HOUSE OF LORDS

# Select Committee on Economic Affairs

## Uncorrected oral evidence: Social care funding in England

Tuesday 11 December 2018

4.30 pm

Watch the meeting

Members present: Lord Forsyth of Drumlean (The Chairman); Lord Burns; Lord Darling of Roulanish; Baroness Harding of Winscombe; Lord Lamont of Lerwick; Lord Layard; Lord Livermore; Lord Sharkey; Lord Tugendhat; Lord Turnbull.

Evidence Session No. 7 Heard in Public Questions 60 - 67

### Witnesses

I: Iain MacBeath, Resources Co-Lead, Association of Directors of Adult Social Services (ADASS) and Director of Adult Care Services, Hertfordshire County Council; David Phillips, Associate Director, Institute for Fiscal Studies (IFS); Sarah Pickup OBE, Deputy Chief Executive, Local Government Association (LGA).

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# Examination of witnesses

Iain Macbeth, David Phillips and Sarah Pickup.

**The Chairman:** Welcome to the Committee, Ms Pickup and Mr Phillips, and welcome to the Committee again, Mr MacBeath. You have heard the previous session. We will move straight on to questions, the first from Lord Livermore.

Q60 **Lord Livermore:** How has funding for adult social care fared in recent years compared to local government as a whole and other public services, in particular the NHS?

***David Phillips:*** Our figures at the IFS suggest that local government spending as a whole fell by about 20% between 2009-10 and 2017-18, which is about 25% per person, and the population has been growing. Adult social care spending fell by about 3% over that period once you account for additional transfers from the NHS, or about 9% per person, but of course that is in the context of a growing elderly population, and there are differences within that between the different parts of the population.

It looks as though spending on older adults has been cut by substantially more than spending on young adults, perhaps reflecting the fact that young adults typically have fewer assets with which they can pay for care themselves. Colleagues looking at that thought that spending per resident over 65 had fallen by more like a quarter per person since 2009-10.

It is therefore protected relative to local government as a whole, but there are still substantial cuts in the context of rising costs and, within that, different pensions for younger adults and older adults. Compared to the NHS it has had less generous deals; spending on the NHS has gone up in real terms over this period. Adjusting for population and demographics, even the NHS has not received an increase, but social care has seen a less generous picture than the NHS.

***Sarah Pickup:*** The figures I have are that adult social care spend went down by 5.6% between 2010-11 and 2016-17. In comparison, the NHS spend went up by 9.7% in real terms. Adult social care has been protected in councils. Local government as a whole has of course seen a very big hit to its funding, so even when some funding has been made available for adult social care, it is in the context of wider council budgets.

Communities and local government funding had the second-largest cut in terms of government spending through the period of austerity from 2010. On the whole, it has not fared well.

***Iain MacBeath:*** From a director's point of view, in local government we do a survey every year of directors of adult social services. In 2010, adult social care made up about 30% of council budgets. Last year, it was

38%. So despite the funding decreasing, councils have protected that funding.

Part of that is inflation and the national minimum wage, which have formed a huge pressure on social care budgets and are absorbed in those figures. There is big pressure there, and we are looking for the Green Paper to offer some green shoots for us.

**Lord Livermore:** Given these cuts, the system is proving remarkably resilient. Why do you think it has not seen a more significant collapse in provision?

***Iain MacBeath:*** In a way, it feels like we are treading water. The numbers of people receiving social care have massively reduced over the period of austerity. Prices have been suppressed, so they are a little bit higher but similar to what they were at the start of austerity, and the short-term grants that have been provided by the Government have prevented it from tipping over.

At the last count we have five substantial but short-term grants which are all coming to an end very soon. In my own budget, there is £23 million of short-term resource, which switches off at the end of 2019-20, so we are all thinking about what risks we need to take with regard to that. We would like to spend the money on things like pay rises or more long-term care packages, but because it is all short-term funding and it might disappear it would probably be imprudent to invest in those initiatives. We are therefore investing in more short-term care packages to get people re-enabled and independent again in the hope that that will save in the long term and we can balance our investment of pay rise versus long-term care.

