Consultation Response
Caring for our future: Consultation on reforming what and how people pay for their care and support

Ref: 2813

Date: 25 October 2013

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Introduction and Key Points

1. Age UK welcomed the Government’s decision to adopt the cap on care costs recommended by the Dilnot Commission and we appreciate the extensive consultation undertaken by officials, and the Department of Health’s commitment to working collaboratively.

2. In completing this response we consulted with our network of older people’s forums, ran consultation events, and engaged with local authorities. The feedback from this process acknowledged the potential improvements from the proposed reforms and there was strong support for the larger aims set out in the consultation. However, we are concerned that the details of the implementation, and general lack of funding for the system, will undermine the aims of the reform.

3. To create a fair and sustainable social care system, particularly for people with moderate wealth, the Government should consider:
   - Setting the eligibility threshold to ‘moderate’, or its equivalent;
   - Tying individuals’ contribution to their daily living costs to the Pension Guarantee Credit plus base Attendance Allowance;
   - Sufficiently funding the social care system to allow for a lower cap on care costs than the £72,000 proposed, or alternatively fixing the cap at £72,000 to allow inflation to lower the cap in real terms over time;
   - Adjusting the tariff income rate to a ratio of £1pw for every £500 of wealth;
   - Allowing deferred payment schemes to cover third party top-ups;
   - Allowing deferred payment schemes to increase an individual’s disposable income above the meagre Personal Expenditure Allowance;
   - Removing the asset means test of £23,250 for the deferred payment scheme to increase access to a cost neutral program;
   - Providing national guidance for local authorities on deferred payments with limited discretion to allow them to operate within their particular market;
   - Requiring providers who charge self-funders above the ‘usual rate’ to declare the additional services or increased quality resulting from the top-up, since nobody should be forced to pay more to get a decent level of care;
   - Providing specific updates on progress towards the cap when an individual’s care needs change;
   - Basing the contribution towards the cap on the assessed needs of the individual, not the ‘usual rate’.
Funding the Social Care System

4. Expenditure on older people’s care fell by £1.01 billion between 2009/10 and 2011/12 in real terms\(^1\), and there is evidence that this trend of underfunding has continued. At the same time, we are seeing rising demand for social care from an ageing population and younger adults with eligible needs who are living longer. The result is that too many people are not receiving the care they need because of a chronically underfunded system.

5. Care needs to be sustainable, affordable and of good quality, and it is the responsibility of government to work with local authorities to ensure that this occurs through the implementation of the social care funding reforms. We are aware that local authorities have become increasingly concerned during the consultation process that they may be unable to meet the financial obligations set out in the Care Bill. Central government needs to accept responsibility for the crisis in social care and make some difficult decisions about the allocation of resources. Achieving the goal of sustainable good quality care requires additional funding from central government to (1) set the eligibility threshold to moderate, or its equivalent; (2) increase the tariff income ratio from 1:250 to 1:500; and (3) reduce the cap on care costs over time to a level which will benefit people with more modest wealth, as the Dilnot Commission proposed.

Aligning ‘prevention and early intervention’ with appropriate eligibility thresholds

6. Setting the eligibility threshold to moderate, or its equivalent under the new system, aligns with the drive for ‘prevention and early intervention’. The standardisation of the evaluation process offers a unique opportunity for Government to create a social care system that supports people at an earlier stage in order to avoid higher levels of need (and associated costs) in the future. Adopting an appropriate threshold also supports the Government’s commitment to protect people from catastrophic care costs, which are still a threat to people whose needs are less than substantial. A threshold of ‘substantial’ under FACS builds inflationary incompetence into the social care system, by missing out on earlier opportunities to prevent conditions from worsening or lowering risks of further injury that, if missed, produce additional costs and cause more suffering in the future.

7. The social care system should focus on addressing people’s needs before they reach a point of crisis. This is a moral imperative, but is also economically rational. A study by Deloitte\(^2\) found that funding people with moderate needs produces substantial savings for local authorities, central government and individuals.

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\(^1\) Using the Office of National Statistics’ (ONS) GDP deflator and financial statistics from the Department for Communities and Local Growth.

