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Proposed reforms to adult social care (including cap on care costs)

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Summary

In September 2021, the Government set out plans to reform adult social care in England (PDF). £5.4 billion be used to fund the reforms over the next three years:

- £3.6 billion will be used to reform how people pay for social care. This includes £1.4 billion to help local authorities move towards paying a “fair cost of care” to providers.
- £1.7 billion will be used to support wider system reform.

The funding was initially planned to come from the new Health and Social Care Levy, but in September 2022 the Chancellor announced the levy will be cancelled. The new Health Secretary has, however, said funding for social care will remain unchanged.

The briefing focuses on the proposed reforms to how social care is paid for. Section five provides brief information on the plans for wider reform.

Cap on care costs

From October 2023, the Government plans to introduce **a new £86,000 cap** on the amount anyone in England will have to spend on their personal care over their lifetime. The cap will apply irrespective of a person’s age or income. The legislative framework for a cap is already provided by the Care Act 2014, but the relevant provisions are not currently in force.

Only money spent on **meeting a person’s personal care needs** will count towards the cap. Spending on daily living costs (commonly referred to as “hotel costs” in a care home) is not included. The Government has said daily living costs will be set at a notional level of £200 per week at 2021/22 prices.

The cap will not apply retrospectively (ie costs accrued before October 2023 will not count towards the cap).

Health and Care Act 2022

In November 2021, the Government announced it would seek to amend the Care Act 2014 so that any money paid by a local authority towards meeting a person’s eligible care needs **will not count** towards the cap. A clause to this effect was added to the Health and Care Bill at report stage in the Commons.

The proposed change proved controversial and was the subject of disagreement between the Commons and the Lords during the Bill's passage through Parliament. However, the change was included in the agreed final version of the Bill, which received Royal Assent on 28 April 2022.

Changes to the social care means test

From October 2023, the Government proposes to make the means test for accessing local authority funding support **more generous.** The upper capital limit (the threshold above which somebody is not eligible for local authority support) will increase from £23,250 to £100,000. The lower capital limit (the threshold below which somebody does not have to contribute towards their care costs from their capital) will increase from £14,250 to £20,000.

Fair cost of care reforms

Local authorities can use their position as a large purchaser of social care to obtain lower fee rates from care providers, which can be less than the cost of providing the care. To compensate, providers often attempt to cross-subsidise by charging more to people who fund their own care. The Government says this leads to market failure and has announced two measures to address the issue:

- Provisions in the Care Act 2014 (section 18(3)) will be brought fully into force enabling self-funders to ask their local authority to arrange their care in a care home for them so that they can benefit from lower rates.
- £1.4 billion will be provided to local authorities over the next three years to support them to increase the rates they pay to providers where necessary (move towards paying a "fair cost of care").

Following a consultation, the Government announced the reform will be implemented in stages from October 2023 to April 2025 at the latest.

Analysis of charging reforms

The Government says the proposed charging reforms will mean "people will no longer face unpredictable or unlimited care costs". It estimates the proportion of older people in care receiving support from the state will increase from around half to around two-thirds as a result of the reforms.

The Government estimates the annual cost of the reforms, including the "fair cost of care", start relatively low (£1.42 billion in 2023/24) but increase to an estimated £4.74 billion by 2031/32 (in 2021/22 prices).

The proposals have been broadly welcomed by stakeholders, but it's also been suggested they may "not live up to their marketing" and that the cap will "help relatively few people."

Concerns have also been raised about whether funding for the reforms is sufficient, particularly for the fair cost of care, and it has been questioned whether local authorities have the workforce capacity to implement them successfully.

One of the main areas of controversy has been the amendment to the Care Act 2014, under which a local authority's contribution will not count towards the cap on care costs. Stakeholders have highlighted the change will mostly affect those with modest levels of wealth and in lower wealth regions. However, the Government says the change makes the reforms fairer and that the savings created have allowed the proposals to be made more generous in other areas.

1 Introduction

1.1 Paying for adult social care

There is no national government budget for adult social care in England. Instead, publicly funded social care is mostly financed through local government revenue. This is made up of central government funding from the local government finance settlement, combined with locally raised revenue from business rates, council tax and income from fees and charges. Individual local authorities then determine how much is allocated to social care.

In recent years, the Government has also provided additional ring-fenced funding to local authorities for adult social care.

Local authority support with care costs

Broadly, whether a person is eligible for local authority funding support towards their adult social care costs depends on how much capital they have:

- Care home residents with more than £23,250 (**the upper capital limit**) are not eligible for local authority funding.
- Care home residents with capital between £14,250 (**the lower capital limit**) and £23,250 are eligible for funding support but must contribute a "tariff income" of £1 per week for every £250 they have above the lower limit towards the cost of their care.[1]
- Care home residents with capital below £14,250 are eligible for funding support and are not charged any "tariff income".[2]

While the capital limits are rigid for care home residents, local authorities can set higher (but not lower) limits for people receiving care in other settings (such as their own home).

The value of a person's main or only home is disregarded as capital when they are receiving care outside of a care home. For care home residents, their home can be counted as capital, but in certain circumstances it must be

1 Or part of £250. For example, somebody with £300 over the limit would contribute £2 in tariff income.

2 The Care and Support (Charging and Assessment of Resources) Regulations 2014 (SI 2014/2672), paras 12 & 25; DHSC, Care and Support Statutory Guidance, last updated 21 April 2021, Annex A, paras 24-7.

disregarded (eg, if the home has been continuously occupied by the person's partner since before they went into a care home).[3]

Income contributions

If someone receives local authority funding, they are still required to contribute their income towards the cost of their care, subject to any disregards (eg, income from earnings does not have to be contributed).

Individuals must, however, be allowed to retain a certain amount of income each week for personal expenses and (if applicable) household bills.

Further information on the current system of paying for social care in England is available in the Library briefing: Paying for adult social care in England.[4]

1.2 Funding pressures

Adult social care funding has been under pressure for several years.[5] Estimates of the 'funding gap' vary according to the data used and the assumptions made.

In its October 2020 report on adult social care funding and workforce (PDF), the Health and Social Care Committee included different organisations' estimates of the adult social care funding gap. The estimates, which did not account for additional costs created by the Covid-19 pandemic, ranged from £1.4 billion to £12.2 billion per year.[6]

In February 2021, the Health Foundation published projections of how much funding might be needed based on four scenarios up to 2030/31:

1. To meet future demand
2. To meet future demand and improve access to care
3. To meet future demand and pay more for care
4. To meet future demand, improve access to care and pay more for care.

Estimates for the additional funding required by 2024/25 ranged from £2.5 billion (scenario 1) to £9.3 billion (scenario 4).[7]

3 Care Act 2014; The Care and Support (Charging and Assessment of Resources) Regulations 2014 (SI 2014/2672); The Care and Support (Miscellaneous Amendments) Regulations 2015 (SI 2015/644); DHSC, Care and Support Statutory Guidance, last updated 27 January 2022.

4 CBP01911, Paying for adult social care in England, 27 August 2021.

5 LGiU, LGIU MJ State of Local Government Finance Survey 2020, 5 February 2020.

6 Health and Social Care Committee, Social care: funding and workforce, HC 206 2019-21, pp13-15.

7 Health Foundation, Social care funding gap: Our estimates of what it would cost to stabilise and improve adult social care in England, 11 February 2021.

In October 2021, the Health Foundation published updated projections for scenarios 2 (stabilisation) and 4 (recovery) over the next three years. The report estimated funding would need to be approximately 25% (£4.8bn for stabilisation) to 50% (£9.3bn for recovery) higher in real terms by 2024/25 compared to 2021/22. The report noted the projections were prepared before the Government's September 2021 announcement on social care funding (see section 2). However, it said they are "a benchmark to compare those announcements against".[8]

In its August 2022 report on the long-term funding of adult social care, the Levelling Up, Housing and Communities Committee said the evidence it received highlighted the estimates of the Health and Social Care Committee and the Health Foundation as "being credible".[9]

Effects of funding pressures

It's argued that funding pressures in adult social care contribute to a range of issues, including:

- **People not having their care needs met**. Analysis by Age UK in September 2022 estimated 2.6 million people over the age of 50 are living with some form of unmet care need in England.[10] Based on a survey carried out in April 2022, the Association of Directors of Adult Social Services (ADASS) estimated around 300,000 people were waiting for a care assessment.[11]

- People not eligible for local authority support can face potentially **"catastrophic" care costs** of over £100,000.[12] The Government has estimated around one in seven adults aged 65 face such lifetime costs (excluding "hotel" costs in care homes).[13] The median lifetime cost of care for over 65s is around £22,000.[14]

- **High levels of unpaid care**, with carers not always able to access the support they need.[15]

- The **financial sustainability of care providers**. In its Spring Survey 2021, published in July 2021, the ADASS said 77% of local authorities were

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8 Health Foundation, Health and social care funding projections 2021, October 2021.

9 Levelling Up, Housing and Communities Committee, Long-term funding of adult social care (PDF), 4 August 2022, HC 19 2022-23, para 28.

10 Age UK, Incoming PM needs to act fast, says Care and Support Alliance, as new analysis finds 2.6m aged 50+ now have some unmet need for social care, 2 September 2022.

11 ADASS, ADASS survey waiting for care, 4 August 2022.

12 'Alarming' rise in level of unmet care and support needs', Community Care, 16 February 2017.

13 HM Government, Build Back Better: Our plan for health and social care, CP 506, September 2021, para 78.

14 DHSC, Adult social care charging reform: impact assessment, January 2022, para 4; DHSC, Operational guidance to implement a lifetime cap on care costs, 14 March 2022. "Hotel" costs refers to daily living costs for people in care homes;

15 DHSC, Evidence review for Adult Social Care Reform (2MB, PDF), December 2021, pp24-45.

concerned about the financial sustainability of some of their care home providers, with 19% concerned about most of their providers.[16]

- **Impact on health services**, including delayed hospital discharges and unnecessary attendances at A&E.[17]

- **Workforce pressures.** Skills for Care estimates there were 165,000 vacancies in 2021/22, with the number of vacant posts increasing by 52% since 2020/21.[18] Further information is available in the Library briefing on the adult social care workforce in England.[19]

Further information on adult social care funding, including funding pressures and effects, is available in the Library briefing: Adult Social Care Funding (England).[20]

1.3 What reforms have been proposed before?

Reforming adult social care, including how people pay for care, has been an issue for successive governments and several reform proposals have been made.

