National Care Service Consultation
Section of Consultation: Residential Care Charges

Introduction and Summary

Social Work Scotland welcomes the First Minister's statement on 7 September 2021 to the Scottish Parliament on the Programme for Government, confirming that "We will […] remove charges for non-residential care"[1]. On **residential care** charges, *A fairer, greener Scotland*[2] states that:

> The establishment of the National Care Service will be a considerable undertaking, bringing momentous change. However, we will not wait for the service to come into being before taking forward some of the positive reforms we know our social care sector needs to continue to drive up standards and quality. We will develop options to remove charging for non-residential care and, subject to consultation, bring Free Personal Nursing Care rates in line with the National Care Home Contract. (Page 28)

We recognise that both these proposals are intended to end or reduce the long-standing anomaly in the UK welfare state since its foundation in 1947-8, whereby NHS care is free at the point of consumption[3] whereas social care is mainly chargeable.

The National Care Service (NCS) consultation proposal is:

> In line with the IRASC recommendation [51d], increase the sums paid for Free Personal and Nursing Care for self-funded care home residents to the levels included in the NCHC or consider alternatives, such as revising means testing, to assist in ensuring self-funding residents are treated fairly in their financial assessment. (Page 46)

Free Personal and Nursing Care (FPNC) rates from 1 April 2021 are: £193.50 a week for personal care, £87.10 a week for nursing care, and £280.60 per week for both. We appreciate that the proposal is not to increase these to the standard rates for publicly funded residents under the National Care Home Contract (NCHC), which for 2021-22 are £653.79 a week for residential care, and £762.20 a week for nursing care. Rather the proposal is to increase FPNC to cover the *care element* within these standard NCHC rates[4]. As the NCS consultation explains, if non-residential charges were removed, this "should mean that the only cost for people in receipt of social care should be the means tested accommodation costs for care home residents" (page 46).

Social Work Scotland recognises that the inequities of charging for residential care need to be addressed, and especially now that non-residential charges are to be removed. We also recognise that the Scottish electorate will expect these changes in charging for care in Scotland to deliver better or equivalent benefits to the care funding and charging policy decisions in England, announced by the UK Government on 15 September, and to take effect there from October 2023.

On the NCS consultation proposals, care home residents in Scotland would only need to pay the means-tested accommodation charges from the implementation date, whereas in England under the UK Government's decisions people would continue to pay all means-tested charges

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[1] At: https://www.gov.scot/publications/first-minister-programme-government-2021-2022/
[2] At: https://www.gov.scot/publications/fairer-greener-scotland-programme-government-2021-22/
[3] Or largely so, since prescription charges ceased in Scotland, and eyesight tests are free of charges; not so some hearing services, spectacles, and dentistry apart from people in benefits receipt.
[4] We understand that the care element can be established using the cost calculator maintained by Scotland Excel.

until their life-time "personal care" costs reached the £86,000 cap, after which care home residents would continue to pay the means-tested accommodation element[5]. **Expanding FPNC is a better policy**, but a full comparison between Scottish and English proposals would also need to include the impact of the financial assessment changes in capital thresholds decided for England from October 2023, and any comparable or other changes that might be desirable in Scotland.

Social Work Scotland supports the NCS consultation proposal to increase FPNC payments to cover the care element of residential care, subject to further work on the following eight issues, which may require some reformulation of the proposal:

(1) The **inclusion of other adults in care homes** for people with learning disabilities, physical disabilities, mental health and other problems, none of whose placements are under the National Care Home Contract which currently only applies to people placed in care homes for older people.
(2) For **older people**, some local authorities have to pay **above the NCHC standard rate**, to secure placements in areas where prices are high and/or the local authority may be competing for places with wealthy older people able to self-fund at higher rates. And in all areas, there will be cases where a local authority needs to made a **supplementary payment** for an older person who requires higher staffing rations to manage complex conditions.
(3) **Respite and other short stays** in residential care homes should be explicitly exempted from all charges, including the accommodation element.
(4) **The separation of care and accommodation costs** should take into account the fact that some care costs fall outside the legal definition of personal care.
(5) The impacts of the proposal are different for **different groups of "*self-funders*"** and is likely to lead to increased requests for needs assessments, and thereby access to FPNC funding, from "Route 1" self-funders who otherwise would not benefit. **Care home prices** are also likely to increase if the proposal restricts private sector profits.
(6) There is a pressing and ongoing need **to manage the private care home market** to reduce "value leakage", as noted in the Feeley Report.
(7) There are also significant **geographical variations in the unit costs** of both care and accommodation in care homes, due to variations property and other capital costs, food, and labour costs. If there one standard "care rate" (or expanded FPNC amount) across Scotland, this is likely to be too low in some areas and too high in others.
(8) The **costing of this proposal** should be reviewed to include the issues summarised above and discussed more fully later in this paper.

