London Councils Response

CARE ACT 2014

LONDON COUNCILS RESPONSE TO THE CONSULTATION ON THE CARE AND SUPPORT STATUTORY GUIDANCE AND REGULATIONS

London Councils represents all 32 London boroughs and the City of London. London Councils is committed to fighting for more resources for London and getting the best possible deal for London's 33 councils. We develop policy, lobby government and others, and run a range of services designed to make life better for Londoners.

1. OVERARCHING KEY ASKS

i. **Government must commit to fully funding the reforms – this includes:**

   a. **Funding for implementing the measures that come into place in 2015/16 and for the preparatory work needed that year for measures to start from April 2016. This is estimated by London Councils to be in the region of at least £90 million and latest indications are that (if boroughs are able to secure the full amount they should be getting through the Better Care Fund) London will only get £54 million – a funding gap of £36 million.**

   b. **Funding to implement the reforms which for the period 2016/17 to 2019/20 are estimated by London Councils to be in the region of £738 million.**

ii. **Allocations formulae for the reforms should reflect the real cost pressures faced by different areas. London for example has a higher cost of living impacting on a range of areas such as staff costs, costs of care etc.**

iii. **Current testing by councils has shown a potential increase of approximately 25% in demand from people who become eligible for care and support under the proposed new eligibility criteria - equating to approximately £67 million in London. If this difference is intended then the additional demand should be fully funded. If it is not, then the guidance needs to be amended to clarify areas of uncertainty.**

iv. **Given the significant uncertainties around the numbers of people who will be affected and how some of the major policy changes will play out, Government should ask the National Audit Office to track and cost the full implications of implementing the Care act over the period 2015/16 – 2019/2020 and report annually to Parliament on this.**

v. **The cost implications of implementing the overarching principle of wellbeing and prevention are not considered as part of the impact assessment for the Care Act. It is likely that this could have significant**

implications on council resources which the Department of Health should address in a revised impact assessment.

vi. **Other partners, such as the NHS, the Homes and Communities Agency (HCA) and police, have vital roles to play that will be critical to local authorities' ability to deliver effectively on their new duties and responsibilities on integration, prevention, safeguarding, partnership working etc. Government must clarify how it will ensure equivalent requirements are placed on them through legislation, performance frameworks or other appropriate mechanisms.**

vii. **Implementation of the deferred payments extension should be delayed by one year and introduced with the funding reforms in 2016/17 to enable adequate time for the development of appropriate local financial systems appropriate for all the funding reforms.**

viii. **Strengthen guidance to enable councils to make it a condition of deferred payments that the house cannot be left empty for long periods of time.**

ix. **Government should develop a voluntary national kitemark or accreditation system for Personal Assistants to provide assurance and safeguards for service users.**

x. **The Care Act gives local authorities an important role to play in assisting people to start plan more clearly for their future care needs. But 58% of people currently expect their care needs to be funded by the state. The scale of behaviour change required cannot be achieved without government playing a leading role in changing expectations and ensuring there is a national market in financial and other advice and tools. The Government needs to clarify what it will be doing on this and when, so that local authorities can factor this into their implementation planning.**

2. WIDER CONTEXT ISSUES THAT SHOULD BE TAKEN INTO ACCOUNT WHEN CONSIDERING FUNDING FOR THE REFORMS

There are a number of wider context issues that need to be taken in to account when considering funding for the reforms. Any funding allocation and formulae for the Care Act will need to take in to account the cost of living in London which is higher than the rest of the country; this will therefore have implications on the costs for implementing the Care Act as outlined below:

i. **The cost of care** - The cost of living and wages in London are higher than the rest of the country; this will therefore have implications on the cost of care. The cost implications therefore of implementing the new measures in 2015/16 such as the additional assessments will therefore be much higher in London than other regions.

When the funding reforms start in 2016/17 the higher cost of care in London will continue to be a significant issue. Where care costs more, care users will reach the cap sooner and therefore be more likely to reach the cap. In London a residential home costs on average £32,500 per year, and a care home with nursing costs on average £42,900 per year, this is 14% more than the England average.