Increasing the tariff income rate

8. Paragraph 103 of Caring for our future suggests that the tariff income rate calculation will be set out in regulations and informed by responses to the consultation. Age UK believes the tariff income rate should be raised from £1pw for every £250 of assets to 1:500. There are three reasons why we recommend this change. First, an older person with an average income who falls below the £118,000 asset threshold should be eligible for some financial support. Currently the tariff income rules have the perverse effect of excluding some people with assets below the top of the threshold, which will undermine the value of an increased threshold. For example, Ms B is moving into residential care and has £115,000 in assets and the median income of an older person. Using the proposed tariff income rate means that Ms B must pay £392pw from her wealth, based on £1pw per £250 of wealth, and an additional 230pw to cover her daily living costs. Therefore, Ms B would be expected to contribute £622pw towards her care, which is well above the average council ‘usual rate’ of £540pw.

9. Second, a ratio of 1:250 does not reflect the ‘real world income’ that could be derived from the individual’s wealth. A ratio of 1:250 assumes an annual return of 20.8% on the individual’s wealth. Moving to a more reasonable ratio of 1:500 suggests a 10.4% return. Finally, adopting a ratio of 1:500 would align the tariff income rate with that used in creating a notional income for pension credit. This would help standardise the wealth assessment across government and create a simpler system.

Working towards a lower cap in real terms

10. The Government should provide sufficient funds to reduce the cap on care costs over time. During Age UK’s consultation with older people and partners, participants repeatedly expressed their sense that the proposed funding system with a cap set at £72,000 was unfair to those who had modest wealth, and only protected the wealth of the really well-off. Once the cap is in place, people will also be very frustrated to discover that the cap increases annually – and often at a faster rate than the increase in their income and investments. Ideally, we would like to see the cap set at a lower level. Alternatively, fixing the cap at £72,000 will allow for the cap to slowly align, in real terms, with Dilnot’s proposed range of £25,000 - £50,000. Adopting a fixed cap will simplify the implementation of the care accounts since it will be easier for individuals and local authorities to understand the nominal cost of care. This makes the entire process more transparent, which aligns with the charging framework principles set out in the consultation.

Consultation Questions

Consultation Question 01: Fairer and more consistent charging - the charging framework

Do you agree that the future charging framework should be based on the following principles? The principles are to be:
- Comprehensive
- To reduce variation in the way people are financially assessed; be transparent, so people know what they will be charged
- Promote wellbeing and support the vision of personalisation, independence, choice and control and enables delivery of funding reform
- Be user-focused reflecting the variety of care journeys and the richness of options available to meet their needs
- Encourage and enable those who wish to take up employment, or plan for the future costs of meeting their needs to do so; support carers and not place additional burdens on them, in recognition of the invaluable contribution they make to society
- Minimise anomalies and perverse incentives in choices between care settings
- And be sustainable in the long term.

11. Age UK agrees with the broad principles set out in paragraph 88 of the consultation, but feels ‘promoting fairness’ should be added as a core principle in the future charging framework. Participants at the Age UK consultation event strongly felt that the proposed system was “better, but not fair”. The Government should be particularly mindful of the distributional impacts of increasing the cap on care cost beyond the Dilnot Commission’s recommended range of £25,000 to £50,000 and, instead, opting for a cap of £72,000.

12. It is very positive to see acknowledgement of the need for a transparent system for charging that caters to the needs of older people. This must include provision of some hard copy material and provision for individual support where necessary. Online information alone is not sufficient in communicating the future charging framework to older people since 69% of those over 75 have never been online and most of them probably never will be. A recent Tax Tribunal case found HMRC’s online filing requirements for VAT returns were in breach of the appellants’ human rights by not providing proper exemptions for older people, people with disabilities and those who lived in areas which lacked broadband coverage. The Government will need to ensure that provisions for communicating the reforms, encouraging assessments to initiate the cap, and providing regular updates of individual’s progress to the cap and/or proximity to the means test take into account the forms of communication open to this audience.

13. To create a fair system we must reduce variation in the way people are financially assessed, but this assessment must also reflect the true cost of care. It is not right that people are unable to find quality care in the self-funder market at the ‘usual rate’. No one should have to pay a ‘top up’ to receive the same level of care as someone paying the ‘usual rate’ through the local authority. Age UK believes that where people do choose a home that costs more than the local authority ‘usual rate’, councils and providers should have to make clear what ‘extras’ they are getting for their money, and no older person should be forced to have to pay more just to get decent quality care.

