Briefing Note
ELDERLY SOCIAL CARE (INSURANCE) BILL [HL]

by

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OVERVIEW

This briefing note provides background to the Elderly Social Care (Insurance) Bill [HL]. It is a Private Members' Bill tabled by Conservative peer and former cabinet minister Lord Lilley[1]. It is scheduled for its second reading in the House of Lords on 16 July 2021.

The Bill does not reform the social care sector or improve its efficiency and accountability. It does not examine any of the abuses. It seeks to enable a few wealthy individuals to buy social care through insurance and limit their exposure to the full cost. The key proposal in the Bill is to establish a state-owned not-for-profit company to provide insurance to those who can afford it by paying cash or taking out charge on their homes and other property. It assumes that people have thousands of pounds of spare cash and/or own property, both assumptions are problematical. It wrongly assumes, as the title suggests, that social care is primarily an issue for the elderly. Empirical evidence does not support the Bill's key assumption.

The key premise of the Bill is that homeowners won't have to sell their homes to pay for elderly social care[2]. Wealthy individuals or homeowners would be required to pay an unspecified one-off insurance premium, which could be £16,000 (see below). The insurance company would reimburse local authorities for the cost of social care provided to policyholders.

The Bill makes a lot of unspecified and unsustainable assumptions, which will become apparent in the body of this note.

Some details behind the proposed legislation are provided by Lord Lilley (also see his speech[3] in the House of Lords on 24 June 2021) in a pamphlet published by Civitas[4], a right-wing thank-tank, in March 2021. In his words this is how the insurance-based social care proposal would work:

a) A not-for-profit company entirely owned and guaranteed by the state would be established.
b) The company would offer everyone, when they reach state pension age, the opportunity to take out insurance to meet the cost of social care (up to the standard level provided by local authorities), should they ever need it, instead of having to sell their home or other assets.
c) The cost of such insurance would be calculated to be actuarially sufficient to pay for such care. So, the insurer would aim to operate at no long-term cost to the taxpayer.

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[1] His political background is available here https://en.wikipedia.org/wiki/Peter_Lilley

[2] The expression social care refers to a range of care and support services that help frail and disabled people remain independent, active and safe - for example, help with getting out of bed, bathing and preparing cooked meals

[3] https://hansard.parliament.uk/Lords/2021-06-24/debates/96211CEC-0C7E-48DB-9471-2B5CAFF4F385/SocialCareAndTheRoleOfCarers

[4] Lilley, Peter, Solving the Social Care Dilemma? A Responsible Solution, March 2021; https://www.civitas.org.uk/content/files/SOCIAL-CARE.pdf

d) People would be able to pay for the insurance by a charge on their home which would be realised when they die and/or the home is sold.
e) Typically, that charge would be a modest fraction of the value of any home.
f) Nobody would be required to take out such insurance.
g) Those who do pay the premium would be confident that they could leave their home and other assets to their heirs – who would be able to look forward to such bequests with greater confidence.
h) But those who choose not to insure could no longer complain if, having rejected the opportunity to pay into the pool to pay for care for those who do insure, they eventually find themselves paying for their own care from their own assets.
i) The aim would not be to achieve the widest possible take-up, but simply to provide the option which does not exist at present, and thereby weaken the political pressure from homeowners for the state to provide them with free social care.
j) Anyone wanting a higher standard of care than that financed by the state, or before they meet the official eligibility threshold, would be free to pay for that extra care from their own resources.

The Bill is socially divisive and does not lead to universal free social care or equal access. Problems are caused by government drives to privatise social are and starve local councils of adequate funding. Profiteering is rife and local councils had to pick up the pieces after collapse of care homes.

This briefing note begins by providing contours of the social care model in England. This is followed by an explanation of financialisation of social care, with disastrous results. The Bill is then briefly summarised, followed by some of its shortcomings.

This note rejects the implicit belief of the Bill that universal free social care, funded out of general taxation, is not feasible. Indeed, it is desirable and feasible. Towards the end, this note provides examples of how additional tax revenues can be raised to fund social care.

UK SOCIAL CARE MODEL AND CONTEXT

1. As the Lilley Bill purports to address a crisis in social care, it is important to understand its context[5]. These are cuts to local authority funding for social care, obsession with privatization and outsourcing, financialization of social care and lust for profits. The unwillingness of successive governments to fund social care wholly through taxation is at the heart of the crisis.

[5] For a brief history of social care in the UK see, the King's Fund, The origins and development 1 of social care; https://www.kingsfund.org.uk/sites/default/files/Securing_Good_Care_Chapter_1.pdf; Pat Thane, MEMORANDUM SUBMITTED TO THE HOUSE OF COMMONS' HEALTH COMMITTEE INQUIRY: SOCIAL CARE, OCTOBER 2009; https://www.historyandpolicy.org/docs/thane_social_care.pdf

2. In 2019/20, 838,530 adults in England received publicly funded long-term social care, primarily in care/nursing homes or in their own homes[6]. In addition, there were 231,295 episodes of short-term care provided. There were 1.9 million requests (560,000 from working age adults and 1.4 million were from older people) for adult social care support from 1.4 million new clients, for which an outcome was determined in the year, were received by local authorities in 2019-20. This is equivalent to 5,290 requests for support received per day by local authorities.

3. The social care sector employs around 1.49 million people in England across 18,500 organisations[7]. The workforce is under significant pressure, with 122,000 vacancies in October 2020. A quarter of care workers are on zero hours contracts. Care worker median real term pay in March 2020 was £8.50 an hour compared to £7.60 in March 2012[8].

