



Department
of Health

Caring for our future

Consultation on reforming what and how people pay
for their care and support

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Caring for our future

Consultation on reforming what and how people pay for their care and support

Prepared by the Department of Health

Ministerial foreword

There are few certainties in life. Needing support at some stage to stay healthy and well is one of them.

For those, who may be disabled and develop care needs from a young age, this is true very early in life. For others, it could be when they get older, living with more than one long term health condition. Getting older is another of those certainties – the number of people aged over 85 is set to double by 2030.

But the care system hasn't been good enough to meet the needs of the disabled or the elderly. It hasn't prioritised their individual needs, access to care around the country often varies and is confusing, and there's been a lack of good quality information and advice that is so important for putting people in control, and helping them make the right choices about their care.

This is also true for how people pay for their care. Every story is different, but I have repeatedly heard of people reaching a crisis point: putting off getting the care they need until the last minute, when they require more complex care, having to sell their home to pay for it, because they aren't clear what is available to them and how much it will cost. The system hasn't been set up in a way to support people at an earlier stage, when their care needs could be postponed or even prevented.

Those stories of vulnerable elderly or disabled people are akin to old ghost stories: people isolated in their homes and scared of what awaits them outside, too worried to make a decision about how to live their lives, as their health and wellbeing deteriorates.

This is unfair and it has to change.

If we want to meet these challenges, we need an adult care and support system that enables people to remain independent and which supports those who already need care and support.

This February, the Government set out historic reforms to solve this problem. The Care Bill will give everyone a much clearer picture over the costs of old age or living with a disability. Following recommendations from Sir Andrew Dilnot, the Bill introduces, amongst other things, a cap to the amount people will have to pay for care, as well as financial support to people with modest wealth to help them with care home costs.

We made clear that the changes we will make to the funding of care will give people certainty and peace of mind. Everyone will receive the care they need, the terrible fear of unlimited costs for care is stopped and people will be protected from having to sell their home in their lifetime to pay for residential care. These changes will be sustainable and will greatly improve the care and support system for the long term.

There has already been a lot of practical discussion and close working with the care and support sector around the practicalities of how these new funding plans will work, but we need further input to make these changes happen.

This document – *Caring for our future: Consultation on reforming what and how people pay for their care and support* – sets out the specific areas on which we want your input. There are many complex issues that need to be discussed around these reforms, like how the introduction of a cap on care costs should work, how the cap will affect people of different ages and how people will be able to access the extended financial support.

With your help, I know that we can help eliminate some of the uncertainties that accompany getting older or having a disability. I want to work towards a new care and support system that assures people that they should not fear the cost of funding the care they need when they become ill or old in this country.

A handwritten signature in black ink, appearing to read 'Norman Lamb', with a horizontal line underneath.

Norman Lamb
Care and Support Minister
Department of Health

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Executive summary

1. If adult care and support in England is going to respond to major demographic change and other challenges of the twenty-first century, it must help people to stay well and independent, rather than allow them to reach crisis point. We want a system that enables people to remain independent, and supports those who already need care and support.
2. In February 2013, the Government announced historic reforms to give everyone more certainty and peace of mind over the costs of old age, or of living with a disability. We said we would reform the funding of care and support to ensure:
 - Everyone receives the care they need and more support goes to those in greatest need
 - We end the unfairness of, and fear caused by, unlimited care costs
 - People will be protected from having to sell their home in their lifetime to pay for care.
3. A fear of high costs can delay people getting the care they need. This leads to more people seeking and organising care in crisis situations risking higher care costs, due to their worsened condition. The reforms will make it clearer how much people might have to pay to meet their eligible needs, helping them feel more in control of their finances and find it easier to plan. People no longer risk losing everything they have worked and saved for during their lives.
4. The Care Bill currently going through Parliament will establish a new legal framework putting wellbeing of individuals at the heart of care and support services. The Bill marks the biggest transformation to care and support law in over sixty years, and will replace more than a dozen pieces of legislation with a single modern law. It puts in place reforms that will give people more control of their lives.
5. The reforms to how care is paid for are one part of a wider transformation, and are the focus of this consultation. This document seeks views on the practical detail of how these changes to the funding system should happen and be organised locally. It describes the experience a person might have when they need care and the support when the cap and extended access to financial support are introduced: helping people to maintain their independence, assessment of eligible needs, paying for care, meeting eligible needs, and what happens when a person's care costs reach the level of the cap.
6. The consultation covers a range of topics, such as:
 - How we will help people make more informed choices over care through information and advice and assessments and help local authorities meet the demands for these
 - How the capped cost system should work with assessments, personal budgets, charging, and care and support planning
 - The design of the new charging framework for care and support and the choices around how the capped cost system should work for working age adults
 - How deferred payment agreements should be managed and administered
 - The process for providing redress and resolving complaints.

7. Successful delivery can only be achieved through partnership working and collaboration. Central Government, local authorities, providers, the voluntary and community sector, financial services organisations, and individuals and carers will all play essential roles. To this end, we have continued to engage with our partners throughout the development of this consultation and will continue to do so throughout the period of implementation.
8. Local authorities will have a specific and important role to play because they will be accountable for delivering these reforms on the ground. They will need to understand, oversee and lead the changes that are needed. The Department of Health, Local Government Association (LGA) and Association of Directors of Adult Social Services (ADASS) have committed to work in partnership on a joint programme to support successful and sustainable delivery of these reforms.
9. The Government will provide £335m in 2015/16 to cover the costs of implementation of the cap and the requirement to offer deferred payments for residential care. This includes funds that will enable local authorities to begin assessing people's needs for care and support around six months before introduction of the cap, if they choose to do so.
10. We are keen to hear everyone's views on all or any of the questions to help us deliver a care and support system designed to be effective, sustainable and fairer for everyone. This is a continuation of the conversation begun in our *Caring for our future* engagement in September – December 2011 and which will carry on right up to implementation of the cap in 2016.

Why are we reforming care and support funding?

As we are getting older and living longer, more of us are receiving care and support

11. As healthcare and living standards in our society improve, we are living longer and healthier lives and the number of older people in our society is increasing. The Office of National Statistics estimates by 2030 the number of people aged over 85 will have doubled. As we get older, we are more likely to need care and support. Medical advances also mean it is now possible for people who develop care needs at a younger age to live long and fulfilling lives.

Care and support affects a large number of people
In England there are...

...around 380,000 people in residential care, 65% of whom are state-supported



...around 1.1 million people receiving care at home, 80% of whom are state-supported



... 1.8 million people employed in the care and support workforce



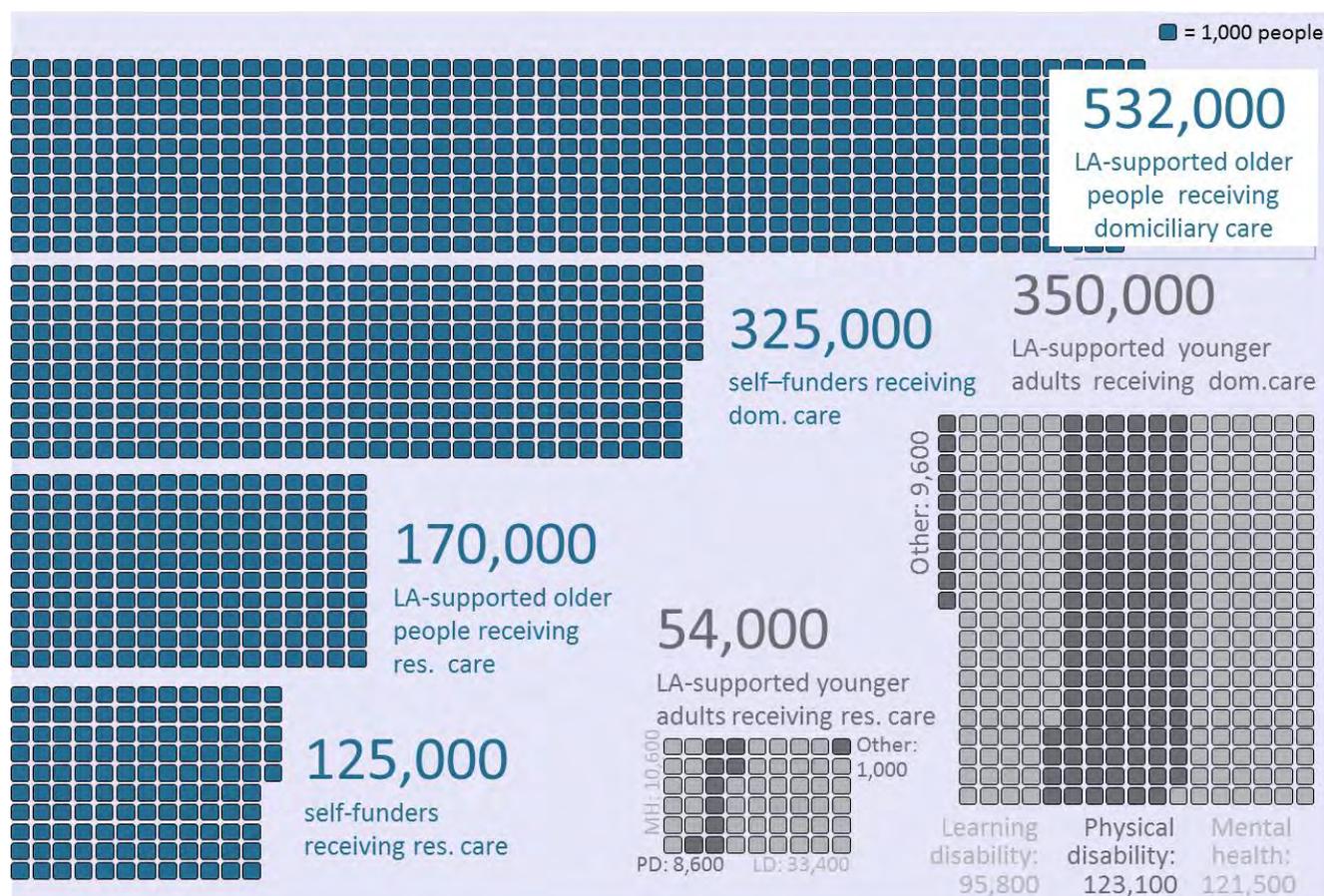
...and around 5 million people caring for a friend or family member.



12. The number of people who need care and support is therefore growing. We currently spend around 1.1 per cent of our GDP on adult care and support¹. We expect this to rise as people live longer lives so by 2025/26 we would need to spend around 1.25 per cent of our GDP on adult care and support to maintain current levels of access and quality.
13. Local authorities currently provide support to people with eligible needs who cannot pay for it themselves. Two-thirds of older people with care and support needs receive some local authority support (see Figure 1). Those who do have sufficient means pay for their own care and support. As rates of home ownership among older people continue to increase over the next five years, we would expect a greater proportion to fund their own care in the future.

¹ Estimates based on PSSRU analysis (DP 2811/2, DP 2800/3).

Figure 1: Numbers of local authority-supported and privately funded older people (65+) and younger people (18-64) receiving domiciliary and residential care.



Sources: NHS Information Centre, Laing and Buisson; numbers correct at 31st March 2011

* Numbers of privately-funded people who are receiving care and support are estimates; there are very few younger people using care and support who do not receive some local authority support

- This means it is more important than ever we have a person-centred system, which is fair and delivers high quality care and support. One important aspect of the system is the way in which care and support is paid for and how costs are shared between the person and the local authority.

The current system of paying for care is unfair and unsustainable

- Care and support needs are unpredictable. A quarter of us may need to spend very little, but one in ten people in this country have more serious care needs and face care costs in excess of £100,000. While only a small proportion of us ever experience catastrophic costs, in the worst case scenario people have had to sell their home or exhaust their life savings to get the care they need.
- The independent Commission on the Funding of Care and Support, chaired by the economist Sir Andrew Dilnot, identified that there is currently no effective way for people to protect themselves from unlimited care costs. This makes it impossible for people to plan and make provision to pay for care with any certainty, and subsequently for them to always

access the type of care and support they want. As a result, people who could afford to save or invest proactively towards the costs of their care have little or no incentive to do so. Furthermore, a person with modest wealth and no savings or other investments may go on to lose everything because financial support is only available to people with assets less than £23,250.

17. People are particularly affected if they need residential care. Currently, every year around 30,000 - 40,000 people a year who have limited income or savings may need to sell their property to pay for care. This can be difficult and distressing at a time when people are feeling vulnerable.
18. This can leave people feeling worried, unprepared and powerless. It is likely this adversely affects their wellbeing in later life, their experiences of care and the decisions they make.
19. Evidence to the Dilnot Commission expressed the view it was reasonable and fair that those who have wealth should fund their own care. However, it was not considered reasonable or fair for all of a person's wealth to be at risk.

What we will change

20. The Government accepted the Commission's principles upon which the future funding of care and support should be based.
21. People have to pay for their care costs now, and will continue to do so in the future. However, our reforms will protect people from catastrophic costs, put them more in control of their lives and help to increase their quality of life.
22. A cap will be introduced on the costs that people have to pay to meet their eligible needs (from April 2016):
 - The cap will be set at £72,000 in April 2016 for people of state pension age and over;
 - The total cost to local authority of meeting a person's eligible needs – which could be paid by the person, their local authority or a combination of the two – will count towards the cap, rather than the person's financial contribution only;
 - People of working age who develop care needs before retirement age will benefit from a cap that's lower than £72,000;
 - People who turn 18 with eligible needs will receive free care and support to meet those needs for the rest of their lives.
23. Financial support will be provided to more people to help them with care costs (from April 2016):
 - This will help people with their care home costs if they have assets of up to £118,000 (including the value of their home) rather than only those with up to £23,250, as happens currently;
 - Where the value of someone's home is not counted, we intend to provide financial support with care costs to people who have up to around £27,000. This could help people who have a partner or dependent living in the home, and people who are receiving homecare.
24. We will target financial protection to those who need it most:
 - A combination of this local authority contribution towards care costs and the increase in financial support will mean many people will not have to pay the full cap amount themselves;
 - The most financial support will still go to those with the greatest care needs and the least wealth.

Figure 2: Illustration of how much people with modest wealth in residential care might pay now and after our reforms have been implemented.

Initial assets	An older person's contribution to care costs before reaching the cap	
	Current	£72 000 cap
£250,000	£177,000	£72,000
£200,000	£173,000	£72,000
£150,000	£127,000	£67,000
£100,000	£79,000	£45,000
£70,000	£50,000	£30,000
£50,000	£31,000	£17,000
£40,000	£21,000	£12,000
£17,000 or less	£0	£0

DH analysis: Assumed residential care costs of around £625 per week, with contribution to daily living costs of £230 per week. Individual has income to cover daily living costs and contributes from assets towards their care costs.

25. People in care homes will remain responsible for their living costs if they can afford to pay for them. These reflect the types of costs that people would have to meet if they were living in their own home – such as food, energy bills and accommodation. We are introducing a personal contribution to living costs of around £12,000 a year from April 2016 and this will not count towards the cap.
26. We will introduce a universal deferred payments scheme from April 2015. This will mean that people do not have to sell their homes in their lifetime to pay for residential care.

The benefits of the reforms

27. These changes will make the funding of care and support in England fairer for all and more sustainable.
28. For the first time, from April 2016, people will have more certainty on how much they should have to pay for care. People will no longer face the prospect of potentially unlimited care costs. Those who can afford to pay for their care will be more able to proactively plan and make provision to access the kind of care and support they would want in later life.
29. Everyone will have this reassurance, not just the 16% of older people who need care who face care costs of £72,000 or more. This will empower people to take responsibility for their care in line with what they can afford. Everyone will be protected against unlimited care costs. And state support will be targeted for the people who need it most.
30. In advance of this, from April 2015, people needing residential care will have access to deferred payment agreements in every local authority in England. This means people will no longer face the added stress of having to rush into selling their home to pay for care home fees and will have the flexibility to avoid selling their home within their lifetime.
31. Taken together these reforms will establish a new long-term partnership between government and individuals.
32. These changes will also mean more people will involve their local authority in their care, either as a result of extended access to financial support or so as to benefit from the cap on care costs. This will provide a huge opportunity for local authorities to support people to maintain their independence, remain active and connected in their communities and stay healthier for longer.

The consultation on funding reform

33. This consultation seeks views on how changes to the funding system should be organised locally. It will inform the development of detailed policy, and subject to the successful passage of the Care Bill, regulations and guidance.
34. We are seeking views on policy design and technical implementation of deferred payment agreements and the new charging rules from April 2015. We are also seeking opinions and suggestions regarding the cap on care costs and extended access to financial support from April 2016. We describe how these will work with other changes, including the introduction of national minimum eligibility threshold, greater provision of information and advice, and other relevant measures in the Care Bill.
35. The questions cover a range of topics, including:
 - The best way to provide people with information and advice, including on how to pay for care and support
 - How people will have their care and support needs and eligibility for support assessed by local authorities
 - How the capped cost system should work for people of different ages who develop eligible needs before retirement age
 - What counts towards the cap, how the cap amount will be adjusted over time, how it will affect both older and working age adults, and how it will take account of daily living costs
 - How people can access the extended financial support
 - How deferred payment arrangements and financial services products can help people pay for their care. Financial products could include, for example, specific types of insurance, or extended pension options
 - How deferred payment agreements should be managed and administered so people's homes are protected from being sold during their lifetimes
 - How to ensure a smooth transition when people's care costs reach the level of the cap, maintaining their independence and control and choice over the type of care and support they receive
 - The process for providing redress and resolving complaints.
36. We also provide detail on some of the key operational issues to be worked out around how the changes are implemented, and how we will work with the LGA, ADASS and the NHS to resolve them.

37. We are keen to continue to hear everyone's views on all or any of the questions to help us deliver a care and support system that is effective, sustainable and fairer for everyone. To achieve this we will:

- Encourage our partners and those with an interest to express their views and provide evidence online at <https://www.gov.uk/government/consultations/caring-for-our-future-implementing-funding-reform> or direct to the mailbox funding-reform@dh.gsi.gov.uk before 25 October 2013
- Continue to pro-actively engage with stakeholder organisations and interested parties during September and October 2013.

The journey through the reformed system

Staying independent for longer – planning and prevention



- *The care and support system will focus on promoting people’s wellbeing and independence, keeping them safe and connected to their communities, and delaying or reducing needs for care and support wherever possible.*
- *The Government will work with local authorities, the voluntary and community sectors and financial services industry, to help people understand how care and support works and what they are likely to need to pay for their care and support in the future.*
- *Local authorities will provide good information and advice at the right time to support and incentivise them to plan, and to help them postpone or prevent the need for care and support.*
- *Local authorities will have much greater contact with people who pay for their own care and support and use that opportunity to provide support to help them in planning, preventing and postponing their care needs.*
- *There will be greater clarity on the full range of care and support available in their neighbourhood, community, or from the local authority, complementing help from personal networks and family.*
- *Local authorities, the voluntary and community sector and the financial services sector will all play a crucial role in ensuring people have access to good quality independent financial advice.*

38. At the centre of the 2012 *Caring for our future* White Paper is a vision for a modern system that promotes people’s wellbeing by enabling them to prevent and postpone the need for care and support, and puts them in control of their lives so they can pursue opportunities, including education and employment, to realise their potential.
39. A critical element of the White Paper’s vision is rebalancing the system to focus on wellbeing and independence, rather than intervening only at the point of crisis. To respond to the challenges of the future, the care and support system will need to more actively help people stay independent for longer, connecting them to their local communities to prevent or delay needs wherever possible. It will need to support people to understand their needs, find available support, and make plans for the future.

40. This requires a strengthened focus on the local authority's role and its universal responsibilities towards all local people, not just those with higher levels of need. The Care Bill sets out a series of legal duties which reflect this role, and into which the requirements of cap on care costs will fit. The following sections outline some of the most important universal responsibilities, and consider how they are relevant to support funding reforms.