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14. We also recognise the desire to minimise anomalies between care settings and to create a simple, streamlined system – but this proposal should not extend to the inclusion of the home in the financial assessment for domiciliary care. The primary residence has always been excluded from financial assessment because it is such an illiquid asset and drawing equity from it would jeopardise their (or their partner’s) future security.

15. Finally, one point not addressed specifically in these principles is the issue of safeguarding. Many aspects of the proposals are likely to aid safeguarding – for example by incentivising people to get assessments early – but there are some, such as the possible implications of charging for arranging care, that may incentivise unethical behaviour or even abuse.

Consultation Question 02: Fairer cap for working age adults - varying the levels of cap

*Do you agree that the decision on the level of the cap on care costs set for working age adults between the ages of 18 and state pension age should be based on the following principles? The principles are:*

- People in similar circumstances should make a similar contribution
- Reflect people’s ability to plan, prepare and build up savings
- Be simple for people to understand and feasible to implement
- Support integrated care and effective transitions between services
- Help people to live independent lives

16. Age UK agrees with these principles and sees a tapered cap as the most effective means of upholding them. The use of a tiered cap will result in situations where individuals of very similar ages and circumstance will be subject to different care caps. We acknowledge that a tapered cap creates a more complex system, but introducing a linear increase in the cap per year of life (for example, an increase in the cap of £1,800 per year) creates a fairer system.

17. We acknowledge that the cap on care costs should reflect people’s ability to plan, prepare and build savings. At the same time, we feel the proposed system does not fully account for people with progressive conditions who are diagnosed earlier in life with ‘moderate needs’. An individual in this circumstance would be unable to plan and save, but the proposed system would not apply a lower cap to their care costs because they do not meet the threshold set out in regulations. This is why it is essential that the new eligibility system includes individuals with moderate needs, or its equivalent.

Consultation Question 03

*Do you agree in order to support transitions from children to adult care and support we should extend free care for eligible needs to young people up to age 25? Or are their alternatives we should consider such as through integration between child and adult care and support and the guidance provided on how to set the level of the cap?*
18. We appreciate that people who develop care needs earlier in life do not have the same time to plan, save, and build up their wealth. This is particularly true for individuals who develop needs before entering the workforce. A tapered cap beginning at the age of 26 reflects this ‘ability to pay’ principle and is less arbitrary than creating a tiered system.

Consultation Question 04: Aligning contributions in different care settings - daily living costs

*Do you agree the contribution a person makes to daily living costs should be calculated on the same basis as financial assistance with care costs, taking into account both income and assets?*

19. The consultation suggests nationally setting the daily living allowance, or hotel costs, to £12,000 since this is the median income of older people. Using median income means, by definition, that half of the older population would not be able to support the contribution with their income alone. Income should be accounted for in setting the national maximum living allowance, but this maximum should reflect an amount that a large majority of older people could be expected to pay from their income alone. Age UK appreciates the Dilnot Commission’s argument that people would be reasonably expected to prepare for their daily living costs – like food and toiletries – but setting this to median income suggests that half of the older population are insufficiently prepared to cover their daily living expenditures.

20. The consultation recognises that some individuals will have insufficient income to pay £12,000 per year, but that local authorities will need to assess an individual’s ability to pay and provide financial assistance where necessary. People living in residential care who fall into this assessment are likely to be left with just £23pw for personal expenses, which would be expected to cover everything from buying toiletries to things like their social activities and buying gifts.

21. We propose that the capped contribution to hotel costs should be set to the Pension Guarantee Credit plus the base Attendance Allowance, which would be a more appropriate national limit to the daily living costs than the proposed figure of £12,000. At current benefit levels, this would equate to £10,316.80pa or £198.40pw.