4. The system of residential care was once dominated by state provision so that, as late as the 1980s, more than 90% of beds were in local authority homes. However, residential care has been outsourced over the past 25 years so that more than 90% of beds are now offered by independent (profit and non-profit) providers[9].

5. For-profit operators with large chains of more than 50 homes entered the sector in the 1990s and grew in the 2000s with private equity backing. Cuts to local authority funding by central governments have facilitated the rise of private sector providers. Due to lower funding, local authorities have paid lower amount to providers, which in turn has fuelled another crisis about their survival[10].

6. Local authorities have three main sources of revenue. These are government grants, council tax and business rates.

   In 2018/19, local authorities in England received 31% of their funding from government grants, 52% from council tax, and 17% from retained business rates – revenue from business rates that they do not send to the Treasury.

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[6] https://digital.nhs.uk/data-and-information/publications/statistical/adult-social-care-activity-and-finance-report/2019-20

[7] House of Commons Health and Social Care Committee, Social care: funding and workforce, October 2020; https://committees.parliament.uk/publications/3120/documents/29193/default/

[8] https://www.skillsforcare.org.uk/adult-social-care-workforce-data/Workforce-intelligence/publications/national-information/The-state-of-the-adult-social-care-sector-and-workforce-in-England.aspx

[9] Diane Burns, Luke Cowie, Joe Earle, Peter Folkman, Julie Froud, Paula Hyde, Sukhdev Johal, Ian Rees Jones, Anne Killett and Karel Williams, CRESC Public Interest Report: WHERE DOES THE MONEY GO? Financialised chains and the crisis in residential care, University of Manchester, March 2016 https://hummedia.manchester.ac.uk/institutes/cresc/research/WDTMG%20FINAL%20-01-3-2016.pdf

[10] https://www.nao.org.uk/report/adult-social-care-england-overview-2/

Unlike central government, local authorities cannot borrow to finance day-to-day spending, and so they must either run balanced budgets or draw down reserves. Central government grants – including retained business rates – have been cut 38% in real-terms between 2009/10 and 2018/19, from £34.6bn to £24.8bn in cash terms[11]. At the same time, local council statutory duties (e.g. provide social care) have not diminished. Face with reduced budgets, local authorities have paid lower amounts to social care providers, which in turn has fuelled a crisis.

7. The social sector has been mired in crisis. There have been 12 consultation and policy papers as well as five independent commissions since 1998, all trying to grapple with the issue of how to provide a sustainable adult social care system.

8. In 2019/20, the total expenditure on adult social care by local authorities was £23.3 billion, up more than £1 billion from the previous year. However, in real terms (i.e. adjusting for inflation), total expenditure is only £99 million more than the level it was in 2010/11, despite increasing demand for services[12].

9. Just under half of the £23.3bn expenditure is on working-age adults, with the remainder on people aged 65 years or over. For older people, the majority of spending (65 per cent) is for those who need physical support, while for working-age adults the majority (70 per cent) is for those with learning disabilities.

10. Details of the amount spent on private purchase of social care not known, but the National Audit Office has estimated that in 2016/17 self-funders spent £10.9 billion on privately purchased social care[13].

11. Most publicly funded social care in England (Scotland[14], Wales[15] and Ireland[16] have own social care regimes) is only available to people with the highest needs and lowest assets.

12. Currently, social care provided by local councils in England is currently means-tested[17]. People with assets worth more than £23,250 (£23,250 for Northern Ireland, £26,500 in Scotland, and £30,000 in Wales[18]) are normally not eligible

[11] https://www.instituteforgovernment.org.uk/explainers/local-government-funding-england; Also see Neil Amin Smith, David Phillips, Polly Simpson, David Eiser and Michael Trickey, A time of revolution? British local government finance in the 2010s, Institute for Fiscal Studies, October 2016; https://ifs.org.uk/uploads/publications/comms/R121.pdf

[12] The King's Fund, Key facts and figures about adult social care, 2 July 2021; https://www.kingsfund.org.uk/audio-video/key-facts-figures-adult-social-care

[13] National Audit Office, Adult social care at a glance, July 2018; https://www.nao.org.uk/wp-content/uploads/2018/07/Adult-social-care-at-a-glance.pdf

[14] https://www.gov.scot/policies/social-care/social-care-support/

[15] https://gov.wales/sites/default/files/publications/2018-11/paying-for-social-care.pdf

[16] https://www.bma.org.uk/advice-and-support/nhs-delivery-and-workforce/social-care/social-care-in-northern-ireland

[17] https://www.nhs.uk/conditions/social-care-and-support-guide/help-from-social-services-and-charities/financial-assessment-means-test/

[18] Competition and Markets Authority, Care homes market study: summary of final report, 30 November 2017; https://www.gov.uk/government/publications/care-homes-market-study-summary-of-final-report/care-homes-market-study-summary-of-final-report

(for residential care, this figure includes the value of their property, if they have one) to receive any support.

13. Where asset value is lower than £14,250, individuals will pay "only what they can afford from their income". Individuals falling between the two thresholds will pay an affordable amount (as assessed by the local authority) from their income, and a means-tested contribution from their assets. The assessment made by one local-authority is not portable i.e. it is specific to that council only and people can't take that with them if they change their residence.

14. In 2011 the Dilnot Commission[19] recommended that the upper asset limit for the mean-test be increased from £23,250 to £100,000 and proposed a cap on personal contribution of £35,000.

    Once someone has reached the 'cap' of £35,000 i.e. the limit to their personal contributions, the state will pick up all ongoing care costs. People living in a care home have their ongoing living costs capped at £7,000-£10,000 per year.