Raising awareness

41. Currently, around 40% of people are un-aware they might need to pay for their care and support. A confusing and inconsistent system has resulted in people often only discovering they need to pay for their care in a crisis. People will still need to pay for their care and support in the future where they can afford to do so, but these reforms make it clearer how much people might need to pay and provide much greater opportunity for people to receive information and advice on how to pay for their care, as well as the most appropriate services.
42. In advance of 2015, we want to work with local authorities, the voluntary and community sector and the financial services industry to raise awareness of how care and support works and help people plan how they might pay for their care and support. This will help ensure they can plan and postpone their need for care and support.

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?

Advice on financial planning and decisions

43. People will need good information and advice to help with financial decisions about their care. This includes information on the costs of care, on the financial support available, on financial products and other options, and on practical arrangements such as appointing a lasting power of attorney.
44. The Dilnot Commission highlighted the need for an information and advice service about financial planning.
45. Ideally this would start at an early stage when there tends to be better opportunities to financially plan. This includes at retirement, which is a key moment when people consider their overall financial situation and make important decisions about their pension annuity and their home.
46. The local authority has a crucial role to play in ensuring that when people need care they have access to the information and advice they need. There is a particular opportunity here as more people approach their authority to find out whether their care costs will count towards the cap. Other organisation, such as the NHS trusts, GPs and financial service providers may have a role too.

47. The Care Bill sets out clear legal duties for authorities to provide local people with information that will help them financially plan if they or a family member need care. Local authorities will also be required to facilitate access to independent financial advice when individuals require an in depth discussion about their financial options.
48. Local authorities will not be required to provide this financial advice and information directly. Third parties including the charitable and financial services sectors could be better placed to provide information and advice about paying for care. The Government is keen to hear views on how authorities should approach this task and how they can work in partnership with others to meet this new duty on them.

CALL FOR EVIDENCE 2:

What information and support is needed to help people financially plan and make decisions about paying for their care?

What is the role for the local authority or other organisations in facilitating access to information and independent financial advice?

Encouraging people to plan to pay for their care and support

49. In the current system people are discouraged from planning, preparing and saving to meet their care costs, since the more they have, the less financial support they receive from their local authority. People also delay using care and support services, as they are unsure how much they may need to pay over their lifetime.
50. We believe that removing the risk of catastrophic care costs, giving greater clarity over what people must contribute (including responsibility for their daily living costs when receiving residential care), and ensuring the level of financial support is fairer and more consistent will change these incentives. This will make it more likely that people will plan and prepare while making it easier for people to pay for care when they need it.
51. This cannot be done through legislation or statutory guidance alone, it will require everyone to work together to help support people to plan and prepare and take responsibility for ensuring they stay well and independent.

CALL FOR EVIDENCE 3:

We welcome views on how, through implementation of funding reform, we can encourage people to take responsibility for planning and preparing for future care and support. What could prevent people from taking responsibility for paying their contribution towards care costs? What can Government, local authorities or others do to address these?

Assessment of the care and support you need



- *Assessments should be tailored to people's needs – and they should not be bureaucratic.*
- *The increased number of people needing assessments will be managed by a combination of early assessments up to six months before introduction of the cap in April 2016 and use of a range of different options for providing assessments.*
- *Assessments will help people identify their care and support needs, what support may be available to meet their needs, and what type of care is right for them.*
- *Assessments could be part of a joint assessment conducted with other organisations, such as the NHS, to provide greater clarity and consistency on the care and support people can expect from their local authority, NHS, or both, regardless of where they live. Assessments of the person needing care may be combined or aligned with carer's assessments.*
- *Assessments will determine whether people have eligible needs set by the national minimum eligibility criteria and therefore if their care costs count towards the cap.*
- *A financial assessment of a person's income and assets (savings, other assets and in some cases their property) will determine whether they qualify for financial support from the local authority towards the costs of care before reaching the cap and access to the deferred payment scheme.*
- *An adult can decline a financial assessment, and continue to organise their care and pay for it themselves.*

Accessing the cap on care costs – the role of assessment of needs

52. Assessments will remain an integral part of the reformed care and support system. However, rather than acting primarily as a gateway to the adult receiving care and support, the future system will place more emphasis on supporting people to identify their needs, understand the options available to them, plan for meeting care and support needs and reduce or delay needs where possible.
53. Assessments should help people identify their needs, strengths, goals and aspirations, and consider what type of proportionate intervention might support them. The assessment will build on greater access to information and advice to help people identify types of care and support can prevent them from needing care, or help them to regain and maintain their independence.

54. The Care Bill will require local authorities to carry out a needs assessment where they believe a person has care and support needs. This will focus on the person's needs and the outcomes he or she wants to achieve.
55. The Bill also includes powers to set out more detail about the assessment process in regulations. The regulations will provide detail on: carrying out the assessment in an appropriate and proportionate manner; having regard to the needs of the family when assessing the person with care needs; self-assessments; joint assessments; experts carrying out the assessment on behalf of the authority; and when a local authority should refer a person for NHS continuing healthcare. Such matters, for implementation in April 2105 are not considered in detail in this consultation. The Department of Health will develop the detail of the assessment and eligibility regulations with stakeholders.
56. From 2016, the assessment will also be the first stage of the process which establishes whether or not a person's needs are eligible and therefore whether their care costs will count towards the cap.
57. An assessment will determine whether a person will benefit from types of care and support to help them to regain or maintain their independence, and whether they have eligible needs. If a person has eligible needs they will qualify for the protection of the cap. The person will receive a record of the costs that will count towards their cap and a statement of their progress towards the cap.
58. Further detail on the experience the person should expect through each of these steps is provided in the following sections:
 - Getting the protection of the cap – national minimum eligibility threshold
 - Accessing support towards your care costs – the financial assessment
 - Measuring what counts towards the cap – the personal budget
 - Recording progress towards the cap – the care account.
59. A discussion of how we can ensure people are able to dispute decisions made by local authorities is provided in the section *Providing redress and resolving complaints*.

Accessing the cap on care costs – managing demands for assessments

60. At present few people who fund their own care and support make contact with their local authority. Our analysis estimates that, as a result of the reforms, around 500, 000 more people with eligible care needs could make contact with their local authority in 2016.
61. The increase in the number of people seeking assessment creates opportunities to encourage planning and prevention as well as challenges in dealing with the volume of people. Local authorities will need to adapt assessments to be proportionate and, where relevant, combine them to meet this demand.
62. We recognise that demands will be placed on local authorities at the introduction of the cap in April 2016. Our plans for working with local authorities to manage the transition are detailed in Annex A in the section *Transition to the introduction of the cap*.

63. This includes working with local authorities to:
- Use the flexibility provided in the Care Bill to begin assessments in 2015/16 to determine eligibility and calculate what counts towards the cap; and
 - Ensure effective information and advice and self-assessment tools to manage demands of people who have lower level needs.
64. Local authorities should take a proportionate approach to assessments, so they are tailored to people's needs and preferences over the amount of local authority support they want. They should not be burdensome and bureaucratic processes. For many people who fund their own care this could be a lighter touch process with reduced local authority contact. It will also help local authorities manage their resources to meet these new demands and continue the service they provide to people who are already receiving care and support.
65. Many local authorities have already begun work to think about how to take advantage of the opportunity and meet these challenges. As with all areas of spend, local authorities need to find efficiency savings to meet the demand pressures on the system. The Audit Commission report '*Reducing the cost of assessments and reviews*' published in August 2012 provides helpful analysis to support local authorities in finding efficiency savings in their assessments and case management.
66. We have heard local authorities want to provide assessments in different ways depending on what works for them locally. This may include self-assessments, on-line assessments, or delivery by third parties. Regulations will specify which of these options will be available to whom. We intend that these should be available to all users and not only those who fund their own care. We will develop these regulations and consult on them next year.

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 that assessments still support wider aims to signpost people to types of care and support, reflect each person's preferences, and ensure that safeguarding concerns are dealt with appropriately?

Removing barriers to integration of services – joint assessments

67. We want people to have integrated care, so that the services they receive are tailored to their needs rather than shaped around systems and structures. The £3.8 billion pooled health and social care fund announced on the 26 June 2013 in the Spending Round for 2015/16 will make sure everyone gets a properly joined up service from whoever is best placed to deliver their care, whether that's the NHS or the local authority. The fund, shared between the NHS and local authorities, will deliver integrated services more efficiently for older people and people with disabilities.

68. The Care Bill places duties on local authorities to promote the integration of care and support provision with health provision and health-related provision. These mirror the existing duties on NHS organisations. Joined up assessments will support people to have integrated care, ensuring the totality of their health and care needs are identified at the same time.
69. Where a person is undergoing an assessment for other services we intend that regulations will specify the local authority should contact the other organisation and carry out a joint assessment. For example, where a person has health and care needs, the local authority and NHS should work together to jointly assess the individual. This will avoid the person having to go through two separate processes. By working together the local authority and NHS can develop an integrated care plan meeting all that person's needs.
70. We also expect local areas to consider whether action could be taken integrate personal budgets for care and support needs and personal health budgets to ensure a joint approach to assessment and care planning (see the section on *Measuring what counts towards the cap – the personal budget*). Personal health budgets will not count towards the cap, so it will be important that integrated approaches remain clear about the specific costs of meeting care and support needs (see also section on *Measuring what counts towards the cap – the personal budget*).
71. Local authorities will be obliged to carry out a carer's assessment, where it appears the carer has needs for support. For the first time local authorities will be required to meet carers' eligible needs. Where the person receiving care and support and the carer agree, the local authority can carry out a combined assessment. Even if the carer prefers to have a separate assessment this should be aligned with the assessment of the person needing care. This will help ensure better alignment between meeting the needs of the person needing care and the carer. For example, if in responding to a carer's needs a change to the assessment of the person receiving care is needed, and where this is in line with their wishes, this will be reflected in their needs assessments.

CALL FOR EVIDENCE 5:

How through the implementation of the cap, deferred payments and the new charging regime can we support integrated health and care planning for both the person receiving care and carers? What potential barriers to integration could implementation of the cap or the charging framework create, and how might we reduce or overcome them?

Getting the protection of the cap – national minimum eligibility threshold

72. The current system of eligibility is confusing and unpopular with carers and people who use types of care and support. Access to care and support varies significantly across the country. That is why we are committed to introducing national minimum eligibility threshold from April 2015.

73. On 28 June 2013, we published a discussion document containing a draft of the regulations which will be made under the Care Bill to provide for a national minimum threshold for adult care and support. These draft regulations set out which needs will be eligible in the future, to create a national minimum eligibility threshold for all local authorities in England. Although local authorities will continue to have freedom to meet other needs, they will not be able to restrict eligibility below the threshold.
74. The £3.8 billion pooled health and social care budget will help to ensure that service levels in the care and support system can be protected and to deliver a new national minimum eligibility threshold.
75. From April 2016, if a person who is ordinarily resident (see *Who is responsible for your cap or deferred payment – ordinary residence* for details) in a local authority in England is assessed as having eligible needs according to the national minimum eligibility threshold, they will qualify for the protection provided by the cap.
76. We are guaranteeing a minimum eligibility threshold for access to care from the local authority and a maximum amount people should have to pay to meet their eligible needs. This will enhance continuity of care between local authorities and increase the clarity over what local authority support people can expect regardless of where they live.

Ensuring individuals are able to access and benefit from these reforms

77. Through continued engagement with representative groups within the care and support sector, we will work to ensure all individuals are able to access and benefit from these reforms regardless of their personal characteristics. However we recognise the impact upon specific groups will depend upon the details of implementation.
78. Our equalities analysis for funding reform identifies that the direct financial beneficiaries should reflect the makeup of people receiving care and support. As such we expect they will cater mainly to disabled and older people, predominantly women. We want to ensure the reforms treat all individuals fairly and reflect the different circumstances they face. We would therefore welcome additional evidence about the likely impacts on different groups, including working age adults.

CALL FOR EVIDENCE 6:

Do you have any evidence on how we can best ensure everyone can access and benefit from these reforms? In particular, we would like evidence on the protected characteristics of:

- *Disability*
- *Age*
- *Sex*
- *Race*
- *Religion or belief*
- *Gender reassignment, sexual orientation and marriage and civil Partnership*
- *Pregnancy and maternity.*

Accessing support towards your care costs – the financial assessment

79. To receive financial support from the local authority towards the costs of meeting their needs an individual must undergo a financial assessment of their income and assets.
80. Financial assessment is a necessary part of the care and support system, and will remain so in the future. It determines the contribution by the individual and their local authority towards the cost of the care. However, if a person has eligible needs they do not need to have a financial assessment for the costs of meeting those needs to count towards the cap. Similarly, if a person has eligible needs they do not have to qualify for financial support, or have their care organised by the local authority, for the costs of meeting those needs to count towards the cap.
81. The local authority will conduct a financial assessment unless asked not to do so but will inform the person of their ability to decline one. If a person's circumstances or wishes change then they may request one at a later date.
82. It is possible the increase to the financial support provided to people receiving residential care, and wider availability of deferred payments will have implications for how authorities assess income and assets. The need for an accurate valuation of the home is likely to be more important than in the current system. We are interested in views on this issue and how financial assessments should be conducted in the new system to inform development of regulations.

CALL FOR EVIDENCE 7:

What flexibility should be given to local authorities in how they provide financial assessments to accommodate the introduction of the cap, extended access to financial support and meet demands on local authority resources? How can we ensure financial assessments are proportionate yet still provide an accurate valuation of a person's assets?

Paying for care



- *There will be greater clarity over what people must contribute towards the costs of meeting their eligible needs, and the level of financial support offered will be fairer and more consistent across England.*
- *People with modest wealth will qualify for financial support if their capital (including the value of their home) is less than £118,000 and they are receiving residential care.*
- *From April 2016, people above state pension age will have a cap on care costs set at £72,000 and those below will have a lower cap. People who have eligible needs when they turn 18 will receive free care to meet their needs. The level of the cap will be based on the age of the person at the point at which they are first assessed as having eligible needs.*
- *A contribution to daily living costs in residential care (set at a standard amount of around £12,000 per annum in April 2016) will not be included in a person's cap.*
- *We will protect people from having to sell their home to pay for their residential care in their lifetime by introducing a universal deferred payment scheme.*
- *Deferred payment agreements will give people more choice and control over how they pay for care, but Local Authorities will be able to introduce reasonable safeguards to ensure that fees can be repaid.*
- *We will set a national interest rate, chargeable by local authorities for deferred payment agreements to cover the costs to them of lending.*
- *We seek views on what more should be done to create the right environment for financial products to flourish and what financial services options will be important in helping different groups pay for their care.*

83. The Government is taking action across care and support, welfare and pensions to ensure that state support continues to protect the most vulnerable, but remain sustainable and fair for all generations. The reforms to care and support will help support people who want or need to work and ensure more people are saving to improve their income in later life.
84. People will continue pay a contribution towards their care costs based upon their income and assets. However, the changes to the funding of care and support will mean many more people will receive financial support towards the costs of meeting their eligible needs, as well as everyone being protected against unlimited care costs. Department of Health analysis shows that by 2025/26 an extra 100,000 people needing care will be receiving financial support with their care fees from the state, either from the extension to financial support, the cap, or both.

Fairer and more consistent charging – the charging framework

85. Currently, for residential care, the charging rules are set out in regulations and must be applied uniformly across all local authorities. For non-residential care settings, there is statutory guidance but local authorities have flexibility to design their own charging rules. This can result in variation in what people contribute across England.
86. The current system is poorly understood and is regarded as unfair. It has been built up and modified over a number of years, without a comprehensive review. We believe a modernised care and support system needs a modernised charging framework to support it, which works better and makes the process fairer and more consistent. To ensure people are treated fairly, this should reflect the differing circumstances of people who are receiving care and support in different care settings, for example, in a care home or within their own home.
87. The Care Bill enables a single overarching charging system which will give local authorities the power to charge adults for care and support where they choose to do so. In effect, this will allow a local authority to either not charge a person for a service or, where it charges, assess their ability to pay based on national regulations. Transitional provisions will ensure people receiving non-residential care and getting financial support do not lose out in cases where a local authority has previously set different non-residential charging rules.
88. We intend that the new charging framework be based upon the following principles:
- 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 enable delivery of funding reform
 - Be user-focused reflecting the variety of care journeys and 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 between treatment in different care settings
 - Be sustainable for local authorities in the long term.
89. Where a local authority exercises discretion to charge it must carry out a financial assessment of a person's resources. The detail of these assessments will be provided in national regulations.

CONSULTATION QUESTION 1:

Do you agree that the new charging framework should be based on these principles?

90. There is already some consistency in the approach to charging in different care settings, for example, in the treatment of earned income where a person's earnings are disregarded from the financial assessment. To build on this, we intend to examine existing charging rules and identify other areas where a common approach to charging in all care settings can be taken.

CALL FOR EVIDENCE 8:

We welcome views on the potential advantages and disadvantages of a common approach to charging. In what areas could a common approach be taken in the charging rules across all care settings? In what areas would different approaches be needed to reflect the different circumstances of people who are receiving care and support in the range of care settings? Please explain your answer illustrating with evidence on the number of people who could be affected where possible.

Supporting carers and building resilience – fairer charging

91. In defining the charging rules for the new system we want to support a person's family and friends to care and build their resilience, drawing on the resources available in the community. For many individuals and families, such care is by far their preferred option.
92. At the moment, local authorities have discretionary powers to charge carers for service directly provided to them. Many do not charge, but there may be circumstances where local authorities place a nominal charge on carers' services as a nudge for people to take up the service, and allow it to be provided. We want to allow local authorities to continue this practice if they wish.
93. While the Care Bill provides local authorities with the power to charge for carers services it also makes clear that carers cannot be charged where their needs are met by providing a service to the adult receiving care, such as respite care.

Extra financial support to those who need it most – increase to financial limits

94. People with eligible needs who receive local authority financial support at the moment will continue to get at least that level of financial support in future.
95. We are extending the financial support people will receive from local authorities in all care settings. People receiving residential care will remain responsible for their daily living costs where they can afford to pay them (see *Aligning contributions in different care settings – daily living costs* for more details).
96. The financial limit used to determine whether an adult may get financial support will depend on whether the adult's home is included in the financial assessment or not. These limits are designed to ensure people's contribution towards their care costs reflect their ability to pay. It is right that people with higher levels of assets should make a greater contribution towards their care costs.

97. Any property owned by a person receiving care and support in residential care is excluded from the financial assessment of their assets (often referred to as the home being 'disregarded') as long as it is occupied in whole or in part by their partner, a relative who is aged 60 or over or who is incapacitated, or a child of the resident who is under 16. It is also excluded from the financial assessment for the first 12 weeks of the move to a care home if that move is permanent, or is a temporary stay for up to one year.
98. From April 2016, if a person's property is taken into account in the financial assessment of their assets, they may receive some financial support towards their residential care costs if their assets including the value of their property are worth less than £118,000.
99. If their home is not included in the financial assessment, our intention is to raise this amount from £23,250 in 2015 to around £27,000 in April 2016. This lower level reflects that the value of the person's home is not being considered as part of their assets.
100. From April 2016, we also intend to increase the lower asset limit from £14,250 to around £17,000. If a person's assets are less than this amount then they are only required to contribute towards their care costs from their income.
101. People with more assets are able to make a greater contribution towards their care costs. Currently, part of the amount people are able to contribute is calculated based upon the tariff income rate. The current calculation used in residential care means people contribute £1 per week for every £250 in assets above the lower asset limit of £14,250.
102. The extension of financial support to people receiving residential care with up to £118,000 in assets (including their home), together with the current tariff income rate, means financial support decreases gradually for people with higher assets. It is right that people who have assets slightly above £118,000 should contribute a similar amount towards their care as people who just qualify for financial support.
103. The calculation of a person's contribution from their assets in all care settings will be set out in regulations. This will be informed by responses to this consultation and by considering interactions with disability benefits.
104. Figure 3 summarises, subject to this consultation and future spending rounds, how financial support towards the costs of care will change on 1 April 2015 and 1 April 2016.

Figure 3: 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.

