

Public Accounts Committee

Oral evidence: Care Act first-phase reforms and Local government new burdens, HC 412

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Members present: Meg Hillier (Chair), Mr Richard Bacon, Deidre Brock, Mr Stewart Jackson, Nigel Mills, David Mowat, Stephen Phillips, John Pugh, Karin Smyth

Sir Amyas Morse, Comptroller and Auditor General, Adrian Jenner, Director of Parliamentary Relations, National Audit Office, and Aileen Murphie, Director, DCLG & Local Government Value for Money, NAO, and Richard Brown, Treasury Officer of Accounts, were in attendance.

Witnesses: Melanie Dawes, Permanent Secretary, Department for Communities and Local Government, Dame Una O'Brien, Permanent Secretary, Department of Health, Jon Rouse, Director General, Social Care, Local Government and Care Partnerships, Department of Health, and Matthew Style, Director, Local Government Finance, Department for Communities and Local Government, gave evidence., gave evidence.

Q1 Chair: Welcome to the Public Accounts Committee. I welcome our witnesses: we have, from my left to right, Jon Rouse, the director general of social care, local government and care partnerships at the Department of Health; Dame Una O'Brien, the permanent secretary at the Department of Health—since you last came, Una, you have been given a damehood, so congratulations to you on that—Melanie Dawes, the permanent secretary at the Department for Communities and Local Government; and Matthew Style, the director of local government finance at the Department for Communities and Local Government.

I want to alert people who are tuning into this that we are here to question our witnesses over the implementation of the Care Act and the burdens that this and other things create for local government. I think it is fair to say that the move to the Care Act has been very, very bold—probably one of the boldest moves for decades in how carers are supported. The NAO's Report is a bit mixed, because it is early days yet to assess the impact, but the NAO concludes that the assessment of impact has been better than it has been previously, with better co-operation between local government and the Department.

As a Committee, when we look at this, the fact remains that social services budgets are very squeezed, more funding cuts are coming down the line, and carers themselves do not have the time or resources to fight for what they need or the care their loved ones need, so it is really important that you and Government get this right. We all want this to be right for our constituents, because older and disabled people really need it to work very well. More widely, if you get it wrong, there is a big cost to other parts of the public sector. The Committee is clear—we have often used the phrase “cost-shunting”—that getting it wrong here has a big impact on other parts of the healthcare and social services systems, and on other services that taxpayers fund, so a cost will dearly cost the users, the carers and the taxpayer.

Before we kick off properly, I want to touch on the issue of phase 2. I will direct this to Una O’Brien, the permanent secretary at the Department of Health, first of all. Una, what was it that made you decide to delay phase 2? The Minister talks about the impact on the private care system. Could you elaborate on the letter he sent round about that?

Dame Una O'Brien: First, may I say that we appreciate the opportunity to talk about the implementation of the Care Act? It is a matter that is very important to people, exactly as you described, and we are keen to get it right.

Your first question was about the decision effectively to delay the implementation of the Dilnot reforms, which would introduce a cap of £72,000 on the amount of money that individuals have to pay towards their care. A decision was made to delay implementation to the end of the decade. There are a number of different reasons why that was brought about, but principally it was to do with the complexity of the implementation; the additional costs at this time, when there are great pressures on social care budgets; and the feedback we were getting from local authorities. After the general election, the new Government came in, looked at all the evidence and made a balanced judgment, saying, “Let’s focus on getting the first phase fully implemented, and let’s take the time we need, given the pressures on local authorities—managerially and in budget terms—to get it right.”

Q2 Chair: Was it perhaps foreseeable that that would be the case—that there would be challenges in implementing such a major change in funding for residential care?

Dame Una O'Brien: I think that when you implement any change—after all, this is a change for which many people have pushed for more than two decades—there is always a balance to be struck. There is what I would call the pace to get on with it—you see this in many other dimensions of social policy change—and the doability. I think what we are learning more now in government, perhaps through the experience of the last five years, is that you have to be wise enough to step back when you think you have got to a certain point in the implementation, a critical moment, and look at whether it can be seen through. I do not think it can always necessarily be foreseen. Under the previous Government there was a clear objective to take the policy forward and implement it. I think what matters is that civil servants and Governments can have dialogue about when it is possible to get

things done and when, given all the evidence—it was a combination of evidence—it makes sense to reprofile the implementation.