The Dilnot Commission

In July 2011, the Commission on the Funding of Care and Support, chaired by Sir Andrew Dilnot, published its report Fairer Care Funding (PDF). This is particularly relevant to the current proposals. The Commission's recommendations for reform included:

- **A cap of £35,000 on the contribution people aged over 65 would be expected to make towards their personal care costs over their lifetime**. After reaching the cap, individuals would be eligible for full state support. Different caps were proposed for adults aged under 65, including a zero cap for anybody entering adulthood with care and support needs.

- **Increasing the upper capital limit to £100,000 for care home residents.** Anyone with capital above this would not receive local authority financial support towards their care. The cap for people receiving care outside a care home would be unchanged.

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16 ADASS, Spring Survey 2021, July 2021, pp7 & 22.

17 Institute for Fiscal Studies, Long-term care spending and hospital use among the older population in England, 7 December 2020; NHS England Delayed transfers of care data.

18 Skills for Care, The size and structure of the adult social care sector and workforce in England, July 2022.

19 Commons Library briefing CBP-9615, Adult social care workforce in England.

20 CBP7903, Adult Social Care Funding (England), 11 December 2020.

- **A standard rate for services other than personal care provided in a care home** (such as accommodation and food). The Commission recommended this should be in the range of £7,000 to £10,000 a year.[21]

The Coalition Government accepted the Commission's proposals in principle, but altered the parameters for the cap and the means-test as well as some of the detailed policy behind the cap. This included:

- **The level of the cap on personal care costs**. The Government proposed a higher cap (£72,000) that would apply to all adults (there would not be lower caps for younger adults).[22]
- **What spending counts towards the cap**. The Dilnot Commission said every pound a person spent on social care should count. In contrast, the Government proposed it should be every pound that would have been spent if a local authority had been paying for the care (a local authority may spend less for equivalent care).[23]

The Government initially set an implementation date of April 2016 and the Care Act 2014 provided the legislative framework for a cap on care charges.[24] However, implementation was delayed until April 2020 and then effectively indefinitely postponed.[25]

In 2017, the then Government said it would publish its proposals for adult social care funding in a green paper.[26] However, the paper was delayed several times and had not been published by the time Boris Johnson became Prime Minister in July 2019.

Further information on past proposals for reform, including the Dilnot Commission, is available in the Library briefing: Social care: Government reviews and policy proposals for paying for care since 1997 (England).[27]

Developments between July 2019 and September 2021

The Conservative Party's 2019 general election manifesto said a Conservative Government would seek a cross-party consensus on how to reform paying for

21 Commission on Funding of Care and Support, Fairer Care Funding, July 2011, pp5–6, 21, 28, 35 and 76.
22 HM Treasury, Budget 2013, 2012–13 HC 1033, p57, para 1.195 and HC Deb 20 March 2013 c941; Department of Health, The Care Act 2014 – Consultation on draft regulations and guidance to implement the cap on care costs and policy proposals for a new appeals system for care and support, February 2015, p38, para 3.15.
23 Department of Health, Caring for our future: progress report on funding reform, Cm 8381, July 2012, p22; Department of Health, Caring for our future – How the care and support funding reforms will work, archived webpage. Section 3.2 below provides more information on how this works.
24 Care Act 2014, section 15.
25 HLWS135 17 July 2015; HC Deb 7 December 2017 c1235.
26 HL Deb 21 June 2017 c6.
27 CBP8000, Social care: Government reviews and policy proposals for paying for care since 1997 (England), 23 October 2017.

adult social care. It said a prerequisite of the proposals would be that "no one needing care has to sell their home to pay for it."[28]

In January 2020, the Prime Minister said the Government would bring forward a plan "this year" and would "get it done within this Parliament."[29] The Government subsequently said it would not be possible to meet this timetable because of the Covid-19 pandemic.[30]

At the Spending Review 2020, the Government said it was "committed to sustainable improvement of the adult social care system and will bring forward proposals next year [2021]".[31] This position was reiterated at the Queen's Speech in May 2021. [32]

Further information is available in the Library briefing: Reform of adult social care funding: developments since July 2019 (England). [33]

28 Conservative and Unionist Party, Get Brexit Done – Unleash Britain's Potential, November 2019, p12.
29 BBC, The Big Interviews: Boris Johnson on BBC Breakfast, (at 16 minutes 25 seconds), 14 January 2020.
30 PQ 64976, 2 July 2020; PQ 59766, 22 June 2020.
31 HM Treasury, Spending Review 2020, November 2020, para 4.10.
32 Prime Minister's Office, Queen's Speech 2021: background briefing notes, 11 May 2021.
33 CBP8001, Reform of adult social care funding: developments since July 2019 (England), 12 May 2021.

2 The Health and Social Care Levy

In a statement to the House on 7 September 2021, the then Prime Minister, Boris Johnson, announced plans to substantially increase funding for health and social care over the next three years (2022/23 to 2024/25), to be funded by a new tax, the Health and Social Care Levy.[34]

The levy was to be introduced in two stages:

- In **2022/23:** the rate of primary Class 1 National Insurance contributions (NICs) for employees charged on their earnings, the rate of secondary Class 1 NICs for employers charged on their employees' earnings, and the rate of Class 4 NICs for the self-employed charged on their trading profits, increased by 1.25 percentage points.
- In **2023/24:** a separate levy set at 1.25% was to be introduced, replacing the temporary increase in NICs rates. People in employment who are over State Pension age would also have to pay the levy. Currently, pensioners are not liable to pay NICs on any earnings they receive from employment.

The funds from the Health and Social Care Levy were to be ringfenced for investment in health and social care.

The Health and Social Care Levy Act 2022, which provided for the temporary increase in NICs rates for 2022/23 and the introduction of the new levy from 2023/24, received Royal Assent on 20 October 2021. Further information is available in the Library briefing: Health and Social Care Levy Bill 2021-22.[35]

Cancelling of the Levy

On 22 September 2022, the Chancellor, Kwasi Kwarteng, announced the 1.25 percentage point rise in NICs rates would be reversed from 6 November 2022. In addition, he said, the Health and Social Care Levy would be cancelled.[36] To give effect to these changes the Health and Social Care Levy (Repeal) Bill 2022-23 was introduced the same day.[37] Further information is available in the Library briefing on the Health and Social Care Levy.[38]

34 HC Deb 7 September 2021, cc153-181.

35 Commons Library briefing CBP-9310, Health and Social Care Levy Bill 2021-22.

36 HM Treasury, National Insurance increase reversed, 22 September 2022.

37 Parliament.uk, Health and Social Care Levy (Repeal) Bill 2022-23.

38 Commons Library briefing, Health and Social Care Levy.

2.1 Funding for social care

It was planned that £5.4 billion of revenue from the Health and Social Care Levy would be used to support adult social care reform in England over the next three years (2022/23 to 2024/25).[39] This was made up of:

- £3.6 billion to reform how people pay for adult social care, including **introducing a cap on care costs and making the means test for accessing local authority funding support more generous**. (sections 3 and 4 provide information on these reforms).
- £1.7 billion to support **wider system reform** (section five provides more information).[40]

The Health Secretary, Thérèse Coffey, has said the planned spending on social care will remain unchanged despite plans to reverse the increase to National Insurance rates and cancel the Health and Social Care Levy. On 7 September 2022 she said:

> Instead of having, in effect, a ring-fenced levy, we will be funding [health and social care changes] out of general taxation so the investment going to health and social care will stay exactly the same.[41]

Similarly, a Government policy paper published on 22 September 2022, Our plan for patients, said the Government would "work with local government to deliver the 'cap and means test' reforms by October 2023, learning from the 6 trailblazer local authorities starting early in 2023".[42]

39 HM Treasury, Autumn Budget and Spending Review 2021, HC 822, October 2021, para 4.8.
40 HM Treasury, Autumn Budget and Spending Review 2021, HC 822, October 2021, para 4.8.
41 Therese Coffey says health and social care spending will stay 'exactly the same', Independent, 7 September 2022.
42 DHSC, Our plan for patients, 22 September 2022.

3 Reforming how people pay for care

This section explains the Government's proposed reforms to how adult social care is paid for. The plans were originally set out in the September 2021 policy paper: Build Back Better: Our Plan for Health and Social Care.[43]

As noted in section two above, the reforms will be supported by £3.6 billion of funding over the next three years (2022/23 to 2024/25).[44]

3.1 Cap on care costs

From October 2023, the Government plans to introduce **a new £86,000 cap** on the amount anyone in England will have to spend on their personal care over their lifetime. The cap will apply irrespective of a person's age or income.[45]

When somebody reaches the cap on care costs the local authority will pay for their eligible care and support needs. The person will still be responsible for paying daily living costs (see below).[46]

As set out in section 1.3 (pages 11-12), a cap on care costs was a central recommendation of the 2011 Dilnot Commission and the Care Act 2014 provides the legislative framework for the introduction of a cap.

On 4 March 2022, the Government published a consultation on draft operational guidance setting out how the cap on care costs will operate in practice. The consultation closed on 1 April and the Government responded on 7 July 2022.[47] The following sections provide a brief summary of how the Government has said the cap will work.

What spending counts towards the cap?

