

**Consultation on funding formula for implementation of the Care Act in 2015/16
Allocations for additional assessments for the cap, universal deferred payment
agreements and social care in prisons**

1. Summary

- 1.1. This is a response of South East Strategic Leaders (SESL) and South East England Councils (SEEC) which together represent County, Unitary and District authorities from across the South East and surrounding areas¹, representing over 8.8m residents. Democratic, locally-led councils are optimally placed to deliver a reformed health and care system. It is vital that our members receive sufficient funding to deliver change – funding that takes into account the significant demand and cost pressures arising from our large elderly and ageing populations and high numbers of self-funders in particular.
- 1.2. We welcome Government's recognition of the need to provide additional implementation funding. Our authorities will benefit from an additional £10-11m funding. Positively, these revisions reflect the Department of Health's (DH) decision to move towards an activity-based formula, which distributes funding on the basis of the main drivers of demand, principally demographics.
- 1.3. We do, however, have concerns that funding will not be fully sufficient to meet the full costs of new burdens placed on our member authorities. Government should commit to fully funding new duties and related reform impacts, including:
- New, additional funding for duties towards carers.
 - Additional funding for new duties towards self-funders.
 - Funding that takes into account the impact of reform on the care market, which could lead to increased local authority care fees, provider failure / exit and reduced competition. DH should work with the sector to understand the impact on the market and evaluate and evidence associated risks.
 - Funding for new duties to provide social care in prisons. Due to limited information and uncertainty in this area, and around the costs of the Act more widely, we support the notion of a Care Act Reserve Fund to meet emergent costs in year.
 - Protected funding for implementation in the Better Care Fund. Government should rethink changes to the BCF which could undermine its objectives. Clarity is also needed on BCF funding streams and the future of the social care element of the fund.
 - A fair, sustainable, long term funding solution for adult social care.
 - Timely allocations. It is important that allocations are announced as soon as possible and prior to the rest of the local government settlement.
- 1.4. On balance, the Cap Additional Assessment (CAA) formula based on the epidemiology approach seems to reflect the costs to councils more accurately than the extrapolation based formula but both approaches have limitations and we refer the DH to individual authority responses for a representative view.
- 1.5. The general sense is that the proposed formula for the new Deferred Payment Allocation is supported, although we are concerned that assumptions made on the means test and pension credit criteria could result in underestimation of need. We would like to see further evidence on this and a commitment to review funding allocations next year if the level of funding proves to be insufficient.
- 1.6. We refer the Department to individual member submissions on the costs of deferred payments locally.
- 1.7. If the Department does proceed to include an adjustment for netting off existing deferred payment activity, it should be simple to administer, transparent and based on complete and robust data on existing deferred payment schemes.
- 1.8. Due to the limited evidence and uncertainty around the costs of new prison duties, it is likely that the formula for social care in prisons will need to be reviewed in year.

¹ SESL also includes member authorities: Wiltshire, Swindon and Central Bedfordshire.

2. Introduction

- 2.1. This is a joint response of South East Strategic Leaders (SESL) and South East England Councils (SEEC) which together represent County, Unitary and District authorities from across the South East and surrounding areas², representing over 8.8m residents. This submission focuses on the key issues of most concern to our members and is intended to complement more detailed responses of individual authorities. Responses to the specific consultation questions follow our overarching comments below.
- 2.2. SESL and SEEC welcome the opportunity to respond to this consultation, which has implications for the capacity of our members to deliver health and social care reform. Given that some of our members are also members of the Local Government Association and County Councils' Network, we have worked collaboratively with these groups in developing this submission. We agree that future success depends on councils receiving sufficient implementation funding and Government identifying a sustainable long term funding solution for adult social care. This is particularly important in a South East context. Our democratic, locally-led councils are optimally placed and committed to delivering an integrated health and care system, characterised by person-centred, coordinated care and a fairer approach to funding. **It is vital that our members receive ample funding to deliver change – funding that takes into account the unprecedented and unparalleled demand on services arising from our very large and growing elderly and ageing populations and high numbers of people who currently fund their own care, so-called 'self funders'.**
- 2.3. At 8.8m people, the South East has England's largest population, projected to increase to over 10m by 2032³. The number of people over 75 years old is expected to increase to 1.5m by 2037, nearly double 2014 levels, a rise of over 700,000 people⁴. We also have the highest proportion of self-funders, some 55%, compared to 45% nationally, rising as high as 80% in some areas. Our authorities face the challenge of responding to rising demand while facing continuing budget reductions. Analysis by the Local Government Association estimates that the funding gap between March 2014 and the end of 2015/16 for adult social care nationally is £1.9bn and the Association of Directors of Adult Social Services estimates that £3.53bn has already been taken out of adult social care budgets nationally over the past four years.
- 2.4. In light of this demographic and funding context, **SESL and SEEC welcome Government's recognition of the need to provide additional funding for assessments, universal deferred payments and social care in prisons. The indicative allocations outlined in the consultation indicate that County and Unitary authorities within SESL and SEECs' memberships could benefit from an additional £10-11m** (depending on which option is chosen for the Cap Additional Assessment Formula). A detailed breakdown of allocations is included in Annex A. It is important to note that no council has seen a reduction in actual funding, as this is new grant, but rather a change in their proposed allocation.
- 2.5. **The revised allocations positively indicate that the DH is starting to recognise, and reflect in funding, the significant, additional pressures that population size and demographics place on our member authorities in delivering the Care Act.** The decision to move away from funding based on relative needs of the population to activity-based formula, which distributes funding on the basis of the main drivers of demand, principally demographics, is very welcome.
- 2.6. We do, however, have concerns that funding will not be fully sufficient to meet the costs of new burdens being placed on our member authorities and believe **Government should commit to fully funding new duties on councils. We are particularly concerned about the following key pressure areas:**
- 2.7. **Funding for new duties towards carers** – The current allocations do not include funding for new duties towards carers, which has been identified by the sector as a major area of risk. This is exacerbated in the South East due to our high numbers of carers.

