

# Caring for our future – consultation on reforming what and how people pay for their care and support



## BRIEFING

### Introduction

On 18 July the Government published its [consultation](#) on how changes to the funding system for care and support should be organised locally. This is an important opportunity for local authorities to inform the detailed policy design and technical implementation of deferred payment arrangements, new charging rules from April 2015, the cap on care costs and extended access to financial support from April 2016. The consultation closes on 25 October 2013 and SESL is looking to work with SEEC to develop a joint response. This paper provides a high level summary of the consultation document.

### Recap of the Main Proposals

A care cap, introduced from April 2016, set at £72,000 for people of state pension age and over. The total cost to the local authority of meeting a person's eligible needs, whether paid by the person, local authority or both, will count towards the cap. People of working age who develop care needs before retirement age will benefit from a lower cap and those who turn 18 with eligible needs will receive free care and support to meet those needs for life.

Financial support will be provided from April 2016 to help people with assets of up to £118,000, including the value of their home (an increase on the current £23,250 threshold) with home care costs. Where the value of someone's home is not counted, financial support will be provided to people with up to circa £27,000 in assets.

'Hotel costs' – People in care homes, who can afford to, will be responsible for covering living costs of around £12,000 a year from April 2016, which will not count towards the cap.

Deferred payments – A universal deferred payments scheme will be introduced from April 2015 so people do not have to sell their home in their lifetime to pay for care.

### Information and Advice

Local authorities have a crucial role to play in ensuring that when people need care they have access to good information and advice. The Care Bill sets out legal duties for authorities to provide residents with information to help them to financial plan. The Bill also includes a requirement on authorities to facilitate access to independent financial advice.

The Government is interested in the role of local authorities in facilitating access to information and independent financial advice as well as what authorities can do to a) encourage people to take responsibility for planning and preparing for future care and support and b) encourage people to take responsibility for paying their contribution towards care costs.

### Assessment

The Care Bill includes a requirement on local authorities to carry out a needs assessment where they believe a person has care and support needs.

Early intervention and prevention should sit at the heart of the assessment process, which should focus on the person's needs, what they want to achieve and the type of proportionate intervention that might support them. The needs assessment will be the first stage in the process that establishes whether or not a person is eligible and whether their care costs will count towards the cap.

The Government estimates that around 500,000 more people with eligible care needs could contact their authority in 2016 seeking an assessment. The document emphasises that councils should take a proportionate approach to assessments and that for self-funders this could be a light-touch process with reduced local authority contact.

Subject to the passage of the Care and Support Bill, the Government expects local authorities to have provided people already receiving care and support with a care and support plan, including a personal budget, ahead of April 2016. Local authorities have flexibility to determine eligibility and calculate an independent personal budget for those who arrange their own care and support ahead of April 2016. The document suggests local authorities should consider undertaking assessments from November 2015.

From April 2016, a person's costs will start to accrue from the point they contact the local authority rather than the point of assessment. More details about the assessment process will be set out in regulations.

## Joint Assessments

The Spending Round announced a £3.8bn pooled health and social care fund to support integrated care and support. The Care Bill also places duties on local authorities to promote the integration of care and support provision with health and health-related provision. The Government intends that regulations will specify that the local authority should contact the other relevant organisations and carry out a joint assessment where a person has multiple needs so that individuals have an integrated care plan and are subject to a single process. Local authorities will also be expected to consider how to integrate personal budgets for care and support needs with personal health budgets, although the latter will not count towards the costs of the care cap.

Local authorities will carry out assessments for carers where they appear to have support needs and will be required to meet eligible needs. Local authorities should align the assessments of the person needing care and their carer and may carry out combined assessments.

## Financial Assessment

Local authorities conduct financial assessments to determine the contribution that individuals and the local authority are to make to the cost of care. Local authorities should carry out an assessment unless asked not to by the individual. An individual with eligible needs does not need to have a financial assessment or qualify for financial support for the costs of meeting their needs to count towards the cap.

Increase to the financial support provided to people receiving residential care and the availability of deferred payments will have implications for how local authorities assess income and assets. The consultation seeks views on what flexibility should be given to local authorities in how they provide financial assessments and on how Government can ensure that financial assessments are proportionate whilst providing an accurate valuation of a person's assets.

## The charging Framework

The Care Bill provides for a single overarching charging system under which local authorities may choose to charge adults for care and support. Where a decision to charge is made, the local authority must assess the person's ability to pay based on national regulations.

