CCN

COUNTY COUNCILS NETWORK

Consultation Response

The Care Act 2014
Funding Formula for Implementation of the Care Act in 2015-16
October 2014

Executive Summary

- CCN broadly welcome the formulae outlined in the consultation, all of which are correctly based on relevant activity and consequently benefit the majority of CCN member councils. Whilst CCN recognise option CAA1 and CAA2 lead to a small variation in the final allocations, CCN supports the technical analysis of the Society of County Treasures (SCT) that CAA2 is the most statistically valid formula and maximises the total funding allocation for CCN member councils. CCN maintain that allocation methodology overall is fair and proportionate, and in line with the drivers demand bought forward by the Care Act.

- It was clear that any additional funding for the Care Act would need to be based on **new** *activity-based* allocation formulae, one markedly different to the current Relative Needs Formulae (RNF). The proposed formulae therefore correctly lead to a total funding increase of up to **£28m** for CCN member councils from the December 2013 initial allocations for early assessments and DPAs.

- The publication of indicative allocations based on the RNF in December was patently inappropriate; as it was clear that Care Act funding would need to be allocated in a radically different way to the RNF and funding allocations would therefore change significantly. The DoH should have made this clearer to local authorities at the time of indicative allocations in December 2013. We urge the Government to confirm these allocations as soon as possible, to enable all parts of the sector to appropriately plan for implementation of the Care Act.

- Although CCN broadly agree with the new allocation formulae, we believe that cost modelling returns to the Department on 2015/16 impacts not only confirm that CCN member councils face the highest implementation costs; but even with the substantial change in formulae some CCN member councils will still face a funding shortfall in relation to early assessments and reviews. Cost modelling returns, based on assessing only 50% of potential new clients show that costs are disproportionately borne by CCN member councils, with specific councils likely to witness a funding shortfall.

- Following the cost modelling exercise, it is clear additional funding is required to sufficiently fund new duties relating to carers. However, CCN would be deeply concerned that any funding gap for carers duties would be meet by reducing early assessments and reviews funding. We set out our case in para 10 and Appendix 1. In the absence of safeguards for CCN member councils or further changes to formulae to protect allocations in real terms, **any reduction in total funding for early assessments**

and reviews would would impact CCN member councils, resulting in further funding shortfalls.

- The question posed in (10) below around the assumed spread of new assessment activity in the modelling is an important one to clarify. Given the unusual level of uncertainty, due in part to the importance of behavioural factors which are in principle hard to predict, it is recommended that a **Care Act Reserve Fund** should be set up to improve the flexibility of response to these issues in the light of experience.

- CCN does raise some concerns in relation to the formulae for distributing Deferred Payment Arrangements (DPAs), but agrees with the proposed relative need formula. Following the joint cost-modelling exercise on 2015/16 there are indications that the Government may reduce the DPA funding outlined in this consultation to fund other elements of the Care Act. Appendix 1 outlines our view that it remains unclear whether councils require all DPA funding to implement the Care Act. **CCN member councils require urgent clarity on funding for all aspects of the Care Act and any changes in funding for specific elements should be announced as soon as possible**.

- In line with the LGA and ADASS, we continue to maintain that following the 2015/16 cost modelling exercise and on-going engagement with member councils, funding for other aspects of the Care Act could prove to be insufficient. We have particular concerns in relation to carers' assessments and services, in addition to funding for eligibility, advocacy and prisons.

- Of the 58 local authorities affected by new Prison duties introduced by the Care Act, 28 are CCN member councils. Whilst the government have provided additional funding for prisons duties outlined, and have removed this funding from the BCF, we still maintain concerns that the funding will be inadequate for those councils who will be required to implement these clauses of the Act.

- CCN believe the change in allocation methodology for these aspects of the Care Act should inform the on-going review of the adult social care RNF. The RNF should be fundamentally reviewed in light of the Care Act and funding reforms from April 2016. Notwithstanding our concerns outlined below, whilst additional start-up funding for the Care Act in 2015/16 rightly recognises the demands placed on CCN member councils, in the absence of long-term reform to the distribution of funding, our member councils will find themselves further disadvantaged and unduly underfunded. CCN & SCT are committed to working with the Department to achieve an equitable solution on the long-term funding formulae for adult social care services.

