

# The Reform of Adult Social Care

Response from the Commissioner for Older People for  
Northern Ireland

June 2022

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**29 June 2022**

**RE: Consultation - Reform of Adult Social Care Northern Ireland**

Dear Sir / Madam

I am writing in my role as Commissioner for Older People for Northern Ireland (COPNI) in response to the Consultation on Reform of Adult Social Care. COPNI welcomes the opportunity to engage with this consultation on an issue which is fundamental to the protection and wellbeing of our citizens and in particular, our ageing population. I fully endorse the Health Minister's characterisation of social care:

*No matter what the service is, it's about supporting your social wellbeing, helping you live life to the full with the right sort of supports at the right time in the way that you want to be supported.*

(Minister for Health, Robin Swann, *Foreword*)

Much of COPNI's work focuses on aspects of adult social care, assisting older people requiring care, carers and family members, to secure sufficient, high quality and appropriate provision. Moreover, my office has a track record of identifying systemic issues which negatively impact the delivery of social care, most notably in my investigation of Dunmurry Manor Care Home.<sup>1</sup> As an organisation which daily engages with the public on practical matters of social care provision and as one which has scrutinised social care practice and policy, I am keen to offer an analysis of the reform programme.

The reform of adult social care involves numerous organisations (public and private), thousands of employees, delivering various types of service across urban and rural areas. Transforming the complex and wide reaching system of social care will require ambition and commitment from the whole system. I welcome the commitment to tackle the challenge, necessitating new and amended legislation (such as introducing duties of care); financial regulation

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<sup>1</sup> *Home Truths: A Report on the Commissioner's Investigation into Dunmurry Manor Care Home*, COPNI, 2018 available at: <https://www.copni.org/media/1478/copni-home-truths-report-web-version.pdf>

to even the ‘playing field’ between private and public providers; and capital investment for the commissioning of new services.

Throughout my tenure as Commissioner, I have advocated for many of the proposals contained in the consultation document and wholeheartedly support the principle that systemic renewal is required. Nevertheless, 48 proposals described in a 108-page document could only ever offer an outline vision of such radical social care reform. In this light, I offer my views on certain aspects of the proposals recognising that until more detail is provided, deeper engagement is not possible.

## Overview

The strategy to reform adult social care should be founded on an over-arching concept and vision, setting out the ambition for social care in Northern Ireland. Such a framework for the reform programme is vital. It should be based on a human rights approach with rights embedded through every aspect of the strategy. Such a “person-centred” approach should enable citizens to exercise full autonomy and choice in the support available, tailored around a community setting. This should include:

- Reducing need for institutional care;
- Making better use of technology;
- Patient centred decision-making;
- Including wider community supports; and
- Multi-disciplinary working across boundaries.

A further core care provision issue that must be addressed by the reforms is the contract between HSC trusts and residential care homes. This contract is outdated and not fit for purpose. Under the current system human rights are given scant mention and the user is not party to the contract which underpins their care. This contract and approach should be redesigned based on a user-centred model.

## A Plan Without a Cost

Public service provision costs money. The cost of a particular public service will vary according to the type and extent of such (existing or planned) provision. In the context of social care, decisions must be made by policy-makers (at executive level) and clinicians (at local level) about the level of care a person *should* receive and what an individual *can* receive, given the limitations on resources. As the current situation for many people—those seeking care, and those providing care—is one in which resources are already stretched, offering an un-costed programme of reform is not practical and could be misleading. The consultation document states that:

*Estimated costings and an economic impact assessment for the proposed actions will be developed during the consultation period. These costings, impact assessments as well as the availability of funding will inform the future strategy and an implementation plan for the agreed reforms.*  
(Consultation document, p.5)

Governments face serious challenges developing expensive, long-term policies within the framework of short-term funding cycles. Inevitably, identifying funding to support adult social care reform over a 10-year period will be demanding. Yet, identifying the costings of such a major programme of reform (and pairing costs with actions) is fundamental to the viability or otherwise of the entire reform initiative.

The consultation document makes clear that costings and economic impact assessment ‘will inform the development of an adult social care strategy’ (p.26). In sum, reform of social care—the type and extent of reform—is in large part a financial matter. While it is uncontentious to say that there must be limits on expenditure for public services, it is unreasonable to outline proposals subject to costings and yet, not offer those costings for discussion. The *Power to People* report containing the proposals that underpin the current reform plan was published in 2017. Robust and authentic analysis is needed for the development of an effective adult social care reform programme. Such analysis can only be conducted by stakeholders who possess an accurate outline of the true “whole system” cost of care.

## **A Plan to Review**

The *Power to People* review was commissioned in 2016. Since then, stakeholders (people requiring care, their carers, their families, public and private care providers, professional bodies, academics, NGOs etc.), have offered insights on all aspects of adult social care reform.<sup>2</sup> Yet, the consultation document proposes reviews of several key issues rather than proposing ameliorative action. From the perspective of COPNI, an organisation that is regularly involved in attempting to resolve such deeply impactful matters of care for clients, the proposed reviews constitute a failure to address thorny issues.