***Sarah Pickup:*** From a national perspective, we know that councils have statutory responsibilities to meet people with eligible needs, but eligibility is not the right way to approach this. We need to get more investment pre-eligibility and prevention. You cannot not meet your statutory responsibilities, so investment in prevention has reduced at a time when ideally it should be increasing.

On the tipping point and things still ticking along, they are ticking along but two of the biggest care providers in the country have been or are being sold, are handing back parts of their contracts, and more than 5,000 people were affected by hand-backs in contracts or failures in providers in the first six months of the year. It may not be hitting the headlines, although some of the big providers such as Allied and Four Seasons have, but in local areas it is hitting people's care packages.

Q61 **Lord Darling of Roulanish:** As you know, in 2021 the Government want to move to a situation where local authorities are what they describe as "self-sufficient"—in other words, they do not get grants, but they get to keep their business rates. In the light of an IFS report earlier this year, which pointed out that the correlation between need and income is not what one might hope—for blindingly obvious reasons—what assessment

has been done of the impact of that in just over two years' time?

***David Phillips:*** I would distinguish between the short-term impact and the impact in the longer term. The government plan for the first year is to redistribute revenues, if you like, from areas that have high revenues to those that have low revenues and high needs. In year one, while there is an argument about whether the pot is big enough as a whole, the plan is to try to redistribute it so that the relative amounts are distributed according to need around the country.

The question is what happens in years two, three, four, five and six, and so on, when local authorities bear the risk when everything goes up and down, and when spending goes up and down. As the Government set up their system for business rates retention and other elements of the funding system, they need to consider how their plans for providing the incentive for local authorities to grow their tax bases—letting them keep the proceeds of growth and bear the cost if growth does not occur—face up against their plans and priorities for social care funding.

A careful balance would have to be struck between the incentives on the one hand, and on the other hand making sure that resources are not all ending up in wealthy, growing areas, while areas that are not seeing growth struggle to provide their services.

With that balance, there is still a tension between wanting national standards—more consistent standards of care around the country—and having budgets that are more locally varied depending on how successful local areas are at generating business rates revenues. The Government might need to consider whether this area of services should be funded from local business rates retention or other local sources, or whether it should be funded out of national taxation, potentially with needs-based grants provided to local authorities instead.

***Sarah Pickup:*** Yes, business rates retention is a shift towards self-sufficiency, but in the first instance it is not extra money at all; it is simply rolling in things that were previously paid by grants. It shifts reliance from the Government continuing to pay grant to the economy continuing to sustain a level of income.

We in the Local Government Association are clear that business rates and council tax cannot be the only solution for services like adult social care and children's services, exactly because the pattern of growth in need does not reflect the pattern of growth in business rates, even in aggregate nationally.

You can deal with distribution issues if you can get a good, fair funding formula in place. That is a challenge in its own right, but it is possible to deal with distributional issues. It does not mean that you need to have a national system; historically, we kept all business rates and council tax in local areas and had government grant, which was used to redistribute. It did not mean that services were not organised and delivered locally.

Q62 **Lord Darling of Roulanish:** Going on from that, I certainly take what

you said, Mr Phillips, about having to have some national system of what used to be called rate support grant in order to top up the differences, recognising that some areas, with the best will in the world, are unlikely to have business rates flowing in, and that quite possibly those same areas have quite a lot of people dependent on care because of their employment history and anything else.

Could you comment on a national funding system for social care, which presumably would have to be ring-fenced, as opposed to a national care service, where, rather like the NHS, the whole thing was national, even though it might have local variations where it appears?

***David Phillips:*** There are several factors to consider in that kind of trade-off between those two issues. First, if we deal with providing additional funding for councils and keeping it locally managed but with central funding to top things up, should that funding be ring-fenced or not?

That depends on who you think has better knowledge about what local people want and need. If you think that the Government are doing a pretty good job with their funding formulas to work out the needs around the country—and people want a consistent service around the country—having central funding provided in a ring-fenced manner is a way in which you can get a consistent level of service around the country, as the Government are pretty good at assessing needs and give money based on that.

But if you think that government's estimates of need are not that accurate, and that local knowledge and accountability to the democratic process at a local level are important in making sure that the funding decisions being made match what people want and need at a local level, you may want to provide grants that are not ring-fenced. Instead you can provide general grant funding that councils have discretion over and can spend on social care or can shift the spending to other items that are more important for local well-being.