Introduction

1. The County Councils Network (CCN) represents 37 English local authorities that serve counties. CCN membership includes both upper tier and unitary authorities who together have over 2,500 councillors and serve over 23 million people (47% of the population) across 86% of England. CCN develops policy, shares best practice and makes representations to government on behalf of this significant proportion of the country outside the big conurbations. CCN is a member-led organisation which works on an

inclusive and all party basis and seeks to make representations to government which can be supported by all member authorities.

2. We welcome this opportunity to respond to the consultation funding formulae for the implementation of the Care Act in 2015/16. CCN continues to work closely on the implementation of the Care Act with the Department of Health (DoH). In particular, CCN would like to thank the DoH for its continuing support for the CCN's Care Bill Implementation Group (CBIG) and CBIG Finance Working Group. These groups of local implementation leads and local authority finance experts provide an invaluable frontline insight into financial implications of the Care Act.

3. CCN has worked closely with CBIG Finance Working Group and Society of County Treasures (SCT) in forming our response to this consultation. This response provides an overview of CCN's views on funding for adult social care and the implications of the Care Act. Using analysis undertaken by the SCT, we also provide a technical summary of the formulae and answers to the consultation questions.

Care Act Funding Context

4. The Care Act will go live at a time of real financial pressure on local government as a whole, with councils facing 40% reductions over the course of this Parliament, with savings of over £10bn secured by local government since 2010. CCN outlined these pressures facing adult social care funding at length to the DoH in our response to the Care Act 2015/16 Regulations and Guidance consultation,[1] which are summarised below;

   - **Existing resources for care and support have witnessed significant reductions since 2010.** The annual ADASS Budget Survey (July 2014) shows that a further £850m has come out of the system, leading to total reductions in the adult social care budgets of £3.53bn over the last four years.[2]

   - **CCN research has shown that after four years of significant budget reductions, existing adult social care budgetary pressures *ahead* of the reforms are described by over three quarters of CCN member councils (77%) as 'severe'**. A further 10% of member councils described budget pressures as 'critical' and only 13% 'manageable'.[3]

   - **As a result of additional pressures in the system, we believe the budget position for CCN member councils will significantly worsen over the coming year due to;**

     - **The recent Supreme Court ruling on the CCN member council of Cheshire West and Chester on grounds of deprivation of liberty safeguards**; An ADASS survey of 100 local authorities suggests that, for those councils, the implications of the ruling will cost around £40 million; nationally the LGA estimate the cost to be closer to £90m per annum.[4]

[1] CCN Consultation Response Care Act 2015/16 Regulations & Guidance (2014)
[2] ADASS Budget Survey (2014)
[3] CCN Counties & the Care Bill (2014)
[4] LGA & ADASS Joint Submission to consultation Response (2014)

- **Changes to the allocation of the Better Care Fund (BCF)**; we believe that recent changes to the distribution and allocation of BCF funding fundamentally undermine its purpose of protecting investment in adult social care services and improving preventative activity across health and social care to reduce long-term demand.

- **BCF funding for Care Act Implementation**; whilst the Government has published details relating to the distribution of £294.7m of 2015/16 Care Act funding, no further information has been provided on specific BCF funding streams, such as those for advocacy, eligibility, and carers. In the absence of this, CCN member councils remain deeply concerned that this will damage their ability to allocate BCF funding to the implementation of specific aspects of the Care Act alongside CCGs and other health partners.

5. Alongside the funding environment, there are a number of specific factors that lead to Care Act implementation costs for CCN member councils. CCN have consistently maintained that any new allocation formulae must take these into consideration when developing new allocation formulae.

- **The continuing demographic shift towards an aging population is most acute in county areas**. The 2013 ADASS budget survey showed that the cost of demographic change accounted for 3% of 2013/14 adult social care budgets.[5] CCN member councils have the highest proportion of those aged 65 and above (20%), 75 and above (9.2%) and 85 and above (2.7%) amongst all local authority types. This compares to London with 11.5% (65+), 5.4% (75+) and 1.5% (85+), and England averages of 16.9%, 7.9% and 2.3%.

- **CCN member authorities have the largest proportion of those that currently arrange and fund their own care 'self-funders'.** Emerging evidence shows that the average CCN member council has 54% self-funders, with some as high as 80%. Due to the nature of the reforms, this means that the resource implications of the Care Act for CCN member authorities are far greater than for the rest of the local government sector, particularly during the implementation phase of 2015/16.