    In the Dilnot schema, individuals with assets between £14,250 and £100,000 will pay a contribution towards their care, but costs will be met in part by the state. People who have more than £100,000 will pay for their care in full up to a maximum limit, or until they reach the means test threshold. The House of Lords Economic Affairs Committee[20] noted that in the 2013 Budget the Government broadly accepted both recommendations, proposing an upper capital threshold of £118,000 and a cap of £72,000. The cap would cover only the costs of care services; people would pay a contribution towards their living costs while in residential care. The Care Act 2014 made provision for the introduction of a cap by regulations, but no such regulations have been introduced.

    Of course, any system of caps and means-tests introduces inequalities and takes no account of the care which is actually needed. The idea of a 'cap' is not attractive to providers of social care and may make local councils liable to pay more.

15. Currently, those needing residential care or long-term support can pay thousands of pounds for care over their lifetime, and some have to sell their home to pay for this. However, there are all sorts of complexities.

    For example, if a person needs a paid carer to come into his/her home, the value of your house won't be included in the financial assessment. But if the person is in a care home, the value of the home will be included unless his/her spouse or partner is still living in it.

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[19] Dilnot Commission, Fairer Care Funding - The Report of the Commission on Funding of Care and Support, July 2011; https://webarchive.nationalarchives.gov.uk/20130221121529/https://www.wp.dh.gov.uk/carecommission/files/2011/07/Fairer-Care-Funding-Report.pdf

[20] House of Lords Economic Affairs Committee, Social care funding: time to end a national scandal, July 2019; https://publications.parliament.uk/pa/ld201719/ldselect/ldeconaf/392/392.pdf

16. Those qualifying for council help with costs are offered a personal budget by local councils. The personal budget is given in two ways;

    a) as a direct payment into your bank account each month;

    b) permit the council to organise care and get a regular bill to pay towards it.

17. Those not qualifying for council help with costs are expected to pay the full cost of social care. The Competition and Markets Authority notes that self-pay fees are on average, 41% higher than those paid by local authorities in the same homes[21]. As local authority rates are lower than the charges to self-funders, many providers are moving away from serving a mix of residents. Nearly all new care homes being built are in areas where they can focus on self-funders. The CMA estimated[22] (in 2017) that if local authorities were to pay the full cost of care for all residents they fund, the additional cost to them of these higher fees would be £0.9 to £1.1 billion a year.

    The King's Fund stated that in 2019/20, the average cost of a local authority-funded care home place for someone aged over 65 was £679 a week. For working-age adults, the cost was £1,317 a week. In 2019/20, local authorities, on average, paid £17.48 an hour to commission externally provided home care services[23].

18. From 2016/17 local authorities have been allowed to add a social care precept to council tax. However, there is no relationship between the amount raised and the volume and level of social care that is needed.

19. As fewer individuals have been able to access local authority funding, greater pressure has fallen on family and friends to provide unpaid care. This may not be sustainable[24]. Restoring access to local authority funding for many individuals could help to relieve this pressure, but that is not on the current government's agenda.

20. It should be noted that some countries, such as Germany and Japan have a system of mandatory insurance (like the national insurance contributions) to cover social care. In Japan, employee and employer contribute half of the funds

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[21] [21] Competition and Markets Authority, Care homes market study: summary of final report, 30 November 2017; https://www.gov.uk/government/publications/care-homes-market-study-summary-of-final-report/care-homes-market-study-summary-of-final-report

[22] Competition and Markets Authority, Care homes market study: summary of final report, 30 November 2017; https://www.gov.uk/government/publications/care-homes-market-study-summary-of-final-report/care-homes-market-study-summary-of-final-report

[23] The King's Fund, Key facts and figures about adult social care, 2 July 2021; https://www.kingsfund.org.uk/audio-video/key-facts-figures-adult-social-care

[24] House of Lords Economic Affairs Committee, Social care funding: time to end a national scandal, July 2019; https://publications.parliament.uk/pa/ld201719/ldselect/ldeconaf/392/392.pdf

for social care system come from the mandatory insurance system. The other half comes from general taxation[25].

[25] House of Lords Economic Affairs Committee, Social care funding: time to end a national scandal, July 2019;
https://publications.parliament.uk/pa/ld201719/ldselect/ldeconaf/392/392.pdf

FINANCIALIZATION OF SOCIAL CARE

21. About 70% of the care homes in England are small, mainly family-run businesses[26].

    Around 30% are owned by corporations who view them as assets for extracting large sums in the form of interest payments, rent and profit. Many are registered outside the UK, including private equity, real estate investment trusts and US hedge funds. Five largest chains account for nearly 20% of beds[27]. Big corporations frequently spin the story that there is a crisis in social care which is the result of not enough money from local authorities for publicly funded beds. This is silent about where the money goes and whether profits from social care are even a desirable policy.

22. Lured by the promise of a steady government income and the long-term demographics of Britain's ageing population, private equity and hedge funds have piled into care homes. HC-One, Four Seasons and Care UK have been big private equity and hedge fund owners of care homes.

    The typical business model of private equity is to load companies with debt (debt interest qualifies for tax relief) to inflate costs/charges and extract cash. This is accompanied by opacity, profits shifting and tax avoidance. Debts are frequently from related parties, often based in offshore low/no tax jurisdictions. In the social care sector, some 10.83% of the income of private equity providers disappears into debt repayments[28], which did not happen when local councils provided social care.

    In the care home sector, private equity and hedge funds have generally sought debt interest plus a return of 12-14% i.e. because of the need to make profit, investment in frontline services is less.

    In line with the typical private equity business model care homes are largely staffed by low-paid workers. Many are on zero hour contracts with weak representation by unions. Staff retention and training is difficult.

