

Careless Whispers

A short history of social care reform
and why the conversation needs
to change to avoid more failure

Francis Elliott
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Boris Johnson said that he will not wait to “fix the problem of social care that every government has flunked for the last 30 years” last July.

With a green paper due imminently, Engage Britain has spoken to key players in previous reform attempts in the last five administrations.

The following, based on their testimony, is an attempt to mark the obstacles to progress to help chart a course for a sustainable solution.

Timeline

1999

Royal Commission on Long Term Care for the Elderly recommends free personal care and a more generous means test. Tony Blair's administration does not implement the recommendation in England and Wales citing cost.

2002

Free personal care is introduced in Scotland by the then Labour-run administration in Edinburgh.

2009

Secret cross-party talks on social care reform take place but break down amid leaks and recriminations. Labour is accused of planning to introduce a "death tax", a compulsory levy on estates.

2011

Commission on the Funding of Care and Support chaired by Sir Andrew Dilnot reports to coalition government. Its central recommendations, a cap on lifetime social care charges and a more generous means-test, are accepted in principle, with legislation passed in 2014, but not implemented.

2015

David Cameron secures an overall majority at the election. Implementation of the Dilnot plan – with the cap set at £73,000 – is delayed from 2016 to 2020 with a green paper promised.

2017

Theresa May announces significant modifications to the Dilnot plan, essentially inverting it so that instead of a cap on lifetime costs those facing care costs are offered a floor on assets eligible for means-testing of £100,000.

2017

After the election, May announces the Dilnot plan will not be implemented in 2020 and promises a green paper but is replaced as Tory leader before it is published.

2019

Boris Johnson enters Downing Street saying he has a prepared plan for social care. But he drops promises to publish a green paper and contests the general election only on a promise to find a cross party consensus so “no one needing care has to sell their home to pay for it.”

2020

Johnson says he will bring forward a plan “this year” and “get it done within this parliament”. Cross party talks are due to start in May 2020 but are yet to begin. The government says that Covid meant that it was “not straightforward” to meet the original timetable.

The politicians who have tried to make changes in England and Wales have seen the “problem of social care” as a series of inter-linked systemic failures: how an underfunded service increases demand on the NHS, while a means-test complicates service delivery and generates iniquities.

Andy Burnham, approaching the issue in the aftermath of the 2008 global financial crisis as health secretary in the last Labour government, said: “I looked at social care on the eve of the cuts and I made the argument that if you cut social care you in the end drag down the NHS. If you can't frame an offer of good quality social care the pressure just lands on the NHS. And this was entering a period of spending restraint whoever won in 2010.”

“The Treasury had put that argument to me when I was chief secretary. The big risks to the NHS spending was failing to properly sort out social care. People think the Treasury resisted reform of social care and they didn't actually – they wrote it into the Department of Health's funding agreement in 2007.”

Andrew Lansley, succeeding Mr Burnham in 2010 as a Conservative health secretary in the Tory/Lib Dem

coalition government, said that “it became apparent that we were dealing with an acute problem arising from the financial situation in 2010.”

“Local government was no longer able to fund social care to the extent that it had previously so eligibility came down. Many more people would be paying for their own social care, or indeed not paying [and] going without, and the consequences of that would be much higher levels of morbidity in the elderly [and] hospitalisation – which of course is exactly what then happened.”

Norman Lamb, a Liberal Democrat care minister in the latter part of the coalition government after Lord Lansley had been replaced by Jeremy Hunt as health secretary, made much the same point.

“The most significant funding issue was just the overall quantum of money we were spending on social care and of

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course, it was falling, which...wasn't a sensible thing in my view."

"We were cutting the preventative end of the spectrum, and that continued after 2015, and that didn't make sense."

"For all of those people who can't pay privately for their social care, that is serious news because you end up now with well over a million people with social care needs which aren't being met at a very basic level. They end up often unnecessarily needing NHS treatment because they haven't had proper support at home."

One of those asked to help formulate social care policy by Theresa May also identified its "exogenous impacts on other parts of the health care system which have significant external costs."

