

Adult Social Care Reform and Funding

Purpose of report

To provide a brief update on health and social care issues, and for discussion and approval of the response to the consultation on the distribution of the grant to pay for new burdens arising from the Care Act.

Summary

The pace of change in the health and social care landscape remains very rapid. This paper gives a brief update on recent developments on Care Act Implementation, Better Care Fund, the Supreme Court Judgment on Deprivation of Liberty Safeguards, and the Integrated Personalised Commissioning programme announced by Simon Stevens at LGA Conference in July.

This report also provides a draft joint LGA and Association of Adult Social Services (ADASS) response to a recent government consultation on the distribution of the £283.5 million grant for new social care burdens arising in 2015/16. The consultation response is attached at **Appendix C** for Executive's clearance.

Recommendation

That the Executive discuss the report and approve the LGA's response to the consultation on funding formulae for implementation of the Care Act in 2015/16.

Action

LGA Officers to proceed as directed.

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Background

1. Local government is being asked to implement the Care Act at a time of unprecedented pressure on council budgets, an extremely challenging timetable for developing Better Care Fund plans, and new pressures which are being added through recent changes to the Better Care Fund financial arrangements and the recent Supreme Court Judgment on Deprivation of Liberty Safeguards.
2. The Community Wellbeing Board (CWB) discussed these issues at its last meeting in July. Whilst the LGA has supported the aims of the Care Act throughout the legislative process, there remain significant concerns that the costs of implementation may not be fully funded in 2015-16, and that options to keep costs down would mean disappointing people who are expecting extra support. Cllr Katie Hall, the outgoing chair of the Board, wrote to Norman Lamb expressing the Board's concerns about funding for implementation of the Care Act. Lead members of the Board met Jon Rouse, Director General for Social Care, Local Government and Care Partnerships at the Department of Health on 28 August to discuss these concerns, and Norman Lamb, Minister for Care Services is attending the Board's meeting on 9 September. The joint LGA and ADASS response to the Department of Health's (DH) consultation on regulations and guidance also reflected these concerns and was submitted on 8 August¹.
3. The LGA is working with ADASS and DH to seek more detailed costings from councils, which should provide more detailed evidence of likely costs in mid-September. We will work closely with ADASS and DH to consider the implications of that analysis and to influence the Government response. At the same time, the LGA needs to respond to the ongoing consultation about how the grant to pay for these costs should be distributed.

Consultation on allocating new burdens funding

4. On 31 July 2014 the Department for Health issued a [consultation paper](#) on three proposed formulae for the distribution of new burdens funding for adult social care in England, arising as a result of the implementation of the Care Act, in 2015/16.
5. The quantum of funding covered by the consultation is £294.7 million, comprising three elements, each with a separate allocation formula:
 - 5.1. £175.0 million for additional assessments for the care cost cap, comprising:
 - 5.1.1. £145.0 million for early assessments and reviews;
 - 5.1.2. £20.0 million for capacity building;
 - 5.1.3. £10.0 million for an information campaign to raise awareness of the changes;

¹ The joint response is available at: <http://www.local.gov.uk/documents/10180/11779/Care+Act++-+regulations+and+guidance+LGA+and+ADASS+joint+consultation+response+-+August+2014/4250bb86-779f-4306-a0be-2f9fb99dc3d6>

