



Library Note

Residential Care Sector

This Library Note has been prepared ahead of a debate that is scheduled to take place in the House on 10 December 2015 on the following motion:

[...] that this House takes note of the quality and viability of the residential care sector in the light of the Government's decision to delay the implementation of the care cost cap.

The Care Act 2014 contained provisions relating to adult care and support and health. Under this legislation, the Coalition Government had planned for the provisions relating to the means-test and the cap limiting the amount an individual had to contribute to the cost of their social care during their lifetime to be introduced in April 2016. In July 2015, following representations from stakeholders in the social care sector, the Conservative Government postponed the introduction of these measures until April 2020. Some stakeholders, for example the Local Government Association, welcomed the postponement of the introduction of the cap on care costs; whereas some groups representing users, such as the Alzheimer's Society, criticised the move.

This Library Note gives an overview of recent developments in relation to the cap on care costs and an overview of stakeholder views on the quality and viability of the residential care sector in light of the pressures facing the sector. This includes information on the following:

- the most recent report from the Care Quality Commission;
- questions in Parliament on the issue of social care, together with government responses;
- measures affecting the residential care sector announced in the spending review and autumn statement; and
- a recent report from the House of Commons Public Accounts Committee on the responsibilities for social care given to local authorities under the Care Act 2014.

Thomas Brown
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I. Overview of the Sector

The term ‘residential care’ has been defined as “health and social care provided in a residential institution, typically for people who are unable to live independently”.¹ A variety of residential care institutions exist, catering for older people, younger adults with disabilities and children.² These institutions may be run privately or by charities, local authorities or the NHS. They also vary in size, from “home-like domestic dwellings” to “large communal centres”.³

It has been estimated that “over 450,000 older and working-age disabled people” live in residential care settings.⁴ The Department of Health has estimated that there are 154,000 self-funders (who pay for their care) in residential care.⁵ Regarding older people, in August 2014 the Office for National Statistics estimated from census data that “more than a quarter of a million (291,000) people aged 65 and over were living in care homes in England and Wales [in 2011], representing 3.2 percent of the total population at this age”.⁶ In terms of the number of residential care institutions, the Care Quality Commission regulates and inspects “more than 17,000 care homes that offer accommodation and personal care for people who may need help to look after themselves”.⁷ In addition, the Government has estimated that up to 900,000 individuals work in the care sector as a whole.⁸

The Health and Social Care Information Centre, an executive non-departmental public body sponsored by the Department of Health, has estimated from data supplied by Councils with Adult Social Services Responsibilities (CASSRs) that 86,000 people accessed long-term nursing support and 194,000 people accessed residential support provided by such bodies between 1 April 2014 and 31 March 2015.⁹ It also stated:

For adults aged 18 to 64, long term support expenditure on residential care amounted to £2.2 billion, whilst expenditure for supported living amounted to £1.1 billion and £944 million was spent on direct payments [...]

For adults 65 years and over, long term support expenditure on residential care amounted to £3.0 billion, whilst expenditure on home care amounted to £1.4 billion and nursing care amounted to £1.3 billion [...]

¹ Oxford English Dictionary, ‘[Residential Care](#)’, accessed 1 December 2015. Note that other definitions have been used by interested parties. For example, the Demos Commission on Residential Care, chaired by former MP and Minister of State for Community and Social Care Paul Burstow, used a broader definition of the term in its report on the sector: “Residential care: all care delivered in specialist accommodation. While commonly used interchangeably with ‘care home’ [...] Residential care [also] includes not only residential care and nursing homes, but also extra care and care village settings, as well as supported living” (Demos Commission on Residential Care, [A Vision for Care Fit for the Twenty-first Century](#), September 2014, p 41).

² NHS Choices, ‘[Care Homes](#)’, accessed 1 December 2015.

³ *ibid.*

⁴ Demos Commission on Residential Care, [A Vision for Care Fit for the Twenty-first Century](#), September 2014, p 9.

⁵ National Audit Office, [Department of Health: Care Act First-phase Reforms](#), 11 June 2015, HC 82 of session 2015–16, p 28.

⁶ Office for National Statistics, ‘[Changes in the Older Resident Care Home Population between 2001 and 2011](#)’, 1 August 2014.

⁷ Care Quality Commission, [The State of Health Care and Adult Social Care in England 2014–15](#), October 2015, HC 483 of session 2015–16, p 56. The website of the Care Quality Commission states that there are currently 15,471 registered care homes in England (Care Quality Commission, ‘[Care Homes](#)’, accessed 2 December 2015).

⁸ HM Treasury, [Spending Review and Autumn Statement 2015](#), 25 November 2015, Cm 9162, p 33.

⁹ Health and Social Care Information Centre, [Community Care Statistics: Social Services Activity, England—2014–15](#), 6 October 2015, p 9. Note that these figures include individuals who pay the full direct costs of the services they receive but whose support is arranged by the CASSR, including regular reviews and support planning, etc.

In 2014–15 the average cost per adult aged 18 and over, supported in long term residential care and nursing care was £666 per week. For adults aged 18 to 64 with a primary support reason of physical support the average cost for long term residential care and nursing care was £855 per week, compared to £540 per week for adults aged 65 and over. For adults aged 18 to 64 with a primary support reason of learning disability the average cost for long term residential care and nursing care was £1327 per week, compared to £881 per week for adults aged 65 and over. For home care, the average standard hourly rate was £29 for services provided in-house, compared to £14 for external provision.¹⁰

2. Cap on Care Costs

In April 2015, new rules, which the Government have called the “biggest reforms to care and support in over 65 years”¹¹, came into force in England for individuals who either reside in a residential care setting or receive care at home and are in need of care and support from their local authority.¹² The rules are set out in the [Care and Support Statutory Guidance](#) document, issued by the Department of Health under the Care Act 2014.¹³ The rules have been summarised as follows:

- Everyone whose needs are met by the local authority must have a personal budget detailing how much support they are entitled to.
- There is a means-test applied to determine if someone is eligible for local authority financial support towards the cost of their care and support costs.
- Where someone is receiving such support, they are expected to contribute their income (except exempt income); however, they should have a specified amount leftover each week for personal spending.
- For someone in a care home, if they meet the eligibility criteria or if the local authority, at its discretion, allows, a person can defer paying for their care and support costs through, in effect, a loan although they may be charged interest (a “deferred payments arrangement”).
- A care home resident’s local authority funding can be “topped-up” to allow them to live in a more expensive care home, although in most cases such top-ups can only be made by a third-party (ie, not the care home resident).¹⁴

The Coalition Government had planned for the provisions relating to the means-test and the cap limiting the amount an individual had to contribute to the cost of their social care during

¹⁰ Health and Social Care Information Centre, ‘[Personal Social Services: Expenditure and Unit Costs, England—2014–15, Final release \[National Statistics\]](#)’, 26 November 2015.

