



**Annex 1**

<b>Briefing for:</b>	Cabinet Member for Adult Social Care and Well-being
<b>Title:</b>	Free Personal Care Consultation
<b>Purpose of briefing:</b>	To brief the Lead Member on the key issues
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<b>Date:</b>	15 December 2009

## **1. Summary**

This briefing is about the consultation on the regulations and guidelines to the Personal Care at Home Bill currently before Parliament. If passed the Bill will have considerable operational and budgetary implications for ACCS and we are still in the process of calculating the potential financial impact. Some people who currently fund their own care become eligible for free personal care funded by the Council at the implementation date of 1 October 2009.

## **2. Briefing**

**2.1** The [Personal Care at Home Bill](#) was published on 25th November and is already in its Committee stage in the House of Commons. If passed it will provide for those aged 18 and over, with the greatest care needs, free personal care at home **from 1 October 2010**. Existing powers allow local authorities to provide certain community care services free of charge for up to six weeks. The Bill will remove this time limit for personal care at home for those with critical, the highest, care needs. The Government estimates that the Bill would help around 400,000 people with care needs and guarantee free personal care for the 280,000 people with the greatest need. The legislation is intended to be the first step towards establishing a new National Care Service as outlined in the recent proposals and consultation on adult social care funding.

**2.2** Local authorities will be able to offer a period of intensive support (re-ablement) to people with high care needs, to increase their independence and to reduce their care needs, enabling them to live at home for longer. For those who continue to have critical care needs under the [Fair Access to Care Services](#) (FACS) criteria, when assessed after the period of re-ablement, free personal care will be provided. There has been a recent consultation on revising the FACS criteria. **Revised guidance, based on the consultation is due to be published in January 2010.**

**2.3** [The Personal Care at Home: a consultation on proposals for regulations and guidance](#) is the subject of this briefing. The consultation is from **25 November 2009 until 23 February 2010**. The Department of Health (DH) would welcome earlier responses, if possible, by 26 January.

The consultation covers three main areas:

- What should be contained in the regulations made under the Bill;
- What should be contained in the guidance accompanying the regulations; and
- Suggests three ways of allocating funding to councils.

All the detailed consultation questions are reproduced in **Appendix 1**, at the end of this briefing.

### **3. Further details**

- Personal care is defined as support to help people undertake essential daily tasks such as washing, dressing and getting in and out of bed. To ensure that personal care needs are assessed consistently across the country, DH intends to develop a standardised assessment tool.
- The eligible person may receive personal care as part of a personal budget either as services provided by the council or in the form of direct payments (where this is desired and appropriate). Either way, no contributions or charges will be payable on the personal care element.
- Resource Allocation Systems (RAS) for determining personal budgets may need to be adapted to identify personal care needs.
- Councils will need to retain the flexibility to meet care costs in excess of any indicative amount or range in cases where the person's assessed personal care needs cannot be met within it. There is a statutory duty to meet the assessed care needs of individuals, though in certain cases, a care home may be the only option for meeting these.
- This consultation does not address the way that Free Personal Care will be distributed from 2011/12 onwards.

#### **4. Three options being consulted on for allocating the amount needed for personal care needs to eligible individuals:**

- Set an indicative amount (of £x per week) based on the average costs of personal care of those with the highest needs;
- Set an indicative range (of between £x and £y per week) that would enable councils to calculate a precise figure based on the personal care assessment and local costs (reflecting the varying costs of care around the country); or
- Leave councils to assess the costs of each individual's personal care needs on an individual basis.

#### **Commentary on the options**

A single indicative amount, set at the right level, would have administrative benefits for councils and would be simple and straightforward for people to understand. A range or individual amount would be more complex to administer and may be more difficult for people to understand, but it might enable councils to manage the costs of the policy better and meet individual needs in a more precise way. The third option is precise, but may involve additional administrative costs for councils.

