

Personal Care at Home Bill

House of Commons Second Reading

14 December 2009

Key Messages

- The cross-party Local Government Association (LGA) supports the principle of helping more people with care needs to stay in their own homes. **Having the Department of Health recognise the need for central government to part-fund the commitments in the Personal Care at Home Bill is a positive step towards the closer alignment of health and social care spending that we have long called for.**
- We are concerned that the actual number of beneficiaries (and therefore costs) could turn out to be very different from the Government's estimates. The Impact Assessment which accompanies the Bill provides little reassurance. **We are particularly concerned that the estimated number of people with high care needs who self-fund their care may be too low.**
- Councils are already the most efficient part of the public sector. **It is difficult to see how local government could meet the cost of this proposal from current plans for efficiency savings, without the lifting of other existing burdens.**
- The free personal care offer extends to people with the very highest needs. **We are concerned that, without adequate funding, more pressure will be placed on services for people who have significant needs but do not meet these criteria.**
- The Government has not estimated costs beyond the next two and a half years. This reinforces our concern that the Government itself is not confident about the accuracy of its own cost estimates. **Ministers could reassure councils by agreeing that the Department of Health would fund 100% of any shortfall over this period.**
- The additional layer of needs assessment criteria for 'Activities of Daily Living' must be clearly defined. With loose definitions, **councils could face numerous appeals and legal challenge.**

LGA contact

For more information please contact Nathan Stower: nathan.stower@lga.gov.uk, 0207 664 3226.

The Bill and regulations

The Personal Care at Home Bill is a two clause Bill that would enable regulations to be made requiring personal care to be provided free to persons with the highest needs in their own homes. The Government believes this would guarantee support for approximately 400,000 people with the highest levels of need. The full year costs of £670 million are to be made up of £420 million from existing Department of Health budgets and £250 million from local authority efficiencies.¹ On 23 November the Government published a consultation on its proposals for regulations and guidance provided for by the Bill; this closes on 23 February.

¹ Personal Care at Home Bill, Explanatory Notes
Page 1 of 4

Eligibility – estimated demand and costs

Under the proposals, an individual approaching their council for the first time, and those currently receiving care and support, may be offered a period of intensive re-ablement to help them regain their independence. The Government assumes the average cost of a package of re-ablement package is £1,000 per person, which would mean 130,000 people could be helped over the course of a year with an annual budget of £130 million.

Following this period of re-ablement, individuals who still appear to have high personal care needs will have those needs assessed. If their needs fall into the highest Fair Access to Care Services (FACS) band – ‘critical’ – they would then have an assessment of personal care needs and, where they needed help with four or more Activities of Daily Living (ADLs), would be offered a sum to cover the costs of their personal care.

LGA view

The LGA is concerned that the actual number of beneficiaries (and therefore costs) could turn out to be very different from the Government’s estimates. **We are particularly concerned that the Government has underestimated:**

1. the number of people with high care needs who self-fund their care; and
2. the number of people who are currently in residential care and who would want to return home because they would be eligible for free personal care.

The Government’s estimated cost of re-ablement per person of £1,000 is a suspiciously round figure which appears to have been chosen to fit the allocated budget rather than being an accurate calculation of the likely cost.

The Impact Assessment’s explanation of the assumptions under-pinning this analysis is limited to: *‘It has been estimated that re-ablement costs £1,000 per person (roughly 30 hours of re-ablement at £30 per hour) (Annex B).* This estimate actually equates to a cost of £900, not £1,000. Assuming the Government’s budget of £130m for re-ablement, this would therefore help 144,000 people, not 130,000.

The Impact Assessment which accompanies the Bill provides little

reassurance. It states there is *‘inherent uncertainty’* in estimating the costs of offering free personal care in their homes to those people who need help with four or more ADLs. It acknowledges:

- *‘unknown impact on take-up of people currently funding their own care’ (p.2)*
- *‘unknown impact of behavioural change in relation to residential care’ (p.2)*
- *‘data relating to the number of people who are defined as FACS Critical at any point in time and the relative distribution of their needs/disability is not something that is routinely collected at the centre.’ (p.6)*
- *‘We do not know for certain how many people are already receiving re-ablement services. We do not know exactly what proportion of individuals require no further care following re-ablement...’ (p.8)*

Funding the offer

The Government proposes that the provisions in the Bill are funded as follows:

- year 1 (October 2010-April 2010): £210m from existing Department of Health budget and £125m from local government efficiency savings; and
- every full year thereafter: £420m from the Department of Health’s budget and £250m from local government efficiency savings.