**Lord Darling of Roulanish:** Suppose the country decided as a whole that it would contribute more to social care, either through tax or whatever else. That would inevitably mean that you would run up against a big problem if you said to people, "It's quite possible that you'll get this from your council, but it's equally possible that you may not, because it has been decided to spend it on education".

***David Phillips:*** There is a trade-off there. If you think that people want a very national service, and that central government can provide funding, it knows how much it will need to provide that service, so a ring-fenced grant is the way to go. If you think that people's preferences around the country differ to some extent, and that they might want, say, to pay a bit more council tax and get a better service, or have better housing services, public health services or other services at local level—

**Lord Darling of Roulanish:** They might want to cut their rates.

***David Phillips:*** Or they might want to cut their rates. In those cases, providing a discretionary grant where they can choose what to spend it on is the classic trade-off between national solidarity and local accountability and democracy.

**Lord Darling of Roulanish:** What about the LGA?

***Sarah Pickup:*** One of the key things for us is how this all fits together. Just as someone said earlier that you cannot solve the NHS if you do not have a properly funded social care system, you need to look at how any new funding arrangement would fit the existing arrangements for local government funding.

Unless someone is talking about funding the whole of adult care, including what is currently funded from council tax, means test and business rates, from some new source of funding, you have to try to marry the two together. Some money can be raised locally, and some new funding, which might have to be ring-fenced if that was the promise to the electorate, could come in nationally.

How that fits together, however, is so important. Business rates retention, fair funding and the quantum of resource that is needed for local government sit alongside any new funding arrangement for adult social care, and you cannot say, "This would be the right way to do it for adult social care", unless you know how it fits with the rest of the system. It is important that it is seen together.

***David Phillips:*** If I may follow on from that point a bit more, this fits into discussions about whether there will be some sort of hypothecated revenue stream for adult social care. There is a potential risk if you have a hypothecated revenue stream such as a new tax or an element of an existing tax that is the social care tax. If that funds only part of adult social care, could it end up creating expectations that will not be met about how services will be consistent around the country?

If we are all paying the same adult social care tax at a national level, we probably all expect to have the same service quality. But if local authorities are still making different decisions about how much council tax to set at a local level and whether to go above and beyond the statutory services, there could be a disconnect, with people saying, "I'm paying the same social care tax as my neighbours, but I'm getting a different service".

When you have combined national and local funding, you need to be clear about the balance of responsibilities between the two groups and the expectations as to whether this is a local service where there can be local variation to some extent, with certain key national standards, or whether it is a set of fully national standards.

***Sarah Pickup:*** It is possible to set standards and expectations.

***Iain MacBeath:*** I am sitting here wondering what the quantum of all this is, which is pertinent. A question was asked earlier about how much

is currently spent on adult social care. The answer is £14.8 billion of council funding, and on top of that are all the charges that people pay themselves. When we think about where the gaps are at the moment and what we might need to spend in the future, there are four headlines.

The LGA and ADASS have a number for the gap that we think is between what we currently pay and what we ought to pay. The councils pay £13 an hour for home care when we know that £18 an hour is the right answer to be compliant with the minimum wage, and so on. The gap there is about £2 billion. Every year, there is demographic pressure—more old people and more younger people with disabilities—and there is inflation, which is about £0.8 billion a year. Over 10 years, that is £8 billion.

There is another number for what we should be paying the social care workforce. We know that they are low-paid, at about £8.50 an hour, so it is above the minimum wage but not much, and there is not much of a choice if you are looking around at your options. The NHS is about to get a 29% pay rise for its lowest-paid workers, which is a risk to adult social care. We have calculated that it would cost about £3 billion to give the same pay rise to the lowest-paid social care workers. That takes me up to £13 billion.

On top of that, there is a choice about whether to do Dilnot or not, and about whether to have a cap. I think he said that the cap would cost £2 billion; it might be slightly more expensive now. I am already up to £15 billion on my shopping list, which is double what we already spend on adult social care. In the end, it will have to be a blend of taxation, wealth taxes and charges, particularly looking at welfare benefits, because the number needed to fix the problem is now so large.