¹¹ Written statement by Lord Prior of Brampton, Parliamentary Undersecretary of State, Department of Health, ‘Cap on Care Costs’, 17 July 2015, [HLWS135](#).

¹² House of Commons Library, [Social Care: Paying for Care Home Places and Domiciliary Care \(England\)](#), 6 August 2015, SN01911, p 3. Further information on the current social care funding system can be found in House of Commons Library, [Social Care: Paying for Care Home Places and Domiciliary Care \(England\)](#), 6 August 2015, SN01911; [Social Care: Direct Payments from a Local Authority \(England\)](#), 20 May 2015, SN03735; and [NHS Continuing Healthcare in England](#), 9 January 2014, SN06128.

¹³ Department of Health, [Care and Support Statutory Guidance](#), October 2014.

¹⁴ House of Commons Library, [Social Care: Paying for Care Home Places and Domiciliary Care \(England\)](#), 6 August 2015, SN01911, p 3.

their lifetime to be introduced in April 2016.¹⁵ However, the Conservative Government announced in July 2015 that, “at a time of consolidation”, implementation of the cap on care costs system would be delayed until April 2020.¹⁶

2.1 Background on Social Care Funding Reform

In the Coalition Agreement published following the 2010 general election, the Coalition Government stated that it would “establish a commission on long-term care”.¹⁷ This undertaking was repeated in the first Queen’s Speech of the 2010–15 Parliament, in which the Coalition Government stated that a commission would be “appointed to consider a sustainable long-term structure for the operation of social care”.¹⁸ The Care and Support Commission, led by Andrew Dilnot—and so known as the ‘Dilnot Commission’—published its report in July 2011.¹⁹ The Commission recommended the creation of a cap system to protect people from the risk of very high care costs.²⁰

In response to the Dilnot report, and an earlier report by the Law Commission on the legislative framework for social care²¹, the Coalition Government published a white paper on care and support in July 2012, together with a response to the Dilnot Commission’s recommendations on social care funding reform.²² Following the publication of a draft bill in July 2012, the Coalition Government introduced the Care Bill in the House of Lords on 9 May 2013.²³ The Bill received royal assent on 14 May 2014, becoming the Care Act 2014.²⁴ This Act established the legal framework for reforms to the funding of social care in England.²⁵ The Coalition Government stated the following of the Act:

The reforms aim to give everyone the peace of mind that they will be protected from catastrophic care costs by means of a cap on care costs that will limit the amount people have to pay towards their eligible care and support. There will also be an extension to means-tested financial support which will work in conjunction with the cap to ensure that people retain more of their assets, and that more people will receive help with the costs of their care from the state.²⁶

The Care Act 2014 included provision for the level of the cap to be set by regulations.²⁷

¹⁵ House of Commons Library, [Social Care: Paying for Care Home Places and Domiciliary Care \(England\)](#), 6 August 2015, SN01911, p 3.

¹⁶ Written statement by Lord Prior of Brampton, Parliamentary Undersecretary of State, Department of Health, ‘Cap on Care Costs’, 17 July 2015, [HLWS135](#).

¹⁷ HM Government, [The Coalition: Our Programme for Government](#), May 2010, p 30.

¹⁸ HL *Hansard*, 25 May 2010, [col 6](#).

¹⁹ Care and Support Commission, [Fairer Care Funding: The Report of the Commission on Funding of Care and Support](#), July 2011.

²⁰ Written statement by Lord Prior of Brampton, Parliamentary Undersecretary of State, Department of Health, ‘Cap on Care Costs’, 17 July 2015, [HLWS135](#).

²¹ Law Commission, [Law Commission Report 326: Adult Social Care](#), May 2011, HC 941 of session 2010–12.

²² HM Government, [Caring for Our Future: Reforming Care and Support](#), July 2012; and [Caring for Our Future: Progress Report on Funding Reform](#), July 2012.

²³ UK Parliament website, ‘[Care Act 2014](#)’, accessed 1 December 2015.

²⁴ *ibid.*

²⁵ Department of Health, ‘[Guidance: Care Act Factsheets](#)’, 4 February 2015.

²⁶ *ibid.*

²⁷ Care Act 2014, s 15.

2.2 Cap on Care Costs Announcement

On 11 February 2013, the Secretary of State for Health, Jeremy Hunt, made a statement to the House of Commons setting out the Coalition Government's proposals for social care funding reform.²⁸ He announced a £75,000 cap on social care costs and a revised means test under which people with less than £123,000 in capital would be eligible for financial support in paying care fees. These measures were intended to be effective from April 2017.²⁹ With regard to how this would be funded, Mr Hunt stated:

The Chancellor and the Treasury have rightly insisted that we identify how we pay for the additional costs of these proposals. In this day and age, making promises that cannot be paid for makes those promises meaningless—so we have identified exactly how to pay for them. These reforms will cost the Exchequer £1 billion a year by the end of the next Parliament. With the agreement of the Chancellor, these will be met in part by freezing the inheritance tax threshold at £325,000 for a further three years from 2015–16. The Chancellor and the Chief Secretary have agreed that the remaining costs over the course of the next Parliament will be met from public and private sector employer national insurance contributions revenue associated with the end of contracting out as part of the introduction of the single-tier pension.³⁰

2.3 Introduction Brought Forward

On 20 March 2013, in his Budget announcement, the Chancellor of the Exchequer, George Osborne, announced that the cap on social care costs would be introduced a year earlier than previously announced. The cap would be introduced in April 2016, with the maximum level of costs set at £72,000.³¹ The *Budget 2013* document stated that the cap would be funded by increased national insurance contributions revenue and a three-year freeze in the inheritance tax threshold until April 2018:

Social care funding reform

Drawing on the Dilnot Commission's recommendations, the Government has announced that it will introduce a cap on reasonable care costs. This will give a level of financial protection to those with the greatest care and support needs. In addition, the residential care means test will be extended to give more people access to financial support for their residential care costs. Taken together, these reforms should help an extra 100,000 people who would not receive any support under the current system. The reforms will help people who want to work hard and save for old age, by providing peace of mind that the savings they want to leave to their children will not be at risk of being wiped out by catastrophic care costs.