We set out these issues in more detail below. We also note differences between Scotland, England, Wales, and Northern Ireland in the financial assessment of a person's ability to pay residential care charges, including the proposals to raise the upper and lower thresholds in England. We believe the financial assessment rules in Scotland should be reviewed, but that the costs of any changes should be considered alongside the totality of the Feeley recommendations and NCS consultation proposals, many of which have yet to be costed. Priority should be given to meeting current and future unmet need, and to developing prevention.

Further work is required by the Scottish Government, COSLA, Scotland Excel, and other stakeholders, such as current IJB Chief Finance Officers, to consider the issues raised by the

[5] "From October 2023, the Government will introduce a new £86,000 cap on the amount anyone in England will need to spend on their personal care over their lifetime". UK Government, *Our Plan for Health and Social Care*, 15th September 2021: https://www.gov.uk/government/publications/build-back-better-our-plan-for-health-and-social-care/build-back-better-our-plan-for-health-and-social-care

proposal to increase FPNC and confine residential care charges to hotel costs. We recommend a short-life working group is set up as soon as possible to take this work forward.

Main submission on Residential Care Charges:

A. Proposal to increase FPNC

There are seven issues which need further work and clarification.

(1) Non-elderly adults are outwith the National Care Home Contract (NCHC)

The proposal is framed within the NCHC but that only currently only applies to older people; it does not cover local authority placements in care homes for adults with learning disabilities, physical disabilities, mental health issues, and other groups. These homes make up nearly 10% of the registered care home capacity in Scotland[6], and have higher costs:

Average Gross Weekly charges in Scottish Care Homes at 31 March 2019

	LA homes	Private	Voluntary	Total
Care homes for:	**£pw**	**£pw**	**£pw**	**£pw**
Older people	861	789	770	797
Adults with learning disabilities	968	1,108	1,248	1,193
Adults with physical disabilities	962	1,447	1,196	1,227
Adults with mental health problems	817	865	867	865
Other adult groups		*	854	836
Total	**869**	**810**	**988**	**861**
	LA homes	**Private**	**Voluntary**	**Total**
Of which, with nursing:	**£pw**	**£pw**	**£pw**	**£pw**
Older people	927	870	840	873
Adults with learning disabilities	1,015	1,005	1,033	1,021
Adults with physical disabilities		1,475	1,192	1,313
Adults with mental health problems	817	926	835	901
Other adult groups		*	721	710
Total	**932**	**878**	**896**	**885**
	LA homes	**Private**	**Voluntary**	**Total**
Of which, without nursing	**£pw**	**£pw**	**£pw**	**£pw**
Older people	869	792	748	799
Adults with learning disabilities	1,084	1,020	1,178	1,131
Adults with physical disabilities	1,408	1,589	1,218	1,290
Adults with mental health problems	844	851	859	856
Other adult groups		*	786	771
Total	**896**	**810**	**946**	**856**

Source: Public Health Scotland, 30.7.21 response to SWS ad hoc request for 2019 Care Home Survey data.
Note: "The gross weekly charge is the total amount charged for a particular care home place each week. This includes any money received from the resident, relations or third parties. It also includes any money received from local authorities or health boards whether for personal care, nursing care or accommodation costs." Blanks in the table in the LA column denote zero care home provision for that row; asterisks in the Private sector column denote non-disclosures due to low numbers of residents in those rows.