Based on our analysis on average people in London are likely to reach their contribution cap in 3.5 years while other regions such as the north east will take up to on average 5.7 years as the costs of care are lower. London Councils research has

found that because it takes less time to hit the cap in London, there could be around a 27 per cent increase in people eligible for local authority support for their care in London due to the cost cap. In comparison only 3 per cent in the north east and 15 per cent nationally are likely to hit the cap.

ii. **Saving for future care and support needs** – Whilst levels of wealth in London vary significantly, the median financial wealth[1] in London (£5,600) is lower than the England average (£6,200) and less than half that of the South East (£12,300). An individual's savings is often lower in London due to the higher cost of living therefore disposable income will be lower. A lower disposable income will have an impact on how much an individual is able to save and pay towards their care.

This lower level of savings is compounded by the lack of understanding of how the care system works. An Ipsos Mori survey[2] showed that three in five Londoners incorrectly believe they won't have to pay anything towards the costs of their old-age care. Fifty-eight per cent believe that should they need to use care and support services in the future these will be free.

A greater range of financial products need to be made available to the public to enable them to save for their future care needs more easily. Until this shift in culture has taken place London will still need its funding allocation to reflect that people have less savings when the time comes for them to pay for their care.

iii. **Owner Occupation levels**– Home ownership levels are lower in London than in any other parts of the country with just 21.1% outright home ownership compared to 30.8% across England and Wales[3]. London also has the lowest proportion of over 65 outright homeowner households with just 56.4% compared to the national 66.8%. Releasing housing equity is a main way that people are able to contribute towards their care, low home ownership means people have less available to go towards their care.

iv. **Workforce pressures** - The care and support reforms have significant workforce implications. There are concerns that due to the need for higher staffing resources there could be a shortage of trained staff available and this could push the workforce costs up for councils – costs are further increased in London by the London Living wage. The London Report, 2013[4] shows the median pay rate for care workers in London is £7.00 hour compared to the median in England of £6.75 per hour, social workers in London are paid £3,000 more than the England median and senior social care managers in London are paid approximately £14,000 more than the England median.

A further concern regarding the workforce is London local authorities draw their workforce from the same pool due to easier transport links illustrated in the recent census data which has shown that over two million Londoners work in a different London local authority to their residence.

v. **Impact of London's diversity**: London is the most diverse city in the country with more than 100 different languages spoken in nearly every London borough by communities that reflect a wide range of ethnicities, religions and cultures. Over 22

[1] ONS wealth and assets survey
[2] Ipsos Mori (2014) http://www.ipsos-mori.com/researchpublications/researcharchive/3302/Care-costs-unknown-to-most-Londoners.aspx
[3] ONS Home Ownership and Renting in England and Wales
[4] London Report, 2013 from the National Minimum Data Set for Social Care (NMDS-SC)

per cent of Londoners do not have English as their first language, over three times that of the West Midlands which is the second most diverse region at 7.1%. This difference is even starker when just looking at over 65s. 14% of London's over 65 population do not have English as a first language, other regions are significantly lower, ranging from 0.7% in the north east to 3.7% in the west midlands.

The guidance sets out a need for councils to consider and have regard to the diverse languages (par.3.20 and 3.56) in their area in the provision of information and advice, this is likely to have a considerable impact on resources for London in the way they offer information and advice compared to some councils in other parts of the country. This proposal is particularly concerning for London boroughs as they come at a time when the Department for Communities and Local Government's message has been moving towards reducing the need to provide language specific advice and information.

OUR ASK

- **Government must ensure that any funding allocation linked to the Care Act reflects the real costs, including regional variations.**

3. FUNDING THE REFORMS IN 2015/16

There are significant new burdens arising from the reforms in 2015/16. These include new duties to be implemented in 2015/16 such as deferred payment assessments, a national eligibility threshold, information and advice, carers' assessments and carers' support.

Local authorities will also need to prepare for the funding reforms in 2016/17 addressing things such as - staff training and recruitment, self-funder assessments; IT upgrades to prepare for care accounts. The operational challenges of this scale of change are increased by the significant unknowns relating to behaviour and take up of service users as well as numbers of self funders.

