

Response of the Family Nursing & Home Care Committee to the Health & Social Security Scrutiny Panel's Report "Service Users of Home Care"

Introduction

Following publication of the above report, the FNHC Committee raised a number of concerns with the Greffier in April 2017 as the dispute process requires in the first instance. He advised that he had no powers to deal with the matters raised and that direct representations should be made to the Panel. The Panel, who were copied in to the April communication with the Greffier, were written to again in May 2017 highlighting concerns over the accuracy of their report. The Panel has since decided to take no action but has agreed to lodge a formal response from FNHC.

Main Issue of Disagreement

In general terms, there are some factual errors and loosely worded comments, the main ones and FNHC's response, are covered in the Annex.

The prime issue of contention relates to Finding 2 and, in particular, the allegation that *"On the part of FNHC there was a seeming reluctance to accept and engage with the changes. This failure led to FNHC's announcement in September 2016 with regards to their staff terms and conditions."*

FNHC Response

This is simply not true. The report gives no rationale for the finding, nor is any evidence provided to support it. FNHC was never given the opportunity to respond to such an allegation during the Scrutiny process, being only called as a "witness".

We would argue that it was through FNHC's engagement and advocacy that some semblance of a "joined up" Home Care strategy emerged.

Specifically, the process was prolonged for various reasons discussed below. This was not simply a matter of "subsidy removal", as the Panel describe it in the Report, although that is probably how it started out from the evidence uncovered by the scrutiny process and a Freedom of Information request. It looks as though it was originally proposed as part of a package of budget cuts at the time.

There were, in fact, very wide ramifications which FNHC pointed out including:

- *Affordability of Home Care*

Could those receiving care at a subsidised rate afford the levels of care they needed if they had to purchase that care from other market providers at full market cost?

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- *Availability of Care*

It was, at the time, a fledgling market stimulated by the recently introduced Long Term Care benefit but still immature. Was there enough capacity to absorb several hundred clients then in the care of FNHC and did those providers have the expertise to give the higher levels of care needed by the very vulnerable?

- *Would it be better to continue to commission home care for vulnerable elderly groups so closely integrated with the District Nursing provision?*

This would ensure that the most vulnerable would continue to receive the best integrated care and help retain a highly trained and skilled group of FNHC care assistants, many of whom may be lost to the profession if FNHC ceased its Home Care provision.

- *As the main funders and sponsors of FNHC, constituted by an Act of the States, was it the intention of HSSD to privatise all Home Care?*

If, politically, it was the intention to take FNHC out the home care market, then a change would be required to the Constitution. In short the Home Care responsibilities would be removed from FNHC.

It proved very difficult to get straight answers to these questions though it was noted that some of the issues were subsequently addressed, including the development of benefit support for low income groups and training of private sector home care staff.

One of the key fundamental issues was the seeming reluctance of the Health and Social Services Department to put anything clearly in writing to FNHC, a vital matter on which the Scrutiny report is silent. Due process, indeed good governance, on a matter of this importance should be demonstrated by papers on the policy and strategy, Ministerial approval, and decisions being clearly conveyed in writing to all parties concerned.

FNHC had great concerns about this matter apparently being left to drift. On the appointment of Senator Green as the Health and Social Services Minister, meetings were arranged at the instigation of FNHC to try to resolve these issues and bring matters to a head, eventually achieved in March 2016 (though, at that stage, there were still no plans to give any additional financial support as requested to ease the transition, particularly for low income clients and there was still no legal framework in place to protect those receiving home care services.)

The final advice given by the Chairman of FNHC in an email to the Minister on 5th May 2016 was that: *"This is a substantial change from current policy which should really be made clear to the States in a Statement made by yourself."* The same advice was given to officials in HSSD along with the need to co-ordinate any public announcement with a similar

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announcement to the staff and clients that would be affected by the change. Needless to say this was not done and FNHC was left to make the announcement itself and then attacked for not taking action sooner.

Had action been taken sooner by FNHC, there would have been no arrangements for transitional funding or the promise of the Flexible Care Component resulting in hundreds of clients being left to fend for themselves, possibly with not enough income to pay for their care, in a private home care market with potentially insufficient capacity, and where there was no legal framework.

Summary

FNHC acted responsibly throughout, advocating on behalf of clients and staff, pushing for a “joined up” strategy. Knowing something is “in the wind” is not sufficient justification, nor indeed, is it good governance, for making required changes to staff and potentially leaving clients to find alternative provision in a fledgling market without any financial support and no legal framework. There was no clear Ministerial or States decision on this as far as FNHC could ascertain. If there was, it was never put in writing to us.

Knowing things may change but not when or how, FNHC began concentrating on the very vulnerable elderly cases where there was considered benefit to clients to have coordinated nursing and home care provision. Gradually, staff and client numbers reduced to around 70 and 200 respectively without causing upset to either party. The hope at that time was that HSSD would see the benefit of contracting (or commissioning) directly for this group as is done for other vulnerable groups.

In fairness, the process was interrupted by the turnover of commissioning staff during this period. There have been 6 Commissioners responsible for FNHC in a 4 year period which hindered continuity or proper policy development. Having said that, FNHC has been surprised to discover a key policy paper dated November 2014, which only emerged after a Freedom of Information request, which was never shared with FNHC. This paper clearly set out the direction of intent and potential financial impact on FNHC. It is also incorrect of the Scrutiny Panel to state that this was a communication between HSSD and FNHC. It was not and the Panel were aware of that.

FNHC believes there were a combination of factors leading to the unsatisfactory position where it was left to make a public announcement as HSSD started withdrawing money in 2016 despite the original “Commissioning Intentions Letter for 2016” making no reference to such a withdrawal. Above all, FNHC believes it is incumbent on Government to be transparent and clear in all its dealings and to ensure that States members and the Public are fully informed on important changes of policy.

Annex

Main Inaccuracies / Points Needing Clarification (in chronological order)

- The wording in some parts of the report is not always clear, for example, Page 4 Executive Summary *“As a result, the Minister for (HSSD) has extended the funding arrangement with FNHC until January 2018 in order to allow for a smoother transition.”*

This implies that there was no change in funding for 2017 but the actual position was that all funding for home care was withdrawn (£1.5m) and the funding arrangements for those services commissioned by HSSD was changed to cover more of the costs than in the past. After representations from FNHC, the Minister agreed to subsidise the costs of home care clients pending the introduction of the new benefit support. The need to clarify and break down the old “block grant” system referred to in the Conclusion is unnecessary as the contractual arrangements for Commissioned Services are now very specific.

- Page 5 Finding 1 *“[HSSD] and FNHC appear to have operated for years without the full knowledge of costs attributable to home care.”*

FNHC has always had full knowledge of the costs of its Home Care service and all other services whether commissioned or not. Indeed, every aspect of its business is independently audited and a Report and Accounts published each year in compliance with accountancy standards. The Committee and FNHC’s Finance Director take financial matters very seriously and they are open to scrutiny each year through the audit process and also at the AGM.

- Page 17 Appendix 2 sets out *“the following correspondence between [HSSD] and FNHC”*

The second document referred to is a note from Derek Hodinott to Rachael Williams and Jason Turner in November 2014. This is not in fact correspondence between HSSD and FNHC but an internal HSSD document which, as referred to in the main response, was neither disclosed to FNHC nor Scrutiny initially and only came to light after a Freedom of Information request from, we understand, Unite the Union. One of the recommendations of this HSSD document was to formally communicate the intentions (of decommissioning and the financial impact) to FNHC, which was not carried out until 2016. It is not clear whether the proposals in this paper had Ministerial approval at the time.