[6] PHS Care Home statistics show that at March 2019, 91% of registered bed capacity (long plus short stay) was for older people (41,032 places), and there were 3,549 places in care homes for adults with learning disabilities, physical disabilities, mental health issues, and other groups.

Gross weekly charges are typically much higher in care homes for adults with learning or physical disabilities, and somewhat higher for adults with mental health problems, and for other problems (such as addictions), than they are for older people. This means that the extension of the FPNC payments to cover the care element in the weekly charges will need to be much greater for these adults, than it will be for older people. It is also the case that almost all of these residents are publicly funded[7], compared to 66% in all care homes for older people in Scotland.

(2) LA funding for older people at higher rates than the NCHC

As mentioned in the summary, some local authorities have to pay above the NCHC standard rate, to secure placements in older person's care homes in areas where prices are high and the Council may be competing for places with wealthy older people able to self fund at higher rates. In all areas, there will be cases where a local authority needs to made a supplementary payment for an older person who requires higher staffing ratios to manage complex conditions and safety. Both are examples where the care costs will be above an average within the National Care Home Contract.

(3) Respite and other short stays in residential care homes

Feeley explained the rationale for continuing to charge for accommodation costs:

> We considered whether it is appropriate for people to contribute to their accommodation costs in residential care, or whether this too should be free at the point of use. We concluded that it is reasonable for some charge to be made where the individual's means permit, because in other circumstances that person would be paying accommodation costs at home. (Page 93)

The NCS Consultation paper makes similar remarks in its preamble to Q17. Obviously, these arguments do not apply to short-term residential care where the person is already "paying accommodation costs at home". One form of short stay is respite residential care. In recent years, the Scottish Government has made several attempts to waive charges for carers through Statutory Instruments, but even so the Feeley report found it necessary to state:

> Although charges to carers are waived under the Carer's Act, some Local Authorities allocate charges to the supported person for respite. Removing such charges should be considered alongside other investment priorities. (Page 93)

The Scottish Government has already decided to remove non-residential charges for social care, including for respite for carers. In addition, Social Work Scotland believes that **all residential respite charges**, including the non-care "hotel" or accommodation element, should be removed, alongside consideration to remove all other **short-stay** residential charges, where they are levied.

(4) The separation of care and accommodation costs

This is not a binary distinction between FPNC and "hotel" costs. Essentially three categories must be distinguished:(1) FPNC payments (2) other care costs, (3) remaining "hotel" costs. If (1) and (2) are merged, the legal definition of free personal care would need to be expanded, which we believe is something to avoid if possible.

As the NCS consultation paper states, if charging for non-residential social care were removed then this "should mean that the only cost for people in receipt of social care should be the means tested accommodation costs for care home residents" (page 46). However, care homes are normally designed or adapted to meet the needs of disabled residents, and many of those

[7] The same Care Home Survey ad hoc response shows that at March 2019, 99% of residents in care homes for adults with learning disabilities were publicly funded, 98% in care homes for physical disabilities, 94% in care homes for adults with mental health problems, and 97% in other adult care homes.

costs may be counted either as care or accommodation[8]. It is instructive to consider the section on Disability Related Expenditure in COSLA's charging guidance[9] for social care for people at home. That urges that "Local Authorities should be proactive in considering further disregard of income where additional expenditure is incurred by a supported person as a result of living as a disabled person" (6.33). Examples given for additional costs include: additional heating, disability related equipment, specialist diets, specialist clothing, cleaning and other domestic tasks, extra washing, and additional bedding (6.34). None of these, apart from washing and diet, would count as "free personal care"; indeed, current definitions in residential FPNC guidance[10] explicitly *exclude* equipment and adaptations and supposedly "non-care" aspects of "problems of immobility".

What this means is that the boundary between care and accommodation costs in care homes needs to be drawn differently than that between personal and nursing care and other costs. (Responses to Consultation Q19 responses may help, but the question wording does not fully address these issues). Further work is required, by the Scottish Government, COSLA, Scotland Excel, and other stakeholders, to clearly distinguish three categories:(1) FPNC payments (2) other care costs, (3) remaining "hotel" costs.