Along with the impact on the NHS declining funding for social care meant more people faced paying for care. The means-test, particularly as it impacted on property wealth, became increasingly politicised. Lord Lansley picked out the impact on those facing unlimited liabilities as an "immediate" chronic issue he faced in 2010.

"A significant number of people were encountering catastrophic social [care] costs, principally as a result of dementia-related, long-term illness in old age, which effectively wiped out

everything that they worked for through their lives. In the end, they went into nursing home accommodation, properties were sold and nothing was left."

Mr Lamb said people of modest means were seeing their assets wiped out because of a "great unfairness" at the heart of the current system. "If you get cancer, everything's paid for by the NHS. If you get dementia, or some other condition which requires social care needs, you don't get any help if you've got some money – [even] fairly modest amounts of money. You could be living in a small semi in Walsall and you could see everything that you've worked for disappearing."

He, like others, identified a third systemic failure. "On top of that there's an organisational issue. We run social care completely separately. We tried to find ways to join it up but the starting point is social care run by local government and health run by the NHS.

"When you've got a free service and a means-tested service it's quite hard to join it up coherently. [It] means that people don't get joined up care – their experience of the system is pretty disjointed and massively suboptimal."

A veteran of the May government made a similar point. "There are three parts to it. One is a simple structural issue that

the care system doesn't mesh well with the health system, nor does it mesh well with the way people get ill and elderly, nor does it mesh well with the way people have assets."

Another, Mrs May's former chief of staff, Nick Timothy, said: "Some of the worst public policy problems come when they fall between institutional cracks and this is a good example of

that I think. Which ministers are actually really accountable for it? Which departments and institutions? There's all sorts of things that can and should be done in terms of improving things like handovers between the NHS and social care providers and so on. There are some parts of the country where it works reasonably well but we don't seem to learn from those places."

Although they shared similar diagnoses of the issue, politicians haven't been able to agree on the immediate steps needed nor the final destination.

One of the starkest political divisions over care reform is whether, in time, social care should, like services delivered by the NHS, be free at the point of use. Politicians are also split on whether interim arrangements should be compulsory or voluntary.

Recalling the cross-party talks in the run up to the 2010 election Mr Burnham said: "I said it had to be compulsory, Norman Lamb said the same and Andrew Lansley said he'd never support a compulsory system, a tax.... That, in essence, was the sort of great dividing line."

For Lord Lansley, Mr Burnham's idea of a National Care Service was flawed because it was an unwarranted expansion of the state burdening tax-payers with costs properly borne by individuals and families.

"From a Conservative point of view...the risk is that we end up taxing [a] relatively large amount of people's taxable income in order to provide older people personal care. People keep talking about social care as if it was almost all medical care and a lot of it is personal, for which people would normally expect to pay themselves.

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“It's just that when they become really frail, they can't do it for themselves and their family very often does it. But that's a big problem which we encountered in Scotland, which has made personal care free. If you make all this stuff free families wonder why they do it. So instead of families thinking somebody from your local authority has to come in and do it and that the state ends up paying for it so you get quite a lot of increases.”

In England and Wales, meanwhile, both Conservative-led solutions, Dilnot and May's inversion of it, were predicated on the assumption that insurance products could mitigate the outstanding liabilities not covered by the cap or floor.

Critics point out that the insurance industry has consistently rejected the assertion that there is a market for the products. Lord Lansley and Norman Lamb believe that the cap was set too high to make it an insurable proposition.

Although insisting that insurance can still play a part in making good the shortfall, there are signs Conservative politicians are moving towards an element of compulsion.

Part of the solution, held back from the 2017 manifesto but part of Mrs May's plans, was the creation of a regulated social insurance fund along the lines of those in place in Germany, Japan and the Netherlands for younger people.

An architect of the policy explained: “If you are under a certain age, you'd be required to sign up to an amount – we were thinking about between a pound and a fiver a week – and that provided the sort of insurance for the upside risk.”

Lord Lansley said that on reflection he was becoming attracted to the idea of a social insurance model along the model provided by auto-enrollment in workplace pensions.

Scotland's conversation about care reform has followed a different path but faces the same fundamental problem of how to increase overall funding.