- **Despite these factors leading to higher demand in county areas, counties receive significantly less funding per head (+75) and funding per adult social care client.** This is largely due to weight given to deprivation top-ups in the allocation formula at the expense of other key factors, such as age. Table 1 below shows that county councils receive significantly less older persons RNF per head of population than all other local authority areas;[6]

[5] ADASS. ADASS Budget Survey 2013 (2013)
[6] Table 1 show the notional amount of the relative needs block within the 2013/14 baseline for the new funding arrangements which has been allocated according to the relative needs calculation for older persons personal social services. This has been expressed as an equivalent annual amount per head of population aged 75+ (June 2012) and amount per social care client (using information from CIPFA statistics for client numbers in 2012/13 in the main areas of activity i.e. nursing care, residential care, homecare and domiciliary care).

Table 1	Older Persons (+75) RNF per Head of	Older Persons RNF per OP Client
Inner London	£1,957	£11,824
Outer London	£816	£7,839
Metropiltan Authorities	£978	£8,551
Unitary	£691	£6,525
County Council	£496	£5,602

Funding for the Care Act & Cost Modelling

6. Whilst in this consultation CCN welcome a correction in the distribution formula for £283.5m of Care Act funding, we maintain our concern alongside the LGA and ADASS that the total £470m for 2015/16 may prove to be insufficient. This view is supported by CCN's own research,[7] with the Public Accounts Committee recently stating the Government 'neither understands the scale of some of these changes nor how much it will cost to implement the changes'.[8]

7. Following continuing engagement with the sector, we believe that four areas should continue to be categorised as ***major*** funding risks;

   - **Demand created by self-funders and its impact on early assessments**: Our research and engagement with member councils strongly suggests that initial funding allocations to implement new duties relating to self-funders could be inadequate, particularly early assessments.

   - **Carers' assessments and services**: Evidence suggests that the Government is underestimating the number of carers that will be eligible for support under the Act. This could have a significant financial impact, with some CCN member councils experiencing unfunded demand for assessments and support from carers.

   - **National eligibility criteria**: The findings of our research in March showed that the draft national eligibility criteria could lead to a significant increase in demand for services and additional cost of implementing the Care Act across the majority of CCN member councils. Subsequent engagement suggests that whilst the regulations are now *less* generous than the previous draft, they still are not a true reflection of the current 'substantial' threshold the Department is attempting to achieve (leading to more accessibility to services) and regulations remain open to legal challenge. It is unclear whether new regulations, due later this month, will be able to prevent any additional costs for CCN member councils.

   - **Reforms impact on local care markets**; the introduction of the Duty to Arrange under Section 18(3) of the Care Act, and various aspects of funding reforms from April 2016 (including Care Accounts) could potentially lead to the erosion of the cost-

[7] CCN. Counties & the Care Bill (2014)
[8] Public Accounts Committee - Sixth Report Adult social care in England (2014)

differential between privately and publicly funded care. This could lead to additional, and as yet, unfunded cost of the reforms through higher local authority care fees, provider failure, or provider exit and reduced competition.

8. CCN has consistently argued that Government needed to engage with the sector on understanding the costs of the reforms during 2015/16, particularly the three core areas highlighted above. We are pleased that the Government is engaging in research to understand the potential impact of the Care Act on local care markets and have committed to engaging with CCN research currently being undertaken by Laing Buisson.

9. We welcome Department's recent engagement with the CCN, LGA, ADASS and London Councils to launch a joint cost modelling exercise on early assessments & reviews, and new carers duties in 2015/16.

10. At the time of submission the DoH is still engaging with national stakeholders on understanding the results of the cost modelling exercise and planning an equitable solution to any potential funding gaps. CCN is supporting the LGA and ADASS in these negotiations, and would like to make the following observations in relation the cost modelling exercise and its impact on the outcome of this consultation;

    - CCN strongly believe that the cost modelling returns from CCN member councils provide even stronger evidence that the cost of implementing the Care Act are higher in county councils and county unitary authorities for the reasons outlined previously. Analysed returns for CCN member councils support the conclusion that some councils with high levels of self-funders will continue to face a significant funding shortfall for assessments and reviews based on a **50%** assessment rate of new self-funders. However, overall, *amended* (using weighted median unit costs) modelled estimates on assessing **50%** of stock for 35 of the 37 CCN member councils suggests member councils are broadly within their allocation for *early assessments and reviews*. **Further details are provided in the Appendix 1**.