(5) Impacts on self-funders, and likely increases in demand, and in care home prices
Self-funders" are not defined in the consultation paper. The term is ambiguous, so we use the *Routes for Contractual Agreements* on pages 13-18 of CRAG[11], to identify the relevant categories of people. This is necessary to assess who is likely to gain or lose from this proposal.

CRAG "Route"	**Category**	**Description** (quotes are from CRAG)	**Self-funder**	**Entitled to FPNC**
Route 1	**Independently Funded Supported Person**	People who "have opted not to request a formal assessment or may have been formally assessed by the local authority and advised that they have not met the eligibility criteria" for FPNC "will be required to enter into a private and independent contractual arrangement with the care home". These full self-funders are ineligible for an FPNC, unless they are subsequently assessed as needing to be in a care home.	Yes	No
Route 2	**Free Personal/ Nursing Care Supported Person**	People who have been assessed as requiring a care home placement, but with income above the current upper limit. These "self-funders" are eligible for FPNC and are in scope of the increase proposals.	Yes	Yes
Route 3	**Assessed Contribution Supported Person**	(a) People who have been assessed as requiring a care home placement, but with income between the current upper and lower limits, and therefore pay an assessed charge for their part-publicly funded care home placement.	In part	Yes

[8] The Feeley report did not address this issue: "The only costs that will remain are those for accommodation, either directly through fees for care home residents or indirectly through household costs for those receiving care in their own homes. Although in most cases these are higher for care home residents, they are in principle the same". (Page 93). But not all care costs fit personal care legal definitions.
[9] COSLA 2021: Charges Applying to Social Care Support for people at home, 2021/2022. At: https://www.cosla.gov.uk/__data/assets/pdf_file/0021/23547/2021-22-COSLA-Charging-Policy-for-Social-Care-Support.pdf
[10] See Scottish Government Circular CCD3/2018: Free Personal Care Guidance, 2.13 and 2.16. At: https://www.sehd.scot.nhs.uk/publications/cc2018_03.pdf
[11] SG 2021: Circular CCD 1/2021 Revised guidance on charging for residential accommodation. At: https://www.sehd.sco t.nhs.uk/publications/CC2021_01.pdf

CRAG "Route"	**Category**	**Description** (quotes are from CRAG)	**Self-funder**	**Entitled to FPNC**
		(b) People who have been assessed as requiring a care home placement, but with income below the current lower limit, and therefore eligible for a fully publicly funded care home placement. Since there is no charge, there is no FPNC	No	No
Route 4	**Assessed Contribution Supported Person – with Top Up**	As for Route 3 (a) or (b) but with third-party top-ups. "There may be occasions when the care home does not accept the National Care Home Contract rate or the rate the local authority are able to pay for the placement, and the supported person does not have the income or capital to fulfil the shortfall of the costs. On these occasions a Top Up is required which should be paid for by a third party, for example, a family member, charity or organisation"	As for (a) or (b) above	As for (a) or (b) above
Route 5	**Fully Funded Supported Person**	"[A] person who is eligible to receive a publicly funded placement, and this is irrespective of their financial assessment. This may be used on occasions when the supported person requires specialist care or step up placements etc." Essentially these are NHS facilities; since there is no charge, there is no FPNC.	No	No

Private providers dominate the care home market for older people and other adults, providing 63% of the care homes, and 78% of places, for 79% of the long-stay residents (at March 2019). Many private care homes do not accept publicly funded residents, which in some areas is a factor in the choice of people with sufficient wealth to opt for Route 1. Where private care homes do accept local authority placements, they typically operate a two-tier price structure: older people placed by the LA are charged at the National Care Home Contract (NCHC) rates (Routes 2 and 3)[12], or at those rates plus third-party top-ups (Route 4); while people placed under Route 1 are charged at a much higher rate.

In such a market, publicly funded residents are in effect ***subsidised*** by Route 1 self-funders, and to a lesser extent by third-party top-ups under Route 4. Does that matter? Certainly, there is a case for a wealth tax alongside income tax, with action to limit opportunities for avoidance; but the current care home system is in part a wealth tax by lottery, falling largely on people with assets who happen also to have dementia or other self-care incapacities, and on their families.