The Government has made clear that it would not implement these reforms without finding a way to pay for them. The Government has set out that the higher employer NICs revenue that arises from the end of contracting-out for members of defined benefit occupational pension schemes will help cover the costs of social care reform for the duration of the next Parliament. As the single-tier State Pension will begin in

²⁸ HC *Hansard*, 11 February 2013, [cols 592–607](#).

²⁹ House of Commons Library, [Social Care Reform: Funding Care for the Future](#), 26 September 2013, SN06391, p 16.

³⁰ HC *Hansard*, 11 February 2013, [col 593](#).

³¹ House of Commons Library, [Social Care Reform: Funding Care for the Future](#), 26 September 2013, SN06391, p 18.

2016–17, Budget 2013 announces that the Government will introduce a £72,000 cap on reasonable care costs and extend the means test from April 2016.

The new social care cap will protect the assets of those who face the highest social care costs, and will particularly benefit older people who have worked and saved all their lives to build up assets. As announced in February 2013, the Government will freeze the inheritance tax threshold for three years until April 2018, providing a simple and fair way of ensuring that those with the largest estates, who are more likely to benefit from social care reform, help to fund it. The Government has set out that the inheritance tax freeze will contribute to the costs of social care reform in the next Parliament.³²

Funding for the integration of health and social care totalling £3.8 billion was announced in the 2013 spending review.³³ This ‘Better Care Fund’ was intended to be “deployed locally on health and social care through pooled budget arrangements between local authorities and Clinical Commissioning Groups”.³⁴ The Better Care Fund was established in part four of the Care Act 2014.³⁵

2.4 Conservative Party Manifesto

The Conservative Party manifesto, published during the 2015 general election campaign, stated that a Conservative government would keep to the target date of April 2016 for the introduction of the cap on care costs:

We will cap charges for residential social care from April 2016 and also allow deferred payment agreements, so no one has to sell their home. For the first time, individual liabilities will be limited, giving everyone the peace of mind that they will receive the care they need, and that they will be protected from unlimited costs if they develop very serious care needs—such as dementia.³⁶

2.5 Postponement of Introduction

On 1 July 2015, the Chair of the Local Government Association’s Community Wellbeing Board, Councillor Isobel Seccombe, wrote to the Secretary of State for Health, Jeremy Hunt, regarding the introduction of the cap on care costs. In her letter, Councillor Seccombe suggested that the Government should delay the introduction of the cap on care costs to relieve pressure on local government finances in the short term and to allow additional time to plan for the introduction of the cap:

One of the very top priorities for the coming years must be adult social care. It is a crucial mainstay of the health and care system which is essential to help maintain people’s health and dignity, and to ensure the sustainability of the NHS. Local government has done a tremendous job in improving efficiency whilst maintaining and even improving the quality of social care over recent years—making savings worth £3.5 billion since 2010 (and planning further savings of £1.1 billion this year) whilst

³² HM Treasury, [Budget 2013](#), 20 March 2013, HC 1033 of session 2012–13, pp 56–7, paras 1.194–1.196. Bold in original.

³³ HM Treasury, [Spending Round 2013](#), June 2013, Cm 8639, pp 6–22.

³⁴ Department of Health and Department for Communities and Local Government, [Better Care Fund: Policy Framework](#), December 2014, p 5.

³⁵ Department of Health, [Explanatory Notes: Care Act 2014, Chapter 23](#), 14 May 2014, p 2.

³⁶ Conservative Party, [The Conservative Party Manifesto 2015](#), April 2015, pp 65–7.

managing to oversee an increase in social care related quality of life and improvements in overall satisfaction with care and support amongst people who use services. But this has very real limits. We estimate that the funding gap in adult social care is growing by a minimum of £700 million a year. Further, we believe that the approach we have taken to date to deal with that gap—a combination of adult social care budget reductions and cross-subsidising the service through reductions to other local government budgets—is no longer sustainable.

In this context we have to think very carefully about all the options to protect social care. This means considering postponing new costly initiatives—even those which we fully support—if that is the only way we can secure sufficient funding for mainstream social care services. It would be deeply damaging to press ahead with a costly and ambitious reform programme if the very foundations of the system we are reforming cannot be sustained. We therefore reluctantly suggest that the Phase 2 Care Act reforms should be delayed, with the money earmarked for the capped cost system instead put into the social care system itself. Prioritising funding for social care in this way will help close the gap and counter its impacts, which are likely to include further service reductions, smaller care packages, increased unmet need, and mounting pressure on some providers within the market that threatens their viability.³⁷

Government Statement

On 17 July 2015, Lord Prior of Brampton, Parliamentary Undersecretary of State at the Department of Health, announced in a written statement that the Minister for Community and Social Care at the Department of Health, Alistair Burt, had responded to the Local Government Association announcing that the implementation of the cap on care costs would be delayed until April 2020.³⁸ The written statement set out the new position of the Government in relation to the cap on care costs:

[...] the proposals to cap care costs and create a supporting private insurance market were expected to add £6 billion to public sector spending over the next 5 years. A time of consolidation is not the right moment to be implementing expensive new commitments such as this, especially when there are no indications the private insurance market will develop as expected. Therefore in light of genuine concerns raised by stakeholders, we have taken the difficult decision to delay the introduction of the cap on care costs system until April 2020.

This is not a decision that has been taken lightly. A letter from the Local Government Association, dated 1 July, was clear that we need to think carefully about all the options, including postponing new initiatives [...] This is therefore what we will do and further announcements will follow in due course. Furthermore, we will continue with other efforts to support social care, in particular through the Better Care Fund, which will drive the integration of social care and the NHS going forward.