**Lord Turnbull:** Can you divide your £14.8 billion between elderly adult social care and adult social care below that?

***Iain MacBeath:*** I think it is roughly 50:50 these days. People assume it is nearly all older people spend, but, in my own council, this year for the first time we spent more on disabled people aged 18 to 64 than we did on older people.

**Lord Turnbull:** And that is the faster growing of the two groups.

***Iain MacBeath:*** They are both growing populations, but we are spending more on younger people year on year, and I would expect that to continue. To put that in context, in my council, East Hertfordshire, which is a relatively wealthy area, we collect £50 million a year from older people towards the cost of their care, and £9 million a year from younger people. So there is a huge difference between the amounts that younger disabled people and older people can contribute, which is also a factor.

Q63 **Lord Sharkey:** You mentioned earlier the travails of Allied and Four Seasons. It is true that CQC and CMA reports consistently show that in many places the market in social care is fragile and limited, and the focus is on preventing collapse, closures and contract hand-backs.

Given all this, to what extent, if at all, are markets and social care provision engaging or encouraging choice and quality? As an underlying question, looking at what is happening, is there really a sustainable market at all for social care?

***Sarah Pickup:*** What is clear is that there is a very imperfect market; it is subject to historic bulk purchasing by councils. Through the requirement to deliver savings and efficiencies, councils have kept prices down, which they have been required to do, and unit costs have been assessed and measured, and so on, over the years. But it is also a market that is split, so you have a big self-funder market, particularly in care homes and in some parts of the country. There are big geographical differences, and big differences in who pays for their own care and whether the state pays your care, but also whether the NHS sometimes pays for it. There are three segregated markets.

**Lord Sharkey:** Does that not also demonstrate a basic unfairness in the system, where the self-funders are heavily subsidising the local council people?

***Sarah Pickup:*** Yes, it does, although there is probably excessive profit in the self-funder market in some places; there is a big return in some of those self-funder-only providers. We know that the self-funder market is profitable and that people are still entering it, whereas the local authority-funded market is different. There is a place for discounts for bulk purchase, for example. If you are a council and you are buying quite a number of places, and you are pretty certain to pay your bills on time, and so on, you get a discount for that kind of commitment to a provider, and many providers cannot survive without council business. So there is a mix, but there is definitely a cross-subsidy, which many providers could not survive without. And, well no, it is not fair.

**Lord Sharkey:** Sorry, that was my fault; it was a slight diversion. I was more interested in whether the market as a whole was a market in any real sense, and whether it was sustainable. Given the rate of bankruptcies or failures, it seems that this is displaying all the symptoms of a system that is in deep decay and unstable.

***Sarah Pickup:*** It is a very troubled market. It has been subject to the impact of austerity, and more than half of it delivers public services. Yet the levers to change and deliver it have been passed out of the public sector and into the independent sector. We are therefore reliant on that imperfect market to do what we can do. But councils can spend only the money that they have, so in good places such as in Iain's area they have tried to work with providers and have asked, "What can we do? We can't necessarily pay you more, but how can we work together and reshape services?"

I could not say that the market was promoting good quality. Sometimes good quality is sustained despite the market, because of the actions of people within it and the will to ensure that good-quality care is delivered.

***Iain MacBeath:*** It feels like a seller's market, as the care providers are picking and choosing which people to take into their nursing home or their care home, or on to their home-care round, and unsurprisingly they pick people with less complex needs. The fees are very similar, and their CQC registration is at risk if they take on a difficult case and cannot cope with that person. We can see that that has big impact, and it has an impact on the NHS and is a cause of delayed transfers from hospital.

We are also seeing a two-tier market opening up. The new care homes that are opening in Hertfordshire are focused solely on the self-funder market—Hertfordshire County Council does not contract with them. It costs £2,500 a week to live at the one at the bottom of the road by County Hall, and I think I pay £560 a week as my care home fee. An element of that is the fabulous premises and the environment that people pay for, and the activities on top. There is often no big difference between what the care workers are paid in that place and in the other place down the road where the council contracts. Nevertheless, the better stock, the nicer care homes, are becoming the sole place where self-funder people go, and councils have a role in ensuring that the environment and the quality remain good for everyone.

**Lord Sharkey:** One reason why I questioned the stability of the market is the terrible effect of closures on the residents of these places. If the market is inherently unstable and generates, as in the normal course of events, these closures and renewals, it seems that we are accepting a large amount of damage to the residents.