The costs reported in the Impact Assessment are estimated over a period of just two and a half years. The Assessment states that with better information and two

and a half years' experience, *'more accurate costs will be able to be produced'*.

LGA View

The LGA has long argued that funding for adult social care should consider the totality of money available in the current system, including consideration of NHS budgets. **Having the Department of Health recognise the need for central government to part-fund the commitments in the Personal Care at Home Bill is a positive step.**

As stated above, the LGA is concerned that the actual number of beneficiaries (and therefore costs) could turn out to be very different from the Government's estimates. **We are particularly concerned that the number of people with high care needs who self-fund their care may be too low.**

Councils are the most efficient part of the public sector. They exceeded their £3bn efficiency savings target over the last spending review, achieving £3.8bn over that period plus a further £1.7bn in 2008-09.

Councils already face a demanding 3% efficiency requirement this year, rising to 4% next year. **It is difficult to see how local Government could meet the cost of this proposal from existing plans for efficiency savings, without the lifting of other existing burdens.** Most councils will have already set their budgets for 2010-11 and any savings will have already been identified - without taking into account further savings to fund free personal care.

The Government has not estimated costs beyond the next two and a half years. **This reinforces our concern that the Government itself is not confident about the accuracy of its cost estimates.** This begs important questions about what would happen in the event of a shortfall in funding including:

- who would be expected to make up any shortfall over the two and a half year period? We believe the Department of Health should commit to funding 100% of any shortfall; and
- what will happen after the two and a half year period? Having established a part-responsibility for funding this policy, will local government be faced by a significant cost increase in the third year and following years?

Ministers could reassure councils by **agreeing that the Department of Health would fund 100% of any shortfall over this period.**

Eligibility - criteria

The Government proposes that the regulations will specify that:

- councils will decide whether or not free personal care should be conditional on a person undergoing intensive support or re-ablement for a period of up to 6 weeks before a formal community care assessment, including the assessment of personal care needs, is undertaken;
- if councils decide that re-ablement should be a criterion, then a person will not qualify for free personal care unless they have undergone re-ablement;
- an individual in the highest FACS band – 'Critical' – would have an assessment of personal care needs and, where they need help with four or more Activities of Daily Living (ADLs), would be offered a sum to cover the cost of their personal care;
- 'personal care' will mean:
 - physical assistance given to a person in connection with: i) eating or drinking; ii) using the toilet; iii) washing or bathing; iv) dressing; v) oral care; and vi) the care of skin, hair and nails; or

- the prompting, together with supervision, of a person in relation to any of the above, where that person is unable to make that decision for themselves.
- The definition of personal care will not include: cleaning and housework; laundry; shopping services; specialist transport services; sitting services (e.g. for companionship).

LGA view

The current system of acquiring continuing healthcare provision leads to a number of appeals regarding the determination of whether an individual is deemed eligible. The proposed double eligibility system of FACS 'critical' and 4 ADLs will increase the number of appeals and legal challenges that councils face.

The number of re-assessments is likely to increase as people who have their care provided by unpaid family carers will come back into the care system for free.

The eligibility system will increase the burden on social work staff as decisions on who is and is not eligible for free personal care will need to be carefully documented.

Allocation and delivery

Three options for allocating the amount needed to meet free personal care for those with highest need are put forward:

- an indicative amount of £x per week;
- an indicative range of between £x and £y per week; and
- councils to assess the costs of each individual's personal care needs on an individual basis.

LGA view

The cost of the policy would be best managed and the needs of individuals best met by councils being able to assess the costs of free personal care on an individual basis. Councils understand their local care market and are best placed to assess local care costs.

Implementation

The proposed implementation date is 1 October 2010. The Government intends to make a national assessment tool available to councils for use over summer 2010 following testing.

LGA view

The Bill would be implemented at the same time as the Government would be taking forward its plans for a 'National Care Service'. Councils would like clarity on how the two proposals fit together. This would be particularly helpful given last week's *Health Service Journal* report that the Government is considering handing control of and funding for social care to primary care trusts.

Councils would do all they can to implement the proposals on time but this is a challenging timescale. 'Summer' could mean any time from June to August. It would help councils prepare if the national assessment tool were available by early summer.