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Malcolm Chisholm, who served as health and care minister in the Scottish government between 2001 and 2004, has the rare distinction of having introduced a successful reform to social care in the UK.

In 2002 the then Labour administration in Edinburgh, taking advantage of its new devolved powers, diverged from the Blair administration in accepting the recommendation of the Sutherland Commission of free personal care.

Recalling the context almost two decades later, Mr Chisholm said that the debate was essentially an internal Labour division between those who thought that the introduction of a universal benefit was regressive and those – like Mr Chisholm – who believed that the greater iniquity was in the disparity between how those with conditions like dementia were treated to those with cancer.

With the support of Liberal Democrats, the SNP and others, free personal care was introduced and settled into political orthodoxy in Scotland to the extent to which it is now 'old hat', he said.

Indeed, the debate in Scotland currently is whether all domiciliary care should

be given free, as well as how a National Care Service might operate in practice. Mr Chisholm acknowledges a legitimate criticism of the Scottish policy is that free personal care "squeezed out" other spending. But although demand rose sharply, no-one criticized it at the time or since as an improper intrusion by the state on the realm of personal responsibility, he said.

He suggests that its introduction might have changed the course of public debate pointing out that concerns over high care costs have not been as salient in Scotland as in England.

"There doesn't seem to be such a strong lobby in Scotland saying, 'We pay too much' and maybe free personal care took some of the heat out of that.

"Maybe for the public, who obviously don't know the details of [care funding] the free personal care headline said something about that issue."

Mr Chisholm, who recently helped conduct a review of adult social care in Scotland, also said the fact that taxation was still mainly a reserved matter muted some of the debate since it limited the extent to which a "Scotland-only" complete overhaul to funding was possible.

The politicians point to a lack of public interest and understanding of the system when asked to account for why they did not succeed.

Politicians from all parties and from successive administrations agreed that social care has repeatedly lost out to the NHS in the competition for resource because the latter, and in particular hospitals, delivers a higher political return on investment.

“[The NHS] always dominates politicians' attention: NHS [is] politically sexy, no-one understands what social care is,” said Mr Lamb. “I don't think half the people understand or have any idea what social care means, it feels rather old fashioned. It's not clear from what it says on the tin what it actually amounts to.”

Mr Burnham agreed. “The problem is that the NHS has a totemic position within British politics that social care doesn't and local government doesn't. Therefore there is never the political incentive to prioritise it.”

One of the reasons that David Cameron stalled on his attempt to reform social care after 2015 was because he was persuaded to spend billions of pounds set aside to make the changes on the long-term settlement for the NHS

instead, according to a former cabinet minister.

Mr Timothy said: “The cost of cutting social care spending was never as great a short term political risk for the Coalition as doing anything with the NHS for example. The Coalition really got away with some of the consequences to cutting social care as they applied to the NHS and to social care itself during its five years.”

Theresa May's decision to unveil her social care policy as part of her election campaign in 2017 is seen today as one of the great unforced errors in modern political history.

One of the policy's authors thinks the critical mistake was not to realise the extent to which most voters were unaware of the disbenefits of the current system.

“The biggest clanger we dropped was to tell people something that already existed.”

Mr Lamb, reflecting on why there was a muted reaction to the coalition government's social care reforms the centrepiece of which was a cap on liabilities of £73,000, thinks that it

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“failed to capture the public imagination”.

“The problem was that we secured a watered-down version [of a proposal that included the cap drawn up Andrew Dilnot]. George Osborne never liked it and so agreed to something that had a very high threshold before the cap applied. And so the problem was that when we announced it the whole sector was underwhelmed by it. So it didn't have early political backing which was deeply frustrating.

“I [had] thought, ‘Right let's get the principle legislated for and then there could be a political debate about where the cap should sit. Lib Dems could argue for a lower cap, the Tories for a higher one – whatever you want. But the problem was that the sector was underwhelmed; it didn't capture the public imagination. No one had any idea what the Dilnot cap was out there in the public, so it was incredibly easy for the Tories to ditch once they got rid of us. It was hardly noticed when they ditched it.”

From Tony Blair onwards, politicians have turned to the prospect of care users having to sell their homes as an emotive way into the issue of funding.

