it immediate care needs, maintaining a reserve for future needs or repaying family for care payments made on their behalf – has increased from less than 5% of all cases, to over 25% of cases.

This trend has been driven by a combination of borrowers assisting spouses who have already gone into care, such that one remains in the main residence, to more frequent incidences of borrowers wanting to remain in their own homes and pay for care in familiar surroundings.

This has led to an increasing focus from a legal perspective on how our approach should be when dealing with elderly borrowers with issues of capacity and duress either in a care home or still in their main residence. These scenarios are complex and difficult to deal with, and the issues are compounded when one adds an increasing number of non-English speaking borrowers into the mix.

There are a number of important aspects of equity release that have to be understood by the borrowers. For attorneys it is important to ensure that they are clear that funds can only be used for the benefit of the borrowers and for no other purposes. With all of this in mind a number of years ago we set up a travelling solicitor team providing home visits nationally, as we recognised that not all borrowers or attorneys could attend our offices. This then ensured that our advice to borrowers or their attorneys was consistent and protected a potentially vulnerable section of society.

When looking at the benefits of independent legal advice and the complex issues that must be covered, people mistakenly believe the focus is solely on the legal implications of entering into equity release. While this is undoubtedly an important part of the meeting, so much more is covered as the release of funds can be taken for many reasons on which clients need advising (even when sometimes they do not realise so).

As Solicitors, we have a checklist in our head that is flagged when we learn the purpose of any release, and a number of issues are always at the forefront of a solicitor's mind:

1. Complex Inheritance Tax Rules
2. Local authority rules on the deliberate deprivation of assets
3. Warning clients that divesting themselves of assets may mean that they end up in a lower tier of care home/unable to fund care at home later
4. Undue influence/abuse by relatives or third parties
5. Protecting vulnerable consumers from the risk of scams
6. Capacity/susceptibility to suggestion
7. Unwittingly incurring a tax liability

"One in ten UK adults (10%) and their families have had to use their own income and savings to fund a parent or elderly relative's care, while 8% have had to sell their parent or relative's home.[2]"

For example, the current Inheritance Tax rules have been with us since 1984 and have been almost annually tweaked. People often forget when gifting that it will have implications on their estate if they die within seven years, and may have immediate tax implications depending on the size of the gift. This is particularly important if the gift is being made to one sibling as others may be disadvantaged.

Going hand in hand with gifting is the issue of a deliberate deprivation of assets, whereby the local authority take the view that you have given assets away to avoid them being taken to pay for care later in life. This is a complicated area and in reality, the local authority can go back decades if they feel assets have been given away for this purpose. Careful consideration must be given to this area of law which is also affected by the client's health at the time of the gifting. The signing of the Solicitor's Certificate is an excellent indicator that the client has been advised on the equity release scheme and all implications considered. When coupled with a full attendance note of the meeting by the Solicitor and often a video recording of the meeting it soon becomes clear that the client is well advised.

The risk of attempted fraud is a threat to vulnerable elderly consumers. This has received significant media attention in relation to those who have sought to access pension funds; it is no less real for those seeking to borrow to fund care, particularly in cases of vulnerable borrowers who are physically and mentally frail.

We have found that one way to deal with this problem is to operate an alert system within the legal advice team. If there are any concerns raised by them or by any of the office team, then the matter is escalated to a Compliance Team who will investigate this before either proceeding or closing the case. Over the past decade this has resulted in spotting many potential frauds and has provided a great reassurance to families that their loved ones are protected. Undoubtedly, without this added protection, these cases would have been missed.

As each year goes by, the need to fund unmet or under-met care needs increases with our rapidly ageing population, as does the need for financial solutions including equity release. Given the new products on the market – such as the ability to repay in part on some products and drawdown facilities (all things of fantasy even in the early 2000s) – demand can only heighten for those wishing to pay for care either in their own home or to pay for loved ones in care facilities. This can only be successfully accomplished with a high standard of professionalism in all sectors of the equity release market, and the legal sector must lead the way as the providers of this gold standard of service.

About this Report

This report has been developed by the Equity Release Council with support from Pure Retirement and My Care Consultant to bring together expert opinions from politics, academic and industry on the challenges facing adult social care. Contributors' views are their own and do not necessarily reflect those of other contributors. The Council would like to thank all participants for their input and support.

Alongside public and academic sources, the report includes findings from independent research among 2,505 UK adults carried out by Censuswide in January 2021. Censuswide abides by and employs members of the Market Research Society which is based on the ESOMAR principles. While care is taken in the compilation of the report, no representation or assurances are made as to its accuracy or completeness.

For any media enquiries, please contact equityreleasecouncil@instinctif.com

About the Equity Release Council

www.equityreleasecouncil.com

The Equity Release Council is the representative trade body for the UK equity release sector with over 560 member firms and nearly 1,400 individuals registered, including providers, funders, regulated financial advisers, solicitors, surveyors and other professionals.

It leads a consumer-focused UK based equity release market by setting authoritative standards and safeguards for the trusted provision of advice and products. Since 1991, over 500,000 homeowners have accessed over £30bn of housing wealth via Council members to support their finances.

The Council also works with government, voluntary and public sectors, and regulatory, consumer and professional bodies to inform and influence debate about the use of housing wealth in later life and retirement planning.

About Pure Retirement

Founded on the belief that everyone deserves to enjoy their later years, Pure Retirement are a lifetime mortgage lender with a combined portfolio of over £2.5bn, and who are committed to offering customers market-leading lifetime mortgage solutions. They're known for their award-winning service, and an ever-evolving broker portal offering online applications, case tracking facility and bespoke marketing support for advisers. They lead on adviser engagement through their partnership with the Equity Release Council, close relationships with mortgage clubs, and sponsorship of events educational newsletters and online resource tools for the whole adviser market.

About My Care Consultant

My Care Consultant (MCC) is an independent care navigation firm that helps those in need of care, their family members, or legal representatives navigate the complex social and health care system, understand the value of professional financial, legal, and property management services, and how to access them. In doing this, MCC seeks to act as a 'first port of call' in helping consumers establish a clear and timely pathway to getting the often urgent care they need.

MCC also works closely with financial advisers, offering a referral service for their clients in respect of the non-regulated aspects of care advice (including establishing eligibility for NHS and local authority support), as well as an online technical support and business development service called Care Box.

MCC has addressed MPs on policy issues at the House of Commons, worked with Universities on research programmes, and is a member of some of the industry's leading boards and discussion groups including the Equity Release Council's Long Term Care Committee.

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