Q3 Chair: Dame Una, we as a Committee would not back something that was failing fast, but this was not failing particularly fast. As you say, it has been talked about for a couple of decades. There were a lot of challenges around the proposal—how to do it and how it would be funded. A lot of people in domiciliary care would not have been getting the level of support they would have in residential care—there were many factors. You have given a very good civil servant’s answer, one could say, but what was the key thing that ultimately made this Government, which is much the same as the last Government in many respects, decide to pull the plug now?

Dame Una O'Brien: It has been re-timetabled; I would not say we have pulled the plug. There is a very clear intention to implement the policy. As I said in the beginning, it comes down to a combination of factors and the scale of what was needed. There were a number of different changes to do with the way data was collected about all self-funders, which was a completely new responsibility for local government, and the graduated costs of implementing balanced off against the pressures that local authorities, and particularly social services departments, are under. It boiled down to that. There was an exchange of letters between the Local Government Association and the Department that led to the ministerial statement. Jon, I do not know if I have missed anything in this story.

Jon Rouse: No. The only thing I would say is that there is a distinction between what you can do and what you should do. Technically, we could have implemented for April 2016, and the MPA said so, but when you have got the LGA, individual local authorities, ADASS, the NAO and the MPA all saying “This timetable looks incredibly tight, and the system is under very significant pressure. Do you want to load this on to them as well at this time?” you have to stand back and ask yourself, “Is this the right time to be doing this?”

Chair: Which prompts the question why it was on the original timetable. I will hand over briefly to Stephen Phillips, and then a couple of other colleagues will come in.

Q4 Stephen Phillips: I apologise; I have a Delegated Legislation Committee at half-past 4 that takes precedence, so I am coming in a little early. I wanted to ask Dame Una in particular, and maybe Mr Rouse as well, about the Care Act 2014 and the absence of a contingency budget within the Department, to the extent that the costs associated with implementation—at least of phase 1—are different and indeed greater than estimated.

It is almost inevitable from the way that the costs have been estimated, in so far as they will fall on local authorities, that they will be wrong. That is the nature of the beast in government, I am afraid, as we all know, so you have monitoring in place. However, if it is wrong, there is no departmental money to ensure that local authorities are properly funded to discharge their statutory obligations, so those costs will fall, for example, on the council tax payers in Lincolnshire, at the risk of being parochial. How will you deal with that?

Jon Rouse: One of your recommendations—one of the NAO’s recommendations, I should say—in the new burdens Report, which we are considering today, is that there should be an ongoing review of how those burdens fall for a period of time after implementation. In this case, we will continue to monitor how the reforms and their costs are impacting upon local government. We did not make a decision to have a nationally held contingency fund for programmes of this type, and nor would we; that is not common practice. What we will do is maintain it under review for quite a long period of time.

Q5 Stephen Phillips: Forgive me, Mr Rouse, but the difficulty with that is that we may end up with a position where local authorities have got a shortfall for a significant period of time—perhaps years. How will that be dealt with, because that will feed through and those people who actually need help will not receive the help they need, because local authorities will not be able to discharge the obligations that are upon them?

Jon Rouse: We think we have made prudent assumptions, but if that arises, it will have to be considered in the context of the overall DH budget. What I would say is that it is very early days, but the first quarter’s information we are getting is not showing significant additional pressures arising. It looks like the assumptions that we have made are prudent, but we must continue to monitor over a period of time to see how this new burden falls.

Q6 Stephen Phillips: The difficulty with that is that if I look at paragraph 3.30 of the NAO’s Report I see that the metrics that you are using “do not cover local authorities’ costs for providing additional assessments or services”.