The consultation document proposes: i) a review of third party top up fees for care homes (p.25); ii) a review of charging arrangements for domiciliary care and care homes (p.27); and iii) a review of the Northern Ireland Single Assessment Tool (NISAT) (p.74). In effect, three of the most potentially contentious and political aspects of care provision have been set aside for further review. Behind the dry language of ‘review’ are family members

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<sup>2</sup> In addition to several reports on failings in individual care facilities, COPNI commissioned research on broader matters of adult social care reform: *Review of Legislation and Policy Guidance Relating to Adult Social Care in Northern Ireland*, (COPNI, 2015) available at: <https://www.copni.org/media/1138/review-of-legislation-and-policy-guidance-relating-to-adult-social-care-in-ni.pdf>

struggling to pay for the care of a loved one and achieve an accurate 'official' assessment of care needs. I urge the Department of Health to swiftly draft proposals to address these long-running issues and commence the process of refining them for implementation.

### **Mixed Economy of Care**

The consultation document addresses the matter of a 'mixed economy of care' in a little under two pages. It states that:

*Although the mixed economy of care has its strengths, in recent years it has also contributed to system difficulties with non-statutory provision when there has been business failure, procurement exercise failures or when providers have decided to leave the market. Availability of services to meet a variety of complex needs has also been limited or non-existent in some cases. Availability of services to meet a variety of complex needs has also been limited or non-existent in some cases. (p.28)*

The acknowledgement by the Department of these critical issues in the social care ecosystem is most welcome. The current economy of care has created situations in which COPNI have been informed by Trust staff that despite poor levels of care in a facility there is no alternative, or indeed, our casework speaks to instances in which due to a person's needs or geographic location there are simply no available services.

Analysing need across the region and commissioning services appropriate to that need would be a significant step. However, I am concerned, given its magnitude, that such an attractive proposition offers so little underpinning information. In effect, it appears that under discussion is investing capital and running costs to provide public services such as state-owned care homes which would offer an alternative to privately owned facilities. With our ageing population and my experiences of some current homes offering poor care, I would welcome the broadening of quality care options for the public. Nonetheless, the re-entry of the state into residential care provision would be a massive market-disruptor and is a matter that requires detailed, explicit, and open debate if it is not to be more than a pipe dream. I am frankly impatient for innovative change and would consider any proposals with an open mind.

### **Market Regulation**

The consultation document states that:

*In support of a whole system approach, the Department proposes achieving market regulation by revising and setting regional cost bandings for all forms of adult social care delivered by the private and not for profit sectors. (p.32)*

If there is a desire to continue to commission the majority of services from the private sector, there needs to be more influence on the geographical location, sustainability, contract management and regulation of the care home sector. It is clear that an approach that allows “the market” to determine where, and what type of provision is established has created gaps, expense under and over provision of services in specific locations.

The Department’s market regulation proposals include addressing: staff conditions; staff qualifications; staffing levels; capital investment; regulated levels of profit; and regulated levels of overhead and management costs. Again, without further detail, how such significant and far-reaching measures would be implemented is unclear. Issues implicit in the proposals, such as the need for a larger workforce, varying economic (urban and rural) operating contexts, and addressing the threat of private service withdrawal are left largely unaddressed in the consultation. In particular, the proposed regulation of profits, overhead and management costs requires more clarity, as inevitably these proposals will be unwanted by private providers. Without detail, such radical interventions into the ‘free market’, are likely to be vociferously contested, hindered, and possibly delayed indefinitely.

### **Conclusion – *More Than Vision Needed***

The 48 proposals to reform adult social care constitute a *vision* of a progressive, sustainable, and balanced social care ecosystem. I welcome this vision. My concern is that such an ambitious vision is not new. Reports and analyses are aplenty in the health and social care system and it is therefore disappointing that this process is not further ahead. There are few, if any, principles in this document that can be argued with, but an exercise in consensus is not needed now. This reform programme requires long-term commitment of activity and funding and a resource to planning and implementation unprecedented in Northern Ireland. Contentious and politically brave decisions will be required but above all the debate must be honest and transparent with older people, their carers and families.

The consultation document caveats implementation of the reforms, with allusion to ‘costings... inform[ing] the future strategy and an implementation plan’ and noting that an ‘incremental approach’ (p.5) to implementation will be adopted. While recognising the significant constraints on the Department of Health, I am concerned that without costings, detail and a timescale for implementation, the Minister’s vision of ‘a world class social care system’ will remain just that: an unrealised and unrealisable vision.

I would welcome further dialogue on this matter. If you would like to discuss any of the points raised, please contact the Policy Team via:

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Yours sincerely,

A handwritten signature in black ink, appearing to read 'E. Lynch', is written over a light grey rectangular background.

**Eddie Lynch**  
**Commissioner for Older People for Northern Ireland**