    - Whilst CCN believe that additional funding is required to sufficiently fund new duties relating to carers (see below), we are deeply concerned by any proposed reduction in early assessments and reviews funding in the absence of safeguards for CCN member councils or further changes to formulae to protect allocations in real terms. **Any reduction in total funding for early assessments and reviews to fund other parts of the Care Act would impact upon CCN member councils, resulting in further funding shortfalls.** As outlined in Appendix 1, a reduction of £30m in funding for early assessments and reviews from £145m to £115m would result in a funding shortfall of in excess of £14m for CCN member councils, whilst the rest of the local government sector would be **overfunded**.

    - Clarity is needed on whether information & support (£10m) and capacity building (£20m), which were rolled into the £175m allocation early assessments grant, have been included in any direct comparison between modelling returns and allocations. We do not believe that allocations and cost modelling returns are directly comparable as it was understood that the modelling was to be undertaken on a 'business as usual' approach, excluding the costs associated with IT systems, recruitment and work capacity. **CCN figures in Appendix 1 therefore exclude this element of funding**. It is important not to underestimate the costs relating to upgrading IT

systems and new systems for enhancements such as on-line advice and guidance, on-line self-assessments and access to care account details.

- Councils were requested to apply at least a '50/50' rule, spreading the demand for self-funder assessments over two periods (October-April 2015/16 and 2016/17). Our engagement with CCN member councils suggests councils will 'front load' assessments in year one, starting before quarter 3 in 2015/16 (leading to higher costs in 2015/16 – see below). Clarity is needed on whether 2015/16 allocations relate to either 50% or 100% of *new* self-funder assessments. Modelling indicates that if allocations are to be sufficient to cover full implementation, additional funding **must** to be base-lined in 2016/17 (within a new ASC funding formulae) or be **substantially increased** for 2015/16.

- Linked to the above point, the model is highly sensitive to which quarter a council begins to assess in 2015/16 and also the volume they expect to frontload - all without changing any of the 'actual' or 'real' data that goes into the model, just the assumptions. One CCN member council has modelled this sensitivity factor, and the results are shown in the table below. Councils who 'frontload' or start assessments early will face higher costs in year one. Feedback from CCN member councils suggests most will frontload to manage demand from self-funders. Therefore, based on cost modelling returns assuming a 50% assessments of self-funders, some councils will still face a funding shortfall for assessments during 2015/16.

Stock Assessed & 2015/16 Quarter	Total Assessment Cost
50% Stock Starting Quarter 3	£2,525,340
100% Stock Starting Quarter 3	£5,050,680
60% Starting Quarter 3	£2,511,439
60% Starting Quarter 2	£3,549,377
60% Starting Quarter 1	£4,068,346
100% Starting Quarter 1	£6,780,577

- CCN, alongside the SCT and Rural Services Network, have continuously highlighted the additional cost pressures associated with rural service delivery. Comprehensive research undertaken by LG futures in 2011 concluded that specific cost drivers associated with rural service delivery led to 'a substantial cost penalty' for predominately rural areas. They argued that 'the provision for sparsity within the formulae is very small compared to the size of the actual cost penalty'.[9] This **must** be considered in relation to unit costs outlined in the cost modelling exercise, including the weighted median unit costs used in Appendix 1.

- Whilst the precise impact is still subject to analysis by national stakeholders, there are clear indications from across the sector that there is a **significant funding gap** for carers assessments and services. CCN has long maintained that the impact assessment in relation to carers was severely inaccurate.[10] Whilst funding for this part of the Care Act sits outside the grants discussed in this consultation document, we

[9] LG Futures. Sparsity Partnership for Authorities Delivering Rural Services (SPARSE-RURAL) Costs of Providing Services in Rural Areas (2011)
[10] CCN. Counties and the Care Bill (2014).

believe that any significant additional funding must be provided to cover this new burden and should be provided through a separate **new** grant outside of the BCF. Grants must follow need, and therefore be disputed using an appropriate *activity-based* formulae.

11. Although we agree with the LGA and ADASS that in the advent of a funding shortfall the Government **should** commit to reopening 2015/16 spending round envelope (i.e. carers), CCN acknowledge that the precise financial impact of these changes are hard to quantify. Activity and final costs resulting from the Care Act in 2015/16 are closely linked to self-funder and carer behaviours, and therefore costs could be significantly higher than expected; but this will not be *fully* known until 2015.