	<i>Individual and local authority contribution towards the costs of meeting eligible needs between 1 April 2015 – 1 April 2016 where the local authority decides to charge for a type of care and support</i>	
Less than £14,250 in assets	<p>If a person's assets are below £14,250 a person will only contribute their income towards the cost of meeting their eligible needs.</p> <p>They will be left with a defined minimum amount to cover appropriate expenses relevant to each care setting (with annual adjustments applied). They will retain their earned income.</p>	<p>The person's home is excluded from the amount of assets considered if they are receiving non-residential care.</p> <p>The person's property is included, in the amount of assets considered if they are receiving residential care, unless it is disregarded (see paragraph 99 above).</p>
Between £14,250 & £23,250 in assets	<p>If a person's assets are less than £23,250 they will qualify for financial support towards the costs of meeting their eligible needs.</p> <p>The person will contribute all their income (except for the minimum amount) and a contribution from their assets above £14, 250 towards the cost of meeting their eligible needs.</p> <p>The contribution from the person's assets will be calculated using a fixed formula.</p>	<p>The local authority contributes the remainder of costs of meeting the adult's eligible needs up to the value of the personal budget.</p>
Above £23,250 in assets	<p>The person contributes the full costs of their care in most cases if they have assets above £23,250.</p>	

	<i>Individual and local authority contribution towards costs of meeting eligible needs from 1 April 2016 where the local authority decides to charge for a type of care and support</i>	
Less than £17,000 in assets	<p>If a person's assets are below £17,000 then a person will only contribute their income towards the cost of meeting their eligible needs.</p> <p>People receiving residential care will remain responsible for their daily living costs if they can afford to pay them. This will be set at a standard amount of around £12,000 per annum.</p> <p>They will be left with a defined minimum amount to cover appropriate expenses relevant to each care setting (with annual adjustments applied), and any income they earn will be retained.</p> <p>The person's local authority contributes the remainder of costs up to the value of the personal budget.</p>	
Between £17,000 & £27,000 in assets	<p>Where a person's property is excluded from the financial assessment, if a person has less than £27,000 in assets, they will qualify for financial support towards the costs of meeting their eligible needs.</p>	<p>The person will contribute all their income (except for the minimum amount) and a contribution from their assets above £17,000 towards the cost of meeting their eligible needs.</p> <p>People receiving residential care will remain responsible for their daily living costs if they can afford to pay them. This will be set at a standard amount of around £12,000 per annum.</p>
Between £17,000 & £118,000 in assets	<p>Where the person's property is included in the financial assessment if a person has less than £118,000 in assets they will qualify for financial support towards the costs of meeting their eligible needs.</p>	<p>The contribution from the person's assets will be calculated using a fixed formula.</p> <p>The local authority contributes the remainder of costs up to the value of the personal budget.</p>
Above £27,000 / £118,000 in assets	<p>The person contributes the full costs of meeting their needs in most cases if they have assets above £27,000 where property is excluded, and £118,000 when property is included in the financial assessment.</p>	

Requesting the local authority to arrange your care – the arrangement fee

105. The Care Bill includes a new right for individual's to request the support of the local authority in arranging their care and support, in circumstances where they are assessed as being able to pay the full cost of their care. At the moment, local authorities are not required to provide residential accommodation to people who can afford to pay the full cost themselves, and the new right will mean all people with eligible needs can ask the local authority for support, regardless of their finances.

106. As this is a new provision the Bill will also enable local authorities to charge a fee for arranging care. This fee will only apply where an adult has resources above the financial limit. This administration fee is intended to cover costs to the local authority of arranging care and support, for instance the costs of entering into and managing contracts with a care home provider.
107. We know that some people who pay for their own care already have this care arranged by a local authority, for example where they lack capacity and do not have anyone to represent them, and do not pay an administrative charge on top their care costs. Our intention is for this new charge not to apply to these people. We intend to define in regulations that a charge to arrange a person's care must be limited to what it costs the local authority to do so.
108. Related administration fees can also be charged where an adult has a deferred payment agreement. In the section *Ensuring deferred payments are financially sustainable* we explain that it has always been possible to charge an administration fee in connection to making a deferred payment agreement and set out our intention to create rules to define what costs a local authority can include. We will want to ensure the rules for the administration fee for a deferred payment are consistent with this arrangement fee.
109. We welcome views on what these rules should include and whether there are circumstances where a local authority should not be able to charge a fee. We also encourage opinions on the potential incentives it may create for people who fund their own care and support, local authorities or care providers.

CALL FOR EVIDENCE 9:

What are the administration costs associated with the arrangement of care and support by a local authority, and which of these costs is it appropriate to pass on to the person requesting the arrangement of their care? Are there any other circumstances where local authorities should not be able to charge an arrangement fee?

CALL FOR EVIDENCE 10:

What incentives could charging of an arrangement fee have on people receiving care and carers, local authorities or providers?

Protection from catastrophic costs – the cap on care costs

110. The cap on care costs for people of state pension age and over will be set at £72,000 in April 2016. From that point on, those who are assessed as having eligible needs will have the costs of meeting those needs count towards the cap. Costs incurred before a person is assessed, or before 1 April 2016, will not count towards the cap. This will ensure the reforms are affordable and practical, providing greater certainty around how much people will have to pay.

111. Those who have the greatest need should get the most support. In the current system people with modest wealth can face losing almost all their savings and their home to pay for their care. We estimate that two-thirds of older people will not necessarily have to contribute all of the £72,000 to reach the cap. This is because it is the total amount that the local authority calculates it would cost to meet the eligible needs that counts towards the cap, regardless of whether the individual is solely paying those costs themselves, or whether payment is split between them and their local authority.

112. This is demonstrated by the case study of Mrs Arnold and by Figure 4 below.

Case Study: Mrs Arnold, a pensioner receiving residential care

Mrs Arnold is 75. She has £95,000 in assets (including her home).

She has a pension income of £245 per week which covers her daily living costs.

Meeting Needs

Mrs Arnold receives residential care at a cost of £650 per week to the local authority.

£230 of this represents her daily living costs.

Financial Support

She has no previous care needs so her cap is set at £72,000.

Mrs Arnold's contribution from her assets is calculated using the formula: for every £250 of assets (savings, home and other assets) between £17,000 and £118,000, she is deemed to be able to contribute £1 of additional income.

After 12 weeks she pays £220 from her income and retains £25 for personal expenses. She contributes £312 from her assets.

The local authority pays the remaining £118, but £420 counts towards Mrs Arnold's cap.

<i>Individual contribution to the cap</i>	<i>Local authority contribution</i>
£35,000	£37,000

These figures are illustrative only. They include indicative figures and assumptions about how the policy will work. They are not intended as an accurate guide for individual circumstances.

Figure 4: An older person's contribution to the costs of meeting their eligible needs before reaching the cap for different levels of assets.

Initial assets	An older person's contribution to care costs before reaching the cap	
	Current	£72 000 cap
£250,000	£177,000	£72,000
£200,000	£173,000	£72,000
£150,000	£127,000	£67,000
£100,000	£79,000	£45,000
£70,000	£50,000	£30,000
£50,000	£31,000	£17,000
£40,000	£21,000	£12,000
£17,000 or less	£0	£0

DH analysis: Assumed residential care costs of around £625 per week, with contribution to daily living costs of around £230 per week. Individual has income to cover daily living costs and contributes from assets towards their care costs.

Fairer cap for working age adults – varying the level of the cap for different ages

113. It would not be fair for working age adults, who are less able to plan and prepare for their future care costs, to face the same cap on care costs as older people do. The Government has committed that from April 2016, people who have eligible needs when they turn 18 will receive free lifetime care to meet their eligible needs and those who have eligible needs who are below state pension age will have a lower cap.
114. Working age adults with care needs face different challenges from older people, as both their care needs and financial circumstances may differ. We believe it is appropriate for people to contribute to the cost of care if they can afford to. However, the amount people pay to meet their eligible needs should reflect their ability to plan, prepare and build up assets to cover the cost of meeting these needs.
115. We intend that any decisions on the level of the cap on care costs between the age of 18 and state pension age should:
- Ensure that people in similar circumstances (age, care needs, and financial assets) should make a similar contribution to their care costs. For example people who develop care needs at 44 and 46 years old should have a similar cap
 - Reflect the ability of people of different ages' to plan, prepare and build up savings to meet their care needs
 - Be simple for people to understand and feasible for local authorities to implement
 - Support integrated care and effective transitions between services helping people to have their needs met in the most appropriate care setting
 - Help people to live independent lives meeting their goals and aspirations
 - Ensure any reforms are sustainable in the long term.

CONSULTATION QUESTION 2:

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 these principles?

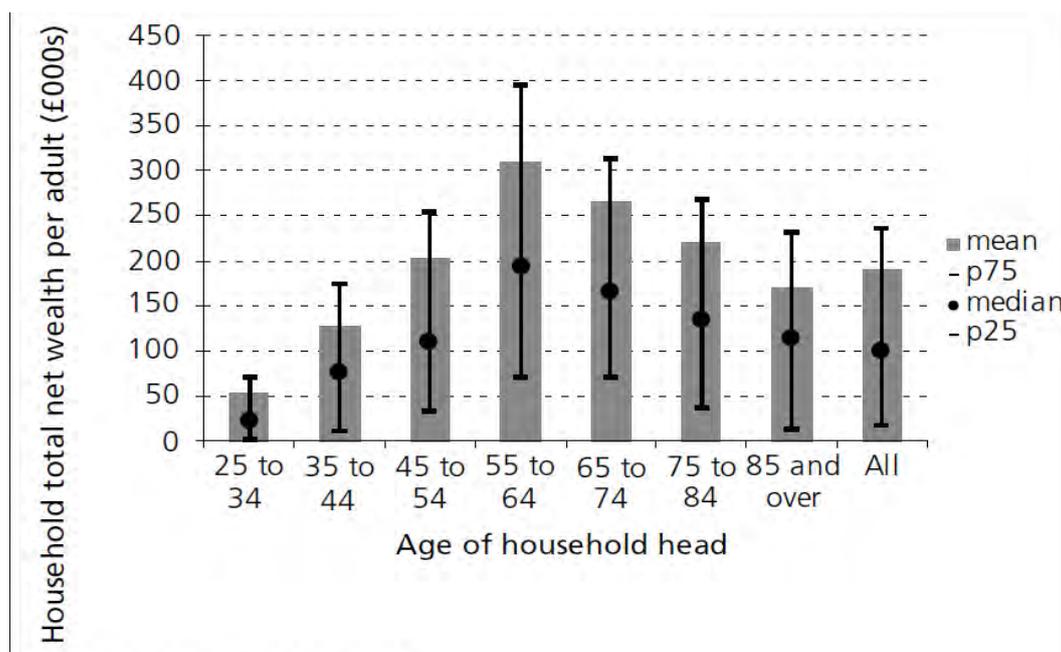
116. The appropriate level of the cap on care costs also depends upon an understanding of the situation of working age adults, their assets and the costs they face.
117. For example, some young people can continue to receive children's social care services up to the age of 25. In such circumstances anything other than the offer of free care could disadvantage people who continue to receive children's services. This could lead to them choosing to have their needs met by adult care and support even if these were less appropriate to meet their needs. To remove such incentives and support a person's needs being met in the most appropriate setting we believe it is appropriate that, as a minimum, we should extend the offer of free care for eligible needs to people up to age 25.

CONSULTATION QUESTION 3:

Do you agree that 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 there alternatives we should consider through integration between child and adult care and support and the guidance provided on how to set the level of the cap?

118. The chart below demonstrates how people accumulate wealth throughout their lives. The median wealth of those aged 45-54 is around £110,000 per person compared with around £175,000 per person for those aged 65-74.
119. This illustrates the fact that younger people have a reduced likelihood of building up substantial wealth than older people. The chart below demonstrates how people accumulate wealth throughout their lives. The median wealth of those aged 45-54 is around £110,000 per person compared with around £175,000 per person for those aged 65-74.

Figure 5: Evidence of household wealth by age of household head for the total population (including those without care and support needs). Chart shows median and 25 and 75 percentile figures.



Source: Banks, Crawford and Tetlow (2010), based on the Wealth and Assets survey 2006/8

120. The decrease in wealth for each subsequent group over the age of 65 may in part be due to people spending their savings in retirement. However, it may also be due to the fact that each generation has been richer than the last. We must also consider the fact that people who develop eligible care needs at a given age may have reduced earnings before this point.
121. We believe this effect is likely to be more significant for individuals with care needs and their reduced ability to build up assets should be reflected in the level of the cap. We wish to gather more evidence to improve our understanding of the income and assets of individuals needing care and support.

CALL FOR EVIDENCE 11:

What additional evidence can you provide on the ability of people of different ages to plan prepare and build up assets both before and after they develop eligible care needs?

122. Currently the significant majority of care costs for working age adults are already met by local authorities. This reflects the lower average incomes and assets of people who develop care needs early in their lives.
123. The case study of Mrs J is based on an illustrative level of the cap and demonstrates the financial support many working age adults would get from their local authority. It shows how someone might pay less than the full cap amount, as the amount contributed by the local authority also counts towards the cap. It also illustrates that different levels of the cap may not be the only mechanism to address the financial challenges faced by working age adults.

Figure 6: Illustrative case study of Mrs J, age 45, demonstrating the financial support that could be available from their local authority.

Mrs J, age 45 develops a need for care and support in her own home.

As the value of her assets excluding her home is less than £27,000 she is eligible for financial support.

Her income is not earned income and therefore is chargeable.

For illustrative purposes her cap is set at £30,000.

She has	
Assets	Income
£10,000 (excluding her home)	£230pw (including benefits)

The local authority calculates her needs can be met for £150 per week.

She has a financial assessment to determine how much she can afford to pay.

She initially contributes £5 per week.



She reaches the cap after 3 years 11 months.

The local authority pays £150 per week to meet her needs.



She requires care for 5 more years. After which her assets (excluding her home) remain £10,000. The local authority has contributed over 95% of the cost of the cap.

This figure is illustrative only and includes indicative figures and assumptions about how the policy will work. They are not intended as an accurate guide for individual circumstances.

124. We have heard from some stakeholders that some of the problems faced by working age adults might be addressed more effectively through the charging framework. For example by looking at the financial limit and/or the income allowance in a financial assessment. Any alternatives to options based on varying the level of the cap only could not increase costs above the existing funding allocation set out in Annex A and would need to fit within the legal framework set out in the Care Bill. Increases in costs elsewhere in the system would need to be offset by a higher cap for working age adults.

CALL FOR EVIDENCE 12:

How could new charging rules and options for a lower cap work together to address problems faced by working age adults? Please explain how this would deliver the principles above and how increases in costs could be offset to ensure that the overall costs of the reforms are unchanged.

125. Figure 7 below provides an illustration of some options for setting the cap on care costs for people of different ages. They illustrate that this is a trade-off between different objectives. The level of the cap for people of different ages must fit within the overall funding available.

Figure 7: Illustration of possible options for setting the cap for people of different ages. These do not represent the government's preferred options. Any proposals must fit within the financial envelope for working age adults as set-out in Annex A.



CALL FOR EVIDENCE 13:

What factors should determine the age it is appropriate for people to begin to contribute towards the cost of meeting their needs? What factors should determine how the cap on care costs should rise after this point?

126. We intend to set the level of the cap on care costs based on:

- The age of a person at the point at which they are assessed having eligible needs; or
- When they request an assessment if there is a delay in the assessment taking place.

127. However, we recognise in some cases individuals may have their care needs met through different services e.g. NHS. In such circumstances it might be appropriate to set the level of the cap based upon the age at which individuals first develop needs rather than when these become the responsibility of adult care and support. This might support integration and transition between different organisations and services and help ensure individuals are treated in the appropriate care setting.

CALL FOR EVIDENCE 14:

How should the cap on care costs be set for people whose eligible needs are initially met by services other than adult care and support? Please explain your answer

Aligning contributions in different care settings – daily living costs

- 128. We have accepted the Dilnot Commission’s recommendation that people in residential care should remain responsible for a contribution to their daily living costs. This is fair as someone receiving care in their own home would still have to pay for their food and other daily living expenses. People will still be responsible for this contribution once they reach the cap.
- 129. In line with other local authority benefits such as pensions, attendance allowance and disability living allowance / personal independence payment, we will set the contribution to daily living costs at a national level, which from 1 April 2016 will be around £12,000, or approximately £230 per week.
- 130. We believe the principle that people who can afford this amount should pay. However, we recognise that not all individuals will have sufficient income to pay it. Local authorities will need to assess what people are able to contribute and financial support will be made available for those who cannot afford to pay. We believe that it is appropriate that financial support is available on the same basis as financial assistance with care costs. This would create a single unified system of financial assessment for people both before and after they reach the cap. The case study of Mrs M below illustrates how this might work

Figure 8: Illustrative case study of Mrs M, age 85, with income less than daily living costs, who gets support from her local authority.

Mrs M, aged 85 develops a need for care and support and receives support in a care home.

As her assets are under £118,000 she is eligible for local authority support.

<i>She has</i>	
Assets	Income
£10,000	£160pw (pension)

The local authority calculates that her needs can be met in a local care home costing £650 per week.

She has a financial assessment to determine how much she can afford to pay.

She initially contributes £135 per week.

<i>Local Authority Contribution</i>	<i>She contributes</i>
Care Costs (which count towards the cap) £420 per week	Daily Living Costs £230

Mrs M reaches the cap after 3 years 4 months. Her financial contribution does not change as the state is already paying her care costs.

She remains in the care home for one more year. After which her assets remain £10,000.

This figure is illustrative only and includes indicative figures and assumptions about how the policy will work. They are not intended as an accurate guide for individual circumstances.

CONSULTATION QUESTION 4:

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 a person's income and assets?

131. Care costs can vary to reflect complexities of individual needs and other factors such as the local care market and commercial negotiation. We recognise that this contribution to daily living costs will be a greater proportion of care home fees for people with lower care costs. However, individuals with lower care costs are at a lower risk of facing excessive lifetime care costs.
132. We believe the benefits of a national approach of simplicity, transparency and consistency outweigh the potential disadvantages for some people.

Ensuring a sustainable system – annual adjustment to the cap and five yearly reviews

133. These historic reforms set out for the first time a long term solution to funding care and support. We do not want that solution to be undermined by ever increasing and unsustainable costs. That is why we have accepted the Dilnot Commission's recommendations to adjust the level of the cap on care costs, recognising the price of care will change over time.
134. This is similar to annual adjustments used elsewhere, such as in taxes, pensions and benefits, and ensures they remain equally affordable and fair over time.
135. The level of the cap on care costs, contribution to daily living costs, the financial limit and care accounts will be adjusted annually in line with average earnings to reflect inflation. This will ensure the reforms remain affordable and fair, so people with a care account will not be disadvantaged – a person who is already 50% of the way towards the cap on care costs will remain 50% of the way towards the adjusted cap on care costs. This increase in the cap on care costs and the progress towards the cap will be reported as part of the annual update of the care account (see also section on *Recording progress towards the cap – the care account*).
136. While we could adjust these parameters by different amounts, we believe using a single measure will make the system simpler to implement and understand. We have chosen average earnings because they are used as part of the annual adjustment to the state pension and therefore represent changes in older people's ability to pay. In addition, average earning and care costs are related as labour is a substantial portion of the cost of care. Our evidence shows changes in average earnings and care costs have been broadly similar over the last six years and should remain so in the future.
137. In addition to the annual adjustment we will review how the cap on care costs is operating every five years. The results of this can be used to inform government decisions on long term affordability and spending allocations, and whether changes to the level of the cap or other parameters, such as daily living costs, may be needed. The first review must be completed within five years of the clause commencing, so subject to legislation the first report will be published by April 2021. Further reviews must take place within any five year period, so future Governments can align the reviews with future decisions on spending.