Jon Rouse: Well, we do, of course, keep an annual return around the overall expenditure in terms of social care, so we know the total burden, if you like, that local authorities are facing. In terms of the individual costs of implementing the Care Act, or the more specific costs of implementing it, then you are right on one level: we are not monitoring the exact costs of what are carers’ assessments and what is the cost of deferred payments. But we will do and are doing quarterly surveys of all local authorities, which they can respond to both quantitatively and qualitatively in terms of how the Care Act reforms are impacting them as an authority. I am very pleased to say that we got a very, very high return for the first of those surveys, and we are now using that intelligence. We are committed to doing two more surveys during the course of this year.

Q7 Stephen Phillips: That is very helpful in terms of the detail. Just at a higher level, may I ask Dame Una a question? If you look at paragraph 3.31 of the Report, you see that if you have got this wrong within the Department—certainly to any significant degree—there is a risk that “local authorities may have to make savings in other services, divert people to the third sector or delay or reduce services”, and those are obviously essential services for users. How will the Department handle that risk if it eventuates? Will you be going to the Treasury and saying, “We have to have more money, because people are being hurt by the implementation of these reforms”? How will that work?

Dame Una O'Brien: First of all, the problem with a contingency fund of this sort is that our approach is to get money out rather than to hold it back, so there is always a balance between those. I am instinctively not comfortable with a contingency and it is not normally what we do, because we want to make sure that money gets spent and gets spent well on the front line—

Q8 Stephen Phillips: I understand that, but that is no comfort if local authorities have a shortfall, is it?

Dame Una O'Brien: Yes, I absolutely understand that, and having spoken to many people who are involved in implementing the Care Act I know that this is something that we talk about a lot. Naming the risk, quantifying it, tracking it and constantly getting this quarterly feedback from local authorities will give us early warning if there are particular authorities that are falling into problems. And our job then as a national leadership, LGA, ADASS and the other partners, will be to support that local authority in addressing the specifics of its problems.

Q9 Stephen Phillips: When you say support, do you mean support financially, or do you mean support through other mechanisms?

Dame Una O'Brien: Well, it depends on the nature of the problem. Obviously, there are a range of mechanisms that support the implementation of this Act. The second thing I would say is that we are—

Q10 Chair: You mentioned particular support for authorities. What about Wokingham and those authorities that have already flagged serious problems?

Dame Una O'Brien: As you know, three local authorities were intending to take the Government to judicial review before the election. After the new Government came in, the decision was made to quash the original decision. That related to whether the way the Care Act was going to be implemented was sufficiently consistent with the practices of those three authorities and the eligibility criteria they had set.

Jon Rouse: Sorry, I just want to make a slight correction. Three authorities were critical, but it was actually only two that were taking us to judicial review.

Dame Una O'Brien: That is correct. Thank you. We are now—Jon is very much involved in the process—going through a detailed exercise with those authorities to assess their specific situation. So in a sense we are relooking at the issues that they raised—

Q11 Stephen Phillips: So the message to any authority with responsibility under the Care Act that is dissatisfied with the way in which it is now having to fund services, without

central Government support, from local council tax payers' money is to threaten to judicially review the Department. Is that right?

Dame Una O'Brien: Certainly not. It is very unfortunate that we got to that place with those authorities. Our overriding approach has been to work with the sector. For the vast majority of what we have achieved on the implementation of the Care Act, the feedback from local authorities has been very constructive and engaged.

Q12 Stephen Phillips: Final point from me on this. Let's say there is a significant problem, particularly for the shire authorities, whose budgets are already squeezed more than anybody else's, and there are significant extra costs associated with the implementation of the Care Act. How long will it take for the funding to catch up with what they actually need, given your monitoring operation?

Dame Una O'Brien: Jon can comment on the detail, but we are right in the middle of the spending review discussions now. We are gathering information from local authorities about the initial experiences of implementing the Care Act, and we are continuing to do that.

Q13 Stephen Phillips: A great answer, Dame Una. How long will it take for the funding to catch up if you have got it wrong?

Dame Una O'Brien: It is quite difficult to give a specific timing on that—

Stephen Phillips: Try.