The amount somebody pays for their social care will not necessarily be the amount that is counted towards the cap. Instead, if a person is paying for their own care, the amount counted towards the cap will be the amount **it would have cost the local authority** if it had been meeting the person's

43 HM Government, Build Back Better: Our plan for health and social care, CP 506, September 2021.
44 HM Treasury, Autumn Budget and Spending Review 2021, HC 822, October 2021, para 4.8.
45 Prime Minister's Office, PM statement to the House of Commons on health and social care: 7 September 2021, 7 September 2021.
46 DHSC, Implementing the cap on care costs: draft operational guidance, 4 March 2022, para 1.11.
47 DHSC, Operational guidance to implement a lifetime cap on care costs, last accessed 21 September 2022.

eligible care needs (those needs that meet national eligibility criteria set by regulations).[48] The Government says this "ensures the new system does not unfairly advantage those who can afford to pay more for their care and want to do so to reach the cap quicker."[49]

Care needs met by an informal carer do not count as eligible needs and so will not count towards the cap.[50] Support provided under legislation other than the Care Act 2014 (eg, NHS continuing healthcare and NHS funded nursing care) will also not count towards the cap.[51]

The introduction of a cap means many self-funders who do not currently have any contact with their local authority will be brought into the care system. This is because the local authority will have to set out how much it would be spending if it were paying for the person's care (an independent personal budget) and maintain a 'care account' to keep track of a person's progress towards the cap.[52] Further information on independent personal budgets and care accounts is provided in chapters two and three, respectively, of the Government's draft operational guidance.[53]

A person may choose to make additional payments on top of the amount the local authority would pay towards meeting their eligible needs (top-up fees) – for example to secure a premium room in a care home. For those receiving local authority funding support, top-up payments are usually made by a third party (eg a family member) and there are only limited circumstances where the person can pay the top-up themselves (first-party top-ups).[54]

The Government has said it will change the regulations[55] to allow everyone receiving local authority support to make top-up payments themselves if they wish. Any top-up fees paid will not count towards the cap on care charges and will remain payable after the cap is reached.[56]

Amendment to the Care Act framework

Under the framework for a cap on care costs as originally provided by the Care Act 2014, where a local authority contributes towards the cost of

48 Care Act 2014, section 15(2); The Care and Support (Eligibility Criteria) Regulations 2015 (SI 2015/313); DHSC, Implementing the cap on care costs: draft operational guidance, 4 March 2022, para 1.2.
49 DHSC, Operational guidance to implement a lifetime cap on care costs, 7 July 2022.
50 DHSC, Implementing the cap on care costs: draft operational guidance, 4 March 2022, para 1.21.
51 DHSC, Operational guidance to implement a lifetime cap on care costs, 14 March 2022.
52 Care Act 2014, section 28; DHSC, Implementing the cap on care costs: draft operational guidance, 4 March 2022, paras 1.7-1.8 & 1.31-1.34.
53 DHSC, Implementing the cap on care costs: draft operational guidance, 4 March 2022.
54 For further information see the Library briefing, Paying for adult social care in England, section 2.4; DHSC, Implementing the cap on care costs: draft operational guidance, 4 March 2022, para 1.9.
55 The Care and Support and After-care (Choice of Accommodation) Regulations 2014, SI 2014/2670.
56 HM Government, Adult social care charging reform: further details, 17 November 2021.

meeting a person's eligible care needs, this spending would count towards the cap (in addition to any contribution made by the individual).[57]

However, in November 2021 the Government announced it would amend the Care Act so that only the amount **that the individual contributes** towards meeting their eligible needs will count towards the cap and not any local authority contributions.[58]

The Government estimated the change would save around £900 million a year from 2027/28 (the point when the additional cost to the state of the cap on care costs will stabilise).[59]

Health and Care Bill

The proposed change proved controversial (see section 4.4 below) and was the subject of disagreement between the House of Commons and the House of Lords during the passage of the Health and Care Bill:

- On 18 November 2021, the Government tabled a New Clause to the Health and Care Bill for consideration on Report (PDF) providing for the change to the Care Act framework.[60] On 22 November 2021, the new clause was approved by the Commons following a division.[61]
- At Report Stage in the Lords, peers agreed an amendment removing the Government's new clause from the Bill.[62]
- On 30 March 2022, the Commons disagreed with the Lords amendment removing the clause from the Bill (ie, the proposed change to the Care Act framework was re-inserted into the Bill). Further technical amendments were agreed regarding how the cap will operate.[63]

On 5 April 2022, the Lords insisted on their amendment removing the clause from the Bill and agreed an amendment which would provide the Secretary of State with the power to make regulations amending the Care Act 2014 with regards to how people progress towards the cap on care costs. The amendment additionally provided:

- The regulations must ensure costs incurred by a local authority in meeting a person's eligible needs are included.
- The regulations may not be made unless the results of the trailblazer pilots (see pages 22-23 below) have been evaluated and the Secretary of State has published a further general impact assessment "covering

57 Care Act 2014, section 15.
58 HCWS399, 17 November 2021; HM Government, Adult social care charging reform: further details, 17 November 2021.
59 DHSC, Adult social care charging reform: analysis, 19 November 2021.
60 Health and Care Bill Notices of Amendments as at 19 November 2019 (699KB PDF), NC49, pp9-11.
61 HC Deb 22 November 2021, cc108-c156.
62 HL Deb 7 March 2022, cc1168-1185.
63 HC Deb 30 March 2022, cc939-953.

distributional regional analysis, regional eligibility, and the effect of the care cap on disabled adults under 40."

- The regulations must ensure that no charges are imposed on any adult aged under 40 with a disability.[64]

On 25 April, the Commons disagreed with the Lords amendment (ie, the proposed change to the Care Act framework was re-inserted into the Bill along with the previously agreed technical amendments).[65]

On 26 April, the Lords voted not to insist on its amendment and thus agreed to the Bill including the clause amending the Care Act framework.[66]

The Bill received Royal Assent on 28 April 2022.

Daily living costs

Only money spent on meeting a person's personal care needs will count towards the cap; for those living in a care home, daily living costs (or what are commonly referred to as "hotel costs") **will not** count towards the cap.[67] Similarly, a care home resident who has reached the cap will still be required to pay their daily living costs (subject to the means test).[68]

The Government has said daily living costs will be set at a national notional level equivalent to £200 per week in 2021/22 prices.[69] The Government's impact assessment said this means daily living costs "will be affordable to people on average incomes so they do not have to continue to use their assets after reaching the cap."[70]

Costs accrued before October 2023

From October 2023, anyone assessed by a local authority as having eligible care and support needs, either new or existing social care users, will begin to progress towards the cap. The Government has said local authorities will "need to work to identify people who currently meet their eligible needs themselves, to ensure that they can begin progressing towards the cap from the point it comes into effect."[71]

64 HL Deb 5 April 2022, cc1985-2002 & c2035-2039 (motion G1).

65 HC Deb 25 April 2022, cc525-546.

66 HL Deb 26 April 2022, cc219-243 (motion D)

67 Care Act 2014, section 15(6); HM Government, Build Back Better: Our plan for health and social care, CP 506, September 2021, paras 38-40.

68 DHSC, Implementing the cap on care costs: draft operational guidance, 4 March 2022, para 1.12.

69 HM Government, Adult social care charging reform: further details, 17 November 2021; DHSC, Operational guidance to implement a lifetime cap on care costs, 14 March 2022.

70 DHSC, Adult social care charging reform: impact assessment, January 2022, para 40.

71 HM Government, Adult social care charging reform: further details, 17 November 2021.

Costs accrued before October 2023, however, will **not count towards the cap (it is not retrospective).**[72] During the Lords committee stage debate on the Health and Care Bill, the Minister, Lord Kamall, said it was "unfeasible" to retrospectively introduce the cap for everyone currently in the care system, and to include their care costs during their lifetimes in the cap calculation.[73]

If a person has to wait for an assessment, their progress towards the cap will be backdated to when the individual contacted the local authority or the authority first identified them (but not earlier than October 2023).[74]

People receiving care in other countries of the UK

If a local authority in England arranges for a person to receive residential care in another country of the UK, and the person remains ordinarily resident in England, the person will progress towards the cap based on the cost to the English local authority of meeting the person's needs. However, if a person living in England arranges their own residential care in another country of the UK, they would usually become ordinarily resident in that country and will not progress towards the cap.

Similarly, if a local authority in another country of the UK arranges for a person to receive residential care in England, and the person will not be ordinarily resident in England, they will not progress towards the cap. However, a person from another part of the UK who arranges their own residential care in England will usually become ordinarily resident in England and will progress towards the cap.[75]

Adjustments to the cap parameters

The level of the cap will be adjusted annually in line with average earnings.[76] Where the level of the cap is adjusted, a person's progress towards it, in terms of accrued costs as a percentage of the cap, will be maintained. For example, if a person is 50% towards the cap when the level of the cap is changed, adjustments will be made to ensure that the person's progress remains at 50%.[77]

72 Care Act 2014, section 15(5); DHSC, Implementing the cap on care costs: draft operational guidance, 4 March 2022, para 1.15.

73 HL Deb 31 January 2021, c753.

74 DHSC, Implementing the cap on care costs: draft operational guidance (PDF), 4 March 2022, para 2.22.

75 DHSC, Implementing the cap on care costs: draft operational guidance, 4 March 2022, paras 1.40-1.41.

76 Care Act 2014, section 16(1); DHSC, Adult social care charging reform: impact assessment, January 2022, para 37.

77 DHSC, Implementing the cap on care costs: draft operational guidance, 4 March 2022, paras 1.48-1.49.

Under the Care Act 2014, the Secretary of State is required to conduct a review on the operation of the cap every five years. This will include, for example, the level of daily living costs.[78]

Legislative implementation

The legislation for a cap on care costs is already included in the Care Act 2014 and the Build Back Better policy document said the cap will be implemented using this legislation.[79] However, as discussed above (pages 17-19), the Government has amended this framework via the Health and Care Act 2022.

Primary legislation related to the cap will be commenced and the level of the cap and daily living costs will be set through statutory instrument subject to the affirmative procedure.[80]

As set out above, on 4 March 2022, the Government published a consultation on draft operational guidance setting out how the cap on care costs will operate in practice. The consultation document provided further information on the regulatory changes required to implement the reforms. The Government responded to the consultation on 7 July 2022 and published a revised version of the operational guidance. The guidance will become part of the Care and Support Statutory Guidance in October 2023.[81]

Local authority implementation

The March 2022 consultation also sought views on draft guidance to support local authorities with preparing for implementation of the reforms.[82]

The Government responded to the consultation on 15 June 2022.[83] While responses to the consultation were "supportive of the policy principles and aims of the reforms", they raised issues in a number of areas, including:

- **Implementation timescales**: some respondents suggested a phased approach and "a significant number of local authorities" raised concerns about building IT capability within the timescales. The Government's response recognised "the challenging timescale for implementation" and said it was working with trailblazer and pathfinder local authorities (see page 22 below) to develop implementation plans.

[78] Care Act 2014, section 71; DHSC, Implementing the cap on care costs: draft operational guidance, 4 March 2022, para 1.48.

[79] HM Government, Build Back Better: Our plan for health and social care, CP 506, September 2021, para 38.

[80] Care Act 2014, sections 15(4) & 125(4)(b); DHSC, Adult social care charging reform: impact assessment, January 2022, para 94.

[81] DHSC, Operational guidance to implement a lifetime cap on care costs, 7 July 2022.

[82] DHSC, Supporting local preparation: draft guidance, 14 March 2022.

[83] DHSC, Charging reform: government response to the consultation on 'supporting local preparation' guidance, 7 July 2022.

- **Funding**: concerns were raised that funding for the reforms would be insufficient. In response, the Government said the impact assessment on the reforms, which included funding, had "been through extensive peer review on several occasions."