***Iain MacBeath:*** Yes, absolutely. It is very distressing when a place either forecloses or forecloses at short notice because the Care Quality Commission has served a notice on them. Those closures are relatively few and far between, but I would not want to underestimate the impact on people when that happens.

The same goes for the Allied transfers. My own council was the second-largest contract in the country for Allied, so my team has spent the last month finding alternative care provision for 487 people—a huge number—and trying to find alternative employers for the 210 staff who worked for it. We cannot afford to lose one of them, because every home-care worker we lose means that a round does not take place and four people do not get their care that morning. It is a delicate operation to make sure that we transfer the people and the staff and seamlessly and helpfully keep the people with their care workers. People say that continuity of care is the most important thing to them.

**The Chairman:** Have you done that?

***Iain Macbeth:*** Yes, we have, and with no missed calls. I am delighted.

**The Chairman:** Excellent. Well done.

Q64 **Baroness Harding of Winscombe:** I begin by declaring my interest as chair of NHS Improvement. I would like to explore how we might increase

funding, and the trade-offs between public, private and intergenerational funding. Would you support a rise in national insurance for the over-40s, and/or should we reconsider the exemption from national insurance for the over-65s? If neither of those, how should we strike the balance between increased private and public funding?

***David Phillips:*** If I may cover the last point first, national insurance is problematic as a tax to rely on for substantial increases in the coming years without a substantial reform of tax. Even if you said that we would, say, have the option of an increase in national insurance for the over-40s, national insurance applies to earned income only, not to income from small incorporated businesses or rental income, and the self-employed pay a lower rate of national insurance than employers do.

An increase of tax on just that element could raise money, and if you ask the public they seem to like the idea of a national insurance increase, because they see it as some kind of special tax that helps to pay for nice things. But it is not a tax, it is an insurance fund, and while it has certain benefits, its wider costs could be quite substantial. If we were thinking of an increased reliance on national insurance, we would want to have a more fundamental reform of national insurance as well to make it a tax that is more fit for purpose.

I see as problematic tying increasing funding for the NHS to reforming a tax which the Chancellor tried to reform a year ago or so and faced a backlash from "white van man". My preference would be not to think about a single tax unless we can go down that route, but to think about a more broad-based tax rise that would help to spread the burden across different groups and tax bases, so that we are not increasing the distortions that are currently in the tax system, which increasingly, over time, favour certain forms of activity such as small companies rather than your typical employee.

I am not a big fan of national insurance. An income tax increase would be a better way to do it, or a set of broader tax increases.

***Sarah Pickup:*** The LGA has been thinking about this question, and we have published our own green paper in the absence of a government one. It was in focus groups and consultation polls, and it got over 500 responses. We have published the outcome of that Green Paper. It is also a cross-party paper. It is not for the LGA to say how this should be funded, but its clear conclusion from that debate is that government should consider increases in national taxation or national insurance to fund the system. That is quite a big statement for the LGA to make.

One of the other things that was put in our consultation for consideration was a social care premium—a sort of social insurance-type system. There are all sorts of ways in which you could do that. We said that it could be voluntary or compulsory, with different options for paying in: weekly, monthly, on retirement, deferred and paid from a person's estate, or private or state-backed. There could be new systems that could tap into

different types of resources for different generations, or perhaps for people in different circumstances.

Our overall view is that this challenge is not going to be solved without looking at raising additional national funds through taxation, national insurance, some form of new premium, or a different kind of targeted insurance scheme. If you do not have access to these, they are on our website, or I will be very happy to make copies available to the Committee.

**The Chairman:** We would love that to be circulated to the Committee to add to our not inconsiderable reading list.

Q65 **Lord Turnbull:** I would like to come back to the question of self-funders. You referred to the growth of entirely self-funding. In my part of south London, there are residential homes that are a mixture of local authority-sponsored residents and self-funding residents. My impression is that there is quite a big difference in what each is charged, which goes beyond a discount for prompt payment or bulk purchase. It is probably a 10% to 30% difference, maybe the difference between £500 and £800. Is that difference sustainable?