Dame Una O'Brien: —because the decision about how to fund social care in total is a matter for each local authority. It is not simply the notional additional funding or the actual funding that they get for implementing the Care Act. What will happen is that this will become normal practice within local authorities; this becomes the new way of delivering social care, and it is going to be a judgment for each local authority how they balance all their different sources of income and apply it to social care.

Q14 Stephen Phillips: I follow all of that. Let's just assume that more central Government funding is needed and the Department agrees with that. I would like to know from you or Mr Rouse how long it is going to take for the funding mechanism to catch up so that local authorities—particularly, for example, Lincolnshire—get the funding that they need.

Jon Rouse: In terms of the Care Act reforms, on the basis of the evidence we have seen today, I think it is highly unlikely that there will be a problem in 2015-16, but we will continue to monitor through the three surveys. If in the third of those surveys, which is at

the back end of the year, we are starting to see issues, that will have to be considered as part of 2016-17.

Q15 Stephen Phillips: So 18 months of either reduced services or additional costs falling on council tax payers, or other services having to be cut to fund responsibilities under the Care Act.

Jon Rouse: No. It is at the back end of this year, so we are talking about the turn of the year. December/January is when the third survey will be conducted, and 2016-17 starts in April, so we are talking about a shorter period for considering whether there are those impacts within the system.

Q16 Mr Bacon: On this legal question, the Economic and Social Science Research Council funded some serious research on what caused local authorities to change their behaviour. Was it the change of a chief executive or of another chief officer? Was it a change of administration or a change of leader? The very clear conclusion—this was presented in a seminar at the QEII with Gus O'Donnell a while ago—was that the thing that caused local governments to change their behaviour more than anything else was being sued. It made me think, "Damn, I should have been a lawyer."

The fact is that it is not merely the case that local government could choose to judicially review central Government Departments such as the Department of Health. Individuals who have a statutory entitlement to services could sue the local government involved, who is supposedly statutorily bound to provide these services and is not doing so. What assessment have you made of the impact of that?

Jon Rouse: That's exactly the type of issue that we want local authorities to tell us about in these returns that they are doing in respect of the implementation. If there is a real rub in terms of what the local authorities think eligibility is, and individuals respond to that in terms of not believing that they are being treated fairly under the law, then that is a signal to us that we may have a new burdens issue. We are not seeing any of that evidence yet, but it is early days. We are only six months after the implantation of the Act, but that type of signal is something that we would take very seriously.

Q17 John Pugh: Can I ask about the carer's allowance? It says in the Report that the NHS Information Centre, in the bad old days of 2010, said that 6% of carers were offered an assessment and only 4% of them actually received an assessment. One thing the legislation does is achieve a kind of revolution in that. What surprises me is that when you get a revolution, you often get a lot of grumbling, but there is relatively little grumbling: most local authorities are saying, "This is a can-do. We can actually accomplish this." Now, I am a little puzzled and perhaps disturbed by that. It is because there is nothing to be gained by their saying otherwise, or because, in connection with this particular benefit being bestowed on carers, they can control demand for it?

Jon Rouse: Shall I take that?

Dame Una O'Brien: Yes.

Jon Rouse: They cannot control demand for carer's allowance itself, which is a DWP benefit that is administered nationally with very clear criteria. The opportunity that local authorities genuinely perceive and grasp in the Care Act is that they can try to move to a more preventive model of care, so that the whole system—this is in the first clause of the Act—is based around trying to promote the wellbeing of individuals and their carers. It is about trying to intervene early through the provision of information, advice, advocacy and support, and taking a broad view of the individual's needs—for example, their housing requirements—and by doing so, hopefully reducing or delaying those needs.

Q18 John Pugh: I understand the objectives; I am puzzled over whether we know, for each individual area, the number of people who may in fact be eligible for such support but are either not being assessed or, if they are, are not getting the services that they think they require. I can see very little hard data here, so where would you get the data from?

Jon Rouse: One thing that the Care Act does, as you know, is to provide a single eligibility threshold for access to care and support, which we worked on very closely with a whole number of groups, including third sector organisations. We have commissioned research, and we now have the first quarterly return, to find out how that is impacting on the ground: are more people becoming eligible or fewer? The early signs are that it is very similar to an authority that had a substantial threshold under the previous system.