Our early assessments suggested costs in London in 2015/16 could be around £90 million. Initial indicative allocations showed that London would get just £73 million of the funding available through the Better Care Fund (if local authorities are able to secure their full share of the £135 million national allocation) and the local government finance settlement.

However, revised allocations that have been set out in the recently published consultation on funding formulae for implementation of the Care Act 2015/16 and the revised Better Care Fund (BCF) suggest London's allocation could be as low as £54 million - a decrease of 26% on average on the initial indicative allocations with seven London local authorities seeing reductions in the region of 50% or more from their initial indicative allocations for preparing for the Care Act in 2015/16. This would increase the funding gap in London in 2015/16 to £36 million.

We are concerned that this could seriously impact on councils' ability to effectively prepare for implementing the reform. We are expecting the biggest cost pressure in 2015/16 to be from assessing and providing care and support to carers which could potentially be as high as £54 million in London (taking up all the regional allocation for preparing for the Care Act in 2015/16).We are concerned that this funding is not adequate and that the uncertainty in the number of carers that will seek support could mean costs are even higher than our early assessments suggested.

OUR ASK

- **Government should ensure the funding reforms and all new burdens in 2015/16 are fully funded including those costs that councils incur in 2015/16 for preparing for implementing the funding reforms in 2016/17.**

Note: (London Councils is currently working to update the analysis on the 15/16 costs).

4. FUNDING THE REFORMS IN 2016/17 AND BEYOND

In 2013 London Councils analysed the potential costs of implementing the Care Act (Bill at the time). In total, London Councils found that the cost of implementing the funding reform could amount to £738.2 million in London between 2016/17 and 2019/20, which when combined with demographic pressures and inflation leaves London boroughs facing cost pressures of £1.14 billion in those 4 years.

Given the wider funding situation, local authorities are simply not able to absorb the extra costs within their existing budgets. Failure to fully fund the costs of the new regime risks undermining its effective implementation and/or putting further pressures on services to the most vulnerable people in society.

OUR ASK

- **Government must commit to fully funding the new burdens from the Care Act. Ahead of the Spending Review in 2015 when funding levels must be confirmed, government must be fully transparent about its financial modelling and to continue to work with London Councils and other key stakeholders such as the LGA and ADASS to arrive at realistic costings.**

5. DETAILED RESPONSE TO THE CONSULTATION

INTRODUCTION

London Councils welcomes the Care Act 2014 and supports the principles upon which the Care Act is based. Local authorities in London are already working hard to prepare for implementing the new measures from 2015/16. London already has a Care Act implementation programme in place which is being led by the Directors of Adult Social Services. London Councils particularly welcomes the following:

- The extension of rights to carers
- Placing adult safeguarding on a firmer statutory footing
- The ending of the post code lottery to accessing care.
- Giving people greater certainty regarding the cost of care.

The following section addresses the key areas which need to be addressed in the guidance.

5.1 General responsibilities and universal services.

Wellbeing and Prevention - The Care Act 2014 changes the delivery of social care from an exclusive service available for some of the most vulnerable in our communities to a more universal one that actively supports and helps people to remain healthier for longer and empowers people to be able to choose and have more control of their care.

London Councils is fully supportive of the wellbeing principle and its intentions. The wellbeing principle is intended as a whole population principle which should be embedded more widely than just that part of the community that either falls or likely to fall under social care.

The requirement for councils to invest in preventative measures is welcomed – and many are already doing this in innovative ways that are delivering real reductions in pressures on statutory services. However, like many other aspects of the Care Act if not appropriately funded the benefits of this measure are unlikely to be fully attained as local authorities may not have the resources to focus efforts on developing additional prevention services if new burdens are not fully funded – the priority will remain to meet the needs of vulnerable people in need of care and support.

The cost implications of implementing the wellbeing principle and investing in prevention schemes are yet to be considered in any costing of the Care Act but will have cost implications.