***Sarah Pickup:*** Probably not. It has been sustained for some years, which is how the market has kept ticking over, but we know that some providers have taken the view that it is not sustainable and have shifted, as Iain said, into the self-funder market. So it is not indefinitely sustainable, and it is certainly perceived as unfair by self-funders.

In the world of the Dilnot cap—Part 2 of the Care Act—some of that would have come home to roost, because of course the cap would have applied to those self-funders, they would have had to start going through local authorities to clock up how much they were spending on their care, and the differences in fees would become very public and very apparent. The delay in that has in a sense put off the fateful day, but the Competition and Markets Authority has definitely raised that.

**Lord Turnbull:** Does that mean that you make progress towards your Dilnot cap at the local authority rate, not what you are actually paying, so that by the time you hit the cap you may well have paid half as much again as the cap?

***Sarah Pickup:*** The design of the system did not quite get that far. However, it was clear that you would count only the care costs, not the accommodation costs, and there is a whole separate issue about the cost of accommodation and the cost of care, and whether they should actually be treated differently.

**Lord Turnbull:** Do you have a view on the choices between domiciliary and residential care—you might say living at home or in a home—and the pros and cons of each? I think a lot of people prefer "at home". On the other hand, having people coming round is expensive and possibly inefficient; there is the travelling time, which is probably not remunerated. Do you have a view as to whether one of these systems is

more efficient than the other?

***Iain MacBeath:*** We have not really mentioned housing yet in the context of this discussion. A lot of councils are now developing an alternative housing model whereby people can prepare for older age or indeed moving accommodation when they get to the point where they need care. It is usually called extra-care housing, and it can be for sale or be part of a tenancy. People might sell their home or give up their social housing tenancy, they move to alternative premises and the care team is on site to deliver their care. Usually it is a mixed economy of people with low needs, medium need and high needs.

That is quite an efficient way of delivering care, and a lot of councils I am aware of have put savings into their budgets to try to attract people to move into an extra-care development rather than stay at home with their rather inefficient domiciliary care market model.

**Lord Turnbull:** Would some of that be a joint venture with housing associations?

***Iain MacBeath:*** Absolutely. That is mostly the case, but also it is with private developers, because now they collect the rent or make a sale as well as deliver the care team on-site. The private and the social housing markets are looking very seriously at those different housing options.

Q66 **Lord Burns:** I want to ask about the whole question of means testing and what Dilnot proposes. How do you think the present system works, and what are the unfairnesses in that? To what extent can this be helped by what Dilnot proposes, and what are the possible implications of what he hoped for: an improved insurance market developing in the wake of it?

That group of questions deals in effect with means testing the present system, how it can be improved, what its weaknesses and unfairnesses are.

***Iain MacBeath:*** The issue that came up in the previous session was that we need to ask some urgent questions about the gap between people's needs and their expectations, and have a transparent conversation with the public about what is available from the state and what is not in order to try to avoid some of the inevitable disappointment.

I do think that the means test is unfair. The £23,250 that has been set has been that number for the past six years, if not seven years, so it has not been rising with other usual costs. It really hits people who develop long-term conditions in late middle age. Perhaps they have worked all their lives, have an occupational pension and then either acquire a disease or have an accident of some kind that means that they need social care. They will incur catastrophic care costs for the rest of their life into the hundreds of thousands of pounds.

It also feels very unfair for people with dementia who develop it early, when you look across to other conditions, the costs of which the NHS

takes care of. Dementia is not taken care of; it is seen as social care. That is an inherent unfairness in the system. There is a perverse disincentive to save, knowing that your assets and your savings could be taken away if the lottery happens to fall in such a way that you need social care and your neighbour does not. The system that we have at the moment is far from satisfactory.

On top of all that, councils are really only meeting the needs of people who have substantial or critical needs. That is the old language before the Care Act, but we all know what that means; it is quite a high threshold of care to meet. On top of that, people have to meet other social care needs involved in activities of daily living before they are even eligible for council services.

All that unmet need is therefore being displaced elsewhere, back to the NHS, because people cannot cope with living on their own, their families cannot cope, or two family carers cannot cope; figures were mentioned earlier in relation to the burden that is placed on family carers, whether they want that or not.

***Sarah Pickup:*** People think that care is state-funded and that people get their care free, but in reality hardly anybody gets their care free unless they have a very, very low income and they have care at home. If so, and they own their house, it is not taken into account. If you are an older person and you go into a care home, your pension, your income, your asset is taken into account and you are effectively left with pocket money.