Questions of home ownership and inheritance have proved problematic in finding a solution, however. All

attempted reforms have targeted assets by care-recipients, mostly elderly and mostly in held property, as a source of additional funding for social care but none has won public support.

One version, a tax on all estates, was said to unfairly target the elderly as a group. Mr Burnham, however, insisted that, confronted with care costs for a generation that hadn't paid for their care in taxes and had more property wealth than other age cohorts, it was reasonable to look to those assets.

“There's a bit of an intergenerational issue here. I don't think you can just go straight to general taxation, or a tax on the working age population to pay for the baby boomers' social care. I think that is problematic. They [boomers] never in working life contributed through their tax for their social care [although] they may have thought they were, because people thought social care was in the deal.

“That was the generation that did generally buy their own homes in a way that younger people can't afford to buy their own homes so the property wealth is very much in the hands of that generation. I was persuaded, and I am still persuaded that...that generation has to contribute to their social care in some way shape or form. But its better done that everyone makes a lower

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payment to pool the risk. You would probably over time want to migrate to general taxation. Because social care wasn't in the deal at the start, you'd need this sort of correction tax to make it fair across the generations but you'd probably taper it over the years and the in the end you'd [migrate it into general taxation]."

The next, the Dilnot 'cap' that limited liability, was paused after David Cameron won an outright majority partly because of Treasury hostility to a scheme that, George Osborne believed, would create more 'losers' than 'winners'.

Lord Lansley, who commissioned Andrew Dilnot and was a strong advocate of his proposals, explained that he had proposed two additional revenue raising measures to pay for the whole package. The first was to means test the winter fuel allowance limiting the benefit to those on pensioner credit. The second was to remove the disregard that meant that people receiving care at home (known as domiciliary as opposed to residential care) didn't have the value of their house included in the means test for social care costs.

"The Treasury just said, we're not going to tamper with the winter fuel allowance because that would make it

unpopular with millions of pensioners, and removing the domiciliary care exemption would increase care costs under the means test for 200,000 people a year but the Dilnot cap would benefit only 100,000."

Lord Lansley said the objection failed to see that many initial 'losers' would end up as 'winners' as they moved from domiciliary into residential care and that removing the favourable treatment for the former would remove a perverse incentive from the system ensuring people got care that was appropriate for their health needs without regard to financial implications.

Theresa May's objections to Dilnot were more fundamental – a former ally said she had a "visceral dislike" of a scheme he said passed on the costs of insuring very large inheritances to those much less well-off.

"What it does is protect the inheritance of people who are probably quite wealthy because they live in the south of England and who will receive a significant asset. What Dilnot does, and it's why I think it's a really insidious plan, is to say, north of a given number the state will ensure that you get your inheritance. I do think that families should look after one another when they have the means to do so. I have a fundamental problem with someone on

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a low wage driving a bus in the northeast of England, who can never expect to inherit through housing...any significant amount of money contributing through tax to ensure that someone whose house is worth half a million pounds, is able [to pass] that almost intact as an inheritance for the next generation. And that's fundamentally wrong."

Mrs May's solution was to seek to identify a threshold that would provide total asset protection to a segment of the electorate she thought deserving. One of her team described them as "that kind of striving middle who had had unglamorous jobs, worked hard, not gone on big holidays, had not had credit cards, have saved money and given a bit to their children. Those people who that probably been on joint incomes of today's money in between £20,000 and £35,000.

"They had built up an asset, which would be something like £100,000 that would normally be the value in their home, and we said that we thought that's what we should be helping to protect. We wanted...that people who had not had all the breaks in life but had done the right thing – that their assets should be protected."

The proposals were approved by the Tories' electoral strategist Lynton

Crosby after being subject to focus-tests, according to one person closely involved.

"It was tested in considerable detail.. The feedback we got was that the public wasn't across the issues didn't really understand how social care works, but when it's described to them, they liked it. He said, 'It's fine, go with it. It shows you are being grown up'."

But while the threshold may have made sense in abstract electoral terms, offering full protection to just those voters the Conservatives needed to win over in seats outside the south-east, Tory candidates complained almost instantly that it was disastrous on the doorstep.