³⁷ Local Government Association, '[Cllr Izzi Seccombe Writes to Jeremy Hunt MP on Phase 2 of the Care Act Reforms](#)', 17 July 2015.

³⁸ Written statement by Lord Prior of Brampton, Parliamentary Undersecretary of State, Department of Health, 'Cap on Care Costs', 17 July 2015, [HLWS135](#). Links to the letters from and to the Local Government Association are included in the statement: '[Letter to Secretary of State for Health \[from the Local Government Association\]](#)', 1 July 2015; and '[Letter to Izzie Seccombe \[Chair of the Local Government Association's Community Wellbeing Board, from the Department of Health\]](#)', 17 July 2015.

The statement also included information on the context in which the decision to postpone the introduction of the care cost cap had been made and the steps the Government would take in the additional time gained from postponement of the planned measures:

Vital steps have already been taken to improve the care and support landscape. The first phase of the care and support reforms enshrined in the Care Act came into force in April this year [2015], introducing the biggest reforms to care and support in over 65 years. For the first time ever, we have a single, modern legal framework for care and support that places the person and their health and wellbeing at its heart. There are now national eligibility criteria for care and support across England. Carers now have the right to support to meet their needs. And deferred payment agreements are available across England ensuring that people should not be forced to sell their home in order to pay for their care in their lifetime.

The introduction of the cap on care costs system will be the biggest reform to how care is paid for since 1948 and we must ensure that the new system works from day one. Local authorities and partners have consistently warned us of the risks of implementing this too quickly. We will therefore not be complacent, but work hard to use this additional time to ensure that everyone is ready to introduce the new system and that people can understand what it will mean for them. This includes taking the time to take stock on some of the other elements of the care and support reforms that are intended to support the cap system.

I am able to confirm that we will delay the full introduction of the duty under Section 18(3) of the Care Act on local authorities to meet the eligible needs of self-funders in care homes to April 2020 to allow more time to be taken to consider the potential impact on the market and the interaction with the cap on care costs system. I can also confirm that the proposed appeals system for care and support will now be considered as part of the wider spending review. Further announcements will follow in due course.

We will also look at what more we can do to support people with the costs of care. The new pension flexibilities introduced in April create a real opportunity for us to continue to work with the financial sector to look at what other products may be created to help people meet the costs of care, creating even more choice and enabling people to better plan and prepare for later life. To this end I will be holding an urgent meeting with representatives from the insurance industry along with HM Treasury and other Government Ministers to work through what this announcement means for them and how Government can help them to bring forward new products. These discussions will continue over the summer.³⁹

Reaction

In response, the LGA issued a statement on the new introduction date for the cap on care costs, in which it called for any money saved from postponing the introduction of the measures to be invested in adult social care services:

The announcement to delay the second phase of the Care Act is a positive recognition from government of what the LGA has been warning—that we cannot try and reform

³⁹ Written statement by Lord Prior of Brampton, Parliamentary Undersecretary of State, Department of Health, 'Cap on Care Costs', 17 July 2015, [HLWS135](#).

the way people pay for adult social care when the system itself is on such an unstable foundation.

Local government was ready and able to implement the next phase of the Care Act—we have supported the need for reform to the way people pay for their care and still believe this to be necessary. In an ideal world, we would have funding for both the system and the reforms but we have to be realistic about where scarce resources are needed most. Local authorities have already implemented phase one of the Care Act, and if both the reforms and the care system were fully funded, we would not need to suggest a delay.

Any money from delaying the reforms must be put back into adult social care services and support putting it on a sustainable footing. The funding gap in adult social care is growing by a minimum of £700 million a year, and whilst this will not cover the rapidly increasing care costs councils are facing, it will be better than to attempt to push forward with changes on shaky grounds.⁴⁰

Richard Humphries, Assistant Director of Policy at the King’s Fund, wrote in a blog post shortly after the announcement that “the Government’s decision to breach an explicit manifesto commitment by delaying reforms to social care funding (phase 2 of the Care Act 2014) until 2020 again demonstrates the apparent inability of successive governments to make headway on this issue”.⁴¹ He added:

So, while the government has set out a clear agenda and £8 billion of new investment for the NHS, its decision leaves it with no plan for social care other than to reconsider the zombie policy of private insurance which has gained no traction despite ministerial efforts to persuade the insurance industry otherwise. Funding reform has gone backwards five years. To everyone who works in or uses health and social care services, this should be a deeply worrying asymmetry. It underlines the compelling case for a single ring-fenced settlement for both the NHS and social care that recognises the inter-dependency of these services and the needs they meet. To demonstrate that it remains genuinely committed to social care reform, the government should ensure that a sum at least equivalent to the cost of implementing the Care Act [2014] is identified through the autumn spending review.⁴²

A number of other organisations, including the Association of Directors of Adult Social Services, the Care and Support Alliance and Sense, welcomed the Government’s announcement that the introduction of the cap on care costs and related measures would be delayed.⁴³ However, other organisations, including Anchor Care Homes and the Alzheimer’s Society, did not welcome the announcement, stating, for example, that the postponement would “cause unacceptable costs to continue to be borne by people with dementia and their families into the next decade”.⁴⁴ The Good Care Guide website called for the cap on care costs to be “scrapped” rather than postponed, arguing that the cap was a “con that would have benefited

⁴⁰ Local Government Association, ‘[LGA Responds to Care Act Delay](#)’, 17 July 2015.

⁴¹ Richard Humphries, ‘[Paying for Care: Back to Square One?](#)’, King’s Fund Blog, 20 July 2015.

⁴² *ibid.*

⁴³ House of Commons Library, [Social Care: Announcement Delaying Introduction of Funding Reform \(Including the Cap\) and Other Changes Until April 2020 \(England\)](#), 6 August 2015, CBP-7265, pp 8–9.