OUR ASKS

- **Government should fully analyse the potential costs of greater investment in prevention initiatives and the possible implications of the wellbeing principle and produce transparent Impact Assessments on these areas.**

Commissioning - While acknowledging the dominant role of councils in commissioning, the guidance fails to acknowledge the direct link between the cost pressures that councils are under and the impact that this has had on commissioning practice.

Councils hold a dominant position in this market and have rightly been able to make efficiency savings from their commissioning of providers - effectively paying less without compromising the quality of care. But, it is a growing concern in the sector that a limit is being reached for this. Councils therefore have to explore further innovation in commissioning and securing services, including ways of balancing the efficiencies from larger scale contracts with the ability to offer more choice and personalisation

Another area of uncertainty is what impact the Care Act reforms will have on pricing within care markets. Councils are often able to negotiate cheaper rates for care than self funders. Although behaviour is difficult to predict,= as more self funders seek information and advice from their council they are likely to also ask the council for help in accessing care at council rates. The implications of this are unclear – it could increase funding pressures on providers or make it harder for councils to negotiate 'below-market' rates thus increasing their costs. Government must include consideration of the implications of the Care Act on care markets and pricing in on-going evaluation of the new legislation.

One way to help ease the cost pressures that are facing councils is to promote joint commissioning in the guidance. Joint commissioning could enable costs being shared for

example between the NHS and councils. The sector cannot afford to continue to deliver health and care services in a disjointed way in the face of increasing financial constraints.

OUR ASK

- **Joint commissioning with partners such as the NHS is one way of easing cost pressures in the sector. Government should use both the Care Act and relevant NHS legislation to allow for and encourage more joint commissioning than currently takes place where this is useful.**

5.2 First contact and identifying need

National eligibility criteria - London Councils welcomes and understands the reasoning behind the proposal in the Care Act to stop the postcode lottery for accessing care that was prevalent in the sector as a result of the Fair Access to Care Services (FACS) criteria.

However, it is important that the new criteria remains as stated by the Department of Health *equivalent to the current level of substantial* under the Fair Access to Care Services (FACS) criteria. Current testing by councils has shown a potential increase of approximately 25% under the proposed new criteria. If this difference is intended then the additional demand should be fully funded.

If 25% per cent more people are eligible based on their care needs, this could increase eligibility in London by 24,800 people. Based on data in the wealth and assets survey we can assume approximately 25% of these would be eligible for financial support. It is also more likely these people would be at the lower end of the care spectrum as they are on the border of eligibility – so assuming they will need home care rather than residential or nursing care this could lead to an increase of 6,200 people receiving financial support from a London council at a cost of £67 million."

OUR ASK

- **If the eligibility criteria is left as currently drafted, London faces a potential additional cost of £67 million. If this difference is intended then the additional demand should be fully funded. If not, the criteria must be tightened up.**

Numbers of self funders – as the guidance and impact assessments are being developed in absence of a true picture of self funders that are likely to be impacted by the reforms and to seek support from councils, there is need to allow for a bedding in period in the first year of implementation of both the social care reforms in 2015/16 and the funding reforms in 2016/17. For the first year of reforms, to manage the peaks of new people coming into the system, there should be some flexibility around the time scales to carry out assessments, reviews etc,.

Furthermore, it has been acknowledged by many including government that there are a lot of unknowns with regards to the Care Act, for example the numbers of carers that will seek support or the number of self funders etc. We believe that it is critical that over the first five years of implementing the Act there is on-going national, independent monitoring and evaluation to assess the behaviours of self funders and carers to help understand what the full implications of the Act will be.

OUR ASKS

- **Government to allow for some flexibilities in implementation of the new measures in the event of significant demand when the measures come into place – for example relaxed times scales regarding carrying out reviews, for a period of 6-12 months.**

- **Given the significant uncertainties around the numbers of people who will be affected and how some of the major policy changes will play out, Government should ask the National Audit Office to track and cost the full implications of implementing the Care act over the period 2015/16 – 2019/2020 and report annually to Parliament on this.**

5.3 Charging framework and Financial assessments

We recognise that the number of financial assessments that will be required will increase from April 2015. We have concerns regarding the costs to local authorities of carrying out the additional financial assessments. There will be resource implications for local authorities that will need to be recognised and addressed by government. Outlined below are our key issues:

Depletion of Self-funders resources - The issue of self funders and the rate at which self funders deplete their resources has been an on-going concern for local authorities. Currently, nearly 25 per cent of self funders annually find themselves in a situation where all their resources have been depleted and having to rely on local authorities to take over the cost of their care and support. To try and stop this from happening there is a need for self funders to be better educated to enable them to make better informed decisions regarding how they finance their care.