Consultation Question 05: Who will qualify for a deferred payment

*Do you agree our criteria for determining who qualifies for a deferred payment should be? The criteria include people who would benefit from residential care and people with less than £23,250 in assets excluding their home. Are there any examples of where greater flexibility might be necessary to ensure people do not have to sell their homes in their lifetime to pay for care?*

22. Making the deferred payment scheme available to individuals receiving domiciliary care is not necessary since the value of the home is excluded in the financial needs assessment.
23. In our consultation event with older people the means-tested asset limit of £23,250 was perceived as very unfair and it should be increased or removed altogether to account for the varied financial circumstances of the population. The £23,250 limit factors in non-housing assets, which include relatively illiquid assets like motor vehicles and certain financial products. People will be penalised if they must cash in investments before they mature – punishing people for saving their money and investing it in the market. An asset limit of £23,250 could also prevent people with precious family possessions, which the council deems as non-housing assets, being faced with the decision to sell their heirlooms before accessing the deferred payment scheme. A truly universal deferred payment creates additional choice for individuals requiring care, at a time in their life where there is significant change and potential trauma. Further, the extension of the deferred payment scheme is meant to be cost neutral for local authorities so this additional choice can be offered without putting upward pressure on council tax.

24. Based on the Deferred Payment Impact Assessment only three local authorities impose a non-housing asset means test below £23,250. Therefore, this additional criterion does not appear to be necessary and will prevent people with care needs from accessing a cost neutral scheme. This criterion is against the principles set out in paragraph 88 of the consultation that intends the new charging framework to promote ‘choice and control’ and reflect ‘the variety of care journeys and richness of options available to meet their needs’.

25. The proposed deferred payments system is intended to be self-funding and local authorities will only defer payments where they are secured against assets, so it is not clear why the non-housing asset limit is necessary or what purpose it serves.

Consultation Question 06: What fees can someone defer

Do you agree with the principle that local authorities should have the discretion to introduce reasonable safeguards to ensure deferred payment agreements can be repaid? If so how can this be done in a way to support people’s choice of care home?

26. Local authorities’ discretion in setting safeguards needs to balance providing local authorities with the flexibility to operate within their particular market with the ambition to create a nationally standardised care funding system.

27. There are certain principles that local authorities must adhere to when creating safeguards. For example, people should be able to defer payment on the full cost of care and accommodation, even if it exceeds the local authority ‘usual rate’. This is important because self-funders may need to pay more than the local authority ‘usual rate’, because people who have particular individual needs might need to pay more, and because people should be able to choose how they spend their money.

28. Safeguards to ensure that people are able to repay deferred payments will include local authority powers to demand information about the person’s financial assets – these powers should be set out nationally. Local authorities
may also need to allow for changes in the value of housing, since a fall in house prices might lead to assets being insufficient to cover debt. This might be a matter for local discretion as there might be huge variations in local changes in housing values. Local discretion should not permit local authorities to introduce obstacles to getting a deferred payment such as requiring a guarantee from a relative.

29. Local authorities will also want to ensure that the value of the home is maintained as it is the asset against which the debt is secured. There are several ways of ensuring this, one of which would be to enable the cost of repairs to be included in the deferred payment.

30. The Government will need to consider its policy on allowing for deferred payments when the property has existing debts – whether from an on-going mortgage or the previous use of equity release on the property. Local authorities will need to balance the risk of non-payment with providing sufficient flexibility to people who still have significant equity in their home.

31. The Government should allow people to draw on the equity in their home to make a reasonable top-up on their disposable income. This additional flexibility will provide people with sufficient resources to maintain the property and cover other personal expenses, which is particularly important since the Personal Expenses Allowance for people supported by the council in residential care is still very low.

Consultation Question 07: How long can the deferred payment last?

*Do you agree local authorities should normally wait at least 3 months after someone has died before actively seeking repayment? Are there circumstances in which the Local Authority should wait longer?*

32. Three months should be the absolute minimum. Depending on the local housing market, and the complexities of someone’s estate, a sale may take much longer. Local authorities should be given the discretion to extend it.

Consultation Question 08: Wider flexibility to offer deferred payments

*Do you agree that local authorities should have additional flexibility to go beyond what they would normally cover and allow people to defer care charges to help them get the care they want in wider circumstances such as domiciliary care?*

33. We do not see the need for deferred payments in the case of domiciliary care. An individual’s home is not included in the financial assessment for domiciliary care and extending deferred payments would create the opportunity for councils to access the equity in an older person’s home while they are living in it – for example by setting an artificially low ‘usual rate’ and encouraging the use of top-ups.