23. The financialization of care homes has been disastrous[29]. Southern Cross[30] and Four Seasons[31] are some of the headline examples. At the time of its collapse, in

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[26] https://blogs.lse.ac.uk/politicsandpolicy/corporate-care-homes/

[27] Diane Burns, Luke Cowie, Joe Earle, Peter Folkman, Julie Froud, Paula Hyde, Sukhdev Johal, Ian Rees Jones, Anne Killett and Karel Williams, CRESC Public Interest Report: WHERE DOES THE MONEY GO? Financialised chains and the crisis in residential care, University of Manchester, March 2016 https://hummedia.manchester.ac.uk/institutes/cresc/research/WDTMG%20FINAL%20-01-3-2016.pdf

[28] Centre for Health and the Public Interest, Plugging the leaks in the UK care home industry Strategies for resolving the financial crisis in the residential and nursing home sector, November 2019; https://chpi.org.uk/wp-content/uploads/2019/11/CHPI-PluggingTheLeaks-Nov19-FINAL.pdf

[29] Financial Times, Private equity and Britain's care home crisis, 9 February 2020; https://www.ft.com/content/952317a6-36c1-11ea-a6d3-9a26f8c3cba4

2011, Southern Cross, owned by private equity firm Blackstone, 31,000 care homes residents. Many of its care homes were sold to Four Seasons Healthcare, a company owned by a Guernsey-based Terra Firma private equity. In April 2017, with 220 care homes and 17,000 residents, it too became bankrupt. Both companies were highly leveraged. Four Seasons has been taken over by its largest creditor, the Connecticut-based hedge fund H/2 Capital Partners.

24. Just to provide an example of financial engineering in the care home sector:

Four Seasons, like many other private equity operations consisted of complex corporate structures. The Financial Times[32] reported that that consisted of "200 companies arranged in 12 layers in at least five jurisdictions, including several offshore territories." The company had around £1.2bn of interest-bearing debt and loans from unspecified "related" parties. Some of the loans carried interest rate of 15%[33].

The Paradise Papers leak showed that Four Seasons was forced to borrow money through a very expensive loan from its private equity owner in a deal designed to extract £890m in cash from the struggling business. Tax avoidance and profit shifting was central to its operations. Terra Firma was advised by Deloitte, which provided a 34-step plan – a list of actions such as setting up subsidiaries to create a complex layered structure, often across several countries, and then transferring cash, shareholdings, borrowings and other assets such as property or intellectual rights between them. The structure involved tiers of companies in Guernsey, Jersey and the UK, some of which were inherited from the previous owner. Deloitte's innovation seems to have been the creation of two new Luxembourg companies, Carmel Capital IX and its subsidiary, Carmel Capital VIII. They were used to inject two separate loans.

The above carries high financial rewards. In 2016, Four Seasons' directors' pay totalled £2.71m, of which the highest paid received £1.58m and in 2017 five company directors shared £2.04m, and the highest paid received £833,000. The Centre for Health and the Public Interest[34] noted that

> "Out of a total annual income of £15bn, an estimated £1.5bn (10%) leaks out of the care home industry annually in the form of rent, dividend payments, net interest payments out, directors' fees, and profits before tax, money not going to front line care".

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[30] https://www.theguardian.com/business/2011/jun/01/rise-and-fall-of-southern-cross
[31] https://www.bbc.co.uk/news/business-48102859
[32] Financial Times, Private equity and Britain's care home crisis, 8 Feb 2020; https://www.ft.com/content/952317a6-36c1-11ea-a6d3-9a26f8c3cba4
[33] The Guardian, Private equity firm made struggling care home operator take costly loan, 8 November 2017; https://www.theguardian.com/news/2017/nov/08/private-equity-terra-firma-care-home-four-seasons-loan
[34] Centre for Health and the Public Interest, Plugging the leaks in the UK care home industry Strategies for resolving the financial crisis in the residential and nursing home sector, November 2019; https://chpi.org.uk/wp-content/uploads/2019/11/CHPI-PluggingTheLeaks-Nov19-FINAL.pdf

> "Of the annual income received by the largest 26 care home providers goes towards paying off their debts. Of this £117m (45%) are payments to related, and often offshore, companies"

No care home regulator has shown any ability to deal with this organised tax avoidance. Artificial interest charges inflate costs. Operators are paid by taxpayers, but avoid UK taxes.

25. Following the collapse of Southern Cross, the Care Act 2014 required that large care home providers should be subject to an "oversight regime" by the Care Quality Commission (CQC).

26. Large care homes also had to provide regular financial information to the CQC so that it could monitor their financial viability.

    This policy is/was inappropriate as the Care Quality Commission has no capacity to untangle the financial affairs of complex financial conglomerates or deal with financialisation of the social care market. Typically, it relied upon financial information churned generated for the purpose of annual accounts, which are aimed at shareholders and financial markets, and lack any clear concept of capital maintenance. Even if the CQC spotted some financial problems, it could do little e.g. unlike banks who can call upon the Bank of England for financial support, care homes can't do the same.

27. The CQC has some regulatory levers, but these can't effectively address the causes of poor care in some areas, such as low staffing levels or poor clinical governance. It has no powers to address one of the commonest causes of poor quality, namely the financial difficulties of the care home owner.

28. The Care Act 2014 required local authorities to ensure the continuity of care for the residents of any care home which had closed due to financial reasons. Whilst local authorities fund much of the care provided in private care homes, there is still a substantial proportion which is funded by private individuals.