National programmes (that can be built on locally) aimed at educating people on how to save for their care and support in their old age and how to plan and ensure that their savings last, will play an important role in reducing the number of self funder who deplete their resources. The development of a range of financial tools and products will also be essential.

OUR ASK:

- **The Care Act gives local authorities an important role to play in assisting people to start plan more clearly for their future care needs. But 58% of people currently expect their care needs to be funded by the state. The scale of behaviour change required cannot be achieved without government playing a leading role in changing expectations and ensuring there is a national market in financial and other advice and tools. The Government needs to clarify what it will be doing on this and when, so that local authorities can factor this into their implementation planning.**

Carer assessments - the extension of rights to carers is welcome but for the 2015/16 reforms this is an area of big concern as it is likely to have an impact on councils' resources. Our early analysis shows that in 2015/16 carer assessments in London could potentially be in the region of £13.1 million. The additional assessments will also have significant workforce implications as it will be the same pool of existing staff that will have to carry out the additional self funder assessments putting pressure onto the system.

London Councils is working with stakeholders to update our analysis on carer costs.

OUR ASK:

- **Government needs to fully fund the costs for carrying out the additional carers assessments in 2015/16 and beyond. Our early estimates also show that carers assessments in 2016/17 will be in the region of £9.82 million reducing to £6.5 million in 2017/18. The highest cost pressure is expected to be in 2015/16 (£13.1 million) when the highest numbers of carers potentially qualify and approach the council for an assessment.**

NOTE: London councils is continuing to work on updating these figures and will be engaging with the Department on these costs.

CHOICE OF ACCOMMODATION AND TOP UPS

We welcome the expansion of provision to cover other types of accommodation such as supported living and extra care housing. We welcome the flexibility that this offers people to choose their own accommodation.

We have some concerns regarding the following areas which we feel require further clarification in guidance or any key national communications of the reforms:

Top up risks - To help manage expectations it is important that it is clarified that where there are top up payments, the top up element will not count towards the maximum care cap.

There is concern amongst local authorities that although it is clear that where an individual's funds are depleted a council will have the flexibility to move them to a home with lower rates in practice this could mean impacting on very vulnerable people which could put local authorities in a challenging situation where they for example find they have to move an elderly person. Expectations will therefore have to be managed carefully.

OUR ASK:

- **Government campaigns and communications on top-up payments and choice of accommodation need to be clear that a local authority will have the flexibility to assess and make the decision regarding whether a person needs to be moved due to financial reasons – in instances where the service user has depleted their funds and does not have access to any top up funding to remain in the accommodation of choice.**

DEFERRED PAYMENTS

Deferred payments in domiciliary care:

The Statutory Guidance does not give local authorities additional flexibility to allow people in receipt of domiciliary care to defer care charges through deferred payments. In London, there are many cases of people with very low income but with assets that can be used to pay towards their care. We believe, therefore, that local authorities should be given the discretion to offer deferred payments to those in receipt of domiciliary care. This would help people, who may choose to stay in their homes, to pay for the care they need and is also aligned with the broader principle of keeping people in their homes for longer.

This would also encourage local innovation in such schemes, giving local authorities the option to go beyond the minimum requirements set out in the Statutory Guidance, should they choose to do so.

However, we recognise that there are associated administrative and financial risks to local authorities. Further work would, therefore, be needed to assess the costs and benefits of offering extended schemes and to determine appropriate thresholds for Deferred Payments for people in receipt of domiciliary care.