- 5.1.4. £108.5 million for deferred payments; and
 - 5.1.5. £11.2 million for social care in prisons.
6. The first two of these elements total £283.5 million and together form the new burdens revenue grant, originally worth £285 million, which was announced in the 2015/16 illustrative local government finance settlement in December 2013.
 7. Two different formulae were proposed as options for the £175 million assessments element, showing slightly different results.
 8. There are very significant differences between the indicative authority-level allocations announced in December 2013, and total illustrative allocations in the consultation paper regardless of which option is used for the assessments element. **Appendix A** and **B** provide a comparison at authority level.
 9. The third element only applies to the 58 local authorities which have prisons in their area. This is now to be funded through Department of Health revenue grant rather than through the Better Care Fund. Other items have been added into the Better Care Fund in its place, keeping the total earmarked for Care Act reform at £135 million.
 10. The draft joint LGA and ADASS response to the consultation is provided for clearance as **Appendix C**. It makes the following key points:
 - 10.1. There are large variations between the indicative allocations for councils in the December 2013 settlement and the illustrations in the consultation. These changes could have a substantial impact on councils' abilities to plan for the changes. The government needs to make a decision and announce it as soon as possible after the consultation closes.
 - 10.2. The formulae are geared towards estimating the relative number of self-funders that are currently prevented from accessing the care system due to the assets they hold. In doing so, the formulae appear to assume a uniform take-up rate of those services among self-funders, regardless of different socioeconomic and other characteristics. The Government should consider if that is a valid assumption to make.
 - 10.3. The Government is considering adjusting allocations presented by the deferred payment formula according to the size of pre-existing schemes locally. To do so, it needs to receive local information from all 152 councils about their schemes. We identify potential incompleteness of information as a risk the Government needs to be mindful of if it decides to go ahead.
 11. At the time of writing this report the draft response was agreed by colleagues in ADASS and we were seeking comments from member councils as well. If any changes arise as a result of these discussions, changes to the draft response will be tabled by officers at Executive.

Update on wider issues

Better Care Fund

12. The Executive received a report on changes to the Better Care Fund (BCF) at its meeting in July. Following the changes to policy surrounding £1 billion of the NHS contribution to the BCF, and the corresponding requirement for local Health and Wellbeing Board areas to resubmit their plans by 19 September, there have been a number of important developments, which are set out below.
13. Support has been commissioned and deployed into each of the four NHS regions, working with 18 local areas intensively, and with other support provided as requested. A bespoke peer support offer has been developed and offered to local areas that have requested it. In addition a number of national support tools including a modelling toolkit have also been published.
14. The methodology for assurance of plans has been published. The process includes three light touch 'checkpoints' to assess progress in meeting the national conditions (8 August, 29 August, 16 September), followed by a national assurance process that builds on Health and Wellbeing Board and regional assessments of plans to assure Ministers and NHS England.
15. Additional policy guidance has also been published around the flexibility of the 3.5 per cent target reduction in total emergency admissions, and further guidance issued about the protection of social care and the funding for the Care Act.
16. At the same time, the joint national team, with support from consultants, have been working closely with five 'fast track' areas. These areas have been used to test the process and also to share their plans more widely with the system in early September.
17. Local government regional chief executive leads have been working closely with NHS England regions to help coordinate this whole process locally, and feeding back to the national team to ensure local government is strongly represented.
18. The overall feedback has been that whilst this is an intensively rigorous process and the policy changes have been actively unhelpful, most local areas are responding positively and relationships remain strong, and are therefore expecting to be able to resubmit plans by 19 September. However, the checkpoints have highlighted concerns in a handful of areas where there are concerns about the national conditions 'protection of social care' and 'provider alignment'. These areas have been offered additional support.
19. At the same time, the National Audit Office (NAO) and internal NHS and Government auditors have taken an active interest in the BCF process. The LGA has made representations to these groups, and we are expecting a report to the Public Accounts Committee on 29 November which will be informed by these.

Deprivation of Liberty Safeguards

20. The Chairman, with David Pearson (President of ADASS), wrote to Jeremy Hunt, Eric Pickles, Danny Alexander, Norman Lamb, Chris Grayling, Sir James Mumby and Kris Hopkins on 30 July asking for funding to pay for the new burdens in relation to Deprivation of Liberty Safeguards. We are expecting a reply in the next 2 weeks.

Integrated Personalised Commissioning

21. CWB lead members have also been influencing the development of the Integrated Personalised Commissioning (IPC) programme which Simon Stevens announced at LGA conference. At the time of writing the prospectus for that work is planned to be published on 4 September. The initiative will be funded by NHS England but is co-branded by LGA and ADASS, who are also involved in the governance arrangements and development for this multi-year initiative. It will learn from local government experience of personalisation and personal budgets, and support joint arrangements across health and social care to extend personal health and care budgets (which the LGA proposed in our *Rewiring* work in 2013). More details of the IPC programme will be available after 4 September.