12. Given the uncertainty and the need for Central and Local Government to budget and plan effectively to cover the full costs of implementing the Care Act, CCN have proposed the creation of a **Care Act Reserve Fund**.[11] The Government should provide additional year-end or in-year grant to meet any funding shortfall to ensure the Care Act does not breach the New Burdens Doctrine. This contingency fund must be in **addition** to any new funding carers, not top-sliced from the local government settlement and provide additional in-year funding if costs arising from key aspects of the reforms, such as assessments, advocacy, prisons or eligibility, are higher than expected.

Consultation Questions

13. In responding to the technical questions in proposed in this consultation CCN draws on the analysis undertaken by the SCT in their submission, and also dialogue with the CBIG Finance Working Group.

Question CAA1: *Do you prefer: CAA Option 1: The extrapolation approach or CAA Option 2: The epidemiology approach?*

14. Following consultation with the CBIG Finance Working Group and SCT, CCN supports option CAA 2: The epidemiology approach.

15. Option CAA1 attempts to model the number of people with local authority-equivalent care needs who do not currently qualify for assistance (self-funders), whilst option CAA2 estimates the number of people who may come forward for an assessment against the cap. Both formulae result in similar factors being included, with a similar scale of coefficient attached to similar measures.

16. The CAA1 accompanying research paper also states that the strength of this option is that it reflects the current local authority need eligibility criteria. The paper goes on to say that this "*should be a good indicator of …need… although this argument depends on how far new eligibility criteria change*". Whilst many authorities already have their need criteria set as "substantial", CCN engagement with the sector continues to suggest that the national definition of "substantial" will be lower than the current FACS definition, resulting in a more generous offer in the future. The inference is that this detail will dilute the strength of option CAA1; whilst the formula may well reflect the current

[11] CCN. Our Plan for Government 2015-20 (2014), p. 27

eligibility criteria, CCN & SCT believe it will not be picking up on the future, more generous eligibility criteria leading to an inaccurate distribution of funding.

17. The consultation paper and associated research papers for option CAA1 also highlight the difficulties associated with removing the effect of the means test and the danger that it could result in the underestimation of need.

18. In summary, based on the analysis undertaken by the SCT, we are concerned that the "Extrapolation Approach" uses data which is counter-intuitive to the outcomes being estimated, the formula will not adequately capture the new, more generous eligibility criteria, and that need may have been further underestimated in the exercise of removing the effect of the means test.

19. It is for these reasons that CCN feels that, of the two options presented, option CAA2, the Epidemiology approach is preferable to ensure an equitable distribution of resources. However, we do hold reservations over the use of the 2011 census data on people in residential care. In most areas local authorities do not require their care providers to complete census returns for their residents, hence returns are likely to be unreliable; underestimating the size of this group in comparison to other care-receiving groups.

Question CAA2: *Why do you prefer the option selected above? Do you have any comments about the options or alternative suggestions for allocating the funding?*

20. Whilst CCN recognise option CAA1 and CAA2 lead to a small variation in the final allocations, CCN supports the technical analysis of the SCT that this formula is the most statistically valid and maximises the total funding allocation for CCN member councils.

21. It was clear that any additional funding for the Care Act would need to be based on **new** *activity-based* allocation formulae, one markedly different to the current Relative Needs Formulae (RNF). The proposed formulae therefore correctly leads a total funding increase of up to **£28m** for CCN member councils from the December 2013 initial allocations for early assessments and DPAs by following an activity-based formulae. The Department has taken concerted action following research undertaken by the Personal Social Services Research Unit (PRSU) and LG Futures, and also advocacy by CCN, that funding for the Care Act should be activity-based and distributed in line with the main drivers of need and demand; namely demographics and levels of self-funders. CCN believe that the cost modelling returns by CCN member councils further validates this approach.

23. Given our above views expressed under para 10 and Appendix 1, we believe the formulae continues to underfund CCN member councils. We believe that cost-modelling returns provided to the DoH support this conclusion and should be considered alongside consultation returns. In the absence of safeguards for CCN member councils or further changes to formulae to protect allocations in real terms, **any reduction in total funding for early assessments and reviews would disproportionately impact CCN member councils, resulting in further funding shortfalls.**

Question DPA1: *Do you agree with the Department's proposals to allocate funding for the universal deferred payment scheme using this DPA RNF formula?*

24. The proposed formula uses measures which would appear to reflect the eligibility criteria for the universal deferred payment scheme (care needs, assets and home not occupied by a spouse/dependent).