OUR ASK:

- **Government should expand the guidance to give local authorities the discretion to offer deferred payments to those in receipt of domiciliary care.**
- **Government should work with the sector to encourage local innovation in such schemes and the sharing of good practice.**

Development of new systems –The extensions to the deferred payments require councils to either update or put in place complete new systems for deferred payments. This is likely to be an issue for system providers as development of new systems could take more than a year to develop - with under a year left, this will be a big challenge to achieve.

Councils are considering developing a single financial social care system which will have both deferred payments and the funding reforms due to come in to place in 2016/17. Indication from systems developers is that this is potentially a complex activity. Focus should be on getting systems right rather than rushing to implement them with systems that may have problems. We recommend therefore that deferred payments should be delayed to 2016/17.

OUR ASK:

- **Government should delay the deferred payments changes until 2016/17 when the rest of the funding reforms are due to start - plus they are well aligned with the rest of the funding reforms due to begin in 2016**.

Sharia law - We recommend that a range of products should be developed by the market to give all services users a wider choice – one of these products could be those that are compliant with Sharia law. The products developed should be simple and easy to understand and manage.

OUR ASK:

- **Government should work with the private sector to ensure that a range of financial products are available so that people can have choice in making decisions regarding how they intend to save or pay for their care and support.**

Loan to value (LTV) – We would be comfortable with the guidance indicating an expectation that the maximum LTV would be between 70 and 80% nationally, but there should be enough flexibility/discretionary powers to allow for councils to lend up to the property value where the council chooses to do so.

OUR ASK:

- **Councils should have the discretionary power to decide locally whether to lend above the LTV rate should they choose to do so.**

Rental income - We understand the proposal for people with deferred payments to be able to keep a proportion of any rental income to incentivise them to put their houses on the market. In London, where housing pressures are high this is an issue of which we are well aware. Councils already have several schemes in place that offer a range of incentives for

people to put their properties onto the market. We suggest that the guidance should not be prescriptive regarding the amount of rental income a service user should have. Councils should have the flexibility to negotiate with service users on the rental income locally and should be able to work out any other incentives with the service user that may not involve the rental income.

Furthermore, currently a person in residential care can choose to leave their house empty for long periods of time. In light of the housing pressures in London we would welcome strengthening of the guidance so that councils can make it a condition of offering a deferred payment that the house not be left empty but to be brought back into use either with the council's assistance or through other means as the owner chooses.

OUR ASKS

- **Government should not prescribe the use of the rental income as an incentive for service users to put their housing on the rental market, incentives should be left to councils to work out and negotiate with services users either through the rental income or other incentives a council may have locally.**

- **Strengthen guidance to enable councils to make it a condition of deferred payments that the house cannot be left empty for long periods of time.**

First charge – Deferred payments are funded using public money and therefore should be protected. Therefore any debts through a deferred payment agreement should be first on any creditors lists so that public funds are not put at risk.

Where a local authority is not the first charge protection is needed for local authorities having to accept being the second charge. Guidance should prevent any increases or further lending on the first charge and allow local authorities to take action in such instances.

OUR ASK:

- **The guidance should include a requirement for an independent legal professional acting on behalf of the client to the local authority to make the council aware of any significant increases to debts.**

Setting interest rates – different councils may have different true costs of capital due to various factors including their specific credit ratings and therefore could be impacted differently by one national interest rate.

OUR ASK:

- **Government should not a set a single national interest rate instead we support the proposal for a range - but with the proviso that individual councils have to clearly demonstrate why their cost of capital may be different from a national/regional average to justify a different interest rate (within the national 'range' of 'tolerance'). A local authority should therefore have a discretionary power to set a higher interest rate for discretionary deferred payment agreements within prescribed limits.**

5.4 Person centred care and support planning

PERSONAL BUDGETS

We generally support the guidance on the personal budgets although the following need to be addressed to provide greater clarity for implementation:

Paying family members: We welcome the recognition that is being proposed for family members who at times spend a lot of their time managing and administering the direct payments of care users. Councils already use a number of ways to work with family members without having to pay fee. The greater flexibility in which direct payments can be used enabling a payment to be made to family members is also welcomed. However, we are concerned that while majority of family members will not abuse this right, some may take advantage of it. Furthermore in complex cases there may be a substantial amount taken away from the payment going towards directly supporting care needs.