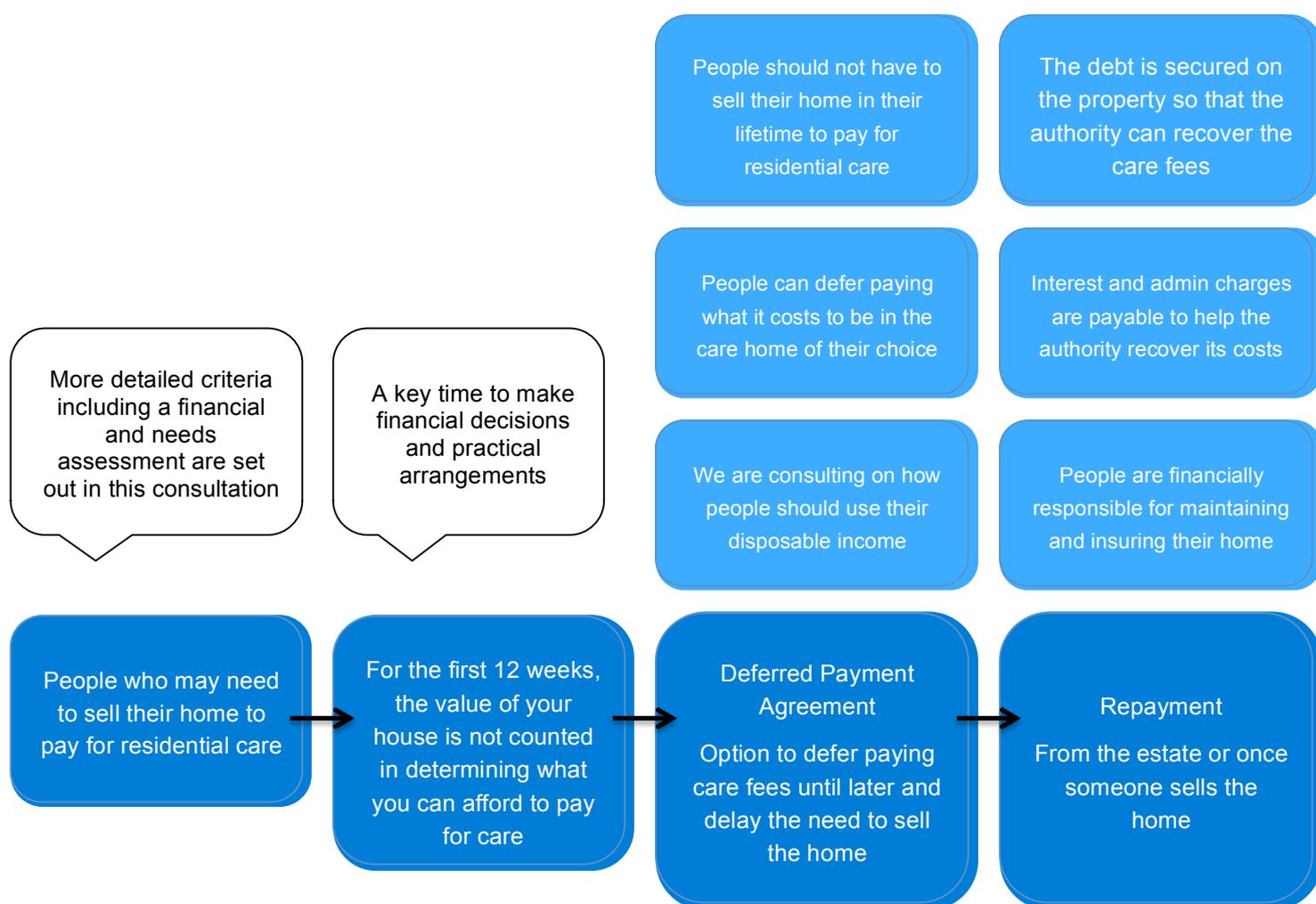
138. In reviewing how the cap on care costs is operating, the Secretary of State for Health will have to consider how certain factors are having an impact on the cap on care costs, such as healthy life expectancy or changes in the way types of care and support are delivered. The review is designed to inform decisions which will help maintain the sustainability of the reforms, along with providing people with the certainty they need to plan and prepare for paying for care.

Protecting your home – universal deferred payment agreements

139. People’s homes are often their most important asset and have both financial and emotional value to families. Selling the home is sometimes necessary to pay for residential care, but it is a major step and can be distressing and difficult to arrange. There are many practical, financial and emotional reasons why people would prefer to keep their homes for longer when they go into residential care.

140. The reformed care and support system will include important protections for homeowners that give them more flexibility over what happens to their homes.

Figure 9: Overview of how the reformed system will protect people’s homes. The details are being consulted upon.



This figure is illustrative only and provides an overview about how the policy will work. It is not intended as an accurate guide for individual circumstances.

12 week property disregard

141. Currently, 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 taken into account when the authority determines what the adult should pay towards their care fees. However, the value of the home is not included in the local authority financial assessment for the first 12 weeks of their stay.
142. What this means in practice is people with less than £23,250 in assets excluding their home can receive state support for their care costs during this period.² This helps protect their home and savings during the period when they enter care.
143. This first 12 weeks is a period of ‘breathing space’ during which people have time to adapt to being in residential care and make decisions about their future. This includes considering how they would like to pay for care, what they would like to happen with their home, and making practical arrangements.
144. The 12 week property disregard is an important feature of the existing system and the Government is not proposing changes to how care is paid for during this period. However, we are seeking views on what local authorities and individuals could do to make best use of this period to support transition and decisions. For example, this might include using the time available to arrange care via the local authority service, work through financial options, put in place a deferred payment (if that is the person’s choice), and identifying an appropriate deputy if someone lacks capacity. We are interested in good practice local areas may already have developed.

CALL FOR EVIDENCE 15:

How could the 12 week disregard be used to better support people to make decisions and practical arrangements about their care and finances?

Deferred Payment Agreements

145. People who cannot or do not wish to sell their property to pay for residential care will have the option of a deferred payment agreement. This will mean people do not have to sell their home in their lifetime unless that is their choice.
146. In simple terms, a deferred payment involves the local authority agreeing to pay someone’s care fees on their behalf while the person agrees to repay later, generally from their estate or the sale of their home. The repayment is secured against their property by a legal charge.
147. Deferred payments have been available in some authorities since 2001 and were intended to operate throughout England. However, local authority provision has been patchy and unreliable and too many people have faced difficult decisions because they cannot access a deferred payment.

² More details are available in *Charging for Residential Accommodation Guide 2013*.

148. For the first time, regulations under the Care Bill will require all local authorities to offer deferred payment agreements to ensure people do not have to sell their homes in their lifetime to pay for residential care. The proposed criteria are described below including:
- Who will qualify for a deferred payment
 - What fees they can defer
 - What other support people will receive
 - Their rights and responsibilities, including interest and charges.
149. Taking out a deferred payment will not adversely affect entitlements to financial support or to the cap on care costs. People will progress towards the cap at the same rate, whether or not they have a deferred payment. Any amount that people defer will count as personal debt for the purposes of financial assessment and all things being equal they will qualify for financial support at the same time as someone who pays directly for their care. The cap and extended access to financial support, along with the criteria we consult on below, mean it will not be possible for someone to defer excessive amounts they could not afford to repay.

Who will qualify for a deferred payment?

150. We propose that people who meet all of the following criteria should be able to qualify for a deferred payment:
- Anyone who would benefit from residential care, based on a local authority assessment of needs which takes reasonable account of the person's preferences
 - Who has less than £23,250³ in assets *excluding* the value of their home (i.e. in savings and other non-housing assets)
 - Whose home is not occupied by a spouse or dependent relative (i.e. whose home is not taken into account in the local authority financial assessment, and might need to be sold).
151. What this would mean is that people who qualify for state support during the 12 week disregard period will also be entitled to a deferred payment, available to start from the thirteenth week.
152. People who do not initially meet these criteria would also be able to qualify if their circumstances change at any point.
153. We believe the criteria used for the 12 week disregard and deferred payments cover not only all people at risk of selling their home but also the large majority of people who pay for their residential care. Those who do not qualify will be those who could choose to remain in their own home and those with significant levels of non-housing assets, who should have other financial options than a deferred payment.

³ Based on the financial limit when the person's home is not included in the financial assessment, which will be £23,250 in 2015. Subject to decisions in future spending rounds we intend that this financial limit would increase over time in line with average earnings.

154. More generally, we also intend that authorities should have the discretion to provide deferred payments to people in residential care who do not necessarily meet all of the mandated criteria above. For example, if someone has slightly more savings than the £23,250 threshold but would qualify for a deferred payment soon, an authority might prefer to offer the option upfront. This will help authorities to respond appropriately to individual situations.

CONSULTATION QUESTION 5:

Do you agree our proposed criteria for determining who qualifies for a deferred payment?

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?

155. People who do not have mental capacity to agree to a deferred payment will be able to qualify, although their lasting power of attorney or court-appointed deputy will be responsible for setting the deferred payment up on their behalf.

156. Within the criteria above, local authorities have said there may be situations where it is particularly challenging to offer a deferred payment. This may be because of difficulties securing the debt or recovering the costs later on.

157. One example is where the home is jointly-owned and one party refuses a charge being placed on the property. Another is where someone has limited housing equity possibly sitting alongside other debts. We want to understand more about these situations and how they could be resolved satisfactorily to allow deferred payments to be offered without putting the local authority at unfair financial risk.

CALL FOR EVIDENCE 16:

What situations may make it more challenging to offer a deferred payment? How can we address such situations to ensure people have consistent access to deferred payments without putting the local authority at unfair financial risk?

What fees can someone defer?

158. People will be able to defer the full costs of their residential care and accommodation, up to the equity in their home (plus other assets). The deferred payment will cover the cost of any registered care home the person might want to choose. It is important that people are able to live in the care home of their choice providing they are willing to pay. The deferred payment will help them do this.

159. As outlined above, the cap and extended access to financial support will normally protect people with limited assets from deferring more than they can repay. However, there is an issue of how best to deal with a situation where somebody becomes unable to afford further care fees and the care home is more expensive than the local authority would normally expect to pay.

160. The answer might involve a combination of good information and forward planning, use of third party top ups, agreement to move to a care home within the local authority price range, or in exceptional cases a restriction on choice of initial care home.

CONSULTATION QUESTION 6:

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 it supports people's choice of care home?

Use of disposable income

161. We want people to be able to use their income to achieve a good quality of life and to do the things they enjoy. People will also remain financially responsible for their property and for costs such as maintenance and insurance to ensure that their homes are kept in good repair.
162. After paying for personal and household expenses, people may have remaining income from their pension, rents from their home or other income. For most people it will make financial sense to use their remaining income to pay for care, as this will reduce the amount deferred which is subject to interest payments. We are keen to explore whether people should have the freedom to choose how much to pay out of their income, or whether people should be required to make an income contribution towards their care fees once they have met personal and household expenses.
163. We want to consult on this principle, and on how people use their income, to inform development of more detailed proposals. These proposals would be consulted on as part of the regulations on deferred payments.

CALL FOR EVIDENCE 17:

Should people be able to decide the proportion of their care costs met by their income and how much is deferred? Or should they be required to make an income contribution towards their care fees (once they have met personal and household expenses) and defer the remaining balance?

CALL FOR EVIDENCE 18:

If you think people with significant disposable income should contribute some of their income towards their care fees, then what types of personal and household expense should be taken into account before determining the income contribution?

How long can the deferred payment last?

164. People should not have to sell their homes in their lifetime to pay for their residential care. Everyone will be entitled to defer their fees for their entire stay in care if they need to, and to repay from their estate. However, people who wish to repay sooner will also be able to do so at any point.

165. We envisage some people will defer payment for longer or shorter periods of time depending on their circumstances. For many, the deferred payment will provide further 'breathing space' to make decisions and financial or practical arrangements. This can be particularly important if a move to care is sudden or the person lacks capacity.
166. For those deciding to sell their home, it will provide the time to arrange a sale and to achieve a fair price, as well as to take care of property and possessions. The deferred payment will be repaid after the home is sold.
167. Others may prefer not to sell their home and the deferred payment will allow them to retain ownership during their lifetime. In many cases, this will allow people to put their home to use. For example, people may want a friend, family member or carer to live in their home. Alternatively the home could also be rented out and the income used to help pay for care or to support family.
168. For those who do choose to repay from their estate, we intend local authorities should respectfully wait for up to three months after someone has died before actively seeking repayment, allowing everyone time to settle their affairs.

CONSULTATION QUESTION 7:

Do you agree local authorities should normally wait for up to 3 months after someone has died before actively seeking repayment?

Are there circumstances in which the local authority should wait longer?

Support for homeowners

169. People with deferred payments – and those going into residential care more generally – would greatly benefit from help in managing their property, in the form of access to local services. This should include help to maintain the home and keep it in good repair. It should also include help to either arrange a sale or to find a paying tenant depending on the wishes of the homeowner. This will help people achieve what they want from their home and will help communities avoid the problems that neglected properties can cause.
170. We are consulting on how local areas can develop a programme of support for homeowners. Many housing related services already exist but may not be easy for people in care to access or tailored to their requirements. There are opportunities for local authorities, voluntary and community organisations and financial services to work together to improve and co-ordinate access to these services. We are interested learning about good practice that may exist now and how to support future developments. We also welcome comments from authorities on resource implications associated with providing this support.

CALL FOR EVIDENCE 19:

How could local areas develop support for homeowners to maintain, sell or rent their home? Are there examples of good practice that already exist? How could local areas support innovation in this area in the future? What is the likely impact of deferred payments on housing more generally?

Information and advice

171. It is important that people have the appropriate information when they take out a deferred payment. This includes a clear understanding of how the deferred payment works, what they will need to repay, and how it compares to their other financial options. People will need to consider how they plan to use their property, i.e. whether they wish to rent, to sell or to wait. Access to financial advice will be important to help people make these types of decisions. People who do choose a deferred payment will need up to date information in the form of a regular statement of the amount they have deferred so far.
172. Authorities will need to comply with relevant consumer protection legislation and guidance when offering deferred payments.⁴ We are also seeking wider views on what information people will need and how it should be provided.
173. An important consideration is that people who take out deferred payments do so during a period of transition into residential care and as an alternative to having to sell their home. We want information designed around this situation to assist people with decisions, not to involve them in unnecessary cost or effort during a difficult time.
174. The information people receive in relation to deferred payments is one aspect of the wider need for good information and advice when people go into residential care. The section on *Staying independent for longer – planning and prevention* discusses new local authority duties in relation to information and how access to independent financial advice will work.

CALL FOR EVIDENCE 20:

What information do people need when they take out a deferred payment?

Ensuring deferred payments are financially sustainable

175. The Government has announced additional funding to local authorities to meet the costs of offering deferred payments. However, for the scheme to be financially sustainable over the long-term it is important local authorities are able to recover their costs. This will be dependent on local authorities being able to charge interest and administration costs, as the Dilnot Commission recommended.

⁴ We will work with regulators to determine the appropriate requirements based on the final design of the scheme and interest rate. Relevant legislation and guidance in this area could include the *Unfair terms in consumer contracts regulations*, the *Mortgage Sales Guidance for local authorities and registered social landlords* and the *Consumer Credit Act* in addition to regulations and guidance we will publish under the Care Bill.

176. Local authorities will be able to charge an administration fee to cover the upfront costs of offering a deferred payment. This will cover, for example, the costs associated with placing a charge on a property to secure the debt. This could potentially be added to the deferral for ease of payment.
177. Local authorities are currently able to charge an administration fee (often £100 to £200), although it can vary on a case by case basis and some authorities do charge more. However it is not always clear what costs this covers and some authorities take different approaches. We therefore intend for there to be clearer rules around what costs authorities can charge.
178. We are seeking evidence on administration costs to inform this decision and invite local authorities to provide a breakdown of what it costs to offer a deferred payment. This should not include the costs of universal services such as the needs assessment.

CALL FOR EVIDENCE 21:

What are the administration costs associated with offering a deferred payment? Please provide a breakdown.

Which of these costs is it appropriate to pass on to the resident?

179. To cover the costs of lending and the risk of non-repayment local authorities will be able to charge interest during the lifetime of a deferred payment. It is usual for loans of any type to charge interest to cover these types of cost. The interest rate will be nationally set in regulations.
180. The deferred payment will be an affordable option for people. This is partly because the local authority will not aim to make a profit and partly because the deferred payment will operate like a draw-down mortgage (whereby the care fees are deferred in regular instalments) rather than as a lump sum. The Government will consider whether additional protection is needed to ensure interest payments are affordable for the most vulnerable. For example, assistance for people with modest means or a very long stay in care could include a guarantee that the deferred payment cannot exceed the value of the property and a lifetime cap on total interest payments.
181. We are not in a position to determine the interest rate that will apply at this time. This is because in practice the rate will depend on a number of factors, including who qualifies for the scheme and the fees they can defer. These are issues we are currently consulting upon.
182. Figure 10 below shows, for illustration purposes, what people would pay if the rate were 4% per annum, a rate which could be sufficient to cover lending costs and a small rate of non-repayment.

Figure 10: Approximate interest payable on a deferred payment.

<i>Duration in years</i>	<i>Deferred payment (excluding interest)</i>	<i>Deferred payment with 4% interest added</i>
1	£20,000	£20,400
2	£40,000	£41,600
3	£60,000	£63,750

Alternative approaches to recovering local authority costs

183. We are interested in whether our proposals for deferred payments, which include charging interest, could have implications for Islamic or other faith groups who do not agree with interest on religious grounds. We are open to considering alternative approaches, for example adopting similar approaches from Islamic finance.

184. We welcome evidence on whether our proposals for deferred payments, which include charging interest, could have implications for Islamic or other faith groups.

CALL FOR EVIDENCE 22:

What alternative approaches would still allow authorities to recover their costs, for example based upon approaches from Islamic finance?

Local authority processes for setting up deferred payments

185. The process for setting up a deferred payment will be set out later in guidance.

Some of the key elements this will cover include:

- How provision of a deferred payment should fit with a person's care journey and with other processes such as local authority assessments, the 12 week property disregard, and appointment of a deputy
- The information local authorities should provide to people about deferred payments at particular stages
- A formal agreement between the resident (or their representative) and the local authority to enter into a deferred payment agreement, that will clearly set out the rights and responsibilities on both sides
- What forms of security the local authority can obtain to ensure it can recover its costs later on. We envisage this will continue to be via a legal charge on the resident's property but the regulations could permit other types of security if these are more appropriate.

186. We want the process to be as simple as possible for both sides so that people can proceed without unnecessary cost, delay or bureaucracy. We are seeking views on how well local processes for deferred payments currently work, and on what could improve.

CALL FOR EVIDENCE 23:

How well do current local authority processes for deferred payments currently work and what could improve?

187. At the moment there is inconsistency in the powers local authorities use to allow people to defer care fees. Local authorities currently have specific powers to defer payment that require a formal agreement between the resident and local authority.⁵ However, some local authorities prefer to use their more general debt recovery powers, which also involve a charge upon the property but do require the resident to consent.⁶ Local authorities may also have developed other approaches.
188. We intend that from April 2015 all deferred payment agreements will be made using powers expressly designed for the purpose in the Care Bill. The Bill will also contain powers to recover debts but these would not be used where someone qualifies for a deferred payment agreement and is willing to take that option.⁷ This will ensure there is one approach based on principles of information, security and consent.
189. We recognise that other approaches may have worked well in some cases and we are interested in any lessons which could be applied to deferred payments going forward (please respond to the question above, on local authority processes).

Wider flexibility to offer deferred payments

190. Our proposals above describe the framework for universal deferred payments. These focus on people in residential care who are at risk of selling their home. All local authorities will be required to offer anyone in this situation the choice to defer their care fees for their lifetime.
191. Some local authorities have suggested local authorities should have wider powers to offer deferred payments in a wider variety of situations, including those where the house would not normally have to be sold to pay for care. These would be discretionary on the part of the authority which could choose whether or not to offer this additional service.
192. The wider use of deferred payments by local government could help people use the value in their property to pay for the care they want, when this goes beyond what the local authority would normally cover. For example, this could include deferring charges for people who receive domiciliary care.
193. We are sympathetic to this proposal and see the value in giving authorities the flexibility to innovate. However, we think there is a need for more information on how local authorities plan to use the powers and how they would work in practice.