29. The Care Act requires that in the event of a large provider collapse local authorities must also take on the financial responsibility for these privately funded residents on a temporary basis. In doing so, providers were relieved of the financial burden of making provisions to maintain continuity of care for their residents in the event that their company collapsed. This has introduced a moral hazard – the owners do not need to be efficient or act in a responsible manner because the costs of going bust would be picked up by the state. This encourages risky practices.

THE BILL

The Bill has eight pages ten clauses. Clauses 1-5 are the main substance of the Bill.

30. Clause 1 enables the Secretary of State to establish the Public Social Care Insurance Body, a not-for-profit company owned by the government. Its purpose is to provide homeowners in England with the option of purchasing insurance from the body against the risk of needing to sell their homes to pay for elderly residential social care in England.

31. Clause 2 provides some background to the possible cost of the insurance premium. The Bill does not say what the cost would be. However, Lilley builds upon the assumptions made by the Dilnot Commission[35] and claims that the cost of the one-off premium would be around £16,000. He summarises his position in the Civitas report[36] as follows:

    a) 1 in 4 people who reach pensionable age later go into residential or nursing homes.
    b) Those who do so, on average, stay 2½ years.
    c) The average cost of social care (excluding 'hotel costs') 1supported by local authorities is £25,000 per annum.
    d) So, a single premium of 1/4 x 2½ x £25,000 = approx. £16,000 would pay for the social care costs in residential and nursing homes for all those insured people who turn out to need it.
    e) This theoretical premium is a simplified figure which ignores, among other things, future cost increases, administrative costs and so forth. Nor would it cover social care provided at home. Also, this calculation relates to the cost of care arranged and supported by local authorities. Those who self-fund often choose more expensive provision or find themselves cross-subsidising those paid for by councils.

32. Clause 3 deals with 'Paying for the insurance'. Individuals can pay a premium in cash or they can offer a charge on their property to the Public Social Care Insurance Body to cover the cost of insurance. The body would be able to realise the charge on the property on the death of the insured person or on the sale of the property. The charge "being the fraction, set at the time of the purchase of the policy, of the value of the property at the time of the death or sale, net of mortgage" (clause 3(1)). The body would be able to accept a cash payment "equal to the premium calculated under section 2 at the time of the policy's purchase in place of the charge on the property" (clause 3(2)).

33. Clause 4 would make provision relating to the entitlement to elderly residential social care. It would provide that insured persons were entitled to social care from their local authority and that the body would reimburse the cost of the care to the local authority.

34. Clause 5 deals with timing issues. The bill would make provision for people to be informed of the option of taking out insurance in the run up to them reaching state

[35] Dilnot Commission, Fairer Care Funding - The Report of the Commission on Funding of Care and Support, July 2021; https://webarchive.nationalarchives.gov.uk/20130221121529/https://www.wp.dh.gov.uk/carecommission/files/2011/07/Fairer-Care-Funding-Report.pdf
[36] https://www.civitas.org.uk/content/files/SOCIAL-CARE.pdf

pension age. Clause 5(1) would require the secretary of state to attempt to contact residents in England twice per year in the two years running up to them reaching state pension age and in the two years after. Homeowners would only be able to take out insurance with the body after reaching state pension age and within two years of passing it (clause 5(2). Transitional provision would be made for those people who had already reached state pension age at the time the body was established (clause 10(2)).

SOME ISSUES

35 Social care funding model is unfair. People with cancer receive treatment free of charge on the NHS, while many people with dementia have to pay hundreds of thousands of pounds for their social care. Social care is not exclusively an issue for the elderly as anyone may need it due to physical and mental health problems.

36 The King's Fund stated (as noted earlier) that around 50% of the social care expenditure is on working-age adults, with the remainder on people aged 65 years or over. For older people, the majority of spending (65 per cent) is for those who need physical support, while for working-age adults the majority (70 per cent) is for those with learning disabilities[37].

Social care demand is also rising due to the prevalence of disability among working-age adults. In 2021, the prevalence of disability among working-age adults is 19 per cent, up from 15 per cent in 2010/11. The same figure for older adults has remained static at around 44 per cent over the same period[38].

So the Lilley proposals will do nothing for nearly 50% of the recipients of social care.

37 Lord Lilley is actually acknowledging private sector failures for it will not provide the insurance that he is proposing. The market failure is for good reason. May be insurance companies can't cover the costs or make profits, are concerned about declining home ownership or lack of personal wealth held by the masses. So Lilley calls for a state-owned insurance provider to bear the risks. What will happen the state-backed insurance company can't meet the social care costs? Under those circumstances the cost will be dumped on to local councils or the government.

38 The insurance-based social care is part of a slippery slope and I can't help feeling that the government is testing waters to see how the policy pieces fall before applying the concept to the NHS.

[37] The King's Fund, Key facts and figures about adult social care, 2 July 2021; https://www.kingsfund.org.uk/audio-video/key-facts-figures-adult-social-care
[38] https://www.kingsfund.org.uk/audio-video/key-facts-figures-adult-social-care

Leading Tories[39] have long been hostile to the NHS and have called for it to be replaced by a system of health provision in which people would pay money into personal health accounts, which they could then use to shop around for care from public and private providers. Those who could not afford to save enough would be funded by the state.

39 The Lilley proposal deepens social and racial divisions. It ignores the trends in home ownership and therefore cannot form the basis of any durable policy though it may serve wealthy elites.

The social care insurance is only available to home owners and the proposal would exclude large proportions of ethnic minorities and also the white population.

The Office for National statistics[40] states that 63% (compared to 70.9% in 2003[41]) of households in England owned their own homes in the 2 years from 2016 to 2018.

a) 68% of White British households owned their own homes, compared with 74% of Indian households.
b) Households in the Black African (20%) and Arab (17%) ethnic groups had the lowest rates of home ownership.
c) in every, socio-economic group and age group, White British households were more likely to own their own homes than all ethnic minority households combined.