#### **5. The Formula for distributing Grant to Councils**

Three options of formulae for calculating the amount of grant to be distributed to Councils as part of the Area Based Grant, from October 2010 are being consulted on:

##### **Option 1 Adult Social Care Relative Needs Formulae (RNF)**

The first option is to distribute the grant using the existing adult social care relative needs formulae which are used as part of the calculation of formula grant. These formulae are based on a survey of local authority social services clients in 2005<sup>6</sup>. They use information on the characteristics of the local population to predict the relative need for councils in England to provide adult social care.

##### **Option 2 Amended Adult Social Care Relative Needs Formulae**

The adult social care relative needs formulae are heavily weighted towards deprivation. This is because they predict the relative need for each council to provide support for people who need social care, and council supported social care is means tested. The Free Personal Care grant will help fund this new pressure on councils of providing free personal care at home to those in highest need who previously paid towards their own personal care. Hence, we have looked at a second option where we allocate the new grant using the relative needs formulae, but omitting the deprivation indicators from it.

##### **Option 3 ELSA based Formula**

Finally, we have developed a third formula option for older people based on analysis of the English Longitudinal Survey of Aging (ELSA). ELSA contains information on a sample of 10,000 older people and key information about their lives. This information includes some socio economic information and whether people are in receipt of home care. For home care recipients, ELSA also tells us whether individuals or councils fund the care. However, it is difficult to produce a reliable formula from ELSA, because ELSA data has some significant omissions and limitations. For example, it contains no information about how much care people receive and the number of people in the ELSA sample who fund their own care and have the highest needs is too small on which to base a reliable formula. For this reason, the analysis looks at all those who pay for home care, not just those with the highest need.

## **6. Illustrative Grant Allocation to Haringey Council under the three options in paragraph 5 above**

	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3</b>
<b>Haringey</b>	£ 821,306	£ 656,099	£ 550,222

## **7. Implementation**

- In readiness for the proposed implementation date of 1 October 2010, councils will need to identify, before 1 October, those persons in the FACS critical band who are already receiving personal care, and who may benefit from intensive support from 1 October 2010 and those who might qualify for free personal care from 1 October 2010.
- For people not known to the council who may qualify for free personal care or who may benefit from intensive support, councils may want to invite people to apply in advance of the implementation date (from 1 September or earlier) so that people's needs can be identified ahead of implementation. In this way, intensive support or free personal care could be in place from 1 October 2010.
- There should be a set period, from 1 October 2010 to 31 December 2010, during which applications for free personal care can be considered retrospectively from the date of their receipt. In all other cases, requests will be dealt with within 2 weeks of receipt.

## Appendix 1

### Personal Care At Home – A consultation on proposals for regulations and guidance Summary of questions

#### **Overall**

Do you agree with the substance of the proposal as set out in this document? If not, why not?

Are there any potential positive impacts on equalities of this policy? Similarly, are there any potential negative impacts?

An Impact Assessment is available to accompany this consultation document.<sup>7</sup> Do you have any comments on the perceived costs and benefits outlined in the Impact Assessment?

#### **On the proposals in Parts 1 and 2**

Is the level of detail proposed for the regulations appropriate? If not, why not?

Is the balance right between regulations and guidance? If not, why not?

Is there anything that you feel should be in the guidance rather than regulations, or vice versa?

Has anything been omitted from this document that should be included in either the regulations or the guidance?

Which of the 3 options do you feel would be most appropriate for allocating the amount needed for personal care needs to eligible individuals?

Do you have any further comments on the allocation of the amount needed for personal care needs to eligible individuals?

Do you have any comments on the aspects of implementation outlined in the document?

In particular, do you have comments around any level of retrospection?

Do you have any comments on the collection of new data and its relation to existing information?

#### **On the proposals in Part 3**

Which of the 3 options do you prefer for the funding formula for the Free Personal Care Grant?

Do you have any specific comments about the 3 funding formula options?

<sup>7</sup> The Impact Assessment is available at <http://www.dh.gov.uk/en/Consultations/index.htm>