⁵ Section 55 of the Health and Social Care Act 2001.

⁶ Section 22 of the Health and Social Services and Social Security Adjudication Act 1983.

⁷ However we do envisage that debt recovery could be used after a deferred payment had ended and the resident or estate was not taking steps to repay the amount owed to the authority.

CONSULTATION QUESTION 8:

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?

CALL FOR EVIDENCE 24:

If you agree that local authorities should have additional flexibility to defer care charges, please explain in as much detail as possible:

What situations these powers would help with?

How the deferred payment would work in practice?

Are there new risks or costs associated with wider user of deferred payments:

For people in care and their families?

For local authorities?

What value would specific powers add over and above the general flexibilities local authorities have under the Localism Act?

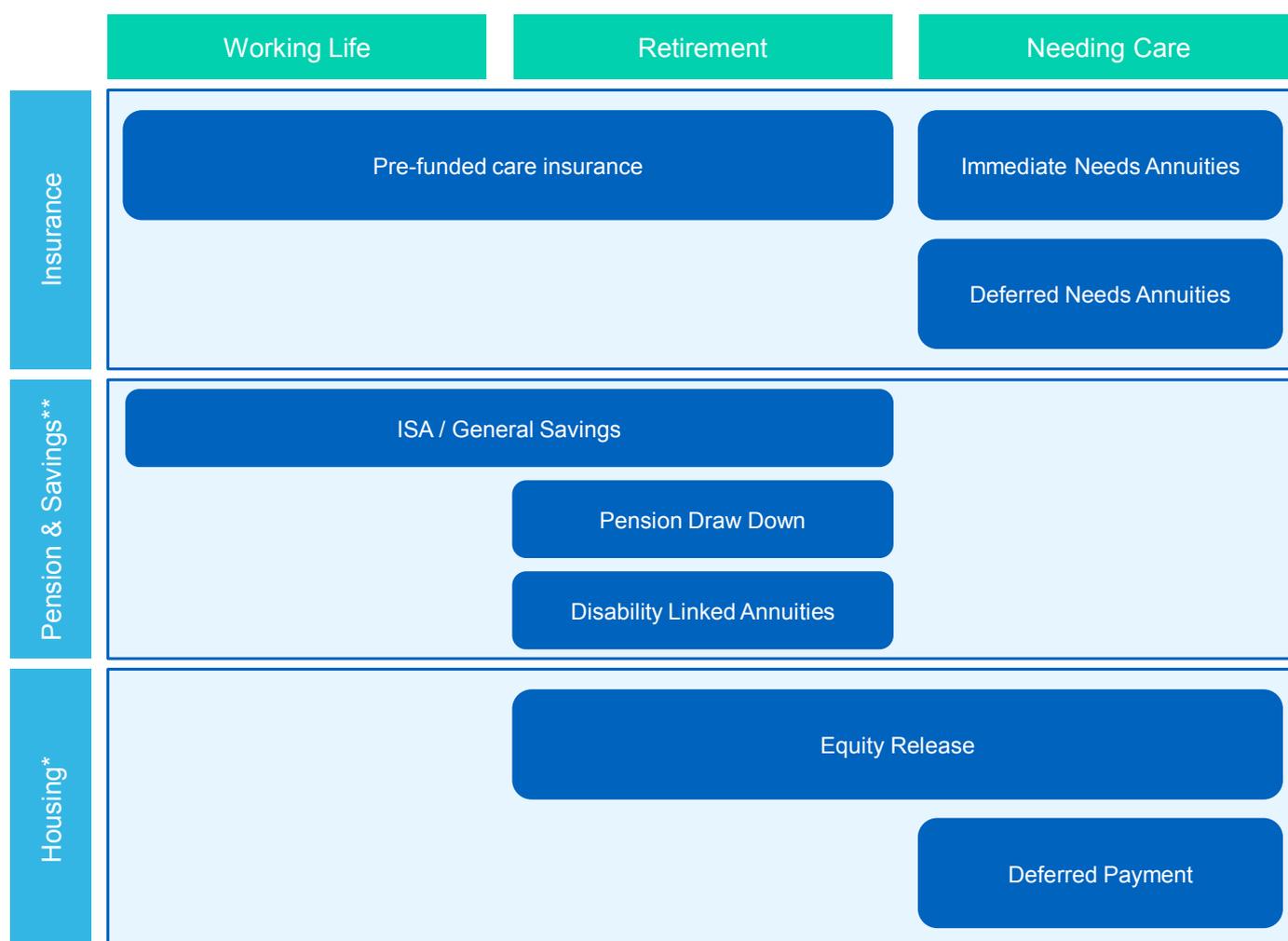
Improved options for those who pay for their care

194. At the moment, there is a limited market of financial products to help people pay for their care. Products such as care annuities and equity release are available at the point people need care but are not widely used. Insurance against care costs is not available in the same way that it is for critical illness or health costs. Products tend to be expensive or limited in how they can help because there is no limit on the fees someone might need to fund. A range of demand barriers including low awareness of care costs and difficulty finding advice has also limited the market. As a result it is difficult to plan ahead for care costs, other than by general saving and buying a home.
195. Our care reforms will mean people have more opportunity to financially plan. People will not face unlimited costs but will instead have a more realistic amount towards which to financially plan. The cap should also improve the affordability and relevance of products. An information and advice strategy, including new local authority duties, will support people to financially plan. Care reform as a whole means the system will be clearer, more consistent and easier to navigate.
196. We expect financial services to respond in time for 2016. We think a range of solutions will develop for people at different stages of their life, including people with different levels of wealth. These will need to be affordable and work coherently with both the cap on care costs and the financial assessment. We want to see products help people pay for domiciliary as well as residential care whilst supporting families and carers as well as those who need care. Participation by a wider range of firms is likely to benefit everybody by improving competition and choice.

197. While it is for the market to develop specific products, to date our engagement with firms, trade associations and consumer groups suggests the following types of solution could be important at different stages in people’s lives:

- Care annuities will continue to be an important option for people in care;
- Insurance could potentially also be purchased when people are healthy, possibly packaged with health, life or critical illness protection;
- Solutions to help people use the value in their homes could include equity release and help to people to maintain, rent and sell their property; and
- Pensions-based solutions, such as an annuity that pays out more if someone needs care, could be important options for people when they retire.

Figure 11: Illustration of financial products that could help people plan for care.



* Owning a property / having a mortgage is a prerequisite for these options

** An established pension is a prerequisite for these products

198. This is an early picture and we are working with the industry to obtain a clear idea of how the market is likely to develop, as well as what more should be done to create the right environment for products to work. We have commissioned an industry led review of these questions and look forward to its outcome in the summer.

199. We are also seeking views on this issue through wider consultation, and particularly welcome contributions from financial services providers and others who can be involved in the market or comment on its development.

CALL FOR EVIDENCE 25:

What financial solutions will be important in helping different groups pay for their care? What are the priorities in terms of supporting the market to develop?

Meeting your eligible needs



- *Everyone with eligible needs will have a personal budget or independent personal budget that will set out how much it would cost the local authority to meet a person's eligible needs and how much counts towards the cap.*
- *The total amount the local authority calculates it would cost to meet these eligible needs will count towards the cap, regardless of whether the individual solely pays the costs themselves, or whether payment is split between them and their local authority.*
- *Everyone with eligible needs will have a care account that will show their total accrued costs that count towards the cap.*
- *We will support people to plan and prepare by helping them to predict when they may reach the cap, even as needs or circumstances change. Local authorities will provide an update of people's care account at least annually, or at the reasonable request of the individual.*
- *We will ensure continuity of care over time and between local authorities. Care accounts will be updated by a local authority until requested by another local authority.*
- *We will ensure the arrangements for resolving disputes and providing redress are effective.*

Measuring what counts towards the cap – the personal budget

200. If a local authority assesses someone as having eligible needs, then they will work out how much it would cost them to meet those needs that will not be met by others, including the NHS, the community or their personal network and family. They will also work out the person's contribution to daily living costs if receiving residential care.
201. The total amount the local authority calculates it would cost to meet the person's eligible needs excluding any contribution to daily living costs will count towards the cap, regardless of whether the individual is solely paying those costs themselves, or whether payment is split between them and their local authority.
202. People who have eligible needs for care and support will receive a statement that will show the amount that is counting towards the cap. This will take the form of a personal budget, as part of their care and support plan, for those who have chosen for the local authority to meet their needs, or an independent personal budget for people who have chosen to meet their own needs. A person will not have both a personal budget and an independent personal budget at the same time.

203. Personal budgets and independent personal budgets for the purposes of the cap are effectively the same thing so for ease we will refer to them as budgets.
204. Budgets will show what counts towards the cap on care costs. For completeness they must show the contribution that a person has to make to daily living costs, clearly separating out what is counting towards the cap. To provide transparency and support planning a Budget must show the total amount of the cost of the package the local authority is going to provide or would provide to meet the person's eligible needs, their contribution to daily living, and where the local authority is meeting the person's needs any contribution they have been assessed to pay towards the cost.
205. Only the costs of meeting eligible needs for care and support will count towards the cap. Costs of meeting needs that are not eligible needs, and of other services, such as NHS services, will not be counted. Over time, people may receive different types of support from different organisations but their Budget and care account must specify the costs of meeting care and support needs. For instance, if a person is receiving care and support, but then becomes eligible for NHS Continuing Healthcare, their progress towards the cap will pause, because the NHS will meet the costs of all their care. Similarly, the cost of NHS-Funded Nursing Care for people in care homes will not be counted towards the cap, because this is paid for by the NHS and is not chargeable.
206. Where people receive different types of support from different organisations, it is important that they are able to bring these together to integrate their care. Many people who receive both health and social care could benefit from a joint single budget that brings together both social care and NHS funding streams, and enables people in partnership with professionals to find ways to meet their needs in a holistic and personal way.
207. Personal Budgets may specify other sources of public money available to the person (e.g. a personal health budget, benefits or other allowances), as well as the cost of meeting their care and support needs. Where this is the case, only the care and support costs recorded in the Budget will qualify towards the cap. Budgets will need to be clear on this point if there are used to incorporate other amounts of public money.
208. People will be given a record of their Budget when it is prepared, or upon reasonable request of the person, alongside a statement showing the total accrued costs that count towards the cap on care costs.

CALL FOR EVIDENCE 26:

What additional information should be included in a personal budget or independent personal budget to accommodate these reforms, support transparency and planning?

Calculating what counts towards the cap

209. To support personal budget setting local authorities already have to determine how much money it would cost to meet people's eligible needs. Many local authorities use a resource allocation system (RAS) to calculate what they would expect to pay for care and support for different types of need and to monitor and review these costs over time. This should then be refined through further discussions with the person needing care when determining their care and support package.
210. Care and support plans will show how a person's needs are going to be met. They will be developed in partnership with the person receiving care and support, or their representatives, to ensure that they receive types of care and support that promote their wellbeing. The process of developing care and support plans helps ensure that personal budgets reflect the person's needs, preferences, and what support is available locally. The process of developing care and support plans helps ensure that personal budgets are fair across different local areas, and for people with different needs or preferences.
211. We believe that the principles underpinning the independent personal budget should be the same and therefore must be designed 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
 - Reflect what it may reasonably cost a local authority to meet a person's needs according to their particular circumstances.
212. However, unlike with a personal budget, local authorities will not necessarily develop a care and support plan to arrive at an independent personal budget. We welcome views on what extra information local authorities might need to calculate the independent personal budget to reflect the person's needs, preferences and what support is available locally that they would not get through an assessment.

CALL FOR EVIDENCE 27:

What sort of information does a local authority need to calculate an independent personal budget that they might not get through an assessment?

213. There may be some scope for local authorities to take a different approach to calculating the independent personal budget to the personal budget whilst still basing the method on these principles. We intend to develop statutory guidance on the development of personal budgets and independent personal budgets. In this guidance we will seek to balance consistency with local flexibility.

CONSULTATION QUESTION 9:

Do you agree with the proposed principles for calculating the independent personal budget and personal budget?

214. Many local authorities may choose to use a RAS to determine a person's personal budget or independent personal budget. However, we recognise that, as each local authority has freedom to determine their own policies to suit their local populations, there may be variation in the approach and tools used.

215. There is a range of resource allocation systems solutions in use by local authorities. Some use systems based on a Common Resource Allocation Framework developed by Think Local Act Personal (TLAP). Others use commercial solutions which are available in the market.

216. However, we have heard from some local authorities who have chosen to move away from using a RAS as they have found the tools were not robust enough for their purposes. We also heard the issues raised by some stakeholders in their use of RAS to determine what it may reasonably cost to meet a person's needs:

- Transparency in the resource allocation
- Consistency in the approach taken by different local authorities
- Accuracy of the calculation, and flexibility to take a person's circumstances and preferences into account
- Frequency of update of the resource allocations to reflect changes
- How a carer's contribution is taken into account.

217. To ensure consistency in the calculations across local authorities and reduce the potential for disputes and challenges, we have heard suggestions that a national approach and stronger guidance may be needed, either through the setting of a framework which local authorities must follow or a national tool. This would reduce variation in approach and could be more efficient.

218. Others have told us we should continue to allow local discretion to design solutions fit for local circumstances and the needs of their population as this is likely to deliver greater improvements in efficiency and wellbeing.

219. Given the wide variation in local circumstances across the country it is unlikely a single national RAS will be implemented across England. However, we intend to define in guidance a set of common principles on which all Resource Allocations Systems should be based. Figure 12 details some common principles for resource allocation systems based on the work by TLAP and reflecting changes to assessment, eligibility and personal budgets in the Care Bill.

Figure 12: Common principles for resource allocation systems used by local authorities for calculation of Budgets.

Equalities – A RAS is potentially a useful tool in helping local authorities to identify and reduce unfairness and discrimination, providing it is operated in a way that challenges rather than maintains the existing patterns of spending. It is recommended, where possible, local authorities operate a single RAS for all user groups so needs are identified in the same way for everyone. Local authorities may decide to make a financial adjustment to indicative allocations to reflect current market costs of providing support. This should be linked to a strategy for reducing these cost differences over time.

People with high support needs – People with high support needs should not be excluded from the RAS. Local authorities should avoid applying a “cost ceiling” to the RAS. Some people will have very specific needs – for example, some people with sensory impairments need an interpreter or other very specialist service. Local authorities should always exercise discretion when deciding the final amount of the personal budget.

Future-proofing – The RAS is part of local authority policy and should be ratified through the normal processes and published so it is transparent to the local authority’s population. Local authorities should consider applying the most appropriate methods for taking account of inflation. Any changes to a person’s allocation as a result of a policy change will need to be linked to a new assessment and, where the local authority is meeting the person’s care and support, needs a care and support plan. It is unlikely that a local authority could justify a reduction in resources following an individual review, unless the person’s needs had reduced, or the circumstances or type of care and support provided to meet those needs had changed.

Unpaid care and support – Local authorities should make sure the process of assessment and support planning takes full account of the role of carers in providing on-going support.

Needs of carers – Local authorities should make sure the assessment process includes making carers aware of their right to an assessment and leads on to a full carers’ assessment (unless this is refused by the carer). Responding to carers’ needs may also involve meeting the needs of the person who receives care, where this is in line with the individual’s wishes. The aim of this support is twofold: to make the caring contribution sustainable and to promote the carer’s own wellbeing, independence and choices.

220. We welcome views on experience of setting personal budgets and the use of Resource Allocation Systems and how we should build on existing work by TLAP to inform development of the statutory guidance on the general principles for resource allocation and the requirements on information systems to support delivery.

CALL FOR EVIDENCE 28:

How should we build on the common principles for resource allocation systems (covering five areas: equity, people with high support needs, future-proofing, unpaid care and support, needs of carers), existing good practice and guidance to ensure consistency, equity and transparency in the setting of independent personal budgets? How should this be reflected in the requirements for local authority information systems?

Reviewing needs and budgets as circumstances change

221. People will need a clear understanding of how much they might need to contribute towards the costs of their care so they can plan and prepare. People's circumstances will change over time, including:
- Their care and support needs and how best to meet them, including where these needs are met
 - The support available to help them meet these needs
 - Their ability to pay from their own income and assets
 - The cost to meet their eligible needs
 - Innovations to the type of care and support available to meet their needs.
222. To ensure individuals continue to receive the right support and the progress towards the cap on care costs is an accurate reflection of the costs the local authority is paying for, or would pay to meet those needs, there will need to be an on-going relationship between the local authority and the person receiving care and support. Local authorities will have a duty to keep care and support plans, personal budgets and independent personal budgets under review to ensure they are still relevant to the needs of the person. This includes ensuring they reflect any changes in the cost of care to local authorities. In addition, people will have the right to approach their local authority to request them to conduct a review of their care or support plan.
223. Timely reviews should ensure a smooth transition between different stages of a person's care journey and seamless and accurate reporting of the person's progress towards the cap on care costs. It will help build confidence that the operation of the cap on care costs is consistently applied and representative of the true costs of meeting their eligible needs. This could give people greater certainty over how much they might need to pay for their care, so they feel comfortable using their assets to invest in more preventative services or other types of care and support, or activities to improve their wellbeing and quality of life.
224. For people with a personal budget if needs or circumstances have changed the local authority will reassess and if necessary review the entire plan which may result in a revised personal budget. For Independent personal budgets, the local authority will also reassess a person's needs as appropriate. Reviews should be made at an appropriate time, that will often be annually, or at the reasonable request of the person.

225. If reconsideration of eligibility of a person's eligible needs determines they no longer have eligible needs or if they refuse a reasonable request from the local authority for a re-assessment, then their progress towards the cap will freeze at that point. The local authority will retain a record of all progress up to this point and should the person be determined to have eligible needs following a subsequent re-assessment, then progress will start from where they left off.
226. The Government wants to ensure a consistent and proportionate approach to reviews. We expect local authorities will develop a range of options, building on approaches used to assess people's needs. We will continue to work with local government and other partners to set out guidance on reviews to balance flexibility, local discretion and consistency.

CALL FOR EVIDENCE 29:

How can we ensure a proportionate approach to reviews so personal budgets and independent personal budget record the costs of meeting a person's needs as circumstances change?

Recording progress towards the cap – the care account

227. The record of a person's progress towards the cap on care costs will be captured in their care account.
228. Government wants to ensure everyone has a clear understanding of their responsibility for their care costs and be able to predict when they may reach the cap and therefore qualify for additional support towards the costs of meeting their eligible needs. We intend local authorities to provide individuals with an update of their care account at least annually or at the reasonable request of the individual. The annual care account statement should become an equivalent to a person's annual mortgage statement or pension statement.
229. As the cap on care costs will be adjusted annually to reflect inflation, it is only right accrued costs should be adjusted so they do not lose their value over time. Local authorities will therefore be required to adjust care accounts annually in line with the adjustment to the cap on care costs and show this in the care account statement.
230. The annual statement should include the:
- Level of the cap on care costs
 - Current rate of progress towards the cap on care costs – from the personal budget or independent personal budget
 - Progress towards the cap to date – accrued value of personal budget or independent personal budget over time.
231. We think other information would support a person's planning. For example, projections of when the person could:
- Reach the cap given the current rate of progress, expected annual adjustments on the cap, and assumptions about their Budget
 - Qualify for financial support because their assets fall below the new financial limits.

232. We recognise that providing projections of when people might reach the cap could open up local authorities to challenge and would also increase the complexity of implementation and operation of the care account. However, as long as the local authority acted fairly and properly in calculating the projection in accordance with the regulations, and made sure it set out that this is just for illustrative purposes, and retained the right to make future changes this risk should be small.

CALL FOR EVIDENCE 30:

We welcome views on whether the annual care account statement should include projections of when a person may reach the cap, or qualify for financial support. How can this be provided without putting the local authority at risk of challenge?