40 Due to low incomes and high house prices, home ownership is declining. The decline in home ownership has been more pronounced in younger age groups:

a) In 2003/04, 59% of households led by someone aged 25-34 were homeowners. This fell to 41% in 2019/20.
b) Over the same period, the proportion of households led by a 35-44 year old fell from 74% to 56%[42].

41 The £16,000 insurance premium lurking behind the Lilley Bill is arbitrary and deceptive. It is not based on any actual costing. If everyone is charged the same then it results in cross-subsidisation, the very thing that right-wingers object to.

In reality, the premium is likely to be dependent upon age, gender, locality, record of health, etc. If premiums vary then the proposed insurance would be discriminatory.

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[39] The Guardian, Key Tory MPs backed call to dismantle NHS, 16 August 2009; https://www.theguardian.com/politics/2009/aug/16/tory-mps-back-nhs-dismantling
[40] Office for National statistics, Home ownership, 4 February 2020; https://www.ethnicity-facts-figures.service.gov.uk/housing/owning-and-renting/home-ownership/latest
[41] Christian Hilber and Olivier Schöni, In the United Kingdom, homeownership has fallen while renting is on the rise, 20 April 2021; https://www.brookings.edu/essay/uk-rental-housing-markets/
[42] House of Common Library, Extending home ownership: Government initiatives, 30 March 2021; https://commonslibrary.parliament.uk/research-briefings/sn03668/

42 Retirees are being asked to buy social care insurance when many will still be paying mortgages.

   a) One in six people expect to still be making mortgage payments past the age of 65, six years beyond the average age for paying off the loans[43].

   b) A fifth of those over 55 with a mortgage expect they'll still be paying it off past the age of 70.

   c) A further 5% of older mortgage-holders admit they will never be able to pay off the loan.

   d) The total percentage of homeowners who are unsure when they will be able to pay off their mortgages has increased, from 11% in 2019 to 16% in 2021.

43 Homes are rarely owned by one person. They are owned jointly by spouses/partners. If one person was to take out the proposed social care insurance and dies, the surviving spouse/partner risks being made homeless as a result of the charge given to the insurance company. Lilley's muddled response is that

> "For couples, the situation is more complex since, as long as one spouse remains in the matrimonial home, its value will not be taken into account when assessing whether the spouse in care is entitled to public support. As long as that remains the case, it will be less worthwhile for couples to pay two premiums. It should be possible to offer a premium for couples less than twice the individual premium by an amount actuarially reflecting the residence rule[44]"

44 The insurance-based scheme is for people at the state pension age. What about those who have already past that age? This is not just a transitional problem as for a whole variety of reasons people may be unable to afford insurance at the state pension age. Lilley's response is that

> "it is more difficult to see how those already past pension age can be given the option of protecting their homes against means testing. One possibility would be to offer the option of paying the premium to people subject to them not needing social care for, say, at least two years after paying the premium. If they do need to go into care during this two-year period, the charge on their property would be cancelled and they would be subject to the normal rules on means tested provision[45]".

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[43] https://www.moneyexpert.com/news/1-in-6-adults-expects-to-be-paying-off-a-mortgage-in-retirement/

[44] Lilley, Peter, Solving the Social Care Dilemma? A Responsible Solution, March 2021; https://www.civitas.org.uk/content/files/SOCIAL-CARE.pdf

[45] Lilley, Peter, Solving the Social Care Dilemma? A Responsible Solution, March 2021; https://www.civitas.org.uk/content/files/SOCIAL-CARE.pdf

This does not solve the problem

45 After taking out insurance and charge on home, people may change the place of their residence. This would involve additional paperwork. There is no assessment of the impact of this on the housing market volatility or impact on the public purse.

46 The choice for many be to pay the social care premium or become homeless as people don't have enough savings to pay the £16,000 (or more) premium.

The Office for National Statistics estimates[46] that the median household gross savings in the UK is £11,000; and 25% of households have less than £1,800 saved. Due to low wages, job insecurity and rising inequalities, savings possibilities do not look good for the future[47]. In 2020

a) 1 in 3 Brits has less than £600 in savings.
b) Almost 10% of Brits have no savings at all.
c) 41% of people do not have enough savings to last more than one month without a paycheque.
d) For people over 55, 2.5% had no savings at all
e) The average savings of 18 to 24 in the UK stands at £2,481,
f) For 25 to 34-year-olds its £3,544,
g) For 35 and 44 the average is just under £6000.
h) 45 -54-year-olds have just over £11,000 saved
i) The over 55's are likely to have the most considerable savings with on average just over £20,000.

47 The insurance-based scheme does not reduce local authority responsibility. Local authorities will still be required to examine eligibility for social care. After the bankruptcy of a care provider they will still be responsible for providing care services. So the Bill does not end moral hazards i.e. care home owner companies can be reckless knowing that the residents would be bailed out.

48 The ineffective regulatory system is not changed. The CQC has been ineffective and is not capable to dealing with the financialization of social care. There is no check on capital adequacy (like at banks) or financial engineering.

49 The House of Lords Economics Affairs Committee noted that "No country relies primarily on private insurance to fund adult social care costs"[48].