Consultation Question 09: Calculating what counts towards the cap
Do you agree with the proposed principles for calculating the independent personal budget and personal budget? The principles are:

- To support the overall outcome of promoting a person’s wellbeing
- Be equitable to everyone who accesses local authority support, no matter whether they pay for their own care, or where they live
- Ensure consistency in the outcome of the calculation of the costs of meeting a person’s needs according to their individual circumstances as if the local authority was under a duty to meet them
- Be transparent over the calculation and the basis for it
- Where needs are being met by a carer, reflect the carer’s ability and willingness to care
- And the impact of continuing to provide this support, and reflect what it may reasonably cost a local authority to meet a person’s needs according to their particular circumstances.

34. We welcome the principle of equitable access to everyone who requests local authority support, irrespective of their financial situation, and strongly support the proposal to allow self-funders to request the local authority to arrange their care. A recent consultation with older people undertaken by Age UK brought out disturbing examples of local authorities hanging up the phone if a resident declared assets above £23,250. Local authorities must take on a more proactive role in supporting everyone with eligible care needs – even if that means redirecting the client towards information and advice lines or other services that may assist them further.

35. The often substantial difference between the usual and self-funder rates is likely to be caused by the local authority using its buying power in the care market to drive down costs to an artificially low level. The reforms attempt to address this situation by allowing self-funders to request that the local authority arrange their care. It is not fair for self-funders who are paying the ‘market rate’ for care to be penalised with a lower contribution to their care account than they actually paid, or could reasonably be expected to acquire in the marketplace. Ideally, the contribution to the cap should be based on the median weekly cost for a self-funder purchasing care on their own.

Consultation Question 10: Recording progress towards the cap - the care account

Do you agree that local authorities should have flexibility on providing annual updates where a person has not had care needs for many years, or they have already reached the cap? In what other circumstances should discretion be given?

36. We agree that local authorities must provide updates at least annually that include all of the information cited in paragraphs 230 and 231 of the consultation. Additionally, specific updates should be required when the circumstance of the individual changes – if, for example, an individual’s care needs change. The new system must provide a high level of transparency to help people plan to meet their costs and help them understand the progress of their care account.
Consultation Question 11: Providing redress and resolving complaints

Do you agree that the following principles should underpin dispute resolution mechanisms? The principles are:

• To be clear and easy to understand, be locally accountable
• Be fair and effective and should therefore have public confidence
• Resolve issues in a timely, effective and cost-effective way
• Have an independent element; and promote local resolution, minimising the need for more formal challenge mechanisms which could be costly and time-consuming.

37. Age UK is in agreement with, and a signatory to, the extensive comments which the Care and Support Alliance (CSA) have made in their response to this question. In particular we agree with the CSA view that a dispute resolution procedure must have an independent element in order to be fair and to be seen as fair.

38. A point that we would add to the CSA response is that the work involved in resolving a dispute could be greatly reduced if information about the decision in question is readily available in a clear, transparent and consistent format, therefore reducing the need for the dispute resolution body to further investigate. So local authorities should be expected to record the reasons for their decision, what issues have taken into account in reaching the decision, and the basis of any quantitative calculation. This would also help to reduce delays in resolving disputes. We recommend that national guidance should set out the information that a local authority should provide to a dispute resolution body, which might include the local government Ombudsman. This would have the added benefit of promoting transparency in decision making.

Call for Evidence

Call for Evidence 1

How can we raise awareness of how care and support works to help people financially plan for their care needs? What should this cover and who should be involved? What are the key points in a person’s life where we should seek to provide this information?

39. Fundamentally a clear offer is needed so that individuals are clear what their liabilities are and what they can expect from state provision. This will need to be supplemented by the following information at various life stages:

- **During working life:** The key point to get over is that care is not free and they need to build this into their plans for the future. However at this stage, people will usually be concentrating on other issues – such as managing debt, paying rent or a mortgage and (hopefully) saving in a pension – and improving general financial capability in these areas will also leave someone better prepared to manage the financial aspects of care. So we suggest that for these people information should be incorporated in existing financial capability initiatives.
- **Approaching or on retirement**: access to good quality factual information that highlights the key first point of call. Forthcoming research among people in this age group carried out by Age UK suggests that direct marketing and local media remain extremely powerful, even among an internet-enabled generation.