Q19 John Pugh: So you think you have a good picture of the effect of the Act and how it is changing the number of people coming forward. If the number of people receiving social care is going down, is the number of people eligible for carer's support also going down? Does it follow that trend?

Jon Rouse: No, it doesn't, but that is one of the things that the Care Act brings. You are absolutely right that there has been a period of reduction in the number of people receiving carer's support, although I would say again that there is significant variation throughout the country. I can point you to a significant minority of authorities where the numbers of users getting care has increased over that period, but nevertheless the overall trend has been downwards. By setting a national eligibility threshold, the Care Act reduces the ability of local authorities to cut away at care packages for individuals because they must meet the national standard that is set out in regulations.

Q20 John Pugh: It just puzzles me a little bit. There may be people—they might lack advocacy or whatever—who are eligible but not claiming, and that might be more prevalent in some areas than others. That is clearly the case, but are you aware of the extent to which it is?

Jon Rouse: Sorry, are you talking about carer's allowance or access?

John Pugh: Carer's allowance, yes.

Jon Rouse: I genuinely do not know the answer to that question because it is a DWP benefit. I would have to come back to you on that.

Q21 John Pugh: Okay. Can I ask briefly about figure 12 on page 33 of the Report? It says there: "Local authorities predicting higher levels of work tend to report lower than average unit costs for assessments and services". What inferences would you draw from that? Is it that those local authorities with higher unit costs are more willing to provide services? Or are there economies of scale?

Jon Rouse: This was very interesting, and it comes to the heart of the modelling work that we did to determine how much extra new money we needed to put into the system. We found really significant variation in what authorities thought it would cost to, for example, provide an assessment. The differences were dramatic—to give you some idea, I think they went from £23 up to £2,500. That was one reason why in the end we took a median figure, because we had to deal with the outliers at both ends of the spectrum, because clearly—

Q22 John Pugh: And the explanation is?

Jon Rouse: It will come down to what those individual local authorities were doing when they were putting together their returns, but I have to say that there was a large cluster of what looked like very sensible authorities with a much narrower range of costs, and that is what we relied on in terms of doing our modelling.

Q23 John Pugh: And you weren't able to recommend that good practice to those that had horrific costs?

Jon Rouse: Well, it has caused us to want to do some research into why that level of variation exists—if it really does—and what the costs incurred by local authorities when undertaking such assessments should be.

Q24 David Mowat: Just quickly, I want to get clarity, Dame Una, on an answer you gave earlier regarding phase 2 implementation of the Care Act and the reasons why it wasn't going ahead. It appeared to be quite a precipitate decision. You gave several reasons, including process, change upon change, feedback, or too much going on at the same time, but a reason you did not give us was that there was a financial constraint of some kind. Am I right in saying that the decision was not based on any financial issues?

Dame Una O'Brien: If you will forgive me, I think I did touch on money. It was also definitely part of the consideration, taking all the factors into account. There were costs associated with the implementation of that policy, as well as completely new approaches and practices to working with vast numbers of people with whom local authority social services departments would not previously have had contact. It was looked at in the round.

Q25 David Mowat: To be honest, I would have expected that to have been the case. In 2016-17, what is the saving that has resulted from the decision not to go ahead?

Jon Rouse: It is around about £600 million if you take into account all parts of the phase 2 reforms that would have been implemented.

Q26 David Mowat: £600 million. That would presumably be rising.

Jon Rouse: Oh yes.

Dame Una O'Brien: Yes, to the end of the decade.

Q27 David Mowat: And approximately what would it have been in 2020?

Jon Rouse: From memory, I think it was up to over £2 billion by 2020.

David Mowat: Right, so in fact the decision not to go ahead will save something in the order of £5 billion or £6 billion if the savings are on a rising profile of that kind. I guess that that would have been one of the drivers of the decision.

Chair: It is actually about £1 billion over the next five years, I think.