50 The House of Lords Economic Affairs Committee was emphatic and paragraphs 158-159 of its report said:

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[46] https://www.nimblefins.co.uk/savings-accounts/average-household-savings-uk
[47] https://financiallyhappy.ltd/how-much-does-the-average-person-have-in-savings-uk/
[48] House of Lords Economic Affairs Committee, Social care funding: time to end a national scandal, July 2019; https://publications.parliament.uk/pa/ld201719/ldselect/ldeconaf/392/392.pdf

"We do not support the introduction of a hypothecated tax or a mandatory social insurance system … We recommend that social care is funded largely from general taxation"[49].

THE WAY AHEAD

51 Social care needs to be fully funded from taxation and available to everyone free-of-charge is needed. Anything less is unjust, unfair and also wastes a lot of resources on administration. The availability of social care also reduces the pressure on the NHS and creates possibilities of new job and brighter future for many patients.

52 The Labour Party's 2019 election manifesto[50] said that

> "A Labour government will build a comprehensive National Care Service for England. We will provide community-based, person-centred support, underpinned by the principles of ethical care and independent living. We will provide free personal care, beginning with investments to ensure that older people have their personal care needs met, with the ambition to extend this provision to all working-age adults"
>
> "We will also invest in other social care packages to reverse the damage done by Conservative cuts and provide additional care packages to support both older people and working-age adults living independently in their own homes".
>
> However, Labour did not abandon the system of means-tested thresholds or caps on the cost of social and did not promise a system of free universal social care for all. It echoed the Dilnot Commission[51] recommendations and said "We will ensure no one ever again needs to face catastrophic care costs of more than £100,000 for the care they need in old age, which we will underscore with a lifetime cap on personal contributions to care costs".

53 Reforming social care is more than just an issue of funding as this briefing has shown. There are issues about the structure, regulation, financialisation, labour, and governance of the industry, income and wealth inequalities and much more. Indeed, the private sector has been a drain on the resources available for social care as it siphons-off large amounts through financial engineering.

54 The additional amount needed to provide free universal access to social care is not known though there are a number of financial estimates.

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[49] House of Lords Economic Affairs Committee, Social care funding: time to end a national scandal, July 2019; https://publications.parliament.uk/pa/ld201719/ldselect/ldeconaf/392/392.pdf

[50] https://labour.org.uk/wp-content/uploads/2019/11/Real-Change-Labour-Manifesto-2019.pdf

[51] Dilnot Commission, Fairer Care Funding - The Report of the Commission on Funding of Care and Support, July 2011; https://webarchive.nationalarchives.gov.uk/20130221121529/https://www.wp.dh.gov.uk/carecommission/files/2011/07/Fairer-Care-Funding-Report.pdf

The 2020 House of Commons Health and Social Care Committee[52] report considered a range of financial estimates ranging from £1.4bn to £12.2bn and added

> "We believe the starting point must be an increase in annual funding of £3.9bn by 2023–24 to meet demographic changes and planned increases in the National Living Wage".

The House of Lords Economic Affairs Committee stated that

> "To restore care quality and access to 2009/10 standards, addressing the increased pressure on unpaid carers and local authorities and the unmet need that has developed since then, around £8 billion a year additional funding will be required for adult social care. More will be required in subsequent years as the population of older and working age people with care needs continues to grow[53]".

55 Sir Andrew Dilnot, the author of the 2011 report says that around £10 billion would be needed from the Government to fix the social care crisis[54].

56 In June 2021, senior Labour politician Thangam Debbonaire was reported to have told a women's group meeting that introducing free social care for disabled and older people would "give the Tories a stick to beat Labour with". She apparently claimed that such a policy would cost "£100 billion". There is no public information to substantiate the claim of £100bn[55].

57 A few days later Shadow Chancellor Rachel Reeves[56] said: "We are willing to look at how we fund it, including looking at what taxes may be needed to pay for it."

58 In July 2021, the Health Secretary Sajid Javid has also said that he would consider increasing taxes to provide £10bn for social care[57].

59 Of course what and who gets taxed is an important issue. From a redistributional perspective, it is vital that the less well-off do not pay any additional taxes. So here are a few proposals for generating resources which do not require increase

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[52] , Social care: funding and workforce, October 2020; https://committees.parliament.uk/publications/3120/documents/29193/default/

[53] House of Lords Economic Affairs Committee, Social care funding: time to end a national scandal, July 2019; https://publications.parliament.uk/pa/ld201719/ldselect/ldeconaf/392/392.pdf

[54] The Telegraph, Crunch social care reform talks pushed back as ministers still can't agree, 21 June 2021; https://www.telegraph.co.uk/politics/2021/06/21/crunch-social-care-reform-talks-pushed-back-proposals-still/

[55] https://www.disabilitynewsservice.com/labour-says-calling-for-free-social-care-would-just-give-tories-a-stick-to-beat-us-with/

[56] https://www.mirror.co.uk/news/politics/labour-pushes-social-care-reform-24458237

[57] https://www.dailymail.co.uk/news/article-9777625/Sajid-Javid-hints-tax-rise-pay-long-awaited-social-care-plan.html

in the basic rate (20%) or the 40% marginal rate of income tax, or the basic rate of national insurance contributions.

a) Reforming the capital gains tax (CGT) regime can raise additional £14bn a year.

Currently, earned income and unearned income, in the form of capital gains, are taxed at different rates. On earned income, those paying income tax receive a tax free allowance of £12.570. Income between there and £50k is taxed at 20%. Between £50,271 and £150,000 is taxed at 40% and anything above that is taxed at 45%. Different rates apply in Scotland.

The beneficiaries of capital gains receive an annual tax free allowance of £12.300. The remainder is taxed at rates varying from 10% to 28%. This is far below income tax. In 2018-19, this regime benefitted 276,000 wealthy individuals who paid CGT of £9.5bn on chargeable gains of £63bn.