25. The formula being proposed uses the extrapolation method (as seen in CAA Option 1). That means that the researchers have attempted to estimate the number of people who have sufficient needs to pass the needs test, whilst ignoring the means test (to arrive at an estimate of the total number of people who would satisfy the need test) before then factoring in the eligibility for deferred payments; which itself includes a financial test.

26. Not only are the CCN and SCT concerned by this complexity but members also highlight the point raised earlier in our response (question CAA1) regarding underestimation of need when controlling for the "means test". The SCT analysis suggests that this may result in an inaccurate estimation of DPA.

27. CCN members are also concerned about the positive influence that the number of people claiming pension credit has on the end result. It is difficult to see any direct link between receiving pension credits and being likely to require a DPA. People receiving pension credit are likely to be at the lower end of the wealth/income scale, whereas people taking out DPAs are much more likely to be nearer the middle of the scale.

28. The SCT and CCN therefore support the proposed measures used in the DPA relative need formula, but hold reservations about the levels of need it is reflecting and whether the inclusion of people receiving pension credit is an appropriate measure.

29. Following the joint cost-modelling exercise on 2015/16 there are indications that the Government may reduce the DPA funding outlined in this consultation to fund other elements of the Care Act. Responses to our survey on DPAs outlined in Appendix 1 suggests there is a divergent view across authorities on the cost implications of DPAs, with the majority of respondents so far indicating it will lead to additional, and as yet, unknown costs. **CCN member councils require urgent clarity on funding for all aspects of the Care Act and any changes in funding for specific elements should be announced as soon as possible**. Any movement in funding must follow need, and therefore be disputed using an appropriate *activity-based* formulae.

Question DPA2: *Do you have any comments about our proposal or alternative suggestions for allocating the funding?*

30. Please refer to the Society's response to question CAA2.

Question DPA3: *What was the cost of deferred payments in your local authority?*

31. Please refer to individual authority responses from CCN member council responses.

Question DPA4: *Which option do you prefer NDPA Option 1 (national netting off adjustment) or NDPA Option 2 (the local netting off adjustment)?*

32. With regard to "netting off"; both options presented have their merits. The first (national netting off) is simple and easy to implement but the second (local) would appear fairer – but this fairness depends on the reliability of local authority returns. There may be

occasions; when an authority suspects they currently have higher than average deferred payment activity cases where it may be beneficial for them not to submit a response; with the assumption being that the Department of Health will use an estimated/average figure.

33. On balance, the SCT analysis suggested that national netting off would be preferable, on grounds of both transparency and simplicity. However, CCN support the SCT request that the Department ask local authorities to express a preference for either option whilst being unable to assess the impact of the second option is far from ideal.

Question DPA5: *Do you have any comments about the options, or alternative suggestions for netting off this funding?*

34. Please see response to question DPA4.

Question PRIS1: *Do you agree with the Department's Proposal to allocate funding for social care in prisons using this formula?*

35. The formula for social care in prisons has been reached following a limited pilot survey of the prevalence of need and support costs within a sample of prisons. The consultation paper states that the Department has worked with the National Offender Management Service (NOMS) to estimate the likely patterns of assessments and care support in prisons.

36. Of the 58 local authorities affected by these elements of the Care Act, 28 are CCN member councils. Whilst the government have provided additional funding for prisons duties outlined, and have removed this funding from the BCF, we still maintain concerns that the funding will be inadequate for those councils who will be required to implement these clauses of the Act.

37. We challenge the source of the cost assumptions contained in the Impact Assessment which are prominently provided by extremely small samples of Prison Governors, not local authorities who have a greater understanding of social care access, needs and costs. For instance, prison governors estimating likely need (eligibility) without professional knowledge of the national eligibility threshold and also the costs of delivering services, when councils will clearly face additional overheads from the complexities of delivering social care in prisons (i.e. security).

38. In addition to these concerns, there is ambiguity at present regarding the responsibilities for funding any equipment or adaptations required within prisons. Prisons are usually poorly adapted in terms of their physical environment to accommodating individuals with significant physical disabilities, particularly those with mobility or difficulties in meeting their own personal care needs such as toileting and bathing. Small items of equipment can quite reasonably be supplied under the terms of existing commissioning arrangements; however, it would not be reasonable that the costs of major adaptations in local prisons become the responsibility of councils to meet.