How would this support a person's planning? What impact would this have on the complexity of local authority systems needed to operate the care account? How can local authorities reduce the risk of challenge?

233. We do not intend to specify how this update is provided. It can be in any appropriate and accessible format, including written or on-line access. However, we believe secure on-line access to care accounts will support greater independence and control and could help people with planning and preparation. We will explore with local authorities, through our work on information system development (see section *on Information system development* in Annex A), the opportunities and risks of this solution, including the relationship to the development of electronic health records.

234. Requiring local authorities to provide a regular statement of the care account in some circumstances may have little benefit and could be an unnecessary bureaucratic burden. We therefore intend to give local authorities the flexibility to apply discretion in certain cases where an annual update is unnecessary, for example, where a person has not had care needs for many years or where they have already reached the cap.

CONSULTATION QUESTION 10:

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?

Who is responsible for your cap or deferred payment – ordinary residence

235. Responsibility for the operation of the cap on care costs will rest with the local authority in whose area the person is ordinarily resident. In most cases this simply means where the person lives. Responsibility for a deferred payment agreement rests with the local authority who arranges the contract. This could theoretically be a different local authority to the one responsible for the operation of the cap in some circumstances.

236. When a person is placed by one local authority in residential care in the area of another local authority, the first local authority retains responsibility for their care. The new provision for cross border placements in the Care Bill means this will be extended so if a local authority in England places someone in residential care in Northern Ireland, Scotland or Wales, that person will remain the responsibility of the English local authority.

Case Study: Ordinary Residence

Lucy lives in Camden, where she owns her own flat. She receives care in her own home for several years arranged by Camden Council. She does not qualify for means tested support but receives attendance allowance and accrues £20,000 of costs towards the cap.

After experiencing a fall, Lucy needs to go into residential care. She chooses to go into a home in Hampshire, because this is closer to her family.

Camden arranges for Lucy's placement in Hampshire. It also continues to have responsibility for keeping her care account up to date. In this case, the independent personal budget will reflect the cost of meeting Lucy's needs in Hampshire (rather than the cost in Camden). Because Camden arranges her care she is ordinarily resident in Camden.

Lucy reaches the cap after three years in care. Camden notifies her and becomes directly responsible for paying the cost of her care in Hampshire until her death two years later.

Lucy was anxious not to sell her flat, which her family was able to rent out. Lucy therefore requested a deferred payment agreement. Camden was responsible for setting up and administering the deferred payment including paying Lucy's fees on her behalf, placing a charge on her property to secure its interest, and collecting repayment from her estate.

If Lucy had arranged her own care then she would have become ordinarily resident in Hampshire.

CALL FOR EVIDENCE 31:

We welcome views on what incentives the cap on care costs and deferred payment arrangements in combination with ordinary residence rules may create for individuals, or local authorities, and how the number of transfers between local authorities may change as a result.

CALL FOR EVIDENCE 32:

We welcome views on how we can support local authorities understand who is responsible for the person's care account and deferred payment agreements.

Ensuring continuity of care over time and between local authorities

237. Care accounts will be retained by a local authority for everyone who has had eligible needs at any time following the introduction of the cap on care costs in April 2016. If a person's care needs or circumstances change and their needs are no longer eligible, the record of their accrued costs will be retained by the local authority. If at a future point the person's needs again become eligible, then their new costs will be added to their previous care account.

238. Local authorities will retain and update the person's care account as appropriate until it is requested by another authority. If the person chooses to move to another area in England the care account will be transferred to the new authority, they will retain the amount already credited to their care account and the new costs will be added. To avoid the risk of care accounts going missing when people move between local authorities, the originating local authority will be required to retain records of care accounts until the end of a person's life, or after 99 years.

Providing redress and resolving complaints

239. The introduction of the reforms to care and support funding will result in more people being assessed by local authorities than are at present. It will greatly increase the volume of decisions made by local authorities in terms of:

- Assessing an individual's care and support needs, and, where a person meets the eligibility criteria, determining the cost of meeting those needs
- Assessing an individual's means, and determining the contribution an individual should make to the cost of meeting their care needs.

240. People who fund their own care will be able to compare the price they may pay for care with the price the local authority would pay to meet their eligible needs. They may find they are paying a different price to the local authority. This can be because people who fund their own care have chosen premium facilities or because the local authority is able to negotiate a lower price in exchange for buying care for a large number of people.

241. The Government believes the assessment process for determining eligible needs and the system for calculating funding contributions should be designed to minimise the need for disputes. For example, the Care Bill makes it explicit that the individual must be involved in the assessment process, and there should be transparency in decision-making. Individuals, their carers, and where the individual agrees, family or representatives are to be provided with a written record of their assessment. The introduction of a new national minimum eligibility threshold will provide clarity to individuals on what level of need is eligible for care and support.

242. However, there will be cases where people wish to dispute decisions about funding or entitlement that are made by local authorities. It is important there are effective mechanisms that allow them to do so. Existing complaints provision for care and support is set out in regulations.⁸ The provisions of the regulations mean anyone who is dissatisfied with a decision made by the local authority about their assessment or eligibility would be able to complain about that decision and have that complaint handled by the local authority. The local authority must make its own arrangements for dealing with complaints, in accordance with the 2009 regulations.

⁸ Local Authority Social Services and NHS Complaints Regulations 2009) made under powers in sections 113 to 115 of the Health and Social Care (Community Health and Standards Act) 2003.

243. The existing framework allows for local authorities to have a degree of flexibility in developing their own procedure for dealing with complaints. Each local authority will have a different process and we appreciate local variation will result in varying user experiences.
244. If a complainant is not satisfied with the response from the local authority, they are able to refer the case to the independent Local Government Ombudsman. The Local Government Ombudsman can investigate complaints about things that have gone wrong in the way a service has been delivered or in the way a decision has been made. However, unless there has been a problem in the process, they do not have the power to ‘stand in the shoes’ of the decision-maker nor to reconsider the case if the individual is not happy with the decision that has been made.
245. Between 2011 and 2012, the Local Government Ombudsman considered more than 1,000 adult social care complaints. The Local Government Ombudsman is independent of Government and has the same powers as the High Court to obtain information and documents. They make their decisions independently of all government departments, the bodies investigated and politicians. When a complaint is referred to the Local Government Ombudsman, the Local Government Ombudsman assesses whether the decision-making process has been conducted appropriately and may make a recommendation to the local authority. Although this is not binding, 99% of Local Government Ombudsman recommendations are accepted by local authorities. Where they are not, the rationale must be explained via public advertisement.
246. We recognise more people will be brought into contact with the local authority by the reforms to care and support funding. We agree with the Joint Committee on the Draft Care and Support Bill that the role of local authorities is changing significantly and it is important to ensure the arrangements for providing redress and resolving complaints are effective in this context.
247. We will look at the existing complaints arrangements as they relate to care and support funding and will assess whether there are effective means of challenging local authority decisions. This will include assessing whether there is currently sufficient independence at the local level in the complaints process. We will assess whether additional support or reform of the arrangements will be required to ensure users have access to effective forms of redress, including whether it would be beneficial to introduce a process that provides independent merit reviews of decisions made by local authorities.
248. In reviewing the process, we wish to ensure the following principles underpin mechanisms for providing redress and resolving complaints. Mechanisms should:
- 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 element⁹
- Promote local resolution, minimising the need for more formal challenge mechanisms which could be costly and time-consuming.

CONSULTATION QUESTION 11:

Do you agree that the principles above should underpin mechanisms for providing redress and resolving complaints?

249. Our current assumption is a tribunal process would be likely to slow down the process of resolving complaints and add significant costs, introducing a further burden on the system. We believe it is advantageous to have a flexible system that works well and efficiently at local level and in a manner that is proportionate to the type of complaint.
250. One model which may be relevant is that by which parents are able to appeal against the refusal of a place for their child at a school for which they have applied. In this system, appeals are heard by an independent panel of at least three people. The panel must communicate a decision and the reasons for the decision within five school days. This provides a quick, independent route to challenge the process and merits of such decisions. The panel's decision is binding and can only be overturned by a court. We would welcome views on whether the principles of such a system are appropriate for reviewing local authority assessments for care and support.
251. We will also consider the findings of the Review of NHS Complaints led by Ann Clwyd MP and Professor Tricia Hart.

CALL FOR EVIDENCE 33:

Given the reforms to the care and support funding system do you consider that existing processes to provide redress and resolve complaints are appropriate and accessible? Please explain your answer.

CALL FOR EVIDENCE 34:

Do you agree that a tribunal system would be likely to slow down the process of resolving complaints and add significant costs, introducing a further burden on the system? Please give evidence to support your answer.

CALL FOR EVIDENCE 35:

Are there any lessons that can usefully be drawn from complaints processes in other sectors or local areas? Please provide evidence of approaches in other sectors that you believe would be more effective.

CALL FOR EVIDENCE 36:

Do you have a view on the strengths and weaknesses of adapting a mechanism similar to that used in the schools admissions code appeals process for adult care and support?

⁹ By independent element, we mean that the decision is reviewed and/ or considered, by someone independent of the original decision maker.

When the cap on care costs is reached



- *Once people have reached the cap, we want to see a smooth transition to them having their eligible care costs paid by their local authority, which avoids any unnecessary disruption to care. People will be aware of when they have reached the cap.*
- *People should have a clear understanding of what care and support package the local authority would provide after the cap, and what their contribution would be if they continued to receive the same services.*
- *We will seek to maintain continuity of care, individual choice and independence by giving people greater choice over types of care and support and the ability to top-up from their own resources if they choose to do so.*
- *Financial advice will help to reduce risks to local authorities, care providers and service users from greater flexibility and use of top-ups. We seek views on what more is needed to manage these risks.*

Transition to local authority support

252. People who are progressing towards the cap on care costs will have regular contact with their local authority, either as part of calculating their budget, or through the regular statement of their care account. To ensure people know when they have reached the cap local authorities will be under a statutory duty to inform them.
253. In many cases a person will already be having some or all of their eligible needs met by the local authority. Once they reach the cap, the local authority will already be under a duty to meet their eligible needs. Their current arrangements at that time should continue if nothing else has changed. In practice, the only difference may be the local authority contributes more to the cost of meeting their care and support needs. Where a person has been arranging and paying for their own care and support whilst progressing towards the cap, they will have an independent personal budget and a care account. When the total of their accrued costs reaches the cap, the Care Bill obliges the local authority to meet their eligible needs.
254. The effect of this duty will be to put the person in the same position as people for whom the local authority is already arranging care and support; this means that the local authority must prepare a care and support plan (including a personal budget), and will be subject to on-going duties to keep this plan under review.

255. The local authority will not be required to carry out a new needs assessment of the person unless their needs or other circumstances have changed. The local authority will not be able to charge the person for the cost of meeting their eligible needs as defined in the personal budget, but may need to carry out a financial assessment to determine any charges for daily living costs when the person is in a care home.
256. When a person who has previously been arranging their own care and support reaches the cap, it will be critical the transition is as seamless as possible, avoids unnecessary disruption to care and minimises the burdens placed on local authorities.
257. However, the transition for these people should be managed in a proportionate way. For instance, it will not always be necessary to undertake a detailed care and support planning process, when a person in a care home which is meeting their needs wishes to stay there. It may also not be necessary for the local authority to take on contracts with care providers, and the person may wish to retain this control personally, and receive a direct payment equivalent to the cost of meeting their eligible needs (see *Personal choice and control over care – direct payments in residential care*).
258. As people near the cap on care costs, we would expect the local authority to understand a person's preferences for how their eligible needs are met, including for different types of care and support. People who reach the cap on care costs should have a clear understanding of what the local authority would pay towards their care after the cap and what their continued contribution would be if they continued to receive the same care and support. This should help maintain continuity of care, individual choice and independence and should help manage transition for these people in a proportionate way.
259. We would be grateful for views on how this transition can be managed more effectively for people who have been arranging their own care and support. In particular, we would like to receive advice on how the key requirements placed on local authorities by the duty to meet needs - care and support plans, personal budgets, direct payments, right to a choice of accommodation - could be used proportionately to support this process.

CALL FOR EVIDENCE 37:

How should the transition for people who have been arranging their own care and support be managed most effectively? How should the key requirements placed on local authorities – care and support plans, personal budgets, direct payments, right to a choice of accommodation – be used proportionately to support this process?

Personal choice and control over care – direct payments in residential care

260. People should be in control of their care, so it is shaped around their needs, personalised and integrated. This should be the case for everyone regardless of whether they have reached the cap. To ensure the transition at the point people reach the cap is as smooth as possible for people who have been arranging their own residential care, we will roll out direct payments in residential care, learning the lessons and building on the current schemes which have been established to test the policy.

261. The ability to make direct payments in residential care would ensure people have a choice in whether to take up a local authority provided service or a direct payment. This would ensure everyone can exercise choice and control in the new system.
262. Direct payments in residential care will be rolled out in April 2016 alongside the introduction of the cap (see section on *Direct payments in residential care* in Annex A for further details).

Personal choice and control over care – additional payments ('top-ups')

263. Putting the person in control of their care and support is at the heart of the new legal framework in the Care Bill. Choice and independence should be maintained once they reach the cap on care costs.
264. People should be able to spend their own money as they see fit including purchasing more expensive care and support for themselves, if they wish to do so and provided this is affordable. Allowing people to make additional payments or "top-up" their care fees provides them with additional choices over the types of residential care and facilities that they receive to match their preferences.
265. Currently, a person who arranges and pays for their own care can spend as much as they wish on their care. However, where a person receives local authority support they face restrictions on their ability to top up their care fees. This means that in most cases, top-ups will be made by a third party, because the adult's personal financial circumstances should already have been taken into account in deciding what charges they must pay for their care.
266. We are seeking to better understand the impact of such a relaxation in the restrictions on top ups. There may be some concerns that vulnerable adults who are receiving care and support could feel forced to top-up, and that some local authorities might seek to use top-ups as a way to keep down costs. Equally there are potential risks to local authority finances, care and support providers or to an adult's continuity of care if top ups are used inappropriately. We are keen to hear views on what more should be done to manage these risks in a way that is consistent with giving people greater choice over their care and support.

CALL FOR EVIDENCE 38:

The provision of financial advice on paying for care will help manage some of the potential risks to local authorities, care and support providers and the adult from greater flexibility over the use of top-ups to pay for types of care and support. What more can be done to support people and local authorities to help ensure top-ups are used appropriately and to manage these risks in a way that is consistent with allowing people choice over their care and support?

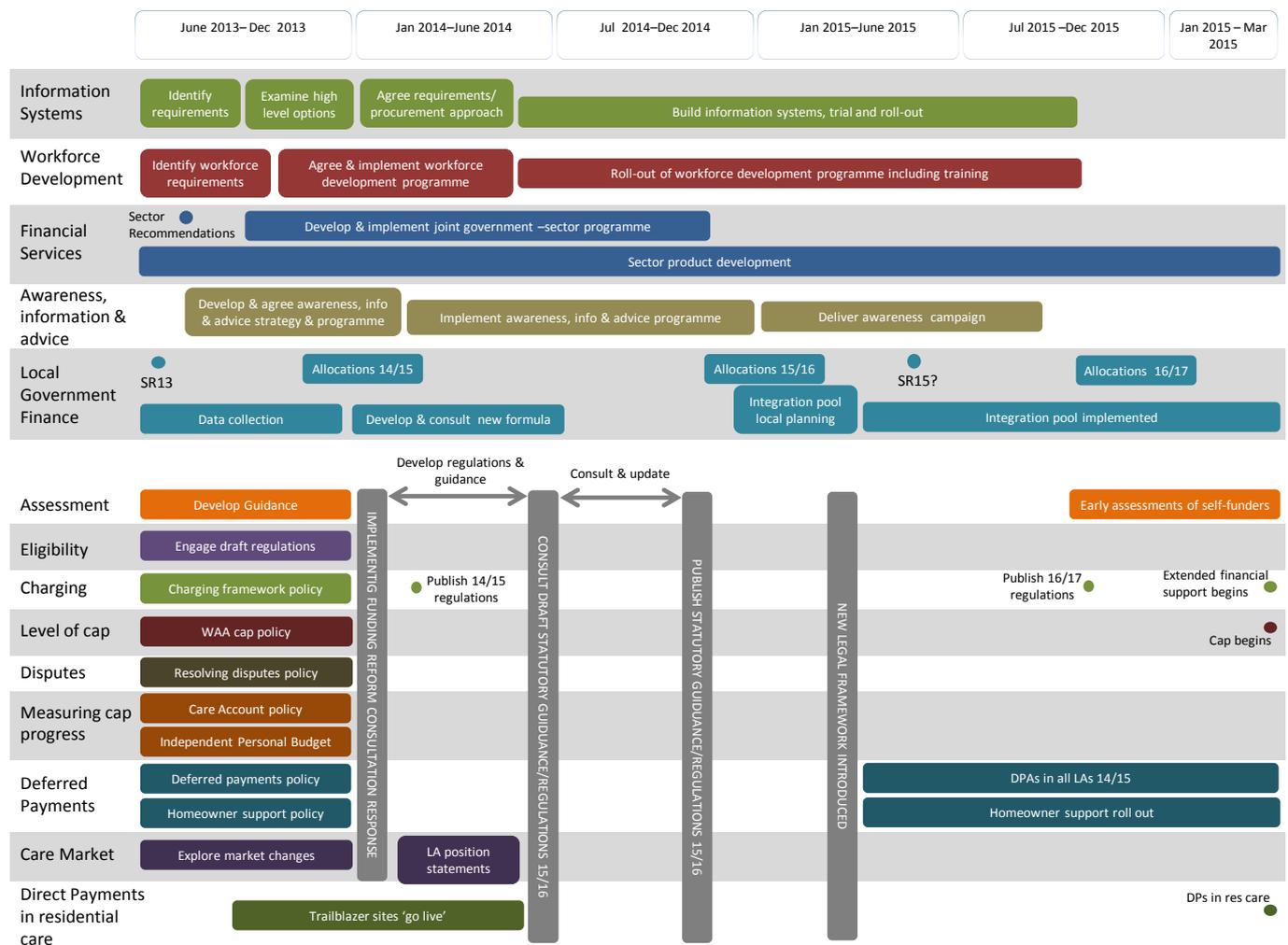
Next Steps

267. The Government is committed to working closely with the care and support sector to reform the funding of care and support. This has been demonstrated through our engagement with partners and the collaborative approach we have taken to developing this consultation.
268. We will continue to engage throughout the implementation process, up to April 2016 and beyond. We will bring together key representatives from organisations with either a specific responsibility to deliver the transformation in how care is paid for, a significant role in the leadership of the system, or which represent people who are receiving care and support, carers and care and support providers who will be affected.
269. Successful delivery can only be achieved through partnership working and collaboration. Central Government, local authorities, providers, the voluntary and community sector, financial services organisations, and individuals and carers will all play essential roles. To this end, we have continued to engage with our partners throughout the development of this consultation and will continue to do so throughout the period of implementation.
270. Local authorities will have a specific and important role to play because they will be accountable for delivering these reforms on the ground. They will need to understand, oversee and lead the changes that are needed. The Department of Health, Local Government Association (LGA) and Association of Directors of Adult Social Services (ADASS) have committed to work in partnership on a joint programme to support successful and sustainable delivery of these reforms.
271. Annex A details some operational issues the implementation programme will address. This covers a range of areas:
- Managing the additional demands for new assessments around the introduction of the cap
 - Changes to charging regulations in the lead up to the introduction of the new legal framework in the Care Bill in 2015, the cap in 2016 and wider welfare reforms
 - Allocation of funding for the reforms in 2015 and beyond
 - New demands on the workforce delivering care and support covering both capacity and capability issues
 - New requirements on care and support information systems and financial systems
 - Raising awareness of how care and support is provided by the state
 - Understanding how the care and support market could change in response to greater transparency over the prices of care
 - Revised scope of the residential care programme to reflect the commitment to roll out the new right to direct payments for a person receiving residential care.