A year after social care cost May her majority, two Commons select committees jointly commissioned a citizen's assembly to consider the issue in 2018. One of the chairs, Sarah Wollaston, said she was surprised by the strength of opposition to including asset wealth in the means test.

"What was interesting to me from the deliberative democracy was this fundamental visceral reaction...your home is your castle, and the state should keep their sticky hands off.

"We thought that once we'd explained all the challenges, the intergenerational

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aspect, about why should all the burdens fall on the young people who didn't ride the crest of the property boom of have free education, pensions or job security that the older generations had had – we thought they'd be a consensus that it was reasonable to bring in asset wealth. What surprised us was how hostile people were, even younger people."

She adds that a second assumption – that people would be more amenable to pooling risk if they were aware of the chances of losing out was explained – also proved incorrect.

"They get that it's a lottery, that one in 10 [face losing all their assets in care costs] but they make the calculation that means 9 in 10 of us won't."

The 2017 election was an extreme example. But strongly suggests that the real failure of each of the reform attempts was that they started with an overview of the system rather than from how people actually interact with the individuals, institutions and rules lumped together under label 'social care' by the state.

What if, however, the problem is not so much that the public don't understand the system, it's that policy-makers have never taken time to appreciate how people experience what the state, for its own convenience, calls 'social care'?

What do people want for themselves and their loved ones as they grow older? What do the transitions between the health and care services feel like?

A richer understanding of questions like this might enable us to uncover what we value, what we are prepared to pay for and how.

Asked for their advice for today's would-be reformers, two of the politicians stressed the need to answer the fundamental question of what we want from our care system.

"What are we trying to do with social care?" asked Mr Lamb. "We're trying to make people's lives better...we're trying

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to enable people to continue to live independent lives even when they have the sort of disabilities or conditions that make that difficult. It's supposed to enable people. But often we allow people to become trapped in care homes when they don't need to be, or to have no control over the care that arrives in their own home from some awful agency based in some other part of the country."

"It's not just to sort of contain people in institutions. It must be fundamentally to give people a good life, and not to just extend life for the sake of it, but to give people the opportunity of a good death as well."

Mr Burnham also urges today's reformers to "start with a vision". "Don't start with the money – don't start saying, 'We'll stop you spending this' or 'We'll protect your home'. Start with a vision for what health and care should ideally look like in the 21st century."

Mr Timothy said: "It's a bit strange to call it a system when it's about caring for elderly loved ones. There are probably things that we could do that would actually help families to take care of their own relatives, where families would prefer to do that, whether that's about tax rebates for things like putting in a bathroom on the ground floor, or council tax discounts, and so on."

He added: "We're starting from such a low base now that I think fixing social care would require very significant sums of money.

"The budget will have to grow quite significantly in time given this low base and the ageing population and the growth rate in certain long-term conditions. And as soon as you get into raising money, you're into creating winners and losers. And that gets into quite big choices in terms of values and interests.

"I think every time anybody's looked seriously at an insurance solution to the problem it doesn't seem to work. It doesn't raise the money you need for older people now, and it's doubtful many people would save for a risk that seems a long way off. You could make it compulsory but that is effectively a tax and it would be a regressive one too: everyone would pay the same regardless of how rich or poor they were. And whether you are raising money through insurance, or taxing earnings or consumption, you are into difficult questions about fairness and intergenerational issues.

"On reflection, I think perhaps we do need to pool risk more instead of thinking about floors or ceilings. That might mean something more like a tax on estates rather than a charge. But, as a country, we need to have a much bigger and more serious debate about

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demands on the state, what they cost and what the likely trends in future growth will be. And what that means for how we raise our taxes. Because I

don't see a future in the coming decades where the overall burden of taxation is going to be lower. We need to decide who is going to pay what."

These are not electioneering conversations.

In fact it's unlikely that they can be conducted within the typical Westminster dynamic that can too often make it appear that people are part of the problem.

Instead Engage Britain has started a major project on health and care based on the notion that people are the source of the solution.

We'll be bringing them together from across the country to decide what really matters and come up with a way forward that reaches across political divides.

Without them the chances are high that there's another wreck in the bay all too soon.