- **Workforce capacity**: many respondents highlighted the reforms will require a significant increase in the workforce in the context of existing recruitment and retention difficulties. The Government's response highlighted the funding being provided for implementation but recognised "this alone will not overcome the challenge, and local authorities will need to deploy a range of initiatives to implement the charging reform."

- **Communications**: respondents called for a national approach to raise awareness and communicate the reforms. The Government said it recognised this need and that there would be national communications through the Transforming Social Care campaign website, social media and other media channels.[84]

A revised version of the guidance on local implementation was published as a new chapter 23 of the Care and Support Statutory Guidance at the same time as the consultation response.[85]

Among other things, the guidance suggests local authorities may conduct needs and financial assessments of self-funders who are seeking to access the cap (or who are newly captured by the more generous means test) from April 2023 onwards to help manage the demand for assessments. If an individual is assessed early, they will still not being accruing towards the cap until October 2023.[86]

Alongside the consultation response on 15 June 2022, the Government published details of initial implementation funding allocations for the 2022/23 financial year.[87]

Trailblazer local authorities

Six "trailblazer" local authorities – Wolverhampton, Blackpool, Cheshire East, Newham, North Yorkshire and Oxfordshire – will implement the charging reforms from January 2023 ahead of national rollout in October 2023. The

84 DHSC, Charging reform: government response to the consultation on 'supporting local preparation' guidance, 7 July 2022.
85 DHSC, Care and Support Statutory Guidance, 2 September 2022, Chapter 23: Charging reform: guidance on supporting local preparation.
86 DHSC, Care and Support Statutory Guidance, 2 September 2022, Chapter 23: Charging reform: guidance on supporting local preparation, paras 23.20-23.23.
87 DHSC, Adult social care charging reform: implementation support funding grant determination 2022 to 2023, 15 June 2022.

Government has said the areas were selected "to ensure a cross section of communities are represented."[88]

Details of funding for the trailblazer local authorities was announced by the Government on 15 June 2022.[89]

3.2 Changes to the social care means test

From October 2023, the Government proposes to make the following changes to the capital means test:

- Increase the **upper capital limit** (the threshold above which somebody is not eligible for local authority support towards their care costs) from £23,250 to £100,000.
- Increase the **lower capital limit** (the threshold below which somebody does not have to contribute towards their care costs from their capital) from £14,250 to £20,000.
- If somebody has capital between £20,000 and £100,000 they will be charged a "tariff income" of £1 per week for every £250 in capital they have between the lower and upper thresholds. This mirrors the current system. [90]

These limits will apply to those in residential care and to those receiving care in other settings (eg, in their own home).[91]

3.3 Fair cost of care reforms

Background

Local authorities can use their position as a large purchaser of social care to obtain lower fee rates from care providers, which can be less than the cost of providing care. Government modelling estimates 70% of local authorities pay below a "fair cost of care."

88 DHSC, Operational guidance to implement a lifetime cap on care costs, 14 March 2022; DHSC, Local Authorities announced as trailblazers for social care charging reform, 25 March 2022; DHSC, Oxfordshire joins as sixth trailblazer for charging reform, 25 July 2022.

89 DHSC, Adult social care charging reform: early assessment and trailblazer support funding grant determination 2022 to 2023, 15 June 2022.

90 HM Government, Build Back Better: Our plan for health and social care, CP 506, September 2021, paras 41-44; HM Government, Adult social care charging reform: further details, 17 November 2021.

91 HM Government, Adult social care charging reform: further details, 17 November 2021.

The Government says this is leading to market failure, with care providers "having low resilience to cope with changes such as fluctuations in demand, cost increases, and other factors such as worker shortages."[92]

It can also lead to providers attempting to cross-subsidise, with the result that self-funders often pay more for equivalent care than people funded by the local authority. In 2017, the Competition and Markets Authority estimated a self-funder will on average pay 40% more than a local authority funded person in the same care home.[93]

The Government is proposing two related measures aimed at addressing these issues:

- Enabling self-funders to access local authority fee rates.
- Providing funding to local authorities so that they can increase the rates they pay for care (move towards paying a "fair cost of care").

Enabling people to access local authority fee rates

The Government has said it will bring section 18(3) of the Care Act 2014 fully into force so that self-funders can ask their local authority to arrange their care in a care home to "find better value".[94] Currently, self-funders can only do this if they receive care outside of a care home.[95]

An article in Community Care explained:

> Currently, self-funders pay significantly greater sums for care than those funded by councils or the NHS (under continuing healthcare).
>
> However, the government said [on 7 September 2021] it would also implement section 18(3) of the Care Act 2014 in full, requiring councils to arrange care in a care home for those self-funders with eligible needs who request that they do so.
>
> This is designed to enable councils to take account of their bulk purchasing power to secure lower rates for self-funders; as a result, the costs paid by self-funders and the state should converge, meaning self-funders' care accounts should reflect what they actually pay." [96]

92 DHSC, Adult social care charging reform: impact assessment, January 2022, paras 266; DHSC, Market Sustainability and Fair Cost of Care Fund: purpose and conditions 2022 to 2023, 16 December 2021.

93 DHSC, Adult social care charging reform: impact assessment, January 2022, paras 265-6.

94 HM Government, Build Back Better: Our plan for health and social care, CP 506, September 2021, para 40. For more information on the current position, see Care Act 2014, section 18(3); Department of Health and Social Care, Care and Support Statutory Guidance, last updated 27 August 2021, Annex A, paras 41-43.

95 Care Act 2014, section 18(3); Care Act 2014 (Commencement No. 4) Order 2015/993, paragraph 3.

96 Community Care, Government resurrects cap on care costs plan four years after ditching it, 7 September 2021.

The Government says this will help address the difference in fee rates charged to some self-funders.[97] It will also, the Government says, protect the integrity of the cap on care costs by ensuring people progress towards the cap at the rate they are paying for care (ie the local authority rate).[98]

Fair cost of care

Allowing self-funders to access local authority fee rates will mean some care providers will have to reduce their reliance on using self-funders to subsidise state-funded care. The Government has said where this happens, "local authorities will need to ensure their market can be sustained and fee rates are sustainable."[99]

The Government said it will provide an additional £1.36 billion over the next three years – referred to as the Market Sustainability and Fair Cost of Care Fund – to help enable local authorities to increase the rates they pay to care providers where necessary (move towards paying a "fair cost of care"). £162 million will be allocated in 2022/23 and £600 million in both 2023/24 and 2024/25. The funding is part of the £3.6 billion allocated for social care charging reforms.[100]

The Government expects local authorities to conduct a cost of care exercise to determine sustainable rates and identify how close they are to them. The additional funding should then be used "to genuinely increase fee rates, as appropriate to local circumstances."[101] The actual change in fee rates in an individual local authority will "vary according to their starting point, local market circumstances and local pressures."[102]

Further information was provided in a policy paper published in December 2021: Market Sustainability and Fair Cost of Care Fund: purpose and conditions 2022 to 2023 and in a written ministerial statement.[103]

On 24 March 2022, the Government published guidance on the use of the funding in 2022/23. Among other things, this set out that local authorities must submit the following to the Department of Health and Social Care by October 2022 as a condition of future funding:

- cost of care exercises for 65+ care homes and 18+ domiciliary care

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97 DHSC, Market Sustainability and Fair Cost of Care Fund: purpose and conditions 2022 to 2023, 16 December 2021.
98 DHSC, Adult social care charging reform: impact assessment, January 2022, paras 267.
99 DHSC, Market Sustainability and Fair Cost of Care Fund: purpose and conditions 2022 to 2023, 16 December 2021.
100 DHSC, Market Sustainability and Fair Cost of Care Fund: purpose and conditions 2022 to 2023, 16 December 2021.
101 DHSC, Market Sustainability and Fair Cost of Care Fund: purpose and conditions 2022 to 2023, 16 December 2021.
102 PQ108454 [Home Care Services: Finance], 27 January 2022.
103 DHSC, Market Sustainability and Fair Cost of Care Fund: purpose and conditions 2022 to 2023, 16 December 2021; HCWS509 [Adult Social Care Funding and Reform], 16 December 2021.

- a provisional market sustainability plan, using the cost of care exercise as a key input to identify risks in the local market, with particular consideration given to the further commencement of Section 18(3) of the Care Act 2014 (which is currently in force only for domiciliary care) – a final plan will be submitted in February 2023.

- a spend report detailing how funding allocated for 2022 to 2023 is being spent in line with the fund's purpose.[104]

The guidance said local authorities must spend no more than 25 per cent of the funding for 2022/23 on implementation costs. Authorities are expected to use at least 75 per cent of the funding to increase fee rates paid to providers of 65+ care homes and 18+ domiciliary care.[105]

An article published by the Nuffield Trust in June 2022 provides further information on the proposed "fair cost of care" reforms, which it described as "arguably more significant to how the social care system operates than the cap on care costs."[106]

Implementation

Many responses to the Government's consultation on operational guidance for implementing the cap on care costs (see section 3.1 above, page 21) raised concerns about the impact of fully implementing section 18(3) of the Care Act (ie, allowing self-funders to ask the local authority to arrange their care in a care home for them). These included concerns over funding, and the impact on local authorities' administrative workload and workforce requirements.

In its response to the consultation, the Government argued the issues raised by the respondents were "underpinned and exacerbated" by the uncertainty around how many people will choose to use section 18(3). "Concerns around funding, workforce, administrative pressures and the timing of introduction are all significantly increased", it said, "in a scenario in which many self-funders simultaneously choose to use section 18(3) in October 2023."

In light of this, the response said, the Government planned to introduce section 18(3) via a transitional period:

- From October 2023, self-funders who enter a care home for the first time will be able to use section 18(3).

104 DHSC, Market sustainability and fair cost of care fund 2022 to 2023: guidance, 24 March 2022; DHSC, Care providers to receive fairer costs for providing care, 24 March 2022.

105 DHSC, Care providers to receive fairer costs for providing care, 24 March 2022.

106 Nuffield Trust, Fair cost of care: what is it and will it fix the problems in the social care provider market?, 15 June 2022.