² SESL also includes member authorities: Wiltshire, Swindon and Central Bedfordshire.

³ Including SESL authorities Wiltshire, Swindon and Central Bedfordshire, our population is 9.8m rising to over 11m by 2032, based on 2012-based Subnational Population Projections for Local Authorities in England.

⁴ Including SESL authorities Wiltshire, Swindon and Central Bedfordshire, our population aged 75+ is 847,000, rising to over 1.6m by 2037, based on 2012-based Subnational Population Projections for Local Authorities in England.

- 2.8. There are 940,276 unpaid carers in the South East, 653,925 more than the North East (286,351), creating a significant pool of additional residents eligible for local authority assessment and support services⁵. **It is important that new, additional funding is made available soon to cover these duties.**
- 2.9. **Funding for new duties towards self-funders** – We are concerned that due to the high number of self-funders in the South East and surrounding areas, our authorities will face a shortfall in funding for early assessments and reviews despite revised allocations (see additional comments in response to consultation question CAA1 & CAA2).
- 2.10. **Reform impact on the care market** – At present there is a significant difference between the rate paid by local authority placed and private residents. Under the reforms, particularly due to the increase in the upper threshold for means tested support to £118,000, more people will be eligible for council funding and significant numbers of self-funders are likely to opt for their local council to arrange their care. These additional people are likely to expect to pay the council rate for residential care rather than the higher private rate. This will inevitably put pressure on providers who, in turn, may attempt to increase the rate that local authorities pay for residential care placements, raising local authority costs significantly - a key challenge given the South East's high delivery cost-base. This could render current market structures unsustainable and may lead to a reduction in the number of providers, particularly smaller providers, thereby reducing choice and competition. As the duty on councils to arrange the care of self-funders applies in 2015/16, these risks could start to be realised pre-2016, when the Dilnot-related reforms come into effect. **We urge the DH to work with the sector to understand the impact of reforms on local markets and to evaluate and evidence risks, which we believe have not yet been fully accounted for, costed or funded by the Department.**
- 2.11. **Funding for new duties to provide social care in prisons** – We remain concerned that indicative funding for councils to meet new social care duties in prisons could be insufficient, despite revised allocations. The formula for allocations for social care in prisons has been devised following 'a limited pilot survey of the prevalence of need and support costs in a sample of prisons' and following discussions with the National Offender Management Service rather than local authorities, who are far better placed to advise on the likely costs of assessing and providing care and support to meet the needs of adults in custodial settings. Due to the significant amount of uncertainty in this area, and uncertainty around the costs of the Care Act more widely, **we support the proposal of other respondents for the creation of a Care Act Reserve Fund which Government could draw upon to meet emergent costs in year⁶.** We agree that this should be separate from the Better Care Fund and not top-sliced from the local government settlement.
- 2.12. **Changes to, and uncertainty surrounding, the Better Care Fund (BCF)** – Our members have welcomed the BCF and fully support its aims to drive integration, prevent unnecessary and costly admissions to acute care settings and place care funding on a more sustainable footing. We are concerned that these objectives could be undermined by proposed changes to the BCF, whereby BCF money could be used to fund NHS services if local integration efforts fail to reduce emergency admissions significantly. **We urge Government to reconsider this change**, which could also reduce the funding available for implementing the Care Act as a proportion of implementation costs are intended to be met through the BCF in 2015/16, although clarity is needed on which aspects of implementation the BCF is intended to cover.
- 2.13. **The lack of information on BCF funding steams is making it difficult for councils to allocate BCF money to implement aspects of the Care Act and could risk damaging cross tier partnerships with districts**, particularly on health prevention and measures to help people live independently at home for longer. It would be helpful, for example, to know whether the £28.3m in the BCF for funding implementation of the new national eligibility criteria is for all councils or only those with more restrictive criteria. Information is also needed on the future of the fund. **It is important that the social care element of the BCF is recurrent** as it is responding to baseline social care pressures. If this funding is discontinued after 2 years, this will increase the already significant funding gap for social care.
- 2.14. **A fair, sustainable, long-term funding solution for adult social care** – We welcome the partnership approach that the Department has taken to working with the sector to understand the cost pressures on local authorities arising from the Act.