Annex A: Making it happen

272. The Department of Health, the LGA and ADASS have made a commitment to work together on a joint programme of work to deliver funding reform and the broader transformation commitments made in the care and support White Paper. This section provides more details on some of the key operational issues we will tackle together to ensure we are ready to introduce deferred payment agreements in 2015 and the cap on care costs and extended access to financial support for people receiving residential care in 2016.

273. The roadmap for implementation of funding reform below provides a high level summary of some of the key work streams and major activities that together will support implementation of these reforms. The Department of Health, LGA and ADASS will work together on detailed implementation plans to ensure effective preparation for implementation of reform over the summer and into autumn.



Transition to the introduction of the cap

274. The increase in people approaching their local authority represents a significant opportunity but also represents a challenge for local authorities who will need to cope with this additional workload. We recognise there are specific capacity issues that will result from the demands placed on local authorities at introduction of the cap on care costs in 2016. Our analysis estimates there will be up to 500,000 people who arrange their own care and support with eligible needs in April 2016.
275. We recognise some people who do not meet the eligibility criteria will come forward for assessment, which will place an additional burden on local authorities. We intend to work with local authorities to ensure effective information and advice and self-assessment tools to mitigate this effect.
276. Subject to the passage of the Care Bill we envisage that people cannot begin accruing costs towards the cap on care costs until 1 April 2016. That does not mean local preparation cannot happen before then. The Government agrees with ADASS and the LGA that it will be important to avoid a rush of people approaching local authorities on 1 April 2016 and some smoothing of the demand on local authority resources will be needed to ensure people are assessed in a timely fashion.
277. From April 2015, subject to the passage of the Care Bill, local authorities will have to ensure they meet the requirements set out in the Bill for people already receiving care and support. This will require all people to have a care and support plan which includes a personal budget. We expect local authorities to use the review they have planned with individuals throughout 2015 to make sure they meet these requirements. This will also ensure these individuals will have their personal budget calculated in advance of April 2016. This will ensure local authorities have the information they need to create a care account from 1 April 2016.
278. Local authorities have flexibility to begin assessments to determine eligibility and calculate an independent personal budget for people who arrange their own care and support in advance of April 2016. Issues we will need to consider when deciding how early these assessments could be brought forward include whether the assessments will remain valid, and reviews and/or re-assessments may be needed shortly after the date of implementation as a result. Local authorities will also need to consider the knock-on consequences to the demands on local authority reviews, or re-assessments in subsequent years. The length of time someone may have to wait for an assessment from a local authority after requesting one is also an important consideration. If a person approaches the local authority after 1 April 2016 and they have to wait before an assessment, their costs will be accrued from the point they contacted the local authority and asked for the assessment – effectively backdated – so they do not lose out.

279. A combination of early assessments before introduction of the cap on care costs and use of a range of options to meet the demand for assessments may be needed by some local authorities to meet this demand. We believe local authorities should consider beginning assessing people who arrange their own care and support from November 2015, six months before the implementation of these reforms. The Spending Round settlement announced on 26 June includes £285m of Local Government DEL and £50m of capital funding for local authorities in 2015/16 to cover the costs of implementation of the cap and the requirement to offer deferred payments for residential care.

IMPLEMENTATION QUESTION 1

Do you agree local authorities should conduct assessments of people who are funding their own care and support up to 6 months before the introduction of the cap on care costs?

IMPLEMENTATION QUESTION 2

How could local authorities use reviews they have planned with individuals throughout 2015 to prepare for introduction of the cap on care costs in 2016?

CALL FOR EVIDENCE 39:

We welcome examples of needs assessment practice and what we can learn from them to help manage the demands on local authorities from the introduction of the cap on care costs.

CALL FOR EVIDENCE 40:

We welcome views on how the Government, working in collaboration with local and national partners, can best encourage people who arrange their own care and support to come forward for an assessment prior to April 2016.

Transition to new charging arrangements

280. Charging arrangements are typically updated annually to reflect annual adjustments to benefits, and decisions on the financial limits, expenses allowances and other factors local authorities should apply each year. These are published at the beginning of the calendar year ready for use at the start of the new financial year in April.
281. The introduction of the new legal framework in the Care Bill in 2015 and the cap on care costs in 2016, together with planned welfare reforms will mean there will be a transitional period for the charging framework over the next few years. The figure below details the changes to the charging rules over this period.

Figure 13: Changes to charging rules in lead up to introduction of the new legal framework in 2015, cap in 2016 and beyond.

2014/15	<i>Annual update of residential care charging regulations and statutory guidance for non-residential and residential care settings.</i>
2015/16	<i>New charging regulations for non-residential care settings and update of residential care settings to reflect new legal framework and deferred payments, and roll out of universal credit.</i> <i>Subject to decisions on annual adjustments, the existing financial limit will continue to apply but new consistent, transparent approach to charging in all care settings will apply.</i>
2016/17	<i>Amendment of regulations in all care settings to reflect introduction of the cap, contribution to daily living costs when in residential care and the extension of financial limit in residential and non-residential care.</i>
2017/18 onwards	<i>Update to reflect welfare reform which is not due for completion until around 2018.</i> <i>First annual adjustment to the level of the cap, financial limit and daily living costs.</i>

Distribution of funding

282. The Government recognises the fiscal commitment that implementing funding reform entails. We provided detail on how the costs of the cap and extra financial support to people in residential care will be funded during the next Parliament to provide certainty.
283. Figure 14 below taken from the Social Care Funding Reform Impact Assessment details these costs which include provision for the increase in demand for additional assessments, reviews and care management.

Figure 14: Estimated costs of a £72,000 cap on care costs and extended means tested support implemented in 2016.

£ billions, 10/11 prices	16/17	17/18	18/19	19/20	20/21	21/22	22/23	23/24	24/25	25/26
Older People										
Cap and financial support	0.36	0.35	0.36	1.15	1.32	1.46	1.62	1.75	1.85	1.94
Assessment, Case Management and Review Costs	0.21	0.22	0.22	0.23	0.24	0.24	0.25	0.26	0.28	0.29
Working Age										
All costs	0.10	0.12	0.17	0.21	0.31	0.38	0.39	0.40	0.41	0.42
Total care and support cost	0.66	0.69	0.75	1.59	1.87	2.08	2.25	2.41	2.54	2.64
Savings to benefits¹⁰	-0.13	-0.13	-0.14	-0.25	-0.27	-0.28	-0.30	-0.31	-0.33	-0.34
Net Cost	0.53	0.56	0.61	1.34	1.60	1.80	1.96	2.09	2.21	2.30

284. To implement deferred payment agreements, the cap on care costs and extended access to financial support, we have been considering new adult care and support formulae. These formulae are used to allocate funding for social care to local authorities via Department of Health grants and NHS funding for social care. In addition, they were used in setting the starting position for the business rates retention scheme. The business rates retention scheme allows local authorities to increase their income by growing their local economies and collecting more business rates. This means Revenue Support Grant¹¹ now forms a smaller element of social care funding.

¹⁰ Savings to benefits include the reduction in the costs of attendance allowance (AA) and disability living allowance (DLA). State funded care home residents have their AA or DLA discontinued after 28 days of stay under current practices. The reforms results in more care home residents becoming state funded which results in this reduction.

¹¹ DCLG is consulting on changes to the Revenue Support Grant over the summer. This will not affect deferred payments or the capped cost model.

285. The Department of Health has commissioned independent experts to produce new funding formulae to allocate funding to local authorities for care and support. The work is being taken forward by LG Futures and the Personal Social Services Research Unit at the LSE and the University of Kent. LG Futures have recruited the LGA, ADASS and some of the local authority associations onto an external advisory group – together with some leading academics to ensure the research addresses the challenges facing care and support in 2015 and beyond.
286. Data collection from local authorities is planned, including details of people who arrange their own care and support. This could be available from autumn 2013 with a view to analysis and production of new formulae by spring 2014 and provisionally, a consultation on new formulae in summer 2014.
287. The new formulae could be used for deferred payments and other White Paper and Care Bill commitments, and in 2016/17, for the cap on care costs and extension of financial support. The Government has agreed in the Spending Round that £335m will be provided in 2015/16 to cover the costs of implementation of the cap and the requirement to offer deferred payments for residential care. No decisions have been taken on the use of the new formulae in this funding.

Workforce development

288. The Government recognises if the health and care and support system is going to proactively promote people's wellbeing and independence, reduce dependency, as well as supporting those who already need care and support, then the workforce delivering it will need to change.
289. The introduction of funding reform will add further to this workforce challenge. The increase in demands on local authority resources, together with the different needs, expectations and characteristics of the people that will come into contact with local authority systems from 2015 will present a capacity and capability challenge local authorities need to respond to.
290. This may require new approaches, systems and tools, and the extension of the workforce to include partners who work with local authority resources to deliver the desired outcomes. This could have implications for both the existing workforce, but also in terms of preparation and guidance needed by commissioners and workforce leads to make decisions about what may fill this 'gap'.
291. We are working with the ADASS Workforce Development Network and Skills for Care as part of their workforce development role. Together they have access to the knowledge and experience of local workforce issues across all local authorities, and good practice in workforce development. Through them, we will provide the sense of direction for local government on workforce development issues, and will support the definition of the professional standards and training needed to meet these challenges.

IMPLEMENTATION QUESTION 3

We welcome views on the implications for commissioners and workforce leads from the potential use of partners' resources to help manage the demands on local authorities from the introduction of the cap on care costs and how this should be addressed within the workforce development strand of the implementation programme.

Information system development

292. Information systems vary considerably across the 152 local authorities in England. New functionality has to fit within the existing development roadmap for the supplier and the local authority upgrade plans.
293. Care and support information systems and finance systems within local authorities will need to change to meet the challenge of the introduction of deferred payments in April 2015 and the extended access to financial support for people in residential care and the cap on care costs in April 2016. This must build on work to support delivery of the improvements of information and advice at local and national levels set out in the *Caring for our future: reforming care and support* White Paper.
294. Implementation of funding reform, and the improvements to delivery of information and advice we want to see, will be dependent on a better understanding, cohesion and improved joint action across the local government sector as a whole. We will need to consider a range of options including extension to existing local authority case management systems and/or financial systems, extension of existing e-marketplace solutions to cater for different approaches to the assessment of needs, financial assessment, care planning and the new care account requirements on either a local, or regional basis.
295. To begin to consider the options in detail we are working with ADASS through its national Information Management Group. As a representative organisation they draw together and have access to the knowledge and experience of local informatics and IT expertise across all local authorities and have good links to IT suppliers.
296. The Government will work with ADASS and other interested parties to explore the opportunity this change brings to support integration with health and other organisations' IT systems, through greater and more consistent use of the NHS number as a person's unique identifier. It is important this supports wider developments around ADASS' vision for a web of support.
297. Online solutions offer the potential for greater support to people to maintain their independence, and have choice and control over their care and support. Records and personal information about a person's care and support could be stored and accessed online by the person, or a representative. Links could be provided to local authority information and advice systems. It would even be possible to provide transactional connections to care and support providers. However, we recognise this approach is not without risk, and we will need to understand the appetite of people receiving care and support for an on-line solution and technical challenges to such a solution first.

298. At this stage, we are focusing mainly on developing a cohesive approach across the sector including establishing key requirements for the systems. Publications or advice documents may be developed at a later date. We welcome views on likely reaction and appetite for possible solutions, including the extent to which we should seek to specify requirements at the national level to guide development of individual software solutions.

Market shaping and oversight

299. Greater transparency over the prices of types of care and support could provide consumers of care and support with improved market information assisting them in their choices and decisions over the care they purchase. Local authorities should have better data on the needs of people in their area and how these needs are being met in domiciliary through to residential care settings. They will therefore have a clearer oversight of the shape of local demand and supply. This should help them to develop their strategy for the development of a local market that meets people's needs effectively, and to work with care and support providers to achieve this vision.
300. With the introduction of the cap, a person who is receiving care and support and paying the costs themselves will increasingly have contact with their local authority to establish their eligible needs and get their care account switched on. They will therefore become aware of the costs local authorities could secure their care provision for (as this will be the rate at which they progress toward the cap on care costs), and could ask the local authority to meet the needs – although the local authority can charge a fee to cover the costs of arranging this service (see *Requesting the local authority to arrange your care – the arrangement fee* for details).
301. This could present both local authority commissioners and care and support providers with new challenges and opportunities. It is likely this greater transparency in the prices paid by the local authority will change the care and support market, although it is not clear whether pressure may fall on commissioners, care and support providers or both. We are seeking evidence to help us better understand how the market may change in response to these reforms with a view to developing a programme of work to address them.

IMPLEMENTATION QUESTION 4

We welcome views on how local authority commissioning and care and support provider provision should adapt to take advantage of the opportunities provided by the introduction of funding reform and respond to the challenges it may present.

IMPLEMENTATION QUESTION 5

We welcome views on how funding reform and increased transparency will affect the shape of local markets for types of care and support, and evidence to understand how the demands on local authorities to arrange care on behalf of people who arrange their own care and support may change.

Direct payments in residential care

302. The scope of the direct payments in residential care programme has been changed to reflect the commitment to roll out direct payments to adults receiving residential care in April 2016 alongside the introduction of the cap (see section on *Personal choice and control over care – direct payments in residential care*). The sites that have been selected to test the policy will remain in place as trailblazers to help collect best practice evidence to inform future guidance to be used upon roll-out and test interactions with the cap.
303. The trailblazers consist of a variety of local authority type, and differ by geographic location, local population and care home providers. We are working on proposals for an independent evaluation that will report on the methods used to implement the policy, and help to inform future guidance on implementation. Regulations currently restrict direct payments from being provided for long-term residential care, so we will introduce an amendment to allow the trailblazers to legally provide direct payments. The trailblazers are establishing their internal processes over the summer, with the plan to go live with direct payments in residential care from autumn 2013.

Annex B: List of Questions

List of all questions by type: Consultation, Call for Evidence and Implementation.

Consultation Questions

Paying for Care

Fairer and more consistent charging – the charging framework

Consultation Question 01

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.

Fairer cap for working age adults – varying the levels of cap

Consultation Question 02

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.

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 there 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?

Aligning contributions in different care settings – daily living costs

Consultation Question 04

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?

Who will qualify for a deferred payment?

Consultation Question 05

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?

What fees can someone defer?

Consultation Question 06

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?

How long can the deferred payment last?

Consultation Question 07

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?

Wider flexibility to offer deferred payments

Consultation Question 08

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?

Calculating what counts towards the cap

Consultation Question 09:

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.

Recording progress towards the cap – the care account

Consultation Question 10

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?

Providing redress and resolving complaints

Consultation Question 11

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.

Call for Evidence

Staying independent for longer – planning and preventatives

Raising awareness - information and advice

Evidence Question 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?

Advice on financial planning and decisions

Evidence Question 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?

Encouraging people to plan to pay for their care and support

Evidence Question 3

We welcome views on how, through implementation of funding reform, we can encourage people to take responsibility for planning and preparing for future care and support. What could prevent people from taking responsibility for paying their contribution towards care costs? What can Government, local authorities or others do to address these?

Assessment of the Care and Support you need

Accessing the cap on care costs – managing demand for assessments

Evidence Question 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?

Removing barriers to integration of services – joint assessments

Evidence Question 5:

How through the implementation of the cap, deferred payments and the new charging regime can we support integrated health and care planning for both the person receiving care and carers? What potential barriers to integration could implementation of the cap or the charging framework create, and how might we reduce or overcome them?

Ensuring individuals are able to access and benefit from these reforms

Evidence Question 6

Do you have any evidence on how we can best ensure everyone can access and benefit from these reforms? In particular, we would like to gather evidence on the protected characteristics of:

- Disability
- Age
- Sex
- Race
- Religion or belief
- Gender reassignment
- Sexual orientation and marriage and civil partnership
- Pregnancy and maternity.

Accessing support towards your care cost – the financial assessment

Evidence Question 7

What flexibility should be given to Local Authorities in how they provide financial assessments to accommodate the introduction of the cap, extended access to financial support and meet demands on Local Authority resources? How can we ensure financial assessments are proportionate yet still provide an accurate valuation of a person's assets?

Paying for Care

Fairer and more consistent charging – the charging framework

Evidence Question 8

We welcome views on the potential advantages and disadvantages from a common approach to charging. In what areas could a common approach be taken in the charging rules across all care settings? In what areas would different approaches be needed to reflect the different circumstances of people who are receiving care and support in the range of care settings? Please explain your answer illustrating with evidence on the number of people who could be affected where possible.

Requesting the local authority to arrange your care – the arrangement fee

Evidence Question 9

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?

Evidence Question 10

What incentives could charging of an arrangement fee have on people receiving care and carers, Local Authorities or providers?

Fairer cap for working age adults – varying the level of cap for different ages

Evidence Question 11

What additional evidence can you provide on the ability of people of different ages to plan prepare and build up assets both before and after they develop eligible care needs?

Evidence Question 12

How could new charging rules work together with options for a lower cap to address problems face by working age adults? Please explain how this would deliver the following principles:

- Ensure that people in similar circumstances (age, care needs, and financial assets) should make a similar contribution to their care costs. For example people who develop care needs at 44 and 46 years old should have a similar cap;
- Reflect the ability of people of different ages' to plan, prepare and build up savings to meet their care needs;
- Be simple for people to understand and feasible for local authorities to implement;
- Support integrated care and effective transitions between services helping people to have their needs met in the most appropriate care setting;
- Help people to live independent lives meeting their goals and aspirations;
- Ensure any reforms are sustainable in the long term
- And ensure that the overall costs of the reforms are unchanged.

Evidence Question 13

What factors should determine the age it is appropriate for people to begin to contribute towards the cost of meeting their eligible needs? What factors should determine how the cap on care costs should rise after this point?

Evidence Question 14

How should the cap on care costs be set for people whose eligible needs are initially met by services other than adult care and support? Please explain your answer.

Universal deferred payment agreements – 12 week property disregard

Evidence Question 15

How could the 12 week disregard be used to better support people to make decisions and practical arrangements about their care and finances?

Who will qualify for a deferred payment?

Evidence Question 16

What situations may make it more challenging to offer a deferred payment? How can we address such situations to ensure people have consistent access to deferred payments without putting the local authority at unfair financial risk?

Use of disposable income

Evidence Question 17

Should people be free to decide the proportion of their care costs met by their income and how much is deferred? Or should they be required to pay their care costs from income (leaving only an allowance to cover personal and household costs) and defer the remaining balance?

Evidence Question 18

If you think people with significant disposable income should contribute some of their income towards their care fees, then what types of personal and household expense should be taken into account before determining the income contribution?

Support for homeowners

Evidence Question 19

How could local areas develop support for homeowners to maintain, sell or rent their home? Are there examples of good practice that already exist? How could support innovation in this area in the future? What is the likely impact of deferred payments on housing more generally?

Information and advice

Evidence Question 20

What information do people need when they take out a deferred payment?

Ensuring deferred payments are financially sustainable

Evidence Question 21

What are the administration costs associated with offering a deferred payment, and which of these costs is it appropriate to pass on to the resident?

Alternative approaches to recovering local authority costs

Evidence Question 22

What alternative approaches would still allow authorities to recover their costs, for example based upon approaches from Islamic finance?

Local Authority processes for setting up deferred payments

Evidence Question 23

How well do current Local Authority processes for deferred payments currently work and what could improve?

Wider flexibility to defer payment

Evidence Question 24

If you agree that local authorities should have additional flexibility to defer care charges, what situations would these powers help with? Are there any factors local authorities would need to take into account to ensure fairness and to avoid excessive costs? Please provide detail of how the deferred payment would work in practice.

Improved options for those who pay for their care

Evidence Question 25

What financial solutions will be important in helping different groups pay for their care? What are the priorities in terms of supporting the market to develop?

Meeting your eligible needs

Measuring what counts towards the cap – the personal budget

Evidence Question 26

What additional information should be included in a personal budget or independent personal budget to accommodate these reforms, provide greater transparency and support planning?