The document sets out the principles upon which it proposes the new charging framework should be based. National regulations will set out the details of the assessments of a person's resources that a local authority will have to carry out where it exercises its discretion to charge.

The Government intends to examine existing charging rules to identify areas where a common approach to charging across care settings can be taken. The consultation document proposes retaining local authorities' ability to place a nominal charge on carers' services. Carers may not be charged where their needs are met through a service to the adult receiving care, e.g. respite care. Pages 33-34 of the document summarise the charging framework and asset limits and what a common approach to charging in all care settings will mean in April 2015 and April 2016.

The Care Bill will introduce a new right for individuals to request the support of the local authority in arranging their care and support where they are assessed as being able to pay the full costs of their care. Local authorities will be able to charge a fee for arranging care where the individual has resources above the financial limit. The Government does not want this new charge to apply to people who already pay for their own care but have their care arranged by the local authority, for example where they lack capacity. Related administration fees can also be charged where an adult has a deferred payment agreement.

## The cap on care costs

The document seeks views on a set of principles that will inform decisions about the cap level of people aged between 18 and state pension age (p.38). It is proposed that, as a minimum, the offer of free care for eligible needs should be extended to people up to the age of 25.

The consultation highlights particular challenges facing younger people with care needs and expresses a desire to reflect younger people's reduced ability to build up assets in the level of the cap. It considers whether the challenges facing working age adults may be addressed more effectively through the charging framework as opposed to varying the level of the cap.

The intention is to set the cap level based on the age of a person at the point at which they are assessed as having eligible needs or when they request an assessment if there is a delay. It is recognised that a different approach may be needed to setting the cap for people whose needs are initially met by other services, such as NHS services.

## Daily living costs

Those who cannot afford to pay all / part of their living costs for residential care will be assessed for financial support. The document proposes that support should be available on the same basis as financial assistance with care costs, creating a single unified system of financial assessment for people both before and after they reach the cap.

## Cap adjustments

The Government is proposing to adjust the level of the cap on care costs, the contribution to daily living costs, the financial limit and care accounts on an annual basis in line with average earnings to reflect inflation. The Government will review how the cap on care costs is operating every five years.

## Universal deferred payment agreements

When a person moves permanently into residential care and their home is not occupied by a spouse or dependent relative, the value of their home is likely to be considered when determining their contribution towards their care costs; however, for the first 12 weeks of their stay their property will be disregarded, i.e. not included in the local authority financial assessment. The Government is interested in local good practice around making best use of this transition period.

Regulations under the Care Bill will require all local authorities to offer deferred payment agreements. The document invites views on the draft criteria which would apply for a person to qualify for a deferred payment. It is proposed that local authorities should have the discretion to provide deferred payments to people in residential care who do not necessarily meet all the mandated criteria.

It is possible that individuals who chose to defer the full costs of their residential care and accommodation may reach a point where they can no longer afford their care and their care home is more expensive than the local authority would normally expect to pay. In such circumstances, there are questions around whether local authorities should have the discretion to introduce reasonable safeguards to ensure deferred payment agreements can be repaid and how can this be done in a way that supports people's choice of care home.

Some people have remaining incomes left over once they have paid for their personal and household expenses. The Government wants to explore whether people should have freedom to choose how much to pay from their income towards their care costs or be required to make an income contribution towards their care fees once they have met their expenses. If the latter, consideration needs to be given to the types of personal and household expense that should be taken into account before determining the income contribution.

The document seeks views on whether local authorities should normally wait up to three months after someone has died before actively seeking repayment and under what circumstances a local authority should wait longer.

Those who go into residential care may need support to manage their property and the Government is interested in how local areas are already / could in the future develop support for homeowners to maintain, sell or rent their home.

Authorities will need to comply with relevant consumer protection legislation and guidance when offering deferred payments and the Government is seeking views on what information people need and how it should be provided.

Local authorities will be able to charge an administration fee to cover up front costs of offering a deferred placement, which could be added to the deferral. The document invites local authorities to provide a breakdown of administration costs to inform rules around what costs local authorities can charge.

Local authorities will also be able to charge interest over the lifetime of the deferred payment; the interest rate will be set nationally in regulations. The Government will consider whether additional protection is needed to ensure interest payments are affordable for the most vulnerable.

Later guidance will detail the process for setting up a deferred payment and ahead of this the Government is seeking views on how well current local authority processes for deferred payments currently work and what could improve.