At this point in the discussion, before we consider price-rises, the people who stand to benefit are the self-funders in categories 2, and 3a, who are older people and therefore under the National Care Home Contract. (As discussed earlier, younger adults in residential care are not included in the NCHC, but have been entitled to FPNC since 1.4.19; further work is needed on how care costs will be established for this group). Partial self-funders under Route 4 with third-party top-ups will also benefit. There is no benefit for Route 1 self-funders.

Route 1 self-funders may request a local authority assessment of their needs for care, and if this agrees with their decision to reside in a registered care home, or to seek such admission, then they would become eligible for FPNC to be paid to the care home on their behalf, with the balance met fully by themselves (assuming that they were still above the upper assets threshold or declined a financial assessment) under Route 2. When FPNC was introduced for

[12] In some areas, higher capital costs and insufficient supply have created a seller's market for care home places, and some local authorities have to pay supplements above the NCHC standards rates (eg Edinburgh); in other areas the reverse position means that some local authorities feel they could do better without the NCHC (eg Glasgow).

older people from July 2002, many self-funders sought that assessment in order to establish entitlement to FPNC. If FPNC is now to be increased to cover the care costs of residential care, but not the "hotel" costs, then we would expect current and future substitutions from Route 1 to Route 2, and a significant increase in the demand for the augmented FPNC payments, with higher policy implementation costs.

Some people living at home with high level care needs and who are homeowners, may be deterred from residential care options because the value of their house would be taken into account in the financial assessment for charging, and subsequently would have to be sold. The proposed changes to charging for residential care will reduce or defer such scenarios to the extent that they reduce the cost of residential care to citizens. That is likely to increase demand for residential care in some areas, notwithstanding care policies to maintain people in their own homes for a long as possible.

When FPNC was introduced for older people from July 2002 it is generally accepted that care home prices rose[13]. The NCS consultation paper notes that when FPNC levels were increased by 7.5% in 2020-21, to deal with above inflation increases in care home prices in recent years, "some stakeholders expressed concern that care providers would increase their fees by an equivalent amount and self-funders will not see any benefit" (page 45). Social Work Scotland is aware that similar concerns are also now being expressed in relation to the NCS residential charging proposals.

The Scottish adult care home market is one where nearly 80% of capacity is in the private for-profit sector. One may assume that profits come from both the care and accommodation elements in the care home fees. If the care element becomes more regulated though annual NCHC and other contractual negotiation, then opportunities for profit may be curtailed, unless more care homes refuse to take publicly funded residents, or can increase charges for "hotel costs", or can charge more for remaining Route 1 self-funders, or require Route 4 "third party top-ups". These consequences seem very likely in a system where the profit motive now dominates.

Can State authorities manage the private care home market to reduce such inequities, and prevent the removal of care costs from charging leading to price increases?

(6) Managing the private care home sector

Private sector provision has grown in an under-funded social care system because it has cheaper unit costs, largely based on lower pay, pensions, and other working conditions for staff. The Feeley report raises important questions about the role of the private sector in providing social care:

> The care home market is largely led by business decisions made by individual care homes or groups of care homes, some of which are large multinational companies [..]. The extent to which some privately-run care homes yield profits for their shareholders was raised with us repeatedly as an issue of concern[14]. We have reflected on whether nationalisation is practical, desirable or affordable elsewhere in this report. We nonetheless want to record here that we share the unease expressed by many about whether it is right – in a country committed to health-care free at the point of need to all of its citizens, regardless of age or any other characteristic – that an important part of our care system is largely run on a profit-making basis. (Page 75)

[13] This is one reason why, following the report of Lord Sutherland in 2008, the Scottish Government increased FPNC funding to local authorities by £40M; the other main reason was increased demand.

[14] Footnote 40 in Feeley: https://chpi.org.uk/papers/reports/plugging-the-leaks-in-the-uk-care-home-industry/ (Centre for Health and the Public Interest 2019 – see next footnote).