39. These uncertainties mean the prisons funding allocation may bear no relationship to the scale of the financial demands, but we won't know that until 2015/16 is well underway and perhaps not even until 2016/17. We believe that the current allocations should

remain broadly the same as they are now, and represent the basis for Councils and local partners to undertake their immediate planning. However, if the cost of delivering these services in 2015/16 is projected at more than the funding, Government should provide additional year-end or in-year grant to meet the funding shortfall (as part of the Care Act Reserve Fund). Affected councils would have to submit returns to evidence these additional costs and be subject to audit.

Contact

James Maker, CCN Policy Manager
James.maker2@local.gov.uk

Appendix 1

Assessments towards the Cap Modelling

1. This note provides an analysis of the 2015/16 cost modelling returns for CCN member councils. It includes an analysis of potentially reducing £145m early assessments and reviews funding 2015/16 by £30m to cover part of the additional investment required for higher than anticipated costs for carers assessments and services during 2015/16.

2. Table 1 below shows the headline **Additional Assessments towards the Cap 2015/16** results for **35** of the 37 CCN member councils that responded to the cost modelling exercise. Please note the following in relation to total costs for CCN member authorities listed in the table below:

    - Returns used were amended **DoH** returns (not original submissions).

    - The Society of County Treasurers (SCT) provided an adjusted median assessment and review of unit cost for CCN member councils using the same methodology as the LGA/DoH. Assessment adjusted median is **£558** and **£296** for reviews. These are broadly in line with LGA/DoH unit costs. This was applied to all 35 returns.

    - All financial assessment costs have been included using a median unit cost (applied to all returns). Financial assessment median is £53.

    - No adjustment was made to spread of activity established in the original model - 50% in 2015/16 (applied in all amended DoH returns). The activity rate is therefore below the assumed 53% activity in the main DoH analysis.

    - Analysis below includes Wiltshire & Worcestershire returns excluded from the DoH analysis.

3. Amended provisional allocations for early assessments and reviews published in the *Consultation on funding formulae for implementation of the Care Act in 2015/16* for the **35** member councils have also been provided to establish whether there is a potential funding shortfall. The funding consultation document outlined allocations for **Additional Assessments for the Cap** amounting to £175m. These allocations include **£145m** for additional assessments in 2015/16, alongside £10m for an information campaign and £20m for capacity building. The Lincolnshire model only tested the £145m assessment

cost on a 'business as usual' approach. CCN understand the proposal is that funding for early assessments and reviews is reduced from **£145m to £115m**, with the £10m for information and £20m capacity building remaining stable within a reduced **Additional Assessments for the Cap** allocations. Therefore, to compare modelled *additional assessment costs* for CCN member councils with provisional allocations for assessments **only**, original allocation figures are adjusted and reduced.

Table 1 – Total Estimated Assessment & Review Costs v Original Assessment Allocations (£145m)

5. Table 1 shows that the returns for **35** CCN member councils are slightly below total provisional allocations of the £145m for early assessments and reviews funding based on assessing and reviewing a maximum of 50% of self-funders in 2015/16.

	Total Early Assessment & Review	**Full CCA Option 1 (assessment only)**	**Full CAA Option 2 (assessment only)**
35 CCN Member Councils	**£75,639,298**	**£77,079,139**	**£78,128,195**

6. The same costs for CCN member councils are outlined in table 2, but the allocations have been reduced in accordance with the impact of a total reduction in early assessments and reviews funding of £30m to £115m (funding allocations provided by SCT using proposed formulae). Again, to reduce the funding proportion for information and workforce capacity included within provisional allocations, the funding allocations are adjusted and reduced.

7. Based on this analysis a reduction in total funding for early assessments and reviews from £145m to £115m would lead to a total potential funding gap of up-to **£14,509,936** for early assessments and reviews for the **35** CCN member councils taking part in the modelling exercise.

Table 2 - Total Estimated Assessment & Review Costs v Reduced Assessment Allocations (£115m)

	Total Early Assessment & Review	**CCA Option 1 (assessment only)**	**CAA Option 2 (assessment only)**
35 CCN Member Councils	**£75,639,298**	**£61,129,362**	**£61,961,334**

8. All councils witness a reduction in funding of 17.1%, but CCN member councils witness a much higher decrease in funding due to the distribution within the proposed formula which is *activity-based* (and therefore follows demand/need). The modelling returns confirm that costs in relation to early assessments and reviews are borne disproportionately by CCN member councils, due to higher levels of older people and self-funders.