- **At a moment of immediate care need (either for the individual or a friend or a relative)**: immediate access to personalised information which ‘translates’ the general picture into what they can expect in their local authority, together with clear information on their rights, including the right to request the local authority to arrange care. It is vital that people in this situation know their ‘first point of call’. Our consultation with older people suggests that a general awareness campaign in this complex area will be difficult to carry out and risks raising expectations that cannot be fulfilled. Older people will in many cases develop care needs following a crisis, such as following an illness at the point of discharge from hospital.

- **If they are existing recipients of care**: it is essential that people who are already receiving care when these reforms are implemented are made aware of their new rights. We would suggest that they are contacted through their care provider. However, it will be particularly important to reach self-funders organising their own domiciliary care on an individual basis.

40. There is already extensive evidence on people’s attitudes to financial planning from research carried out by the Money Advice Service and the Financial Conduct Authority, as well as other agencies working in this area, and we recommend that officials review this evidence. There is also useful evidence on behavioural economics that could inform the design of information and advice.  

41. We recommend that in designing the new system, the Government tests its proposals for complexity. We found in our consultation that people greatly resent finding out about the ‘small print’ (such as the £23,250 assets test for deferred payments) which limits what would otherwise be seen as a helpful reform. Any proposal that is too complex for a generalist information and advice worker to feel confident working with is probably too complex.

**Call for Evidence 2**

*In what circumstances is support required to help people with their financial decisions on how to pay for care? What information and support is needed to help them? How should local authorities work with other organisations to facilitate access to this information?*

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4 A detailed study of behavioural economics and its impact on financial decision making *Transforming Financial Behaviour: developing interventions that build financial capability* was published by the predecessor of the Money Advice Service, the Consumer Financial Education Body, in 2010, and a useful introduction (which includes some breakdown of evidence for vulnerable groups) is *Behavioural Economics and „Vulnerable Consumers”: A Summary of Evidence* Written by Dr. Pete Lunn and Dr. Sean Lyons Economic and Social Research Institute (ESRI) for the Communications Consumer Panel 9th December 2010.
42. It is essential that people who could benefit from taking regulated financial advice are encouraged and supported to do so, and Age UK welcomes the inclusion of financial advice in clause 4 of the Care Bill. Financial advice is likely to be particularly important in relation to deferred payments, as these might be viewed as a ‘safe’ government-endorsed scheme by people who are unaware of the alternatives.

43. However, regulated advice is only part of the overall advice needed. Individuals will need information about: their entitlement to state support; maximising income; housing options (e.g. aids, adaptations and other support to help them stay at home, with suitable housing alternatives if this is not possible); choosing an appropriate care service; and help with managing any health conditions. Some people will require advocacy to help them navigate their way through the system.

44. In designing a system to help people access regulated financial advice, the Government needs to take the following into account:

- **Cost of advice.** Although the first half hour or hour is often free, and we would welcome industry initiatives to standardise this so that it meets minimum standards and is not just a ‘sales pitch’, an advice session is likely to cost a minimum of £200 and may well cost more. In addition, the numbers of advisers who are truly expert in this area are currently small. People should be offered advice and helped to find a suitably qualified adviser, but should not be required to take regulated advice unless they wish to do so.

- **Access to generic information and advice.** Many older people with a care need will not have used a financial adviser before, and will need clear generic information setting out when advice is essential. A referral or signposting system should be supported by high-quality non-regulated advice, so that those who do not want to use an adviser, or who are merely ‘browsing’, have the information they need, while those who do need advice are given confidence to deal with an adviser, for example by setting out the process of taking advice, the legal protection that exists, and questions they should ask. The Department of Health should work with the Money Advice Service and other agencies to ensure that this advice is available.