I remember when I was a director, in Iain's authority actually, talking to our councillors about the charging policies and wanting them to understand the policies they were putting in place and to be happy implementing them. People need to know that old people may not be able to buy Christmas presents for their grandchildren, because that is the extent to which these charging policies impose on people's income.

That is without the catastrophic costs; that is the people who need weekly care from income. If you go into a care home and you have a home, you can face the catastrophic costs. So there is not much room to means-test more out of people unless you also take the home into account for domiciliary care. I suppose that would level the playing field, but we know what happened when that was proposed.

Any cap that you put in place deals with the catastrophic costs issue, but it does not deal with the fundamental issue of the shortfall of funds in the rest of the system. It helps the people who face catastrophic costs through dementia, which is helpful because in no other part of life, as Andrew Dilnot used to say, are you not insured against those kinds of risks, but it does not help with the funding of the system or the unmet need, or with the under-met need, which is also a really big issue.

***David Phillips:*** I completely agree with what both witnesses have said so far. The means-test thresholds are set relatively low; they have not been uprated, as has been said.

There are two issues that I would raise that have not been raised so far. First, the means-test thresholds have become even lower, relatively, given changes to the pension system. Traditionally people would buy an annuity that would annuitise their wealth and be an income stream that would then be passed under the income test. Now, however, people are now keeping their pension income as a cash asset, which can be taxed under the wealth test. So there is a growing issue about the treatment of pensions that are no longer annuitised; people are taking them as a lump sum, effectively.

Secondly, the housing issue needs to be tackled, for two reasons. First, we have means-tested income thresholds that are much, much lower for residential care. Secondly, housing is put into the means test for residential care, which is a very strong financial disincentive to going into residential care when people who would really benefit from it; so people could be staying in their houses for longer than is beneficial to them in order to avoid the much harsher means testing of residential care services.

**The Chairman:** Although actually most people would prefer to remain in their own homes.

***David Phillips:*** Yes, they would, but they are also very strongly encouraged by the financial system to do that, even if they would prefer, or it would be better for them, to go into a care home, because the financial incentives are stacked in that direction.

Secondly, maybe not in the immediate term, but 20 to 30 years out, a lot more older people will have rented all their lives because they have never been able to get into the housing market. By not having housing in their means test, at least for domiciliary care, we can end up with someone who is a lot wealthier but their wealth is tied up in a house not paying for care, and someone who has rented all their life and who has therefore had to save more into ISAs and other things for their old age will be taxed on that.

We need to think about how we treat housing so that there is fairness between people needing domiciliary and residential care and between people who have rented and people who have owned throughout their life.

**Lord Burns:** How much gain do you think goes on in terms of people's assets? It is tempting to get around the means test.

***David Phillips:*** There are rules about this.

**Lord Burns:** How good are the rules, and how easily are they escaped?

***Iain MacBeath:*** They are pretty good, actually. My experience is that people do not generally game the system. However, we are seeing signs of families in particular who have an inheritance in mind, making preparations and putting into trust houses or funding, for example, that people have to try to offset in the future.

There are some myths about what people can do to avoid social care costs; local authorities have powers to get around those myths, and they do. I have seen colleagues up and down the country investing more in debt teams or anti-fraud services that try to expose some of that behaviour. On the whole, it is relatively small today, although perhaps it will grow if we do not see a resolution to the charging issues now.

**Lord Turnbull:** Is there one other wrinkle to this question of an elderly person going into a home so there their house becomes part of the financial assets? Does it not also depend on whether there is a husband still there?

***Sarah Pickup:*** Yes.

***Iain Macbeth:*** Yes.

***David Phillips:*** Yes.

**Lord Turnbull:** I do not know how they deal with children.

***Sarah Pickup:*** It is someone else whose sole residence it is.

**Lord Turnbull:** Suppose you have a 70 year-old daughter, who has lived in this house, looking after her mother, is that counted as though it was still the husband staying on in the house? It does not become part of the assets, or does that daughter have to give it up?