- Self-funders who are already in a care home in October 2023 will gain access to section 18(3) at the end of the transition period. This will be no later than April 2025 and earlier "if the market can sustain full rollout."[107]

The transitional period will be reviewed after one year (October 2024).[108]

3.4 Other changes

The Government announced other changes to the adult social care charging framework. These include:

- From April 2022, the **amount of income** a person must be allowed to retain after contributing towards their care costs (the Personal Expenses Allowance for care home residents and the Minimum Income Guarantee for people receiving care in other settings) increased in line with inflation (3%).[109] The rate of the Personal Expenses Allowance had not increased since 2015/16 and the rate of the Minimum Income Guarantee had not increased since 2016/17.[110]

- The Government will review the system of **Deferred Payment Agreements** to "provide more flexibility." A Deferred Payment Agreement is essentially a loan given by a local authority, which is usually secured against the value of a person's property. The intention is to allow a person to delay paying their care costs to avoid having to sell their home in their lifetime to pay for residential care.[111]

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107 DHSC, Charging reform: government response to the consultation on 'implementing the cap on care costs' operational guidance, 7 July 2022; HC Deb 7 July 2022, cc73-4WS.

108 DHSC, Charging reform: government response to the consultation on 'implementing the cap on care costs' operational guidance, 7 July 2022.

109 HM Government, Build Back Better: Our plan for health and social care, CP 506, September 2021, para 45.

110 CBP8005, Adult Social Care: Means-test parameters since 1997, 11 June 2021.

111 For further information, see CBP1911, Paying for adult social care in England, 27 August 2021.

4 Analysis of charging reforms

4.1 Comparison with Dilnot Commission proposals

In evidence to the Treasury Committee on 18 November 2021, Sir Andrew Dilnot identified areas where the Government's proposals are more generous than those recommended by the Dilnot Commission in 2011:

- The Government's proposals increase the upper capital limit for everybody, including those receiving care in their own home. The Dilnot Commission recommended a lower capital limit for those receiving care in their own home.[112]
- The Government is proposing setting daily living costs at a lower notional level than proposed in 2015.[113]

However, he also highlighted areas where the Government's proposals are less generous than recommended by the Commission:

- The Dilnot Commission recommended a £0 cap for people entering adulthood with a care need (ie they would make no contribution towards their personal care). The cap would then increase in steps for those aged over 45. Under the Government's proposals, the £86,000 cap will apply to all adults irrespective of age.[114]
- The increase to the upper capital limit for those in residential care is less in real terms than recommended by the Dilnot Commission.[115]
- The level of the cap on care costs is higher than recommended by the Commission.[116]

112 Treasury Committee, Oral evidence, Autumn Budget and Spending Review 2021, HC 825, 18 November 2021, Q308.
113 Treasury Committee, Oral evidence, Autumn Budget and Spending Review 2021, HC 825, 18 November 2021, Q308.
114 Treasury Committee, Oral evidence, Autumn Budget and Spending Review 2021, HC 825, 18 November 2021, Q307.
115 Treasury Committee, Oral evidence, Autumn Budget and Spending Review 2021, HC 825, 18 November 2021, Q308.
116 Treasury Committee, Oral evidence, Autumn Budget and Spending Review 2021, HC 825, 18 November 2021, Q308-309.

- Under the Government's proposals, only an individual's contribution will count towards the cap, and not any contribution from the local authority (see section 4.4 below for further commentary on this).[117]

Although he raised some concerns with the Government's proposals, Sir Andrew emphasised they were a big improvement on the current system:

> [The Government's proposals] still takes us to a much better place than where we are at the moment. The cap is less generous than I wanted it to be. The upper cap is a bit lower. Nonetheless, it moves us from a world where we are now, where this is an entirely means-tested regime that exposes the whole population to catastrophic costs, to, for the first time, a national risk pool for social care. These things are to be noted and welcomed. The particular way in which they are being done, and particularly what was announced yesterday [the proposed amendment to the Care Act], is less than the best way.[118]

A table setting out how the Government's proposals differ from those consulted on in 2015 is available on page 11 of the joint report by the Institute for Fiscal Studies and the Health Foundation: Does the cap fit? Analysing the government's proposed amendment to the English social care charging system (PDF).[119]

During the Lords Committee stage on the Health and Care Bill, an amendment was discussed which would have set a zero cap for people who enter the care system at or under the age of 40. The amendment was not moved. The Minister, Lord Kamall, said the Government's proposals did not include different caps for different ages because it was "considered unfair."[120]

As discussed in section 3.3 above, on 5 April 2022, the Lords agreed an amendment to the Bill which would prevent a local authority from charging a disabled person aged under 40 for meeting their eligible care needs.[121] This amendment was rejected by the Commons and was not included in the final agreed version of the Bill.[122]

4.2 Government analysis of impact on care users

The September 2021 Build Back Better policy paper said the proposed cap on personal care charges will mean "people will no longer face unpredictable or unlimited care costs". It added that "everybody will benefit from the certainty

117 Treasury Committee, Oral evidence, Autumn Budget and Spending Review 2021, HC 825, 18 November 2021, Q309.

118 Treasury Committee, Oral evidence, Autumn Budget and Spending Review 2021, HC 825, 18 November 2021, Q329.

119 IFS, Does the cap fit? Analysing the government's proposed amendment to the English social care charging system (PDF), February 2022, p11.

120 HL Deb 31 January 2021, cc735-753; UK Parliament, Baroness Bull's amendment In Clause 140 (234), last accessed 8 February 2022.

121 HL Deb 5 April 2022, cc1985-2002 & c2035-2039 (motion G1).

122 HC Deb 25 April 2022, cc525-546; HL Deb 26 April 2022, cc219-243 (motion D).

and security that if they or their loved ones need personal care, they will no longer face unpredictable and unlimited costs."[123] The Government's impact assessment on the reforms, published in January 2022, estimated the monetary value of these 'peace of mind benefits' to be around £1 billion a year by 2027/28.[124]

The impact assessment said the main objective of the reforms is "to address the risk individuals face due to unlimited care costs." It added the proposals "also aim to increase the protection of those with lower wealth and incomes who fall under the means test."[125]

Older adults

Analysis published by the Government in November 2021 estimated that, given 2021/22 demand, around 90,000 additional older adults would be receiving state support due to the proposed reforms (around 360,000 received support under the current system). Of this, around 30,000 would be benefiting from the more generous means test only, and 60,000 would be benefiting from the cap (or cap and means test). The proportion of older adults in care receiving support from the state would increase from around half to around two-thirds. The analysis added that "no one will be worse off, and some will be better off".[126]

The Government's impact assessment shows that up to the end of 2025/26, very few people will benefit from the cap (as it will take time to reach it); the main additional beneficiaries of state support in the early years will be those getting support through the more generous means test. By 2031/32 around 115,000 additional older adults would be receiving state support with their care costs because of the proposed reforms. Of this, 74,000 would have reached the cap on care costs.[127]

The impact assessment projected that, under the reformed system, spending on the least wealthy 20% of older adults (those with less than around £71,000 of assets) in 2021/22 would be around £4.42 billion compared to £4.24 billion under an unreformed system. Spend on the wealthiest 20% would be £0.5 billion compared to £0.05 billion.[128]

The assessment noted that, while the additional spending on the cap on care costs "goes towards those in high wealth groups" the "overall system remains progressive." It added that the more generous means test provides protection for those at lower levels of wealth.[129]

123 HM Government, Build Back Better: Our plan for health and social care, CP 506, September 2021, paras 38 & 44.
124 DHSC, Adult social care charging reform: impact assessment, January 2022, paras 376-382.
125 DHSC, Adult social care charging reform: impact assessment, January 2022, para 61.
126 DHSC, Adult social care charging reform: analysis, 19 November 2021, p3.
127 DHSC, Adult social care charging reform: impact assessment, January 2022, para 141.
128 DHSC, Adult social care charging reform: impact assessment, January 2022, paras 456-458.
129 DHSC, Adult social care charging reform: impact assessment, January 2022, para 141.

Younger adults

In 2020/21, approximately 256,000 adults aged under 65 received long-term care compared to around 360,000 older adults. The Government has estimated that for 2020/21 around 90% of care users aged 18-64 are already state supported, compared to 55% of care users aged over 65.[130]

The Government's impact assessment estimated that by 2031/32 around 21,200 additional adults aged under 65 would be receiving state support under a reformed system. The assessment estimated that, on average, users that are partially state funded are less likely to hit the cap by 2031/32 as their contribution to their care is low. However, they may benefit from the more generous means test.[131]

Regional variation

The Government's impact assessment said people "are either more or less likely to benefit from reforms based on their income and wealth and care journeys, rather than where they live." It added:

> ...while on average there will be variation between regions in terms of how they will be [sic] benefit from the different aspects of the reform, there will be considerable variation within regions. Comparably less wealthy regions will likely have fewer users benefiting from the cap, whilst having more users benefit from the more generous means test, than comparably wealthier regions.[132]

While noting detailed regional analysis is restricted by a lack of data, the assessment drew some inferences based on how care fee rates and wealth and income profiles vary by region:

- Regions with higher fee rates are likely to have more users hitting the cap on care costs. Areas in the south of England generally have higher fee rates than the north. However, there is also substantial variation within regions.[133]
- Median house prices in 2021/22 varied from £141,000 in the North East to £479,000 in London. Homeowners in northern regions are more likely to get state support from the more generous means test, while homeowners in London are much less likely to get state support until they hit the cap (assuming their house is not disregarded).[134]

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130 DHSC, Adult social care charging reform: impact assessment, January 2022, paras 232.
131 DHSC, Adult social care charging reform: impact assessment, January 2022, paras 233-238.
132 DHSC, Adult social care charging reform: impact assessment, January 2022, paras 233-238.
133 DHSC, Adult social care charging reform: impact assessment, January 2022, paras 464-471.
134 DHSC, Adult social care charging reform: impact assessment, January 2022, para 472.

Impact on individual care users

How someone receiving social care will be affected by the proposed reforms depends on their individual circumstances, including their starting wealth, their income, how long they need care for and their care fees.

The Government has published an interactive asset depletion chart, which can be used to show what percentage of a person's starting wealth will have depleted at a given point during their time receiving care under the current system, the proposed reformed system, and the reforms proposed in 2015. The analysis is based on the following assumptions:

- The individual has a weekly income (excluding disregarded income) of £239 (DHSC's estimate of the median income of over 65s in England).
- The individual pays the average weekly fee rate for older adult users in residential care of £683.

The level of asset depletion varies depending on a person's starting wealth and how long they spend in care. Based on somebody spending 97-weeks in care, for example (the median length people spend in residential care), the analysis shows:

- Under the current system, asset depletion peaks for an individual who started with £65,000 of wealth, depleting 65% of their assets over this time.
- Under the reformed system, a person with £65,000 starting wealth would deplete 22% of their assets.