⁴⁴ Alzheimer’s Society, ‘[Alzheimer’s Society Response to the Delay in the Implementation of the Cap on Care Costs](#)’, 17 July 2015.

few older people and their families [...] The real issue is the substantial underfunding of care for our ageing population”.⁴⁵

2.6 Future Level of the Cap on Care Costs

In a letter dated 29 July 2015, the Secretary of State for Health, Jeremy Hunt, indicated in a letter to Dr Sarah Wollaston, the Chair of the House of Commons Health Committee, that the Government had not yet decided on the level of the cap on care costs and means-test when these would be introduced in April 2020. The letter stated that the Government would “need to keep under review the parameters of the proposed reforms ahead of their introduction in 2020. A decision on these will be taken nearer the time”.⁴⁶

3. Quality and Viability of the Sector

3.1 Care Quality Commission (CQC)

The Care Quality Commission, the independent regulator of health and social care in England, is responsible for monitoring, inspecting and regulating residential care services to “make sure they meet fundamental standards of quality and safety”.⁴⁷ Major changes have been made to the way in which the CQC inspects adult residential care institutions in recent years, with the inspection regime moving from annual inspections to risk-based inspections.⁴⁸

Most Recent CQC Report

In October 2015, the CQC published a report entitled *The State of Health Care and Adult Social Care in England 2014–15*.⁴⁹ In it, the CQC set out the following ‘key points’ on adult social care:

- The adult social care sector is under pressure and there are issues around the sustainability of provision, due to the increasing complexity of people’s care needs, significant cuts to local authority budgets, increasing costs, high vacancy rates, and pressure from local commissioners to keep fees as low as possible.
- Despite this pressure, our inspections to 31 May 2015 showed that almost 60 percent of services were providing good or outstanding care.
- It is concerning, however, that up to that date 7 percent of services were rated inadequate. Safety is our biggest concern: of those we inspected, a third required improvement for safety and 10 percent were rated inadequate for safety. In these services, contributory factors were staffing levels, understanding and reporting safeguarding concerns, and poor medicines management.

⁴⁵ *Guardian*, ‘[Care Costs Cap Delay: Government Urged to Resolve Funding Crisis](#)’, 17 July 2015.

⁴⁶ House of Commons Health Committee, [Letter from Jeremy Hunt MP to Dr Sarah Wollaston MP](#), 29 July 2015, p 2. For further information, see House of Commons Health Committee, [Letter from Dr Sarah Wollaston MP to Jeremy Hunt MP](#), 23 July 2015; [Letter from Jeremy Hunt MP to Dr Sarah Wollaston MP](#), 29 July 2015; and [Letter from Cllr Izzi Seccombe to Dr Sarah Wollaston MP](#), 30 July 2015.

⁴⁷ Care Quality Commission, ‘[Who We Are](#)’, accessed 2 December 2015.

⁴⁸ Further information on the changes to the Care Quality Commission in recent years can be found in House of Commons Library, [Social Care: Recent Changes to the CQC’s Regulation of Adult Residential Care \(Care Homes\)](#), 3 November 2015, CBP-7362.

⁴⁹ Care Quality Commission, [The State of Health Care and Adult Social Care in England 2014–15](#), October 2015, HC 483 of session 2015–16.

- The vast majority of services were caring, with 85 percent receiving good or outstanding ratings. This is supported by high satisfaction rates of people who use adult social care services.
- Having a consistent registered manager in post has a positive influence on the quality of a service and helps to make sure that people receive care services that are safe, effective, caring and responsive. The outstanding leaders we see are characterised by their passion, excellence and integrity, collaboration with their staff and the provider, and their determination to ensure people's views and wishes are at the centre of their care.⁵⁰

Within this overall assessment, the report stated that 65 percent of residential homes (a category which does not include nursing homes) had been “rated so far” as either good or outstanding, but added that there was “room for improvement across the whole of the adult social care sector”.⁵¹ Of the 2,211 residential homes rated by the CQC before the report's publication, 6 percent were rated as ‘inadequate’, 30 percent as ‘requires improvement’, 64 percent as ‘good’ and less than half a percentage point as ‘outstanding’.⁵² Of the 1,275 nursing homes rated in the same period, 10 percent were rated as inadequate, 45 percent as requiring improvement, 46 percent as good and less than half a percentage point as outstanding.⁵³

In addition, on the specific subject of how residential care services perform in terms of meeting standards for the treatment of individuals with protected characteristics under the Equality Act 2010, the CQC report stated:

Residential services (which here include both residential care and nursing homes) have done the least work across all protected characteristics. Our ratings for the responsive key question mirror this data, with residential services having a higher proportion of inadequate and requires improvement ratings compared with other types of social care service.⁵⁴

In response to a written question on the quality of the sector, the Government provided figures, in late October 2015, for the numbers of institutions the CQC had inspected to date:

As at 12 October 2015, the CQC has published 8,318 ratings for adult social care providers since it began inspecting this sector using its new inspection regime on 1 October 2014. Of these, 42 providers have been rated ‘outstanding’, 4,889 as ‘good’, 2,889 as ‘requires improvement’ and 558 as ‘inadequate’.⁵⁵

⁵⁰ Care Quality Commission, *The State of Health Care and Adult Social Care in England 2014–15*, October 2015, HC 483 of session 2015–16, p 55.

⁵¹ *ibid*, p 18.

⁵² *ibid*, p 19.

⁵³ *ibid*.

⁵⁴ *ibid*, p 113.

⁵⁵ House of Commons, written question: Care Homes, 29 October 2015, [12813](#).

Challenges Identified

The CQC report detailed challenges facing the adult social care sector:

The demand for social care is increasing. The numbers of people aged over 85 (the group who are most likely to need care) and older people with a disability are projected to rise sharply in the coming years [...]

This rising demand is coming during a time of increased financial strain and concerns around sustainability for the adult social care sector. Over the past five years there have been significant cuts to local authority budgets, and as a result the level of public funding available to adult social care has decreased significantly [...] Commissioners of adult social care services are under pressure to keep fees as low as possible to enable them to manage increasing demand with reducing budgets.

The national living wage, to be introduced from April 2016, will put further pressure on the budgets of providers and/or commissioners. Analysis for the review that led to the national living wage found that, of all work sectors, social care offers the greatest cause for concern, because wages in the industry already start from a low base and productivity improvements can be difficult to realise.

On top of these pressures, adult social care providers struggle to recruit the staff they need. Vacancies and turnover in the sector are high. For nurses, vacancy rates can be as high as 20 percent in domiciliary care and 11 percent in residential care.⁵⁶

3.2 Oral Questions in Parliament on the Sector

Three oral questions on the subject of social care have been asked in the House of Lords since the Government announced that the introduction of the cap on care costs and related measures had been postponed. The lead questioners and Members asking supplementary questions raised a number of issues, including the quality of social care; the impact of the introduction of the national living wage on the sector; and high vacancy and retention problems in the sector.