⁵ 2011 Census: Health and provision of unpaid care, local authorities in England and Wales. Data includes Swindon, Wiltshire and Central Bedfordshire.

⁶ County Councils' Network *Our Plan for Government 2015-20*, 2014:27

- 2.15. **It is imperative that emerging evidence from this work informs funding decisions and that funding is sufficient and recurrent to cover on-going new duties**, not just one-off, funding implementation costs only. Beyond this, **there is a need for Government to identify a long term, sustainable funding solution for the future of adult social care.**
- 2.16. **Timing** – It is important that final allocations are announced as soon as possible. Waiting until the local government finance settlement in December leaves only 2 months for councils to plan and set their budgets. **We support early announcement of Care Act funding prior to the rest of the local government settlement**, particularly as allocations will differ from those originally indicated.
3. **Responses to specific Consultation Questions**
- 3.1. **CAA1 & CAA2. Do you prefer the extrapolation approach or the epidemiology approach and why?** On balance option 2, the epidemiology approach, seems to reflect the costs to councils more accurately as it bases allocations, in so far as possible, on actual numbers of self funders. Some caution is, however, needed in accepting the epidemiology method which, in calculating actual numbers of self-funders, does not take into consideration the number of self-funders in non-residential care and, for residential care settings, relies on 2011 census data. Consequently, the epidemiology approach is also likely to underestimate the actual numbers of self-funders for whom new local authority duties will apply.
- 3.2. The extrapolation approach does, however, appear to have more serious flaws as the extent to which it accurately reflects need is dependent on the extent to which the new national eligibility criteria differs from that currently used by councils. As the view of the sector seems to be that the new national criteria will define substantial needs at a more generous level, this calls the accuracy of the extrapolation approach into question. **Therefore, while the epidemiology approach is likely to better reflect actual numbers of self-funders, both approaches are limited and we refer the Department to the individual responses our member authorities for a representative view.**
- 3.3. **DPA1 & DPA2: Do you agree with the Department's proposal to allocate funding for the universal deferred payment scheme using this DPA RNF formula or have any other suggestions for allocating the funding?** The general sense is that the proposed formula is supported, although we are concerned that assumptions made about the means test (the approach ignores the effect of the means test on the data available) and pension credit criteria (the approach relates the provision of universal deferred payments to the proportion of people in each local authority in receipt of pension credit) could result in underestimation of need. **We would like to see further evidence on this and a commitment to review funding allocations next year if the level of funding proves to be insufficient.**
- 3.4. **DPA3: What was the cost of deferred payments in your local authority (i) in 2012/13 for deferred payments newly issued in that year, and (ii) in 2013/14 for deferred payments newly issued in that year?** Please refer to individual authority submissions.
- 3.5. **DPA4 & DPA5: Which option do you prefer, NDPA Option 1 (national netting off adjustment) or NDPA Option 2 (the local netting off adjustment)?** Individual member authorities will have a view on the specific options. SESL and SEEC believe that if the DH does determine to proceed to include netting off adjustment, it should be simple to administer, transparent and based on complete and robust data on existing deferred payment schemes.
- 3.6. **PRIS1 & PRIS2: Do you agree with the Department's proposal to allocate funding for social care in prisons using this formula or have any suggestions for allocating the funding?** As stated above, due to the limited evidence and uncertainty around the costs of new prison duties, it is likely that the formula will need to be reviewed in year.

ABOUT US

South East Strategic Leaders (SESL) is a partnership of upper tier authorities committed to nurturing the engine room of the UK economy and promoting public service excellence. SESL supports its members to create the conditions within which individuals, communities and businesses thrive. We aim to:

- **Influence** – speaking with a stronger, united voice for South East strategic councils.
- **Inform** – producing robust evidence relevant to practice.
- **Inspire** – connecting people, sharing ideas, sparking innovation.