Q28 David Mowat: That's not what—were you giving cumulative numbers?

Dame Una O'Brien: Well, there are two different things. One is the cost of implementation and the actual practical changes that have to be made. The second is the costs associated with the number of people who take up the offer.

Q29 David Mowat: Exactly. So the cost to the public purse is the two together. What I am hearing is that that is of the order of £5 billion or £6 billion.

Jon Rouse: No, it's not quite that much because it basically takes an average of four years for somebody to reach the cap limit. So you have a reasonably steady gradient in the first few years and then when you get to the end of year 4, you effectively get a large increase.

Q30 David Mowat: Fair enough, but either way—let's say that it's not £5 billion, but £3 billion or £4 billion—it was clearly a large determinant in the decision to drop the policy.

Dame Una O'Brien: It was a factor and it means that that therefore is not something, at that scale, that is factored into the spending review discussions that are currently under way.

Q31 Chair: The Minister talked about setting it all on a more sustainable footing, which, in any code, means something to do with money. I think we would be foolish not to—

Mr Bacon: It could have been to do with carbon dioxide.

Chair: Maybe that, too.

Dame Una, in a reply you gave to me about this delay, you talked about the data on self-funders being an issue. I want to ask Jon Rouse, as the man responsible for some of this side of it in the Department, what he has done to ensure that you are getting good-quality data from local authorities on phase 1. You touched on that a bit in a previous answer. What barriers are there? What plans do you have to deal with that? What monitoring are you doing to ensure that the data is good-quality? It is a constant issue. Since the beginning of the Parliament, every Report that we have had from the NAO about the Government has talked about poor data. Tell us what your problems are and what you are doing to resolve them.

Jon Rouse: The first thing to say is that I genuinely feel—both the NAO and the MPA reflected this—that we put a huge amount of effort into getting the best data we could in terms of decision making through the modelling and the determination of what the costs were likely to be. The approach that we adopted was to do this entirely collaboratively with local government itself. We actually did the modelling with them and brought experts in from local government who became part of our team and actually built the models. That worked very well for us, so we will continue that same approach through this next period. We are maintaining the programme team at least through until March 2016, to ensure that we have the same rigour around the first year of monitoring. I have already talked about the quarterly surveys that we are conducting, and because we are doing those with local government, we are getting very high return rates—because it is not us asking for the data; it is ADASS and the LGA asking for the data.

Q32 Chair: Is the data coming in at the moment robust?

Jon Rouse: That is a good question. The way in which we intend to deal with this is to back it up with what we call some deep dives—actually getting to know a place more intimately and working with them in partnership to see whether the story that they tell,

when we get down to that level of detail, is consistent with what we are getting through the survey returns.

Q33 Chair: So in that deep dive, you will really be assessing whether the data that they are collecting is really telling the story on the ground.

Jon Rouse: That is one of the things that we want to do. The other thing that a deep dive allows us to do is to make a qualitative assessment, rather than just relying on a quantitative return.

Q34 Chair: Okay. That is interesting and important, but how do you develop a formula in Whitehall qualitatively and apply that when you are looking at future funding, given that the huge reductions in social care that have been going on so far will not go away with the spending review? There has been a real threat to that budget; you have a real job to do—it is good that you are talking qualitatively, but how will you make sure that happens?

Jon Rouse: I don't think you do try to turn the qualitative data into a formula; what you do is use the qualitative data to sense-check and to enable you to build scenarios—perhaps even to construct and think of some scenarios that the quantitative data will not have given you.

Q35 Chair: How will you react if the qualitative data show you that the formula is not delivering in some areas?

Jon Rouse: In that case it will have to be reviewed.

Q36 Chair: Okay. One of the general points about this is to do with the transparency of the data—we might touch on this when we come to local government burdens, Melanie Dawes—because it is really difficult if you are a carer out there, or indeed someone interested in local government, to see how the money translates locally and how you follow the taxpayer's pound. Are all these datasets you are talking about going to be open data at some point, or are they now?