The Government's impact assessment also gave a breakdown of spend from a person's income and assets, and state funding, for a 97-week period in care based on different levels of starting wealth.[135]

A person's stating wealth will also have a big impact on how long it takes them to reach the cap on care costs. Assuming daily living costs of £200 a week, care fees of £683 a week and weekly income of £230, the Government's impact assessment estimated it would take somebody with £100,000 of starting wealth 13 years and nine months to reach the cap. In this time, they would receive £260,000 of state support. On the other hand, somebody with £200,000 of starting wealth would reach the cap in three years and six months and would receive no support over this time.[136]

This example demonstrates the impact of not counting the local authority's contribution towards the cap (amendment to the Care Act). Without the amendment, the people in the example would reach the cap at the same time.

135 DHSC, Adult social care charging reform: impact assessment, January 2022, para 460.
136 DHSC, Adult social care charging reform: impact assessment, January 2022, para 106.

The Government has estimated around 13% of older adults who enter a care home are there for five years or more; 2% are there for 10 years or longer.[137]

Further analysis is provided on pages 30 to 36 of the impact assessment.

4.3 Stakeholder commentary on impact on care users

The proposed reforms were broadly welcomed in stakeholders' initial responses. The Resolution Foundation, for example, said they were "an overdue socialisation of the risk we all face of high care costs" and the Nuffield Trust said the changes "will be a relief to tens of thousands of people."[138] ADASS similarly said the reforms feel "like a significant step forward" and the Local Government Association (LGA) said they are "an important first step toward changing the way social care is funded and will help to reduce the burden of costs on people."[139]

The Resolution Foundation, however, raised the potential risk that the reforms will not live up to their marketing, with some people still needing to "give the local authority a significant stake in their home to pay for social care." The plans are also, it said, "significantly less generous" than those proposed by the Dilnot Commission.[140] The Foundation also outlined the differential impact across English regions, with the cap offering more support to families in the South and the more generous means test impacting favourably in lower wealth regions.[141]

In its initial response, the King's Fund said the changes to the means test are "very welcome and will bring thousands more people into the publicly funded system". It added, however, that while the cap on care costs will protect people from very high costs, it "will help relatively few people".[142]

In May 2022, the King's Fund published an assessment of the Government's progress in addressing eight key problems in social care. While it assessed the Government as making good progress on means testing (7/10), progress

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137 DHSC, Adult social care charging reform: analysis, 19 November 2021, p3.

138 Resolution Foundation, Nationally Insured? New taxes and new spending to address key Department for Health and Social Care priorities, 8 September 2021, p2.; Nuffield Trust, Care providers, care users and workers will feel short-changed by proposed health and social care levy and reform, 7 September 2021.

139 Association of Directors of Adult Social Services, Prime Minister Announces Adult Social Care Reform Plans & Funding, 7 September 2021.; Local Government Association, LGA responds to social care funding announcement, 7 September 2021.

140 Resolution Foundation, Nationally Insured? New taxes and new spending to address key Department for Health and Social Care priorities, 8 September 2021, pp9-11.

141 Resolution Foundation, Nationally Insured? New taxes and new spending to address key Department for Health and Social Care priorities, 8 September 2021, pp9-11.

142 King's Fund, The King's Fund responds to the announcement of a health and social care levy, 7 September 2021.

on preventing catastrophic costs was rated as "disappointing" (5/10) and the effectiveness of tackling unmet need was assessed as "very limited" (2/10). On addressing market fragility, the King's Fund highlighted the highly unpredictable nature of the "fair cost of care" reforms and said it was too soon to judge its effectiveness.[143]

The Health Foundation welcomed the proposed cap on care costs as "a positive and bold step forward" which will give people "greater certainty about the future costs they need to plan for and help reduce the care cost lottery." It also highlighted, however, that those with modest means still risk losing a high proportion of their wealth:

> With the cap set at £86k, most people will be protected from catastrophic care costs, but those with modest assets and high care needs will still risk losing a high proportion of their wealth in future. For example, an individual whose house is valued at £125k still risks losing almost half of their housing wealth whereas a cap set at £50k would have enabled them to retain two thirds. By comparison, a person with a house valued at £500k risks losing less than a fifth of their housing wealth.[144]

Age UK and the Care and Support Alliance said the £86,000 cap gives "much needed certainty" and removes "the fear of care bills spiralling to infinity, though at that level it will help fewer people than many had hoped." It added: "A more generous means test is arguably the more significant announcement for most and will result in greater numbers receiving at least some financial help."[145]

The Institute of Public Policy Research said the proposed reforms are "a clear improvement on the current system" and "will save the family homes of many and help tackle unmet need." It added, however, that the system "still falls short of putting social care on the same basis as other care provided by the NHS – free to all at the point of need."[146]

4.4 Costs and funding of charging reforms

The Government's impact assessment estimates the proposed charging reforms, including the "fair cost of care", will cost around £23.25 billon (in 2021/22 prices) in total by 2031/32. The annual costs start low (£1.42 billion in 2023/24) but increase to an estimated £4.74 billion by 2031/32.

143 King's Fund, Reform of adult social care: some progress, but nowhere near enough, 10 May 2022.
144 Health Foundation, Social care cap a bold step forward but funding won't 'fix' social care or tackle the NHS backlog, 7 September 2021.
145 Age UK, Age UK & CSA response to PM's Social Care reform announcement, 7 September 2021.
146 IPPR, Social care plan 'a clear improvement' on current system but leaves key problems unresolved, says IPPR, 7 September 2021.

A table on page seven of the impact assessment provides a breakdown of the costs.[147]

The Government says the announced £3.6 billion of funding over the next three years covers the cost to local authorities of implementing the proposed reforms. If costs "differ significantly from projections", the Government will "work closely with local authorities to address this, including through national guidance, supporting appropriate local level mitigations, and by agreeing necessary updates to distribution mechanisms."[148]

On 8 August 2022, the Government published a consultation on the distribution of funding to support the charging reforms in 2023/24. The consultation closed on 23 September and the Government is yet to respond.[149]

The cap and more generous means test

The cap on care costs and the more generous means test are estimated to cost around £0.57 billion in 2023/24, rising to £2.68 billion in 2027/28 and £3.60 billion in 2031/32. Costs start low as most people will not reach the cap for several years after implementation. Costs from the cap are observed from 2026/27 and the system reaches a steady state roughly four years after implementation (in 2027/28).

Increased costs from 2027/28 are driven by a projected increase in demand and increases in the estimated costs of care.[150] The costs for younger adults are substantially lower than for older adults as there are currently fewer younger adults funding their own care.[151]

There is also estimated to be a saving arising out of a reduction in benefits paid by the Department for Work and Pensions. This is because care home residents in receipt of local authority support are not eligible for Attendance Allowance, the care component of Disability Living Allowance or the daily living component of Personal Independence Payment, and the reforms are expected to lead to an increase in the number of care home residents in receipt of state support. The impact assessment estimated the saving from this to be around £0.23 billion in 2027/28 and £0.27 billion in 2031/32.[152]

The impact assessment noted the reforms will likely lead to an increase in administration costs for local authorities as they will have to conduct assessments for self-funders so they can begin progressing towards the cap. It estimated the additional cost of assessments for older adults to be between £150 million and £170 million a year between 2024/25 and 2031/32.[153] The extra

147 DHSC, Adult social care charging reform: impact assessment, January 2022, p7, table 1.
148 HM Government, Build Back Better: Our plan for health and social care, CP 506, September 2021, para 46.
149 DHSC, Adult social care charging reform: distribution of funding 2023 to 2024, 8 August 2022.
150 DHSC, Adult social care charging reform: impact assessment, January 2022, paras 133-140.
151 DHSC, Adult social care charging reform: impact assessment, January 2022, para 227.
152 DHSC, Adult social care charging reform: impact assessment, January 2022, paras 354-361.
153 DHSC, Adult social care charging reform: impact assessment, January 2022, p44, table 12.

costs of assessments for younger adults are estimated to be between £10 million and £12 million a year.[154]

The implementation costs of the reforms include funding for early assessments and planning and preparation costs. The Government estimates these costs to be £34 million in 2022/23 and £168 million in 2023/24.[155]

Concerns around funding and implementation

As noted in section 3.1 above (pages 21-22), responses to the Government's consultation on local implementation were supportive of the principle and aims of the reforms. However, they also raised a number of areas of concern, including around workforce capacity, funding, and implementation timescales. Insufficient supply of workforce was the most common concern raised.[156]

A report published by the County Councils Network in May 2022 estimated the costs of the charging reforms in the nine years from when they are introduced to 2032 could be a minimum of £10bn higher than currently estimated. The analysis also estimated 4,300 more social work staff and 700 more financial assessors will be required to carry out additional assessments, reviews and case management. The report suggested there is significant regional variation in the impact of the reforms.[157]

In a survey by the Local Government Association (LGA) in June 2022, 98% of responding councils said they were not confident that funding for the reforms will be sufficient. Three quarters of responding councils said they were also not confident of having the workforce capacity to deliver the reforms.[158]

On 5 August 2022, the LGA called on the Government to delay implementation of the cap on care costs, changes to the means test and section 18(3) of the Care Act to April 2024. It said councils had "serious concerns over the deliverability of…reforms within the current climate and to the current timescale, with many concerned that crucial council services may be negatively impacted to afford the reforms."[159]

LUHC Committee report on social care funding

In its August 2022 report on the long-term funding of adult social care, the Levelling Up, Housing and Communities Committee said it had received concerns about the practicability of implementing all the charging reforms at

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154 DHSC, Adult social care charging reform: impact assessment, January 2022, p61, table 23.

155 DHSC, Adult social care charging reform: impact assessment, January 2022, para 263.

156 DHSC, Charging reform: government response to the consultation on 'supporting local preparation' guidance, 7 July 2022; Social worker shortages sector's biggest concern in delivering cap on care costs, Community Care, 17 June 2022.

157 County Councils Network, Preparing for reform, May 2022, pp4-6.

158 LGA, Not enough money for adult social care reforms, say 98 per cent of councils in LGA survey, 27 June 2022.

159 LGA, Evidence of immediate pressures to social care growing, 5 August 2022. Delay cap on care costs, council heads urge government, Community Care, 5 August 2022.

same time, and whether the funding is adequate, particularly for the fair cost of care.[160]

The report said the Government's decision to stagger the rollout of section 18(3) (see section 3.3 above, pages 26-27) "may help to avert the worst-case scenario in terms of local authority capacity pressures and market sustainability." It recommended, however, that the Government should re-evaluate the combined impact of the charging reforms and should regularly monitor take-up and update its models accordingly. It added that the Government should provide further funding to local authorities if necessary.