SESL is chaired by Cllr David Burbage MBE, Leader of Royal Borough of Windsor and Maidenhead.

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South East England Councils (SEEC) was established in 2009. It is a membership organisation representing all tiers of local authority. The SEEC area covers Berkshire, Buckinghamshire, East and West Sussex, Hampshire, Isle of Wight, Kent, Oxfordshire and Surrey. SEEC's objectives are:

- To strive for a fair funding deal for the South East
- To promote the South East's position as a leading global economy
- To act as single democratic voice for South East interests
- To monitor the pulse of the South East.

SEEC is chaired by Cllr Gordon Keymer CBE, Leader of Tandridge District Council.

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Annex A:

Local Authority	Settlement Allocation (December 2013)	CAA option 1	CAA Option 2	Difference (CAA Option 1 - CAA Option 2)	Difference %	Allocation for DPA RNF	Allocation for social care in prisons	Total allocation under option 1	Difference from settlement under option 1 - £	Difference from settlement under option 1 - %	Total Allocation under option 2	Difference from settlement under option 2 - £	Difference from settlement under option 2 - %
Bracknell Forest	429,680	303,586	303,388	198	0	170,306	NA	473,892	44,212	10	473,694	44,014	10
Buckinghamshire	1,984,691	1,826,448	1,852,251	-25803	-1	292,986	85,628	2,756,434	771,743	39	2,782,237	797,546	40
Central Bedfordshire	1,028,342	840,187	767,336	72,741	9	457,970	NA	1,298,157	269,815	26	1,225,416	197,074	19
Hampshire	5,645,965	5,154,165	5,386,746	-232,581	-5	2,671,095	99,313	7,825,260	2,179,295	39	8,057,841	2,411,876	43
Isle of Wight	910,188	711,265	741,501	30,236	-4	440,878	363,599	1,152,143	242,025	27	1,182,379	272,261	30
Kent	7,320,266	5,364,839	5,473,736	-108,897	-2	3,108,828	390,918	8,473,667	1,153,401	16	8,582,564	1,262,298	17
Milton Keynes	1,078,343	571,501	588,308	-16,807	-3	337,196	92,187	908,697	-169,646	-16	925,504	-152,839	-14
Oxfordshire	2,721,221	2,228,307	2,312,633	84,326	-4	1,174,475	182,746	3,402,782	681,561	25	3,487,108	765,887	28
Reading	676,284	369,695	393,582	-23,887	-6	250,822	NA	620,517	-55,767	-8	644,404	-31,880	-5
Slough	612,100	242,321	243,992	-1,671	-1	168,574	NA	410,895	-201,205	-33	412,566	-199,534	-33
Surrey	4,743,632	4,448,718	4,843,140	394,422	-9	2,411,359	403,546	6,860,077	2,166,445	45	7,254,499	2,510,867	53
Swindon	913,491	583,817	571,447	12,370	2	343,733	NA	927,550	14,059	2	915,580	1,689	0
West Berkshire	594,816	508,190	£499,779	8,411	2	250,391	NA	758,581	163,765	28	750,170	155,354	26
West Sussex	3,922,849	3,510,642	£3,883,127	372,485	-11	2,073,441	71,004	5,584,083	1,661,234	42	5,956,568	2,033,719	52
Wiltshire	2,164,888	1,783,436	1867598	-84,162	-5	955,850	63,546	2,739,286	574,398	27	2,823,448	658,560	30
Windsor and Maidenhead	565,793	522,894	556,760	-33,866	-6	276,038	NA	798,932	233,139	41	832,798	267,005	47
Wokingham	476,887	549,030	521,262	27,768	6	250,029	NA	799,059	322,172	68	771,291	294,404	62
Total	35,789,436	£29,519,041	30,806,586	543,015	2	15,633,971	1,752,487	45,790,012	10,050,646	28	47,078,067	11,288,301	32

Headline messages:

The revised allocations award County and Unitary authorities with SESL and SEEC between 28-30% additional funding compared to 2013 allocations – a difference of between £10-11m. Under option 2 for the Cap Additional Assessment formula, SESL and SEEC members are better off financially by £1,228,055 (inclusive of the Cap Additional Assessment funding, Deferred Payment Allocation formula and funding for social care in prisons). The difference between option 1 and option 2 for the Cap Additional Assessment allocation exclusive of other funding aside from the Cap Additional Assessment is about 2%, the equivalent of £543,015.