OUR ASK:

- **Guidance should allow for a simple maximum schedule of rates locally/regionally set, to clear up any confusion or accusation of financial abuse by family members.**

DIRECT PAYMENTS

Personal Assistants (PAs) – Direct budgets and empowering people to have more control over by whom and how their care is provided is welcome. However, it is important that this is done safely to protect vulnerable adults. The personal assistants market is a growing market a Skills for Care report estimated that the number of personal assistants employed in England would rise from 168,000 in 2010 to 722,000 in 2025.

While we understand that the personal assistant market is less regulated because of the need to provide service users with genuine choice and control, leaving the sector unregulated leaves services users open to abuse from unscrupulous PAs. Choice should be provided safely therefore having a voluntary national regulation system will not take away from choice but will enable service user to be able to make the decision to either use a regulated PA or not with peace of mind. Evidence shows that while service users can carry out a Disclosure and Barring Service (DBS) check on their PAs nearly half go ahead and employ a PA without any checks.

OUR ASK:

- **Government should develop a voluntary national kitemark or accreditation system for Personal Assistants to provide assurance and safeguards for service users.**

Reviews - The draft direct payment regulations propose requiring a review of direct payments every 6, instead of 12, months. This is a concern for councils as it will have additional resource implications when there may be no value in increasing the frequency of reviews. The local authority should have the flexibility to determine the frequency for reviews. Local authorities will know the service users and can make a local decision on who they feel could benefit from a regular review and those that would only require an annual review.

OUR ASK:

Guidance on reviews of direct payments should not be reduced to every six months. Councils should have the flexibility to decide when they think a more regular review is required, including in response to a request from the service user.

5.5 Adult Safeguarding

Strengthening the multi-agency approach - We acknowledge that councils play a critical role in safeguarding. We believe that the safeguarding role will be strengthened by stronger links being made with other key partners. The guidance needs to strengthen the necessity for a strong multi agency approach to addressing safeguarding. In many instances if safeguarding is to be successful in addition to councils, the NHS and the police also need to play key roles. The requirements on these partners must also be clearly set out in the relevant legislation, guidance, performance systems or other suitable mechanism within which they operate.

OUR ASK:

- **Government should clarify how they will clarify and embed requirements on other agencies to cooperate and work with councils on adult safeguarding.**

5.6 Integration and Partnership Working

Integration - The Care Act for the first time makes local authority funded care and support more widely available to a wider proportion of the population. The funding pressures on social care mean that it has become more important to explore alternative ways of delivering it with reducing budgets. A key way in which this could be done is through the pooling of resources and integration with key partners – this has the advantage of easing pressure in both health and social care as well as providing more co-ordinated and therefore improved services to meet the range of a person's needs. For example by working closely with GPs, they could play a critical role in the identification of carers but currently there is no requirement in the guidance for them to do this.

The guidance on integration and partnership is welcome and will hopefully help to build on what is in many cases already going on in the boroughs, for example areas like Greenwich, North West London, Islington are just a few of those areas that already have good examples of integration and working together. The Better Care Fund (BCF) has been providing a catalyst to bring local partners together to develop their integration plans at greater pace and scale, though recent changes to the guidance and delays in the process are making it harder to retain local commitment. Future development of the BCF approach must reflect the needs of different parts of the system, including local authorities and social care, in a more balanced way, or the new Care Act integration responsibilities will be undermined.

However we are concerned that because this legislation primarily impacts councils, in some areas it is already more difficult to work with key partners due to conflicting priorities. It is important that key relevant legislation for key partners such as the police or health partners should reflect requirements to allow for greater integration and cooperation.

OUR ASK

- **Government should strengthen the requirement for key partners to work closely with councils in the delivery of health and social care.**

Housing - We agree and support the proposals that housing should play a key role with regards to prevention and well-being. Social care services and housing services are already working well together and this guidance will help to build on that. However, we are concerned that the guidance fails to reflect the shifts that are taking place in housing across the country. There appears to be an underlying assumption in the guidance that all local authorities have housing stock and fails to reflect how cooperation with housing providers will work in instances where a local authority does not have any stock because it has been transferred to a housing association. This impacts 4 councils in London.