9. Based on the figures above and a proposed reduction in early assessment and review funding to £115m, it is presumed that modelled costs for the remaining part of the local government sector totaled in the region of £35-40m. Therefore, whilst CCN member councils would be potentially see a funding shortfall of **£14,509,936**, based on returns, the rest of the local government sector would be <u>overfunded</u>.

Commentary

10. CCN acknowledge that the precise financial implications of the Care Act are hard to quantify. Activity and final costs resulting from the Care Act in 2015/16 are closely linked to self-funder and carer behaviours, and therefore costs could be higher or lower than expected; but this will not be *fully* known until 2015. The cost modelling exercise confirms that, based on a 50% assessment rate, CCN member councils' total allocation of the £145m for assessments and reviews in 2015/16 should be sufficient to cover the majority of councils expected expenditure in this area.

11. However, the above analysis shows that based on the proposed formulae a reduction in early assessments and reviews of £30m would have a disproportionate impact on CCN member councils, potentially leading to a significant funding shortfall and a perverse overfunding for the remaining part of the sector. Given the above, CCN are therefore deeply concerned by the proposed reduction of £30m in early assessments and reviews funding in the absence of safeguards or changes to formulae, with the impact of the reduction borne by CCN member councils.

12. Whilst CCN has not undertaken the same detailed analysis of carers returns to the cost modelling exercise yet, we agree that there is a significant funding gap for this part of the Care Act in 2015/16 that needs to meet through either **additional** funding or movement of existing funds within the settlement. Given the demographics and population coverage of CCN member councils,[12] county and county unitary authorities will account for a significant part of the £50m funding shortfall identified by the cost modelling exercise. Additional funding will need to be distributed **outside** the Better Care Fund using the most appropriate and fair distribution formulae.

14. Costs for DPAs were not tested as part of the cost modelling exercise, but there are indications that the DoH and stakeholders that this is regarded this as the most 'flexible' element to the funding settlement. There are a number of complexities to reducing DPA funding, including implications for public borrowing, a political commitment to 'fund' DPAs, and contested view over final costs. CCN is currently surveying members on the costs of DPAs using the following three questions. Headline responses so far are provided;

    1) Do you have an established DPA scheme in your local authority?

    14 Yes 0 No

    2) Do you have an estimated cost of delivering DPAs in 2015/16?

    6 Yes 9 No

    3) Do you expect lower costs from implementing DPAs in 2015/16 due to having a well-established DPA scheme?

[12] CCN members account for 46% of the population and have the highest proportion of over 65s – 20%.

5 Yes 7 No 3 Unknown

15. Responses show there is a divergent view across authorities on the cost implications of DPAs during 2015/16 despite all councils having existing schemes, however the majority of respondents so far indicate it will lead to additional, and as yet, unknown costs.

16. It has been suggested that local authorities could use excess DPA to cover the reduction in early assessments and reviews funding. The implications of this decision would be that funding for assessments and reviews was poorly targeted and not distributed according to needs – leading to funding shortfalls for CCN member councils and a poor use of public funding.

17. Rather than DPAs acting as poorly targeted local contingency fund, CCN have proposed the creation of a **Care Act Reserve Fund**.[13] Given the uncertainty over final costs and the need for Central and Local Government to budget and plan effectively to cover the full costs of implementing the Care Act, a reserve fund should provide additional year-end or in-year grant to meet any funding shortfall to ensure the Care Act does not breach the New Burdens Doctrine. This contingency fund must not be top-sliced from the local government settlement and provide additional in-year funding if costs arising from key aspects of the reforms, such as assessments, carers, prisons or eligibility, are higher than expected.

In conclusion

18. CCN are deeply concerned by the proposed reduction of £30m in early assessments and reviews funding in the absence of safeguards or changes to formulae, with the impact of the reduction borne by CCN member councils. **Cost modelling returns show that provisional allocations for CCN member councils must be protected in real terms to ensure sufficient funding for implementation of the Care Act**.

19. CCN believe that the DoH and national stakeholders **must** consider the distribution implications of any decision to reduce funding for early assessments and reviews on CCN member councils. With it unclear whether DPA funding can be sustainably reduced, CCN maintain that **necessary** additional funding for carers should be provided through a separate new grant outside of the BCF. Grants must follow need, and therefore be distributed using an appropriate activity-based formulae.

[13] CCN. Our Plan for Government 2015-20 (2014), p. 27