***Iain MacBeath:*** Suffice it to say that there is a fairly complex set of rules that take those people into account.

***David Phillips:*** An issue that arises is the concern that they will be forced out of the home when someone goes into care. That does not have to happen, because you can have rules on deferred payments. The Care Act set up a system of deferred payments, so that even if you are the sole resident and move into a care home, you do not have to sell it straightaway; you can keep it and sell it when you have passed on.

**The Chairman:** Lord Sharkey, did you want to ask a question?

**Lord Sharkey:** I did, but it has been answered.

Q67 **Lord Layard:** Obviously we have a problem of priorities here. If we started with Mr Macbeth's proposition, that just to restore standards rather than maintain them would take £2 billion plus £0.8 billion extra in each successive year, that is a very big sum of money, even within a five-year period, and you still have not done anything about these individuals' personal costs.

If we could not get that out of the budget, what is your opinion about some system of private insurance that you might want to encourage people to subscribe to by having an opt-out principle rather than an opt-in principle, whereby people might insure themselves against some of these catastrophic costs that you were talking about? Is that not the obvious thing to do: to have the state organise a system of, as it were, semi-automatic private insurance against private cost?

***David Phillips:*** One of the reasons why Andrew Dilnot argued for the system of a more generous means test and a cap on care costs is because he thought that one of the reasons the market was not developing was because the costs could be incredibly large, and it was a big risk that the private sector had not been prepared to take on in developing a market for these services.

Because you would expect some adverse selection in the market so that those who expected to need it are more likely to take up these insurance costs if it is voluntary, the pricing would be very high and the market would unravel—the lemons problem.

**Lord Layard:** I think I am suggesting a state-backed insurance scheme.

***David Phillips:*** A state backed scheme is an option. You might be aware that the Welsh Government are currently considering the option that Gerald Holtham proposed, which is probably compulsory but could be with opt-outs: a state-backed insurance scheme where everyone pays in a certain amount of their earnings and their other income over their lifetime.

The scheme he is proposing would have higher contributions for older generations now, to reflect the fact that they would have paid in for only one or two decades; younger generations would pay a lower contribution for their entire lives to reflect the fact that they are paying over five or six decades. That is definitely a potential option.

When you start to make it voluntary and have opt-outs, you need to consider who would be opting out and whether that would undermine the funding of the market. Will people who opt out be those who think they will be healthy and will have support from their family, or that they can fund themselves, so that you end up with the funding of the model being unsustainable?

There could be a private market for top-ups—that certainly happens in France, where the Government do not pay the entire amount but you can buy private top-up cover on a voluntary basis if you want to—and because the state pays the most, the private market exists. Alternatively, you could have a state service, in which case I would be very wary of opt-outs in case you have adverse selection.

***Sarah Pickup:*** That equates with the "social care premium" idea that we put in our Green Paper, with a range of options around it. Because care is something that people do not generally consider they will need, whereas with the NHS they do, and in any case they are covered through taxation,

voluntary insurance has never taken off. Products have been available, but people just do not take them out. You can buy at-the-point-of-need insurance, where you pay a pretty big lump sum and the insurance company shares the risk with you for the remainder of your life, but for it to be a solution it would have to be compulsory. People are struggling to pay enough into pensions, so to ask them to make a voluntary decision to pay into something else which they do not fully understand and do not believe they will need is difficult.

**Lord Sharkey:** And the risk is wrong.

**Lord Layard:** People pay for fire insurance, which is very improbable.

***Sarah Pickup:*** Yes, but people have to have house insurance.

**Lord Layard:** Once the state took the initiative and made auto-enrolment easy, I cannot see that there would be a huge problem. We were told that there was an 8% opt-out in Singapore, so I am not sure it is that difficult to establish it.

***David Phillips:*** The evidence with auto-enrolment—

**Lord Layard:** If people do not enrol, they cannot complain. Some of the complaints that were being made five or 10 minutes ago would surely be less valid when set against the possibility of insurance.

**Lord Darling of Roulanish:** They might still complain.

**The Chairman:** I think the former Members of Parliament all flinched a bit when you said that.

We probably need to bring this session to a close now. I thank you very much indeed, and we look forward to seeing your report. I am beginning to understand why not much progress has been made on this matter. I am most grateful to you for your evidence, and if there are any other points that you feel you were not able to make, the clerk will be happy to receive further written submissions. Thank you very much.