- **Quality of advice.** Many clients are likely to be faced with taking difficult, sometimes irreversible, decisions at a time of crisis. It is essential that advice is of the highest possible quality. Advisers referred to should meet minimum standards – this means not just being fully regulated and having appropriate qualifications, but also:
  - being able to offer a choice of products (ie not referring to advisers tied to just one company)
being specialists in the area, conducting enough business to ensure they keep up to date
with back-up systems to ensure that they are not dependent on just one qualified adviser.

45. Local authorities should ensure that any advisers to which they refer or signpost meet the highest possible standards. Guidance should be produced to ensure reasonable consistency between local authorities.

- Handling conflicts of interest. In many cases a client’s family will have a major financial interest in the outcome, but the client’s needs should be paramount, and ensuring adequate care should always take priority. Conversely, conflicts might arise if the family is acting in the client’s best interests but the client does not recognise this. Advisers need to be aware of these issues and how to refer cases to safeguarding bodies where there is any possibility of abuse.

- Active monitoring of quality and swift action if things go wrong. Although advisers are already required to be regulated, the FCA will need to have an active monitoring programme to ensure that firms in this sensitive area are compliant and the Financial Ombudsman Service should ‘fast-track’ any complaints. Advocacy should be available in these cases.

- Timing of advice and local authorities’ legal duty to give advice in relation to care needs overall. Local authorities should ensure that people get all the advice they need, not just regulated financial advice. There is a risk that hard-pressed local authorities may refer people on to an adviser too early – before they understand their right to state support – or even delegate all advice-giving to financial advisers if they think someone is likely to be a self-funder. While financial advisers may be able to cover some aspects of state support, they are unlikely to be able to cover them all (e.g. local housing options) and even if they can there may be a charge. Local authorities should meet their legal duties under the Bill and people should not be expected to pay for non-regulated advice services that would otherwise be free.

Call for Evidence 4

What flexibility should be given to local authorities in how they provide assessments of a person’s needs to accommodate the introduction of the cap and meet demands on local authority resources? How can we ensure assessments still support wider aims to signpost people to types of care and support, reflect each person’s preferences, and ensure safeguarding concerns are dealt with appropriately?
46. The introduction of the spending cap may result in increased demand for assessments. This might be the case if there are currently significant numbers of people who are likely to be eligible for care but who prefer to arrange services themselves without recourse to the local authority. This might be because the assessment process is seen as intrusive or stressful, people have low expectations of local authority services, or regard local authority charges as too high.

47. Adding to these possible sources of increased demand is the possibility of people who have little likelihood of meeting local authority eligibility criteria requesting assessments. This is in line with the aims of the Care Bill which include providing people with support at an early stage, in order to prevent or delay the need for formal services. The Bill maintains the current definition of entitlement to assessment, extending it to anyone who might have care and support needs which the local authority has powers to meet. This broad definition is important in ensuring that people are not screened out of the assessment process without adequate consideration of their needs. Age UK feels it is important to maintain the level of this entitlement. We would be concerned that people who are seen as not likely to qualify for local authority funding will receive a reduced level of assessment aimed only at defining expenditure that counts towards the spending cap. This could result in extremely vulnerable people who face high risks to independence not having their needs recognised.

48. Paragraph 213 refers to the use of Resource Allocation Systems as a means of determining entitlement to support. This is at odds with current case law which has established that although a Resource Allocation System can be used to generate an indicative budget for planning purposes it cannot be used as a substitute for an individualised assessment. This position is maintained by the proposed legislation in the Care Bill.

49. In Age UK’s view it is essential that people receive an assessment which is proportionate to both current need and potential risk. People might not be able to self-identify the latter so it is important that, even if the person does not want an in depth assessment or wishes to self-assess, their case is considered at an early stage by someone who has the skills and training to identify risks. In our view the initial contact stage of assessment should be akin to the triage process that people might encounter within the NHS and should certainly not be a screening process undertaken by staff lacking have adequate training. We recommend that regulations and guidance to be issued under the Care Bill should refer to the importance of the initial contact stage and that arrangements for assessing entitlement to an independent personal budget should be incorporated in the same guidance.

Call for Evidence 6: Ensuring individuals are able to access and benefit from these reforms

Do you have any evidence on how we can best ensure everyone can access and benefit from these reforms?