Oral Question on the Cap on Care Costs—14 September 2015

On 14 September 2015, a Labour spokesperson for health matters and whip, Baroness Wheeler, asked an oral question on “the impact on patients, residents of care homes and their families and carers” of the “decision to postpone the introduction of the cap on care costs”.⁵⁷ Baroness Chisholm of Owlpen, a government whip, responded to the question on behalf of the Government. She stated:

My Lords, the decision to delay implementation of the cap on care costs followed careful consideration of feedback from stakeholders, and it was felt that April 2016 was not the right time to implement these significant and expensive reforms. I stress that we remain committed to these important reforms, which offer financial protection and

⁵⁶ Care Quality Commission, *The State of Health Care and Adult Social Care in England 2014–15*, October 2015, HC 483 of session 2015–16, p 56. For further information on the number of nurses in nursing homes, see House of Commons, written question: Care Home—Recruitment, 23 October 2015, [12542](#).

⁵⁷ HL *Hansard*, 14 September 2015, [cols 1643–5](#) (video).

peace of mind. We have had to make hard choices, balancing the benefits of the cap against the need to focus on supporting the system that supports our most vulnerable.⁵⁸

Responding, Baroness Wheeler asked what actions the Government was taking over the course of the current Parliament to meet the needs of people with dementia and their families, as highlighted by the Alzheimer’s Society in reaction to the announcement that the introduction of the cap on care costs would be postponed. Baroness Chisholm responded:

This is a very important group at a most vulnerable time in their lives. The Government remain fully committed to introducing the cap on social care costs and helping people to cope with the potentially high costs of social care. It is not cancelled and will be brought in by 2020, but until then means-tested financial support remains available to those who cannot afford to pay for care to meet their eligible needs. Where a person can afford to pay for their care, we are clear they should not be forced to sell their home during their lifetime to do so. Since April this year, deferred payments have been available across England for people with less than £23,250 in liquid assets who might otherwise face that risk. By entering into a deferred payment agreement, a person can defer or delay paying the costs of their care and support until later, including out of their estate if they choose.⁵⁹

Asking a supplementary question, a Liberal Democrat spokesperson on health matters, Baroness Brinton, stated that there was “cross-party agreement in advance of the 2010 election that the cap [on care costs] was vital”.⁶⁰ She stated that local authorities were facing a “real crisis” and asked what the Government were doing to remedy the “problem”. Responding, Baroness Chisholm stated:

As I said, means-tested financial support remains available for those who cannot afford to pay for care to meet their eligible needs, but the introduction of the cap on care costs system will be the biggest reform to how care is paid for since 1948 and we must ensure that the new system works from day one. Local authorities and partners have consistently warned us of the risks of implementing this too quickly. We will therefore not be complacent and will work hard to make sure that there is additional time to ensure that everyone is ready to introduce the new system and that people can understand what it will mean for them.⁶¹

Oral Question on Social Care—15 October 2015

On 15 October 2015, Baroness Royall of Blaisdon (Labour) asked an oral question on what steps the Government was taking to “ensure that quality social care is provided throughout the country and that the wages of care workers are increased”.⁶² Responding on behalf of the Government, Lord Prior of Brampton, Parliamentary Undersecretary of State at the Department of Health, stated:

My Lords, the Government have made the Care Quality Commission’s regulation and inspection regime much tougher to ensure that people receive safe, high-quality and compassionate care. The CQC’s report, [*The State of Health and Adult Social Care in*](#)

⁵⁸ HL *Hansard*, 14 September 2015, [col 1643](#) ([video](#)).

⁵⁹ *ibid*, [cols 1643–4](#) ([video](#)).

⁶⁰ *ibid*, [col 1645](#) ([video](#)).

⁶¹ *ibid*, [col 1645](#) ([video](#)).

⁶² HL *Hansard*, 15 October 2015, [cols 315–8](#) ([video](#)).

[England](#), published today, details how well adult social care is performing overall in respect of quality. The new care certificate is equipping staff to deliver high-quality services, while the national living wage will ensure that they are properly paid.⁶³

In response, Baroness Royall stated that she believed the social care sector to be “in crisis”, and asked what the Government were “going to do to ensure that there is quality care in isolated areas as well as in other parts of the country”.⁶⁴ Lord Prior replied:

There is no doubt that the local authority-funded care sector is under considerable pressure at the moment and that the increase in the national living wage will add to that pressure. Those pressures are well recognised by the Government. To some extent they have been addressed by the Better Care Fund. I think that pooling budgets between health and social care is a way forward but we have to await the out-turn of the spending round before we can be more definitive.⁶⁵

Asking a supplementary question, Baroness Brinton (Liberal Democrat) asked the Government to “ensure that the saving of £6 billion from not fully implementing the integration of health and social care is put towards the new minimum wage and the new contracts ensuring that staff are paid for travel between appointments”.⁶⁶ Lord Prior responded that the “savings from deferring the introduction of the Dilnot proposals [including the cap on care costs] is that they are being taken into account under the spending round and I cannot comment further today”.⁶⁷

Baroness Wheeler (Labour) called attention to the Care Quality Commission report published that day, and asked:

Does the Minister acknowledge the impact of the funding crisis on residential care and the [Care Quality] Commission’s concern at the delay in the introduction of the care cap until 2020? Both residential and daycare have high vacancy and turnover rates and a chronic problem in recruiting and training care staff, particularly under-25s. Would it not be outrageous if the Treasury kept the £6 billion and did not use it to try to address those issues?⁶⁸

Responding, Lord Prior stated:

The noble Baroness raises two interesting points. There is a recruitment and a training issue involved in many care homes. This is being addressed by the Government in two ways: first, by raising the minimum wage to the national living wage so that it rises to about £9 an hour by 2020; and, secondly, by the introduction of the care certificate which came out of the Camilla Cavendish report after Mid Staffs, which should improve training in the sector. The funding of local authority-provided care is the issue on which we are awaiting the outcome of the spending round discussions.⁶⁹

⁶³ HL *Hansard*, 15 October 2015, [col 316](#) (video).