> Our principal concern is not with profit itself, which plays an important function in any market economy, but with what we have come to think of as "leakage" from the care system in Scotland. Significant sums leave the care economy, some of which could be better used to raise standards of care and terms and conditions for staff. (Page 76)

Further information on "leakage" is provided in the 2019 UK report by the Centre for Health and the Public Interest[15] (CHPI), referenced in the Feeley Report quotation above. *Leakage* is explained as a concept which is needed because the usual measure of *net profit before tax* cannot cope with the complex and opaque finances that characterise the larger UK private care providers, often involving high debt interest payments, property rents, and management fees, paid to parent companies and their subsidiaries, thus reducing pre-tax profits and also tax payments:

> 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. (CHIS 2019, page 4)[16].

Feeley also considered "nationalisation": "taking all of adult social care into public ownership and management" (page 42), before deciding this would:

> … require an unaffordable level of public outlay, particularly in terms of investment in capital. It would also be hugely time-consuming: time that could be better spent working with providers and people who use services to improve care. We have also considered more fundamental financial questions, like responding to unmet need for social care supports, which in our view should be the priority for financial solutions [..].(Page 42).

Other reasons are also mentioned[17]. Instead of State ownership, the solutions to the problem of leakage are seen to lay with a new approach to "Commissioning for Public Good" set out in Chapter 9 of the Feeley report. In relation to care homes, this includes a greater role for the Care Inspectorate[18] and IJBs in actively managing the market according to a longer-term strategic vision (page75 and Recommendation 36[19]). In addition:

> National contracts, and other arrangements for commissioning and procurement of services must include requirements for financial transparency on the part of providers along with requirements for the level of return that should be re-invested in the service in order to promote quality of provision and good working conditions for staff.

There have been many attempts in Scotland in recent years to secure financial transparency with limited success. In the NCS consultation paper, these Feeley recommendations are rolled

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[15] Kotecha, Vivek (2019): *Plugging the leaks in the UK care home industry. Strategies for resolving the financial crisis in the residential and nursing home sector*. CHPI, November 2019, at:https://chpi.org.uk/wp-content/uploads/2019/11/CHPI-PluggingTheLeaks-Nov19-FINAL.pdf.

[16] The "leakage" percentage is above this average for the "Big 26" providers at13.4%, and within that group is still higher at 19.5% for "13 large for-profit providers (Non-Private Equity)". See CHIS 2019, pages 8 and 9.

[17] The other reasons given are quality, outcome, and diversity of care provider – however, all such counter-arguments are exemplified in the report by the Third Sector, which few people would think of as a candidate for "nationalisation".

[18] A possible conflict of interest.

[19] Recommendation 36: "The care home sector must become an actively managed market with a revised and reformed National Care Home Contract in place, and with the Care Inspectorate taking on a market oversight role. Consideration should be given by the National Care Service to developing national contracts for other aspects of care and support. A 'new deal' must form the basis for commissioning and procuring residential care, characterised by transparency, fair work, public good, and the re-investment of public money in the Scottish economy".

up into the section on **Commissioning**, on pages 95-105, but clearly need a lot more consideration and action well before any NCS is established.

(7) Unit cost variation in care home costs across Scotland

The Care Homes Survey statistics published now by Public Health Scotland show significant variations between local authorities in the average gross weekly charges for care homes in their areas. For example, for mainly self-funding residents in care homes with nursing, the averages ranged from £1,298 per week in Aberdeen City to £782 per week in North Ayrshire. The cost variations between actual cares homes will larger than between these averages for local authorities. Some variations will reflect the financial circumstances of different providers, while others may be more influenced by the local property and labour markets.

This presents a design challenge for the division of care and accommodation costs. If there one standard "care rate" (or enhanced FPNC amount) across Scotland, this is likely to be too low in some areas and too high in others.