Calculating what counts towards the cap

Evidence Question 27

What sort of information does a local authority need to calculate an independent personal budget that they might not get through an assessment?

Evidence Question 28

How should we build on the common principles for resource allocation systems (covering five areas: equity, people with high support needs, future-proofing, unpaid care and support, needs of carers), existing good practice and guidance to ensure consistency, equity and transparency in the setting of independent personal budgets? How should this be reflected in the requirements for local authority information systems?

Reviewing needs and budgets as circumstances change

Evidence Question 29

How can we ensure a proportionate approach to reviews so personal budgets and independent personal budgets record the costs of meeting a person's needs as circumstances change?

Recording progress towards the cap – the care account

Evidence Question 30

We welcome views on whether the annual care account statement should also include projections of when a person may reach a cap, or qualify for financial support, and how this can be provided without putting Local Authorities at risk of unfair challenge.

How would this support a person's planning? What impact would this have on the complexity of Local Authority systems needed to operate the care account? How can Local Authorities reduce the risk of challenge?

Who is responsible for your cap or deferred payment – ordinary residence

Evidence Question 31

We welcome views on what incentives the cap on care costs and deferred payment arrangements in combination with ordinary residence rules may create for individuals, or local authorities, and how the number of transfers between local authorities may change as a result.

Evidence Question 32

We welcome views on how we can support Local Authorities understand who is responsible for the person's care account and deferred payment agreements.

Providing redress and resolving complaints

Evidence Question 33

Given the reforms to the care and support funding system do you consider that existing processes to provide redress and resolve complaints are appropriate and accessible? Please explain your answer.

Evidence Question 34

Do you agree that a tribunal system would be likely to slow down the process of resolving complaints and add significant costs, introducing a further burden on the system? Please give evidence to support your answer.

Evidence Question 35

Are there any lessons that can usefully be drawn from complaints processes in other sectors or local areas? Please provide evidence of approaches in other sectors that you believe would be more effective.

Evidence Question 36

Do you have a view on the strengths and weaknesses of applying a similar mechanism to the schools admissions code appeals process to adult care and support?

Transition to local support

Evidence Question 37

How should the transition for people who have been arranging their own care and support be managed most effectively? How should the key requirements placed on local authorities - care and support plans, personal budgets, direct payments, right to a choice of accommodation - be used proportionately to support this process?

When the cap on care costs is reached

Personal choice and control over care – additional payments (“top-ups”)

Evidence Question 38

The provision of financial advice on paying for care will help manage some of the risks to local authorities, care and support providers and the adult. What more could be done to manage these risks in a way that is consistent with allowing people choice over their care and support?

Transition to the introduction of the cap

Evidence Question 39

We welcome examples of needs assessment practice from elsewhere and what we can learn from them to help manage the demands on local authorities from the introduction of the cap on care costs.

Evidence Question 40

We welcome views on how the Government, working in collaboration with local and national partners, can best encourage people who arrange their own care and support to come forward for an assessment prior to April 2016.

Implementation Questions

Transition to the introduction of the cap

Implementation Question 1

Do you agree local authorities should conduct assessments of people who are funding their own care and support up to 6 months before the introduction of the cap on care costs?

Implementation Question 2

How could local authorities use reviews they have planned with individuals throughout 2015 to prepare for introduction of the cap on care costs in 2016?

Workforce development

Implementation Question 3

We welcome views on the implications for commissioners and workforce leads from the potential use of partners' resources to help manage the demands on local authorities from the introduction of the cap on care costs and how this should be addressed within the workforce development strand of the implementation programme.

Market shaping and oversight

Implementation Question 4

We welcome views on how local authority commissioning and care and support provider provision should adapt to take advantage of the opportunities provided by the introduction of funding reform and respond to the challenges it may present.

Implementation Question 5

We welcome views on how funding reform and increased transparency will affect the shape of local markets for types of care and support, and evidence to understand how the demands on local authorities to arrange care on behalf of people who arrange their own care and support may change.

Annex C: Case Studies

Mrs M, aged 85 develops a need for care and support and receives support in a care home.

As her assets are under £118,000 she is eligible for local authority support.

<i>She has</i>	
Assets	Income
£10,000	£230pw (pension)

The local authority calculates that her needs can be met in a local care home costing £650 per week.

She has a financial assessment to determine how much she can afford to pay.

She initially contributes £135 per week.

<i>Local Authority contributes</i>	<i>She contributes</i>
Care Costs (which count towards the cap) £420 per week	Daily Livings Costs £230

Mrs M reaches the cap after 3 years 4 months. Her financial contribution does not change as the state is already paying her care costs.

She remains in the care home for one more year. After which her assets remain £10,000.

Mr A, aged 70, develops dementia and moves into a care home.

His assets are over £118,000, so he does not qualify for local authority support.

In addition to his pension, he receives attendance allowance (AA)* at the higher rate of around £90 per week.

The local authority calculates his needs can be met in a local care home which costs £650 per week. However he chooses to pay an additional £150 per week to move into a different care home of his choice.

<i>He has</i>	
Assets	Income
£300,000	£390pw (from his pension and AA)

<i>He contributes</i>		
Care Costs (which count towards the cap) £420 per week	Daily Livings Costs £230	Top Up £150

He reaches the cap after 3 years and 4 months, after which:

The local authority pays £420 per week to meet his needs. He remains responsible for his daily living costs and his £150 top up.

<i>Local Authority contributes</i>	<i>He contributes</i>	
Care Costs (which count towards the cap) £420 per week	Daily Livings Costs £230	Top Up £150

Mr A remains in the care home for one more year, after which his remaining assets are around £210,000.

*Attendance Allowance (AA) is a non means tested benefit for severely disabled people aged 65 or over who need help with personal care

Mrs B, age 80, develops arthritis and needs care and support in her own home.

The value of her assets *excluding* her home is £20,000. Her home is worth £200,000 but this is not considered within the calculation of her assets because she is receiving care in her own home. Her income is £260 per week, including lower rate attendance allowance (AA)* worth around £60 per week.

<i>She has</i>	
Assets	Income
£20,000 (excluding her home)	£260pw (from her pension and AA)

The local authority calculates her needs can be met at a cost of £100 per week.

She has a financial assessment to determine how much she can afford to pay. As a result, she contributes £62 a week.

<i>Local Authority contributes</i>	<i>She contributes</i>
	Care Costs £100 per week

After 3 years her care needs increase and she moves into a care home. At this point her progress towards the cap is £16,000. This is the total amount paid by Mrs B and the local authority by that point.

Her assets (not including her home) have reduced to £18,500.

As Mrs B is now receiving residential care so her home is now considered as part of her assets – her total assets are now considered to be £218,500.

As Mrs B has assets over £118,000 she does not qualify for financial support.

She receives higher rate attendance allowance* of £90 per week.

<i>She has</i>	
Assets	Income
£218,500	£290pw (from her pension and AA)

She enters a care home at the local authority rate of £630 per week. For the first 12 weeks she pays around £180 per week as the value of her home is not considered in determining how much she can afford to pay. (This is a benefit that all new care home residents are entitled to.)

<i>She contributes</i>	
Care Costs (which count towards the cap) £400 per week	Daily Livings Costs £230

After 12 weeks, the value of her home is considered in determining how much she can afford to pay, and she becomes responsible for meeting her costs of £630 per week. Mrs B uses a deferred payment to cover these costs.

Mrs B reaches the cap after 2 years and 10 months in the care home. After which:

The local authority pays £400 per week to meet her needs.

She remains responsible for her daily living costs.

She is no longer eligible for attendance allowance as the local authority contribution is meeting her care needs.

<i>Local Authority contributes</i>	<i>She contributes</i>
Care Costs (which count towards the cap) £400 per week	Daily Livings Costs £230

She remains in the care home for one more year after which her remaining assets are around £167,000. (This does not consider any potential interest on the deferred payment agreement.)

*Attendance Allowance (AA) is a non means tested benefit for severely disabled people aged 65 or over who need help with personal care

Mrs J, age 45 develops a need for care and support in her own home.

As the value of her assets excluding her home is less than £27,000 she is eligible for financial support.

Her income is not earned income and therefore is chargeable.

For illustrative purposes her cap is set at £30,000.

<i>She has</i>	
Assets	Income
£10,000 (excluding her home)	£230pw (including benefits)

The local authority calculates her needs can be met for £150 per week.

She has a financial assessment to determine how much she can afford to pay.

She initially contributes £5 per week.

<i>Local Authority contributes</i>	<i>She contributes</i>
Care Costs £150 per week	

She reaches the cap after 3 years 11 months.

The local authority pays £150 per week to meet her needs.

She requires care for 5 more years. After which her assets (excluding her home) remain £10,000. The local authority has contributed over 95% of the cost of the cap.

<i>Local Authority contributes</i>
Care Costs £150 per week

Mr T, aged 70 has a stroke, after leaving hospital he moves into a care home.

As his assets are over £118,000 he does not qualify for local authority support.

The local authority calculates his needs can be met in a local nursing home costing £810 per week.

The NHS contributes £110 per week to meet his nursing care needs.

He also receives attendance allowance* at the higher rate of around £90 per week.

<i>He has</i>		
Assets	Income	
£300,000	£390pw (pension and AA)	
	<i>He contributes</i>	
<i>NHS funded</i>	Care Costs (which count towards the cap)	Daily Livings Costs
£110	£470 per week	£230

He reaches the cap after 3 years 4 months after which:

The local authority pays £470 per week to meet his needs.

The NHS continues to fund his nursing care.

He remains responsible for his daily living costs.

<i>NHS funded</i>	<i>Local Authority contributes</i>	<i>He contributes</i>
Nursing Costs	Care Costs (which count towards the cap)	Daily Livings Costs
£110	£470 per week	£230

Mr T remains in the care home for one more year after which his remaining assets are around £243,000.

*Attendance Allowance (AA) is a non means tested benefit for severely disabled people aged 65 or over who need help with personal care

Mr S, aged 87 has a fall and moves into a care home. His wife, Mrs S continues to live in their home.

As Mr S is living in their home is not included in calculating how much Mr S can afford to pay for care. Half of Mr and Mrs S's assets (excluding their home) is considered when calculating how much he can afford to pay for care.

<i>He has</i>	
Assets	Income
£25,000 (excluding home)	£350pw (pension)

The local authority calculates his needs can be met in a local care home costing £650 per week.

He has a financial assessment to determine how much he can afford to pay.

He is assessed as being able to contribute £357 per week.

<i>Local Authority contributes</i>	<i>He contributes</i>
Care Costs (which count towards the cap)	Daily Livings Costs
£420 per week	£230

He reaches the cap after 3 years 4 months after which:

The local authority pays £420 per week to meets his needs.

He remains responsible for his daily living costs.

He remains in the care home for two more years after which his remaining assets excluding his home are worth are around £21,000. Mrs S still has all of her half of the non-housing assets and the family home.

<i>Local Authority contributes</i>	<i>He contributes</i>
Care Costs (which count towards the cap)	Daily Livings Costs
£420 per week	£230

Glossary of terms

Assessment

Identifies a person's care needs in relation to what they want to achieve by looking at what they can do, as well as what they cannot do. This supports people to identify their needs, understand the options available to them and make plans to meet them. An assessment will determine whether a person has eligible needs and whether they can therefore receive care and support from the local authority or not (see *Eligible needs* below).

Attendance Allowance

Financial support provided to help with personal care because of a physical or mental disability for those aged 65 or over.

Capital/ asset limits (Financial limit)

Used in the financial assessment to determine when a person needing care qualifies for state financial support and, along with the adult's income, determines how much the adult and the local authority will each contribute towards the costs of meeting their eligible needs.

Currently the lower and upper capital limits are defined for people who need residential care. The upper capital limit – referred to as the 'financial limit' in the Care Bill – defines the level of assets below which a person needing care may get some financial support towards the care costs on a sliding scale. This is currently £23 250. (See *Tariff income* for details of how this is calculated.) The lower capital limit defines the level of assets below which only a person's income is considered when determining the person's contribution towards the costs of their care. This is currently £14 250.

Cap on care costs

The lifetime cap on the costs that individuals should have to pay towards their long-term care, with the state paying for the costs to meet the person's eligible needs after the cap is reached (see *Eligible needs* below). This will mean that no one will face the prospect of potentially unlimited care costs.

Care Account

A record of a person's progress towards the cap on care costs, retained by a local authority for everyone who has had eligible needs at any time (see *Eligible needs* below).

Care and support

Care and support helps people who cannot manage by themselves with everyday tasks. For example, people may need help to live in their own home, get washed and dressed, go out and about, meet friends.

People may also need help and support when they are upset or feel they cannot cope. You may need care and support because you are old or because you have an illness or disability which makes it difficult to look after yourself.

Daily living costs

The costs of accommodation, food, heating and other expenses not related to a person's care needs that a person needing care would expect to pay whether in their own home or receiving residential care. From 2016, people receiving residential care will be responsible for a contribution to their daily living costs before and after reaching the cap. This contribution is set at around £12,000 in April 2016.

Deferred Payment Agreement

An agreement by which an individuals may defer payments payable to the local authority for chargeable services. Normally the debt is secured against their house or property. This allows people to delay the need to sell their home to pay for care.

Direct Payment

Cash payments made to individuals who have been assessed as eligible for publicly funded care and support. The cash payments enable individuals to choose the support that best meets their needs and that will achieve agreed outcomes.

Disability Living Allowance (DLA)

Disability Living Allowance is a tax-free benefit for disabled children and adults to help with extra costs associated with the needs arising from a disability.

Domiciliary care (or Homecare)

Care that is provided to people with care and support needs in their own home.

Eligible needs

Those needs for care and support which a local authority may be required to meet and in doing so will involve the person needing care in developing a care and support plan which is based around their personal needs, outcomes and preferences. Although local authorities will have powers to meet any other needs, the determination of eligible needs is important in enabling people to access care and support including the cap on care costs and deferred payment agreements.

Financial assessment

An assessment by the local authority of a person's income and capital to determine whether they qualify for financial support according to rules set out in regulations defined by the Secretary of State for Health. The financial assessment determines how much the person needing care and their local authority will contribute towards the cost of the care in non-residential and residential care. The calculation is currently based on defined capital limits and tariff income (see definition of *Capital/ asset limits* and *Tariff income* below for more details).

Independent Personal Budget

People who have eligible needs, but who are not having them met by their local authority because they are funding and organising their care for themselves, will get an independent personal budget. This is equivalent to the personal budget and details how much it would cost

the local authority to meet the person's needs if they were under a duty to meet them. It determines a person's progress towards their cap on care costs.

Local authority

This is the local council. Local authorities provide a wide range of services to their local population.

National minimum eligibility criteria

From April 2015 all local authorities will have to meet a person's needs which meet the national minimum eligibility threshold. They set a standard that local authorities can add to but cannot take away from. Regulations will set out a minimum threshold on what needs are eligible for care and support in local authorities across England, for people needing care and carers respectively.

Non-residential care

Care provided to vulnerable people whose needs are met in their own homes, or other equivalent settings such as shared lives, sheltered housing. Fees typically cover the costs of care only, and living costs are paid for separately.

Ordinary residence

Responsibility for providing care and support rests with the local authority in whose area the person is ordinary resident. In most cases this simply means where the person lives. A person is generally ordinary resident in the place where they are voluntarily settled.

Personal budget

All individuals who have eligible needs which the local authority is under a duty to meet will receive a personal budget. The personal budget defines the amount of money that it would cost the local authority to meet the person's needs. It determines a person's progress towards their cap on care costs by defining how much is credited to a person's care account each week.

Personal Independent Payment (PIP)

Financial help with some of the extra costs caused by long-term ill-health or a disability for those aged 16 to 64. PIPs started to replace Disability Living Allowance (DLA) from 8 April 2013.

Residential Care

Nursing homes and residential care homes that provide around the-clock care to meet the needs of people who can no longer be supported in their own homes or another non-residential setting. Homes may be run by local authorities or independent providers. Fees cover both the costs of their care and living costs such as food, electricity and heat.

Resource allocation system

System used by local authorities to calculate what they would expect to pay for care and support for different types of need and to monitor and review these costs over time.

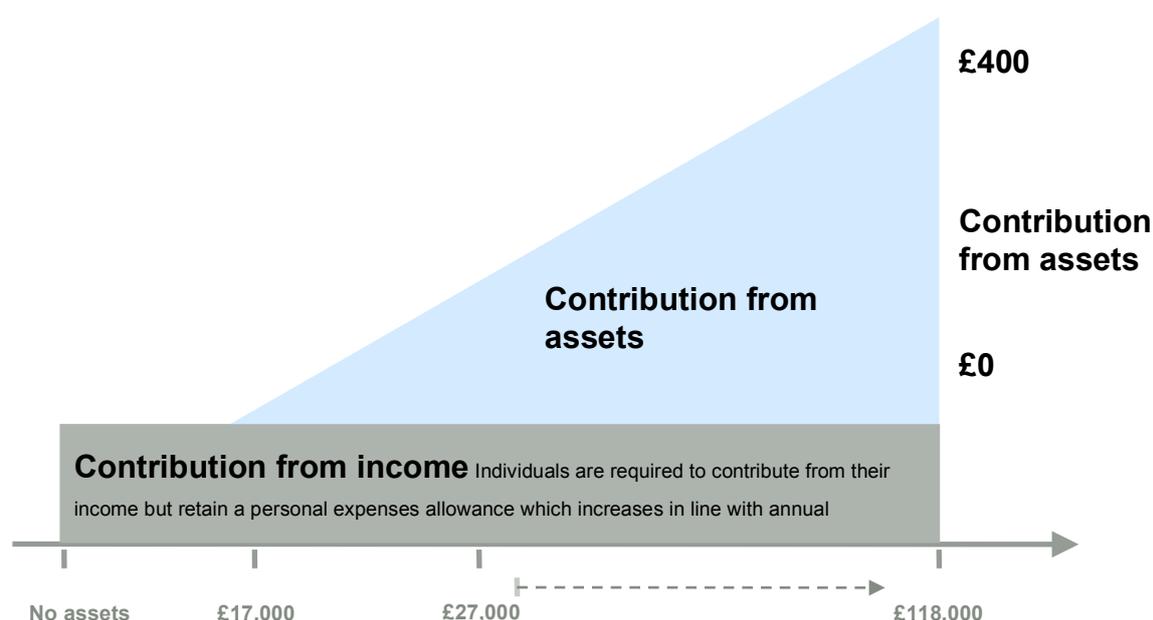
Tariff income

People receiving financial support contribute towards their care costs from their assets. This contribution is called the tariff income.

Currently people in residential care only receive financial support if they have less than £23,250 in assets. People are expected to contribute towards their care costs from their income. If they have assets greater than £14,250 then to take account of these assets they are expected to make a contribution of £1 from every £250 in assets between above £14,250 and below £23,250 every week towards the costs of their care. If their assets are below £14,250 then the person needing care is only expected to contribute from their income.

From 2016 these limits will be extended to £17,000 and £118,000 (when the person is receiving residential care and their home is included in the financial assessment of their available assets). Figure 15 below illustrates how the calculation of the contribution from a person's assets could be calculated if the current contribution of £1 for every £250 of assets is used when these new limits are introduced in 2016.

Figure 15: Illustration of how financial support in residential care could work in the reformed system.



This is for illustrative purposes only. The calculation of a person's contribution towards the costs of their care and support needs from their assets will be determined following consideration of the responses to the consultation.

Top-ups (Additional payments)

Extra payments for additional services or facilities paid by the person needing care or a third party over and above the cost the local authority would pay to meet the eligible needs of the person needing care.

12 week property disregard

Property owned by a person receiving care and support in residential care is excluded from the financial assessment of their capital for the first 12 weeks of the move to a care home if that move is permanent. Any property owned by an adult receiving care and support in residential care will continue to be excluded from the financial assessment of their assets (often referred to as the home being 'disregarded') as long as it is occupied in whole or in part by their partner, a relative who is aged 60 or over or who is incapacitated, or a child of the resident who is under 16.