⁶⁴ *ibid.*

⁶⁵ *ibid.*

⁶⁶ *ibid.*, [cols 316–7](#) (video).

⁶⁷ *ibid.*, [col 317](#) (video).

⁶⁸ *ibid.*, [col 318](#) (video).

⁶⁹ *ibid.*, [col 318](#) (video).

Oral Question on Social Care and Support—19 October 2015

On 19 October 2015, Baroness Wheeler (Labour) asked an oral question on the subject of social care funding.⁷⁰ In particular, she asked what steps the Government were taking to “address the concerns about the availability of social care and support funding expressed in the joint statement [Spending Review 2015: A Representation from Across the Care and Support Sector](#)”, issued by a number of national organisations involved in social care from across the public, private and voluntary sectors. This statement had “urge[d] the Government to ensure that social care funding is protected including making provision for the gap in social care funding by 2020, alongside the £8 billion gap in health service funding over the same period”.⁷¹ Responding on behalf of the Government, Lord Prior of Brampton stated:

My Lords, social care is a priority for this Government, which is why we have established the Better Care Fund to join up health and social care. We recognise that there are pressures on the system and we welcome the joint spending review representations from the care and support sector in helping us to understand these fully. The representations from the sector will help inform spending review decisions. The review will be announced on 25 November.⁷²

Following up, Baroness Wheeler stated that the statement represented the “collective view on the deepening social care crisis from care providers, commissioners and national organisations from across the private, public and voluntary sectors”.⁷³ She then asked:

While understanding that the Minister will not pre-empt the spending review, will he at least reassure the House that, in making the very welcome decision to introduce the national living wage from April next year, the Chancellor fully recognises the estimated additional £2.3 billion cost of this for the social care sector? Does he honestly expect councils to be able to meet this cost if the scale of cuts made over the last five years continues into the future and the Government fail to provide any substantial extra funds?⁷⁴

Lord Prior responded by stating that the “increase in the living wage, which is long overdue and very welcome, will add to pressures in the sector”, adding that this issue had been brought to the attention of HM Treasury ahead of the spending review and autumn statement.⁷⁵

Oral Question on the Residential Care Sector—17 November 2015

On 17 November 2015, Barbara Keeley, Shadow Health Minister, asked Alistair Burt, Minister of State for Community and Social Care at the Department of Health, a question in the House

⁷⁰ HL *Hansard*, 19 October 2015, [cols 442–4](#) (video).

⁷¹ The organisations involved in the joint statement were as follows: the Directors of Adult Social Services; the Care Provider Alliance; the Care and Support Alliance; the NHS Confederation; the National Care Forum; Age UK; Care England; the Voluntary Organisations Disability Group; National Voices; Carers UK; the National Care Association; Leonard Cheshire Disability; the United Kingdom Care Home Association; the Registered Nursing Home Association; Ceretas; the National Alliance of Voluntary Sector Mental Health Providers; SharedLives Plus; ARC England; ILC; and the Alzheimer’s Society. [Spending Review 2015: A Representation from Across the Care and Support Sector](#), 4 September 2015.

⁷² HL *Hansard*, 19 October 2015, [col 442](#) (video).

⁷³ *ibid.*

⁷⁴ *ibid.*

⁷⁵ HL *Hansard*, 19 October 2015, [col 442](#) (video).

of Commons.⁷⁶ She quoted the ResPublica report [The Care Collapse](#), which had stated that the residential care sector was in “crisis”. She added that the report had noted that “providers are being faced with an unsustainable combination of declining real terms funding, rising demand for their services, and increasing financial liabilities”. She told MPs:

It also states that a £1 billion funding gap in older people’s residential care would result in the loss of 37,000 care beds, which is more than in the Southern Cross collapse. No private sector provider has the capacity to take in residents and cover the lost beds, so those older people will most likely end up in hospital. What is the Minister doing to protect the care sector from catastrophic collapse?⁷⁷

Responding on behalf of the Government, Alistair Burt stated:

As the House is aware, social care is a matter of great importance as we head towards the spending review round. We are aware of pressures in the system, and there is always contingency planning to identify particular problems. We are working hard with the National Care Association to improve the quality of care provided by the sector, and my right hon. Friend the Secretary of State [Jeremy Hunt] has commissioned Paul Johnson, of the Institute for Fiscal Studies, to look at pressures in the care home sector and how to ensure that we can meet the challenges. If challenges require more money, which they always seem to do according to the hon. Lady, she needs to come up with ideas for how to provide that money, but she never does. It is the Government’s responsibility to meet those challenges within the context of the overall economic position.⁷⁸

3.3 Spending Review and Autumn Statement

On 25 November 2015, the Chancellor of the Exchequer announced in his spending review and autumn statement that local authorities would be able to raise additional revenue from council tax to mitigate the cost of social care-related expenditure:

The health service cannot function effectively without good social care. The truth we need to confront is that many local authorities will not be able to meet growing social care needs unless they have new sources of funding. That, in the end, comes from the taxpayer, so in future those local authorities that are responsible for social care will be able to levy a new social care precept of up to 2 percent on council tax.

The money raised will have to be spent exclusively on adult social care, and if all authorities make full use of it, it will bring almost £2 billion more into the care system. It is part of the major reform we are undertaking to integrate health and social care by the end of the decade. To help to achieve that I am today increasing the Better Care Fund to support that integration, with local authorities able to access an extra £1.5 billion by

⁷⁶ HC Hansard, 17 November 2015, [col 515 \(video\)](#). The report referred to in Barbara Keeley’s question, [The Care Collapse: The Imminent Crisis in Residential Care and its Impact on the NHS](#) (November 2015) “charts the challenges faced by the residential care sector and begins to scope some of the potential responses”. See the report for further information.

⁷⁷ HC Hansard, 17 November 2015, [col 515 \(video\)](#).

⁷⁸ *ibid.* For further information on the residential care sector, see the House of Commons Westminster Hall debate on ‘Care Homes (Regulation)’, 4 November 2015, [cols 379–94VH](#).