(8) Costing the proposed increase in FPNC

As already noted, the Feeley Review did not propose abolishing all charges for residential care because everyone has accommodation costs – their level and the associated means testing would need to be carefully reviewed (page 93). The problem then is to identify the care element in these costs, and the funding required for the State to meet these:

> Using the National Care Home Contract as a benchmark, the difference between the costs included for Free Personal and Nursing Care and the sums paid by Local Authorities for self-funders were £191 and £230 per week respectively in 2019/20. We recommend that the sums paid for Free Personal and Nursing Care for self-funders using care homes should be increased to the levels included in the National Care Home Contract, and that this would cost £116m p.a.." (Page 92)

This calculation is based on the difference between FPNC rates and the care element within the NCHC standard rates; the latter information does not appear to be in the public domain. An April 2019 report by Independent Age states that "Analysis of the Scottish model of free personal care indicates that the care element accounts for 36.7% of overall costs, while hotel costs make up the remaining 63.3%", however these averages must relate to older people only as the report predates free personal care for people aged under 65 from 1 April 2019.

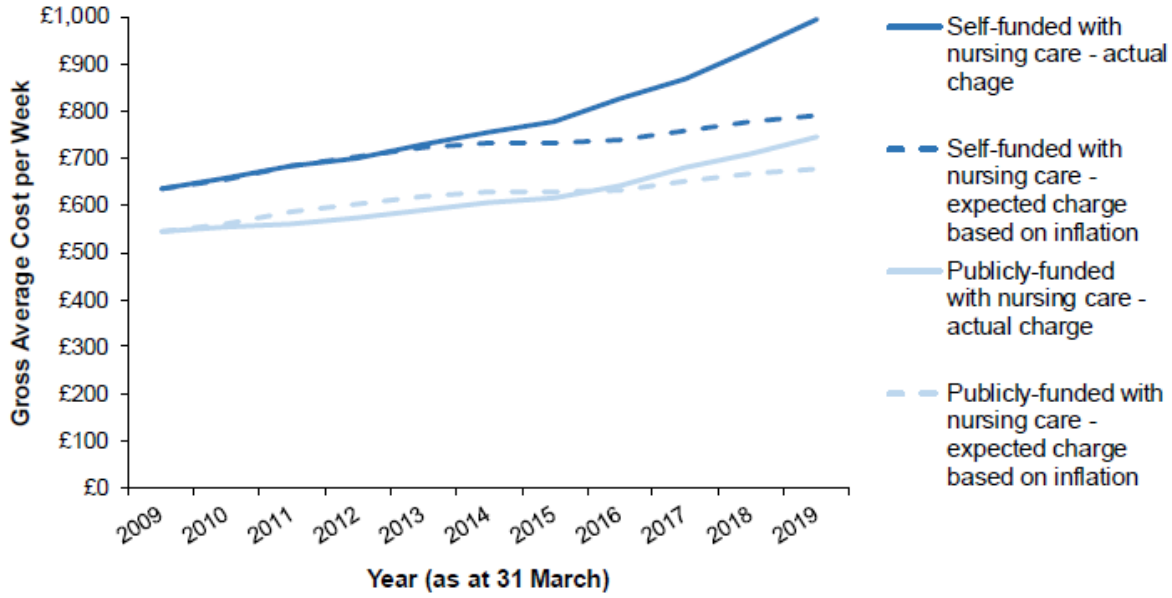
The same report contains trenchant criticism of proposals for lifetime caps on the costs of care in care homes, as too many people die before reaching the threshold, or do not escape "catastrophic costs" if measured at 50% or more of an individual's wealth. Independent Age prefers expanding free personal care, in much the same way as the NCS consultation proposal. But warns that vulnerability to "catastrophic hotel costs" would still affect around 4% of residents under a free personal care regime (using English or UK data). It therefore recommends that a safeguard will still be needed to protect care home residents from catastrophic hotel costs.

However, the Feeley Report costing of £116m per year appears also to be based only on older people; it also does not take into account that in some areas local authorities have to pay above the standard rates to secure care home places. It is also unlikely to include increased demand for the extended FPNC payments from Route 1 self-funders who request a needs assessment to establish eligibility, and thereby switch to Route 2. A safeguard against "catastrophic hotel costs" would also need consideration.

Public Health Scotland has published data[20] showing that in recent years care home fees have been rising at a rate much higher than inflation.

We do not know how much this above-inflation increase is due to higher capital, labour, or food costs, or higher profits in what in many areas is a seller's market, but it is a trend likely to continue. Going forward, there is also an interface with other Feeley recommendations, such as those on Fair Work. Improving the pay and conditions of social care workers is very necessary, and will further increase residential care costs.