50. There is growing diversity in the older population and care funding will need to reflect this. For example:
The number of black and minority ethnic people aged 70+ is projected to rise from 170,000 in 2006 to 1.9 million in 2051 – an 11-fold increase.\(^5\)

In 2001/11 an estimated 88 per cent of people aged 65+ gave their religious affiliation as Christian. Figures from the Census 2011 indicate that these figures will change significantly in future populations, with a smaller proportion of Christians and increases in the other main religious groups and those who report no religion.\(^6\)

The Government estimates that between 5 and 7 per cent of the UK population are lesbian, gay or bisexual and on this basis, Age UK estimates that there are between 600,000 and 840,000 LGB people over state pension age in the UK.

51. This may affect the care funding system in a number of ways: for example, it should not be based on assumptions of a stereotypical family composition, it should provide accessible information in a range of formats and ensure that needs assessments take different religious and cultural expectations into account. Conversely, other common assumptions may not always hold true, such as the stereotype that some BME communities ‘always look after their own’. However, some groups who may have faced stigma and discrimination throughout their lives, such as transgender older people or older Gypsies and travellers, may be particularly reluctant to ask for help.

Evidence Question 9: Requesting the local authority to arrange your care – the arrangement fee

What are the administration costs associated with arrangement of care by a local authority, and which of these costs is it appropriate to pass on to the person requesting the arrangement of their care? We intend these charges should not apply where a person lacks capacity and has no one to act for them. Are there any other circumstances where local authorities should not charge an arrangement fee?

52. We are very concerned that introducing charges for arranging local authority care might have two adverse effects. Firstly, there could be an incentive for people to choose residential care rather than remaining in their own home, if this costs less to arrange, and secondly, people could be left vulnerable to abuse or neglect by family members seeking to avoid the charge.

53. In the first case, devising a care package, monitoring its implementation and changing the package in response to changing needs will be much simpler and will require less staff time if the person enters residential care. This will often involve arranging a placement after which, unless there is reason to believe otherwise, the local authority simply assumes that care needs are being met. It is assumed that the care home will devise a care plan and will have the resources to adapt the care provided to the changing needs of the

individual. In contrast, care in a person’s own home might involve co-
ordinating support from several different sources, and regular re-assessment
and adjustment of the care package might be needed.

54. We are also concerned that if care is of poor quality or is otherwise failing to
meet the person’s needs, service users or their families will be reluctant to
contact the local authority about this if it is going to involve additional cost.

55. As a result of these two concerns we regard it as essential that local
authorities do not charge individuals for the cost of arranging care on the basis
of the time spent in meeting an individual’s needs. Instead there needs to be a
more standardised cost, regardless of where the person receives care or how
much input they turn out to require. It is also imperative that local authorities
do not charge people for the cost of responding to concerns about abuse,
neglect, or sub-standard care that is failing to meet their needs.

56. We recommend that where people might be unable to arrange or monitor care
themselves, or to take action where care is not of an acceptable quality, and
have no one to assist them in doing this, they should be entitled to have the
local authority arrange and monitor the care free of charge. People who would
qualify for this help would be those who would qualify for the expanded right to
advocacy proposed by the Department, which includes un-befriended people
who would be unable to participate in the assessment process without
support.

57. Current DH statistics (Gross current expenditure 2012-13 table B1) show
expenditure on assessment and care management of older people as being
£1,007,008,000 for the year. The relative cost of assessment, which would
continue to be free under the proposals, and care management are not
separately costed. This works out at £1,211 per client aged over 65. This
seems to be unrealistically high compared to the level of input that older
people typically receive, especially if they move into residential care or receive
an uncomplicated and stable care package in their own home. We are
therefore concerned that the figure is being artificially inflated by the addition
of costs which are not directly part of the management of an individual’s care,
such as senior management costs. It is therefore important that local authority
charges should be transparent and only include costs directly associated with
care management.

58. It is unclear from the consultation where the boundary between care
management – which someone might have to pay for – and review and if
necessary reassessment - which should be free, will be drawn. Age UK
recommends that consideration of need should include consideration of the
risk of future needs developing. A response to any risk identified might be to
further review the assessment after a defined period, which could be recorded
in a care plan, rather than services. If this approach was adopted the further
review should be seen as part of the assessment process so should be free,
regardless of the person’s resources.