2019–20. The steps taken in this spending review mean that by the end of the Parliament, social care spending will have risen in real terms.⁷⁹

The *Spending Review and Autumn Statement 2015* document included further information on the adult social care measures announced by the Chancellor:

Adult social care

The spending review creates a social care precept to give local authorities who are responsible for social care the ability to raise new funding to spend exclusively on adult social care. The precept will work by giving local authorities the flexibility to raise council tax in their area by up to 2 percent above the existing threshold. If all local authorities use this to its maximum effect it could help raise nearly £2 billion a year by 2019–20. From 2017 the spending review makes available social care funds for local government, rising to £1.5 billion by 2019–20, to be included in an improved Better Care Fund.

Taken together, the new precept and additional local government Better Care Fund contribution mean local government has access to the funding it needs to increase social care spending in real terms by the end of the Parliament. This will support councils to continue to focus on core services and to increase the prices they pay for care, including to cover the costs of the National Living Wage, which is expected to benefit up to 900,000 care workers.

The Government will also continue to improve care for older and disabled people and support for their carers. The Care Act reforms introduced in April focus on wellbeing, prevention and delaying the need for social care. In support of these principles, **the spending review includes over £500 million by 2019–20 for the Disabled Facilities Grant, which will fund around 85,000 home adaptations that year.** This is expected to prevent 8,500 people from needing to go into a care home in 2019–20.

The Government remains committed to introducing the Dilnot reforms to social care, with funding provided in 2019–20 to cover the costs of local authorities preparing for these changes. The cap on reasonable care costs and extension of means tested support will then be introduced and funded from April 2020. The deferred payments scheme already means that no one will be forced to sell their home in their lifetime to pay for care.⁸⁰

Reaction

Reaction to the measures announced in the Chancellor's spending review and autumn statement were mixed. The website Care Industry News collected reaction from a number of

⁷⁹ HC Hansard, 25 November 2015, [cols 1363–4 \(video\)](#).

⁸⁰ HM Treasury, *Spending Review and Autumn Statement 2015*, 25 November 2015, Cm 9162, p 33, paras 1.107–1.110. Bold in original. Further information on the cap on care costs can be found in House of Commons Library, [Social Care: How the Postponed Changes to Paying for Care, Including the Cap, Would Have Worked \(England\)](#), 22 July 2015, SN07106; and [Social Care: Announcement Delaying Introduction of Funding Reform \(Including the Cap\) and Other Changes Until April 2020 \(England\)](#), 6 August 2015, CBP-7265.

stakeholders.⁸¹ For example, Vicky McDermott, the Chair of the Care and Support Alliance, stated:

The spending review failed its social care test. George Osborne majored on economic security but comprehensively failed to provide the social care system with a secure long term economic plan.

The Conservative Government was elected on a promise to invest £6 billion into social care by 2020. Today's announcement suggests that the maximum amount the government can hope to raise for social care is under £2 billion and even this figure is not guaranteed. It will mean that the Government is significantly short of providing what it promised.

This may be mitigated to some extent by an additional £1.5 billion of funding to Better Care Fund. The Better Care Fund has not delivered thus far for social care, and whilst we welcome additional funding, without significant reform for the fund we are not left optimistic that this will make the difference to the social care system that is desperately needed.

This is a betrayal of vulnerable disabled and older people and it will increase pressures on the NHS whilst meaning care providers in poorer parts of the country will no longer be able to offer care services.⁸²

In contrast, Quentin Cole, healthcare partner at consultancy PwC, welcomed the Government's efforts to integrate health and social care:

The Chancellor's emphasis on achieving an integrated health and social care system by 2020 is to be welcomed [...] The challenges facing the NHS cannot be solved by organisations working in isolation. The additional investment in the Better Care Fund along with the social care precept will help enable the health and social care integration necessary. While a long-term solution is still needed for funding care in old age, this welcome step should allow health and social care to work with each other rather than against one another.⁸³

3.4 House of Commons Public Accounts Committee Report

On 2 December 2015, the House of Commons Public Accounts Committee published a report entitled *Care Act First-phase Reforms and Local Government New Burdens*.⁸⁴ The summary of the report stated:

The Department of Health has taken a collaborative approach to the first phase of the Care Act, working with local authorities to plan its implementation. However, we are concerned that carers and the people they care for may not get the services they need because of continuing reductions to local authority budgets and demand for care being so uncertain. We are also concerned about the Government's ability to identify

⁸¹ Care Industry News, '[How Spending Review Will Impact on Social Care—Analysis](#)', 25 November 2015; and '[Further Reaction in Care to George Osborne's Spending Review](#)', 28 November 2015.

⁸² Care Industry News, '[How Spending Review Will Impact on Social Care—Analysis](#)', 25 November 2015.

⁸³ *ibid.*

⁸⁴ House of Commons Committee of Public Accounts, [Care Act First-phase Reforms and Local Government New Burdens](#), 2 December 2015, HC 412 of session 2015–16.

individual local authorities that are struggling and to respond quickly enough. The decision to delay implementation of Phase 2 of the Care Act means that people will have to pay more for their care for longer before the cap on care costs is finally implemented. Given the tough financial context, we were pleased to hear, though, that Government will not claw back the £146 million of funding it provided to councils in 2015–16 to prepare for Phase 2.

The Department for Communities and Local Government has not been sufficiently open and transparent in identifying and assessing new burdens on local authorities (like the Care Act) or reviewing their impact. This creates significant uncertainty for local authorities. The Department's definition of a new burden means that local authorities are not guaranteed funding for some significant new costs, even where these arise from government policy. These unfunded pressures on local authorities will make it more difficult for them to meet their statutory duties and will increase pressure on council tax.

We urge the Department for Communities and Local Government to ensure that departments review significant new burdens following implementation, as the Department of Health has undertaken to do for the Care Act. It also needs to ensure that spending reviews and annual finance settlements for local government take full account of the many cost pressures local authorities face, whether or not they meet the Government's definition of a new burden. The Care Act is one new area of work for local authorities which will add significant costs locally. Government must recognise this and ensure funding is monitored as it beds in so that carers and the people they care for do not lose out.⁸⁵

⁸⁵ House of Commons Committee of Public Accounts, [Care Act First-phase Reforms and Local Government New Burdens](#), 2 December 2015, HC 412 of session 2015–16, p 3.