The Committee also expressed concern about the additional assessments which local authorities will have to carry out and that proposed workarounds will place additional strain on those requesting care and care workers.[161]

4.5 Amendment to Care Act

As set out in section 3.2 above (pages 17-19), the Government has amended the Care Act 2014 so that only the amount an individual contributes towards their eligible care costs (and not any local authority contribution) will count towards the cap on care costs.[162] This change has been one of the most contentious elements of the reform proposals.

Government rationale

The Government said it was introducing the change to ensure the reforms "are clear and reduce complexity."[163] It has also argued the change makes the proposed reforms fairer. For example, the impact assessment said:

> ...two people starting with the same level of wealth and contributing the same amount towards their eligible care needs each week will hit the cap at the same time; under the previous formulation they could reach the cap at very different times, depending on the level that the LA was contributing towards the cost of their care. People with modest means are primarily supported through the more generous means testing regime, which makes it very unlikely they will deplete a large proportion of their assets rather than the cap.[164]

During the Lords Report Stage on the Health and Care Bill, Lord Kamall, Parliamentary Under-Secretary at the Department of Health and Social Care,

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160 Levelling Up, Housing and Communities Committee, Long-term funding of adult social care (PDF), 4 August 2022, HC 19 2022/23, para 50.

161 Levelling Up, Housing and Communities Committee, Long-term funding of adult social care (PDF), 4 August 2022, HC 19 2022/23, paras59-64.

162 HCWS399, 17 November 2021; HM Government, Adult social care charging reform: further details, 17 November 2021.

163 HM Government, Adult social care charging reform: further details, 17 November 2021; HCWS399, 17 November 2021.

164 DHSC, Adult social care charging reform: impact assessment, January 2022, para 40; see also DHSC, Operational guidance to implement a lifetime cap on care costs, 14 March 2022.

said basing progress towards the cap on both individual and local authority contributions to care costs was both “unfair” and “considered unaffordable.” In this context, he suggested previous proposals for reform hadn’t been implemented because of affordability.[165]

The Government has said savings from the change (estimated to be around £900 million by 2027/28) have allowed it to be more generous in other areas compared to the proposals consulted on in 2015. This includes:

- To make the notional daily living charge lower (£200 a week compared to £258 in today’s prices under the 2015 proposals). The Government estimates this will cost an additional £600 million a year.
- To set a higher upper capital limit for those in domiciliary care (£100,000 compared to £32,000 in 2023 prices under the 2015 proposals). The Government estimates this will cost an additional £200 million a year.[166]

The Government’s impact assessment considered the reform proposals as a whole and did not assess the impact of the proposed amendment in isolation.[167]

Stakeholder concerns

The change has proved controversial among stakeholders. The King’s Fund, for example, said it was “disappointing” and means “people who need the most protection from catastrophically high care costs – those with low to moderate levels of wealth – will get less protection than wealthier people.”[168] Noting the cap was already more beneficial to those in the south of England, Torsten Bell, Chief Executive of the Resolution Foundation, said the change is a “big problem for those in the north/midlands”.[169]

In its January 2022 report on the Autumn Budget and Spending Review 2021, the Treasury Committee welcomed the Government’s proposed reforms, but expressed concern about the impact of the proposed change to the Care Act on people with wealth between £20,000 and £106,000. It said:

> Even if people within this cohort do not as individuals end up needing care, they are still exposed to far greater financial risk of having to contribute £86,000 of their own money in full than would have been the case under the provisions of the Care Act 2014. It is regrettable that a such a large cohort of people are still exposed to the possibility of incurring these high costs, which

165 HL Deb 7 March 2022, c1177-1178. Similar arguments were made by Edward Argar in the Commons on 25 April 2022: HC Deb 25 April 2022, c525-6.

166 DHSC, Adult social care charging reform: analysis, 19 November 2021.

167 IFS, Does the cap fit? Analysing the government’s proposed amendment to the English social care charging system (PDF), February 2022, p6.

168 King’s Fund, The King's Fund responds to social care cap change, 19 November 2021.

169 Torsten Bell, Twitter, 18 November 2021, available from: https://twitter.com/TorstenBell/status/1461336910547329030; Torsten Bell, Twitter, 18 November, available from: https://twitter.com/TorstenBell/status/1461037495328686083.

> make up a large proportion of their assets. Compared to the original Dilnot proposals, this will be regressive.[170]

As discussed in section 3.1 (pages 18-19) the proposed change also faced opposition during proceedings on the Health and Care Bill. For example, during Lords Report Stage on the Bill, Baroness Wheeler, who put forward the amendment removing the relevant clause from the Bill, argued the Care Act framework reflected a "carefully crafted…cross-party agreement" and the Government's proposed change was "a last-minute, hastily scraped together, ill-though-out mishmash…".[171]

IFS and Health Foundation report

On 7 February 2022, the Institute for Fiscal Studies (IFS) and the Health Foundation published a joint report on the impact of the proposed amendment to the Care Act. The report said the change "would impact most strongly those older people with modest levels of wealth." It added:

> Those with wealth, including their home, of around £75,000 to £150,000 would face the biggest loss of protection as a result of the amendment. The result is that someone with around £110,000 in assets could lose 78% of their total wealth even after the cap is in place, while someone with £500,000 could use up only 17%.

The report said "those in the North East, Yorkshire and the Midlands, where wealth tends to be lower, would see the biggest erosion of their protection against large care costs."

The report's other findings included:

- Those who receive means-tested support will have to contribute to their own care costs for longer before they reach the cap.
- Someone with £106,000 of assets and an annual income of £11,800 would contribute £76,000, or 71% of their assets, compared to £44,000, or 41% of their assets under the existing Care Act framework.
- The greatest impact will be on the second quintile of wealth distribution (those in households with wealth per person of between £83,000 and £183,000). There is a negligible effect on the wealthiest 40% (those with assets over £298,000).
- The proposed amendment would not substantially change the number of people at risk of having to use their housing wealth to pay for care, as most receiving means-tested support would have to draw on housing wealth (if they have any) under the reforms even without the amendment.

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170 Treasury Committee, Autumn Budget and Spending Review 2021, HC 825 2021/22, 27 January 2022, para 107.

171 HL Deb 7 March 2022, c1169.

- Working age adults with modest income could be significantly affected as a result of it taking years longer to reach the cap.[172]

4.6 Fair cost of care reforms

As set out above (pages 25-27), the Government's reforms include plans to enable self-funders to "find better value care" by asking their local authority to arrange their care for them (fully implementing section 18(3) of the Care Act 2014). At the same time, local authorities will be expected to move towards paying a "fair cost of care."

It's been suggested the ability of providers to charge self-funders more is what keeps them viable. As a report by care market specialists LaingBuisson explains, "it is the combination of fees from different funding sources [self-pay fees (typically high), council-paid fees (typically low) and NHS-paid fees (intermediate), plus third-party top-ups] which makes the sector as a whole viable." The report adds: "the sector as a whole is currently operating at average fees which are close to operating costs plus a reasonable return on secondary assets, pulled down by low state-paid fees and pulled up by high self-pay fees."[173]

This means changes to the fees paid by self-funders could potentially affect care providers' financial models if not mitigated by increased local authority fees.[174] In evidence to the Treasury Committee on 18 November 2021, Sally Warren, Director of Policy at the King's Fund, explained:

> …section 18(3) of the Care Act allows self-funders to ask the local authority to access care at the local authority rate. It is an attempt to remove the cross-subsidy, which has been growing over the last decade. If you get that wrong in removing the cross-subsidy by not setting the Government rate high enough, that could see very high levels of instability for providers, and you could see providers removing themselves from the market. In that case, the only option you may be left with would be for local authorities to step in, definitely in the short term and possibly in the long term, to provide care.[175]

The Government's impact assessment highlighted uncertainty over how far the positive effect of the fair cost of care reform (as local authorities increase the rates they pay) will mitigate the effects of allowing self-funders to pay the local authority rate:

> The extent to which this happens will vary by provider and region and depend on several of the market conditions listed earlier (e.g. number of self-funders,

172 Institute for Fiscal Studies, Government's proposed amendment to social care cap puts more people at risk of catastrophic care costs, particularly those in the North East, Yorkshire & the Humber and the Midlands, 7 February 2022.

173 LaingBuisson, Care Homes for Older People: UK Market Report, December 2019, p105.

174 Guardian, UK care homes say funding shake-up threatens their viability, 8 September 2021.

175 Treasury Committee, Oral evidence, Autumn Budget and Spending Review 2021, HC 825, 18 November 2021, Q343.

> fee rate differentials, uptake etc).[…] whilst the overall impact on providers is currently uncertain, we will take steps to engage with local authorities and identify how different types of providers are affected.[176]

An article published by the Nuffield Trust in June 2022 said that, while the primary ambition of the reform has been largely welcomed, concerns have been raised about the risks in three main areas:

1. Will councils and providers be able to agree a “fair” rate?
2. Is funding sufficient for councils to increase fees to ensure providers can operate without the cross subsidy?
3. Will councils have sufficient capability and capacity to implement and administer the new system?

The article suggested the fair cost of care policy is “a bold element of the reform package that offers an opportunity to set the market for social care on a more stable footing.” It added, however, that it will only be successful if the risks can be managed and if the funding is sufficient.[177]

In its July 2022 report on the health and social care workforce, the Health and Social Care Committee also said the fair cost of care reforms “must not be used as an excuse to reinforce the low pay which is endemic in the sector.”[178]

Costs of implementing a ‘fair cost of care’

The Government’s impact assessment noted substantial uncertainty around the cost of implementing a fair cost of care, as this will depend on the outcomes of the cost of care exercises conducted by local authorities. The assessment’s central cost estimate is that the reform will cost around £556 million in 2023/24, increasing to £726 million by 2031/32.[179]

If local authorities move towards a fair cost of care (ie they increase the fees they pay for care) this will mean people will progress to the cap on care charges more quickly. The Government estimates this will cost between £300 and £363 million a year between 2026/27 and 2031/32.[180]

It is also planned that local authorities will use funding for fair costs of care to build their capacity and capability to manage their local care markets. The Government estimates this will cost between £36 million and £43 million a year.[181]

176 DHSC, Adult social care charging reform: impact assessment, January 2022, paras 285-309.
177 Nuffield Trust, Fair cost of care: what is it and will it fix the problems in the social care provider market?, 15 June 2022.
178 Health and Social Care Committee, Workforce: recruitment, training and retention in health and social care, 25 July 2022, HC 115 2022/23, para 186.
179 DHSC, Adult social care charging reform: impact assessment, January 2022, p86, table 40.
180 HSC, Adult social care charging reform: impact assessment, January 2022, paras 334-336.
181 DHSC, Adult social care charging reform: impact assessment, January 2022, paras 328-329.