Figure 21: Average gross weekly charge for publicly-funded and self-funded long stay residents in care homes for older people, with nursing care (31 March 2009 to 31 March 2019)



For all these reasons, the **estimated £116 million** cost of the proposal (at 2019-20 prices) will be an underestimate, perhaps significantly so.

B. Revising means testing

Charging for residential care is governed by National Assistance Act 1948 statutory regulations, usually made annually in each of the four UK administrations. How much a person pays depends on their income and capital (land and property, savings, bonds, shares, etc). We have tabulated below the capital thresholds, set out in the NCS consultation paper (page 45), and added the recent proposals in England, and also a row for the Personal Expenditure Allowance:

Parameter	**Effect** (simplified)	**Scotland 2021-22**	**England & N. Ireland 2021-22**	**England & NI from Oct 2023**	**Wales**
Upper capital threshold	Above which the resident pays the full fees or cost	£28,750	£23,250	£100,000	£50,000

[20] https://publichealthscotland.scot/publications/care-home-census-for-adults-in-scotland/care-home-census-for-adults-in-scotland-statistics-for-2009-to-2019/

Parameter	**Effect** (simplified)	**Scotland 2021-22**	**England & N. Ireland 2021-22**	**England & NI from Oct 2023**	**Wales**
Between thresholds	Means tested charges, including tariff income from capital[21]			Capped at 20% of chargeable assets	No lower threshold
Lower capital threshold	Below which the local authority pays the full fees or costs	£18,000	£14,250	£20,000	
Personal Expenditure Allowance (PEA)	Charging must leave the resident with at least this weekly amount of income	£29.30 per week	£24.90 per week	N/K	£33.00 per week ("Minimum Income Amount")

In Scotland, the lower capital threshold was not uprated for inflation from last year's value, and if only adjusted for inflation annually will be the lowest in the four nations by October 2023. For publicly funded care home residents without capital to use for one-off or regular purchases, the aptly named PEA only provides £29.30 per week to cover items such as clothing, footwear, hairdressing, cosmetics, reading material, etc, unless they have family members to help with these costs.

The NCS consultation paper consultation paper notes:

> IRASC did not consider in detail whether adjustments should be made to the means testing arrangements of the residential charging regime, though it suggested that this may be something the NCS may wish to consider in future. (Page 46)

The publicity around the care charging changes recently announced for England by the UK Government may hasten a review in Scotland. We already know that the proposal to extend FPNC or remove care costs from care home charges is of much greater benefit to Scottish citizens than the £86,000 cap proposals in England. But some modelling is needed to also include, within a comparison, the financial benefits to citizens of the changes to the thresholds decided for England from October 2023. This will help to clarify the case for improvements to the Scottish capital thresholds, and help the Scottish public to understand the differences between the Scottish and other UK charging regimes.

Nevertheless, as in England, the welcome reduction in the costs to citizens of charges for social care do not add a penny to overall levels of provision of care services. For that reason, further changes to residential charging in Scotland need to be considered within the context of all the Feeley recommendations and NCS proposals.

The NCS consultation paper repeats the SNP manifesto commitment to invest over £800M, and to increase investment in social care by 25%. However, the original Feeley Report costings were confined only to *adult* social care, without considering pressures on children's and justice social work and care services. Moreover, Feeley's costed proposals for adult care already totalled £660M at 2019-20 prices, but without including essential *uncosted* items such as Fair Work wages and conditions, and increased rights and support for unpaid carers, both of which will be expensive. There are also many other proposals in Feeley and/or the NCS consultation that are not yet costed. Social Work Scotland agrees with the Feeley report that meeting unmet need, now and into the future, is the first priority for new funding; the second is developing prevention.

[21] In Scotland this is £1 of tariff income for every $250 of capital.

The recent decisions of the UK Government will yield additional national insurance tax income and other Barnet consequentials for Scotland. Even if these monies were divided equally between the Scottish NHS and new National Care Service, there would still be decisions to be made between priorities for funding social care.

Comments or question on this response are welcome and should be directed to:
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