Consideration therefore needs to be given to how housing associations can also be made to cooperate with social care more closely. The relevant legislation through the Homes and Communities Agency could be used to ensure that housing associations are also well aligned with this agenda.

Furthermore, the private rented sector is the fastest growing tenure in London. Many vulnerable adults are living in the private rented sector. There needs to be consideration given to how the sector can also cooperate on this agenda.

OUR ASK

- Guidance on cooperation with housing should not just focus on council housing stock relevant legislation for housing associations also needs to reflect a requirement to cooperate in the delivery of the social care agenda.

Prisons, approved premises and bail accommodation – We welcome the proposals strengthening the rights of prisoners with regards to receiving the appropriate level of care and support**.** However, we are concerned the level of need in prisons has been underestimated. The impact assessments have estimated the proportion of prisoners from the "Surveying Prisoner Crime Reduction (SPCR) survey" but the estimates have only been based on 5 prisons[1]. The results showed that 8.28% of prisoners over 50 need care and 0.5% of prisoners below 50. These results are much lower than research by the Prison Reform Trust suggests: -"many people in prison have mental health problems and/or learning disabilities or difficulties. 72% of men and 70% of women sentenced to immediate custody suffer from two or more mental health disorders. 20-30% of offenders have learning disabilities or difficulties that interfere with their ability to cope with the criminal justice system."[2]

Furthermore, the impact assessments do not consider funding for social care in approved premises which is an additional new burden and these are not restricted to local authorities with prisons.

There is also no funding for training social workers to work in prisons which will be essential to prepare them for the prison environment and specific needs of prisoners. We are also concerned that there could be even higher costs for London as many of London's prisons

[1] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/317817/ConsultationIA.pdf

[2] http://www.prisonreformtrust.org.uk/ProjectsResearch/Mentalhealth/TroubledInside/Indepthmentalhealthandsocialcare

are much older than the rest of the country and therefore alterations to help support care needs could be more costly.

Furthermore, London's prison population is transient with prisoners being moved both within the region and out of London prisons.

This will have implications on council resources as assessments will have to be done quickly and then if moved to another London borough a reassessment will have to be done. The high mobility of the prison population will also have an impact on London because the guidance requires that there is continuity of care each time a prisoner is moved which will come with administrative costs.

OUR ASK

- **The Government should update the Impact Assessments for prisons as it has potentially been based on far lower estimates than the Prison Reform Trust estimates – this may require further work to get true estimates.**

- **The Impact Assessment should consider funding for social care in approved premises which is an additional new burden and these are not restricted to local authorities with prisons (11 councils in London have approved premises)**.

5.7 Inter Local authority and cross border issues

Ordinary residence – We welcome the greater clarity that has been provided regarding ordinary residence in the guidance - this should hopefully result in fewer disputes than currently. However, we believe that further clarity is required in instances where a person moves out of a specified accommodation that (s)he was placed in by an authority - there are potentially issues regarding step down accommodation as the guidance states that if someone moves out of specified accommodation and decides to remain in that area **it can then become** their ordinary residence and this could create some perverse strategic incentives in terms of placement strategies.

OUR ASK

- **To avoid potential disputes on ordinary residence, guidance should provide greater clarity regarding when a person's ordinary residence should change once they move into step down accommodation – to avoid strategic placements ordinary residence should not change for significant period.**

Clarity regarding who assesses a carer – clarity in guidance is required in a situation where a carer lives in a different borough from that of the cared for person to avoid any potential conflicts between councils regarding who is responsible for the carer assessments and costs – it is unclear at the moment as to whether these would be the responsibility of the council in which the cared for person resides or whether it would be council in which the carer resides. This becomes complicated as it is sometimes not straightforward to decide whether the service is for the carer or cared for and some services are provided for both, for example carers breaks and respite are also providing care to the cared for.

OUR ASK

- **Guidance should clarify who will be responsible for carers assessment – we suggest in such instances carers assessments should be done by those authorities where the cared for person resides.**

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