LaingBuisson report (March 2022)

A report by care market specialists LaingBuisson, commissioned by the County Councils Network and published in March 2022, suggested the Government had underestimated the cost of implementing the fair cost of care reforms. It said this "could cause severe sustainability risk to care markets across the country." Under its central estimate, the report said funding for the reform would have to be increased by £854 million a year for residential and nursing homes to prevent "widespread market instability." It added that even if funding was raised to this level "some care economies would still face financial significant pressures."[182]

The report said the financial impact of the reforms "will vary widely from provider to provider". It explained:

> Care homes operate in discrete geographies, with particular care offers (residential care, nursing care, residential dementia care and nursing dementia care being the core categories), and with varying degrees of self-funder and local authority revenues. The combinations of these characteristics will affect how they are impacted.[183]

In response to the report, the LGA raised concerns about the "significant underfunding of the Government's reform proposals" and said this also poses a risk to the financial viability of some councils.[184]

The report was also referenced by a "significant number of respondents" to the Government's consultation on local implementation of the charging reforms (see section 3.1 above, pages 21-23). In its response, the Government argued its modelling had "been through extensive peer review on several occasions." It added that the Government would "continue to work with local authorities and providers to monitor market changes, and determine appropriate grant conditions, guidance, and distribution mechanisms, ahead of allocating money for 2023 to 2024."[185]

4.7 Other options considered

The Government's impact assessment set out a range of other reform options which were considered but not taken forward as they "fail[ed] to meet the overarching policy objective of providing individuals with protection against

182 LaingBuisson, Impact Assessment of the Implementation of Section 18(3) of The Care Act 2014 and Fair Cost of Care (PDF), March 2022, pp4-9; County Councils Network, New analysis warns government has 'seriously underestimated' the costs of adult social care charging reforms, 18 March 2022.

183 LaingBuisson, Impact Assessment of the Implementation of Section 18(3) of The Care Act 2014 and Fair Cost of Care (PDF), March 2022, p7.

184 Local Government Association, LGA responds to County Councils Network and LaingBuisson report, 18 March 2022.

185 DHSC, Supporting local preparation: draft guidance, 14 March 2022.

unpredictable and unlimited care costs." The options, and the reasons for their rejection, included (but were not limited to):

- **Full social insurance**: would require a much larger increase in public expenditure and would leave little scope for future flexibility in costs.
- **Free personal care instead of a cap on care costs (as in Scotland):** would provide a degree of universal protection for everyone but would "not provide protection from unpredictable and unlimited costs for those with long care journeys."

Variations on the proposed reforms which were considered included:

- **Cap on total weekly expenditure (as in Wales)**: ruled out as not effective at protecting those with long care journeys from high and unpredictable care costs.
- **Regional cap based on relative levels of wealth**: not thought to be viable and levels of wealth vary substantially within regions.
- **A time-based cap**: would introduce less regional inequality but would increase inequalities between people with different intensities of care.
- **Cap based on percentage of wealth**: would require local authorities to assess the value of everybody's assets not just those at the means test thresholds so would create a high administrative burden.[186]

[186] DHSC, Adult social care charging reform: impact assessment, January 2022, paras 54-55.

5 Wider system reform and funding

5.1 Wider system reform

Of the £5.4 billion to be provided to adult social care in England over the next three years, £1.7 billion will be used to support wider system reform.[187]

Further information on the reform proposals was provided in a White Paper published on 1 December 2021: People at the Heart of Care: adult social care reform white paper.[188]

The White Paper set out a range of specific funding commitments over the next three years, including:

- At least £300 million to integrate housing into health and care strategies.
- At least £150 million "to drive greater adoption of technology and achieve widespread digitisation across social care".
- At least £500 million to support the adult social care workforce, so that it has "the right training and qualifications, and feel recognised and valued for their skills and commitment."
- Up to £25 million to "kick start a change in the services provided to unpaid carers."
- £30 million to "help local areas innovate around the support and care they provide in new and different ways."
- At least £5 million to "pilot new ways to help people understand and access the care and support available."
- More than £70 million to "increase the support offer across adult social care to improve the delivery of care and support services."[189]

[187] HM Treasury, Autumn Budget and Spending Review 2021, HC 822, October 2021, para 4.8; HM Government, Build Back Better: Our plan for health and social care, CP 506, September 2021, para 49.

[188] DHSC, People at the Heart of Care: adult social care reform white paper, 1 December 2021.

[189] DHSC, People at the Heart of Care: adult social care reform white paper, 1 December 2021, p8. Further information on what the £500 million of workforce funding will be used for was provided in a blog by Deborah Sturdy, Chief Nurse for Adult Social Care in England.

Further information on the £500 million of workforce funding was provided in a press release published by the Department of Health and Social Care on 5 April 2022: £500 million to develop the adult social care workforce.[190]

On 21 February 2022, the Government published an impact statement (PDF) explaining the rationale and potential effects of the proposals for system reform set out in the White Paper.[191]

5.2 Core funding for adult social care

Regarding broader core funding for adult social care, the September 2021 Build Back Better policy paper said:

> The Government will ensure Local Authorities have access to sustainable funding for core budgets at the Spending Review. We expect demographic and unit cost pressures will be met through Council Tax, social care precept, and long-term efficiencies; the overall level of Local Government funding, including Council Tax and social care precept, will be determined in the round at the Spending Review in the normal way.[192]

Autumn Budget and Spending Review 2021

At the Autumn Budget and Spending Review 2021, the Government said local authorities would be provided with £1.6 billion of new grant funding in each of the next three years, on top of the £5.4 billion to implement social care reform. The Government said this funding, which will not be ring-fenced for adult social care, will ensure "the government can reform social care, increase investment in supporting vulnerable children and enable local authorities to continue to provide the other local services that people rely on." It added the settlement for local authorities comprised an estimated real-terms increase of 3% a year in core spending power.[193]

In a written ministerial statement setting out details of the Local Government Finance Settlement for 2022/23, the Secretary of State, Michael Gove, confirmed the social care grant (for children's and adult social care) would be increased by £636 million. He added that this, together with a £63 million inflationary uplift to the improved Better Care Fund and deferred adult social care precept flexibilities of up to 3% from last year's settlement, "forms a package of additional resource, specifically for social care, potentially worth over £1 billion."[194]

190 DHSC, £500 million to develop the adult social care workforce, 5 April 2022.
191 DHSC, Impact Statement: Adult Social Care System Reform (PDF), February 2022.
192 HM Government, Build Back Better: Our plan for health and social care, CP 506, September 2021, paras 47-56.
193 HM Treasury, Autumn Budget and Spending Review 2021, HC 822, October 2021, paras 2.30-2.31.
194 HCWS597 [Local Government Finance Settlement for England: 2022-23], 7 February 2022.

Further information on the broader funding of adult social care is available in the Library briefing: Adult Social Care Funding (England).

5.3 Commentary

Much of the initial commentary on the proposed reforms announced in September 2021 focused on the wider funding of adult social care and, in particular, if this is sufficient to address the wider issues in the sector. The Nuffield Trust, for example, said the £5.4 billion allocated to social care from the Health and Social Care Levy would "only go some of the way to stabilise a dire situation and leaves little for meaningful change".[195] The King's Fund similarly argued the funding will be "inadequate…to bring about meaningful change in areas such as workforce, access and quality."[196]

A number of stakeholders raised similar concerns following the Autumn Budget and Spending Review 2021, and following publication of the December White Paper.[197]

For example, while welcoming the "increases of 3% across all local government services" set out at the Spending Review, the Nuffield Trust said "they are not enough to address the disastrous situation in social care."[198] ADASS also expressed disappointment that "the Chancellor failed to recognise the crisis in social care that is already upon us and will now only deepen this winter". It added the additional £1.6 billion in grant funding "will do little more than meet the costs of the rise in the national living wage for care workers from next April."[199]

The LGA welcomed the December White Paper as setting out "a positive vision for the future of adult social care", but said:

> We need to balance the aspirations and expectations set out in this paper against the wider reality of the funding backdrop against which councils and care providers are operating, which is insufficient to meet current and rising demand. While councils share the Government's ambition and want nothing more than to deliver it, they will need a substantially bigger share of the new Health and Social Care Levy for that to happen.
>
> Addressing unmet and under-met need, tackling rising pressures, retaining hard working care staff, and investing more in prevention are all areas which need investment now, if we are to significantly bolster core services. This is the

195 Nuffield Trust, Care providers, care users and workers will feel short-changed by proposed health and social care levy and reform, 7 September 2021.

196 King's Fund, The King's Fund responds to the announcement of a health and social care levy, 7 September 2021.

197 For example, see King's Fund, The social care White Paper: not wrong, just not moving far enough in the right direction, 2 December 2021.

198 Nuffield Trust, Spending Review leaves social care the poor relation and facing uncertainty, 27 October 2021.

199 ADASS, ADASS Responds to the Spending Review 2021, 27 October 2021.

> essential platform which is needed to fully realise the long-term positive vision set out in this white paper.
>
> Unless these can be urgently addressed as an immediate priority, any long-term proposals for social care – including those in the white paper backed by funding to kick-start change and innovation – will be set up to fail because core services themselves will not be available or sustainable. Without such investment, public expectations will be unfairly raised.[200]

ADASS similarly said the White Paper "sets out strong values and principles and has great ambition." It added, however, that "the sums identified so far can be no more than pump-priming" and there is "much more funding to find."[201]

In response to the White Paper, the Health Foundation said:

> Beyond the money to cover the new cap on care costs, just £1.7bn of extra funding from the health and care levy will go towards the social care system over the next three years. This will do nothing to tackle the high levels of unmet need, persistent workforce shortages and recruitment difficulties, and the precarious position facing many care providers. To meet these challenges, we estimate that additional funding of around £7.6bn in 2022/23 is needed, rising to £9.0bn in 2024/25, over and above that provided for in the Spending Review.[202]

[200] LGA, LGA responds to adult social care reform white paper, 1 December 2021.

[201] ADASS, ADASS Press Release: ADASS Responds to Social Care White Paper.

[202] Health Foundation, New vision for social care will feel like hollow words without the money to deliver it, 1 December 2021.