A report from the Office of Tax Simplification[58] said that by scrapping the tax concessions on capital gains and taxing them the same way as earned income, the government could raise additional £14bn a year. Another report[59] claimed that £90bn extra can be raised over a five year period

b) Reform tax relief on pension contributions to raise £10bn

The government gives around £40bn a year in tax relief on pension contributions and most of it goes to individuals paying income tax at the rate of 40% and 45%. By reducing the relief to 20%, the basic rate of income tax, the government can level the field and also raise £10bn for redistribution via investment in public services.

c) A modest level of financial transaction tax[60] on selected transactions (e.g. corporate bonds and equity and credit derivatives transactions) at rates ranging from 0.01% to 0.12% can raise £2.13 billion a year.

d) A higher rate of VAT (30%) on luxury goods could raise £1.6bn a year[61].

e) Restore the marginal income tax rate of 50% on individuals earning more than £150,000 a year.

f) An inequality tax should be levied on a company or a similar organisation for inflicting harms emanating from inequitable distribution of income.

[58] Office of Tax Simplification, Capital Gains Tax review – first report: Simplifying by design. HM Treasury, November 2020; https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/935073/Capital_Gains_Tax_stage_1_report_-_Nov_2020_-_web_copy.pdf

[59] https://www.thetimes.co.uk/article/are-you-ready-for-a-174bn-wealth-tax-to-pay-for-covid-debt-b3c805j6c

[60] https://labour.org.uk/press/financial-transaction-tax-report-john-mcdonnell-responds/

[61] https://www.thetimes.co.uk/article/are-you-ready-for-a-174bn-wealth-tax-to-pay-for-covid-debt-b3c805j6c

g) All wages, salaries and benefits paid by employing organisations are currently treated as a tax deductible expense i.e. they reduce the taxable profit and tax liability of a company. Currently, companies are rewarded for excessive executive pay because that reduces its liability to corporation tax.

h) It is generally accepted that polluters should pay additional taxes to compensate society for the harms inflicted. That principle underpins carbon taxes. How the idea should also be applied to social pollution i.e. inequalities. Income and wealth inequalities have negative consequences for many and should be addressed through the imposition of an inequality tax.

An inequality tax should be levied on a company or a similar organisation for inflicting harms emanating from inequitable distribution of income.

All wages, salaries and benefits paid by employing organisations are currently treated as a tax deductible expense i.e. they reduce the taxable profit and tax liability of a company. Currently, companies are rewarded for excessive executive pay because that reduces its liability to corporation tax.

An inequality tax would place an upper limit on the amount of executive remuneration (salary, benefits, pension contributions, bonuses) that a company can deduct from its taxable profits.

The cap could be a multiple of the national median pay, the national minimum wage or even a straight sum which could be £500,000 per executive. This principle can also be applied to the remuneration of any employee.

It is worth emphasising that the proposal does not place a cap on the ability of a company to pay large amounts to an employee/executive. It merely restricts the tax deductibility of excessive pay.

So if a company pays a CEO remuneration of £100,500,000; currently all of it is tax deductible. Under the proposal above, only £500,000 would be allowed as an expense in the company's corporation tax liability calculation i.e. £100m would not be treated as a tax deductible expense. The company would pay additional tax at the prevailing rate of corporation tax. A tax rate of 19% would require the company to pay £19m (£100,500,000 - £500,000 = £100m X 19%).

i) Currently, employees generally pay 12% National Insurance Contribution (NIC) on annual incomes between £6,515 and £50,270. The NIC rate on incomes above £50,270 is 2%. This means that the rich pay a lower proportion of their income in NIC. Additional revenues can be raised through progressive NI rates e.g. 3% on incomes above £100,000; 4% above £150,000, etc.

j) Since 2010 HMRC has failed to collect nearly £350bn in taxes due to avoidance, evasion, errors and other reasons. The official jargon is 'tax gap'[62] i.e. the difference between what should have been collected and the amounts actually collected. Other models[63] put the estimate at between £700bn and £1,400bn. A clampdown on tax avoidance and good funding of HMRC would raise billions.

[62]https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907122/Measuring_tax_gaps_2020_edition.pdf
[63]https://www.researchgate.net/publication/301803819_Measuring_the_Tax_Gap_in_the_European_Economy

IN CONCLUSION

This briefing note does not support the Bill, which at best will only benefit a few wealthy individuals. The state is being mobilised for their benefit and not for the benefit of providing social care to all, regardless of income and wealth. Through this Bill, the government may well be testing the waters to see how insurance-based Americanisation of healthcare is received. No doubt, in due course, similar ideas would be advanced for the NHS.

Social care problems are caused by cuts to government funding for local authorities, profiteering by corporations and poor regulation. Any scheme relating to assets and caps is discriminatory and cannot deliver social care where it is needed.

The Bill fails on its own terms. For example, home ownership is declining and therefore fewer individuals would be able to access insurance-based social care by offering charge on their homes. The savings levels are low and many are not in a position to purchase insurance. The implicit assumption in the Bill is that social care is almost exclusively the domain of elderly citizens. That is not true. Evidence was provided to show that around 50% of the social care expenditure is on working-age adults, with the remainder on people aged 65 years or over. Social care demand is also rising due to the prevalence of disability among working-age adults.

The insurance-based scheme does not reduce local authority responsibility and indeed companies can dump their residents on local councils.

The usual complaint is that the country can't afford universal social care. That is not true. This note has provided examples of how additional tax revenues can be raised without increasing the basic and 40% rate of income tax or basic national insurance contributions for the vast majority of citizens. The proposals also broaden the tax base.

The crisis in social care is caused by government ideologies, not by lack of finance.