The Care Bill will contain powers designed for the purpose of making deferred payment agreements. Some local authorities have suggested they should have discretionary powers to offer deferred payments in a wide variety of situations, such as to meet costs of domiciliary care. Further information on how local authorities plan to use the powers and how they would work in practice is requested.

## Self-funders

At present there is a limited market for financial products to help people pay for their care. The government expects financial services to respond in time for 2016 and is working with the industry to understand how the market is likely to develop and what more should be done to create the right environment for products to develop. The consultation seeks views on what financial solutions will be important in helping different groups pay for their care and what the priorities are in terms of helping the market to develop.

## Personal budgets

People with eligible needs will receive a statement showing the amount that is counting towards the cap. This will take the form of a personal budget for those who have chosen for the council to meet their needs or an independent personal budget for those who wish to meet their own needs. The consultation details what these budgets should show and asks what additional information should be included to support reform, transparency and planning.

To support personal budget setting, local authorities have to determine how much money it would cost to meet people's eligible needs. They then develop a care and support plan outlining how those needs will be met. As local authorities will not necessarily develop this plan to arrive at an independent personal budget, the consultation seeks views on what further informal a local authority might need to calculate an independent budget that they might not get through an assessment. The government will publish statutory guidance on the development of personal and independent personal budgets.

Some local authorities already use resource allocation systems (RAS) to calculate what they would expect someone to contribute to their care. The Government has heard various views about how robust such systems are and some local authorities have suggested the development of a national tool. It is unlikely that a national RAS will be implemented across England but the Government does intend to define in guidance a set of common principles on which RAS should be based.

Local authorities will have a duty to keep budgets and plans under review to ensure they remain relevant to the needs of the person. If it is determined that a person no longer has eligible needs, or if a person refuses a reasonable request for reassessment, progress towards the cap will freeze and could be restarted at a later date. The government is seeking views on how to ensure a proportionate approach to reviews.

Government intends for local authorities to provide people with updates of their care accounts annually or at the reasonable request of the individual. Councils will also need to adjust care accounts in line with adjustments to the cap. The annual care account statement could include projections of when the person is likely to reach the cap level or when they are likely to qualify for support if their assets fall below the new financial limits.

It is recognised that this could leave local authorities open to challenge and increase the complexity of implementation, although the document suggests this risk will be small if local authorities follow regulations. The government does not intend to mandate how this information needs to be provided although expects that online accounts will aid greater independence and control. Local authorities should be able to apply discretion in certain cases where an annual update is unnecessary.

When a person is placed outside of a local authority, they will remain the responsibility of placing authority. The consultation invites views on the likely effects of reform, alongside ordinary residence rules, on individuals or local authorities and how the number of transfers between local authorities may change.

Local authorities will keep and retain records of care accounts during periods when individual may not be eligible. If a person moves to another authority, their care account will be transferred to that authority. The origination authority will still have to retain a record of that individual's care account until the end of their life or for 99 years.

## Redress and resolving complaints

The government intends to conduct a review exploring whether there are effective means of challenging local authority decisions and is considering the strengths of adopting a mechanism similar to that used in the schools' admissions code appeals process.

Local authorities will have a duty to inform people when they reach the cap. When a self-funder reaches the cap, the Care Bill obliges the authority to meet their eligible needs. The local authority will need to prepare a care and support plan and be subject to keeping this plan under review. Local authorities will not have to conduct a new assessment unless their needs or circumstances have changed. Local authorities will not be able to charge for the costs of meeting their eligible needs but will be able to charge for meeting the costs of daily living costs. The consultation seeks views on how this transition can be managed most effectively and in a proportionate way.

The government intends to roll out personal budgets in residential care in April 2016 alongside the introduction of the cap.

The government also wants to understand the impact of relaxing restrictions on top-ups so that individuals receiving local authority support are able to supplement that support. There is a need to understand the risks of this approach; for example, risks to local authority finances, providers or to an adult's continuity of care if top-ups are used inappropriately.

## Additional information

Annex A of the consultation includes a roadmap for implementation of funding reform and how changes to the charging rules will be made in the lead up to the new legal framework in 2015.

The government is considering the development of a new adult care and support formulae and has commissioned work to produce this with a view to consultation on the new formulae over the summer of 2014.

£335m will be provided in 2015/16 towards the costs of implementing the cap and the requirement to offer deferred payments for residential care.

The Department is working with ADASS and Skills for Care on workforce development issues and again with ADASS on information system development.

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