Jon Rouse: We have been open about the data throughout this process, including putting materials on the LGA website—the NAO comments on this in the Report, but it has been one of the features of how we chose to work on this programme. All the papers for the programme board have been made available, unless there is a commercial reason not to publish them. It is how we have chosen to conduct this programme.

Q37 Chair: Overall on the transparency issue, you have got to assess the cumulative impact of all of the changes that are coming through on care and social care, and there will be a point at which you have the cuts that have happened over the past five years and the spending review coming up—we all know there will not be an awful lot more money coming down the line, completely the opposite. There will be a point to do with devolution, because you are devolving the responsibility down and you will reach a point when you have to assess whether it is possible for local government to keep delivering on the money they have got and the demand they have got.

What mechanisms have you got in place to make sure that you know ahead of time that you have got to that point, or at that point does government wash its hands and say, “It’s over to you, local government”? You have already talked about local authorities making their own judgments about how they spend their money, which is easy for you to say, but when their money is being cut it is very hard for them to do.

Jon Rouse: Well, what you have described is exactly the process that we are going through in terms of the spending review right now. It is, again, about having as deep and as close a dialogue with the sector as we can, which includes not just local government but also the provider side and the voluntary sector—being open to their modelling, having a look at it and comparing it with our own, to see whether we can improve our own model, which we can then take into our dialogue with CLG and the Treasury. So that is the principle that we are adopting. The questions that you have put are absolutely the questions at the heart of the SR process in terms of social care.

Chair: Okay. One of the things that we will be watching and that we are very keen on as a Committee is to monitor devolution in all its forms. If you are passing responsibility down the line, which is fine, it is then about making sure that the money really follows that and about proper analysis of whether there is too deep a cut centrally to deliver locally.

I will hand over to Karin Smyth, who is leading on this area.

Q38 Karin Smyth: My apologies, I was a few minutes late for your introductory comments, Dame Una, but I think you said that it would be the end of the decade before we looked at phase 2 of the Care Act. The Minister’s letter did say that it would be up to four years of postponement. Are we definitely looking at 2020?

Dame Una O’Brien: If you are to implement—I haven’t got a precise date in mind, but it is more likely to be at that end, up to four years—you still need to do work beforehand to get prepared for it. We will have to re-profile the preparation that we would have been doing in a very concentrated way in order to do that. We will not be walking away from it and just coming back to it at the end of the decade. We will have to look at what it will mean for the final year of the spending review, what will be involved and the associated preparation. We will have to build up to its implementation. We will have to rethink the way implementation might work in the light of the experience of phase 1 and

the fact that we have got more time to prepare than we had in the more concentrated last phase.

Q39 Karin Smyth: I think the Chair outlined how disappointing the postponement, particularly of the care cap, was for many people. Our postbags and email bags are full of correspondence from people who were highly expectant, after many decades of this, and are now not sure whether we are looking at April 2020 or some time before that.

I am a little confused about the money that is being saved by the taxpayer, but which will be shunted back on to those individual, hard-working families. Could you talk a little about the savings, which look to be over about £1 billion, from the cost of self-funder assessments? Mr Rouse, you just talked about £5 million or £6 million of savings that are coming back to the Exchequer. I am interested in your plans, how they can be brought forward and where that has been ported.

Jon Rouse: We are talking about two different numbers: the cost of carrying out the assessments, and the overall cost of introducing the care cap, including, in the later stages, the payments to people who have reached the cap of their care needs. That is probably where the difference in numbers comes from. I will focus on the assessments. The only year we can talk about at the moment is this year, because then we have got the SR. This year, the amount made available—obviously, assessments start before April '16—was £146 million.

Chair: Page 15.

Jon Rouse: Sorry, £156 million.

Chair: £146 million; you were right.

Jon Rouse: Our expectation is that local government will have spent a small amount of that, in terms of very early preparations, before the announcement of postponement was made. Our intention is that the remainder of that money should be made available to local authorities in respect of the social care system this year, and Ministers will be making a statement to explain how that will work very shortly.

Q40 Chair: Right, so they can keep it.

Jon Rouse: Yes, but they will not be spending it on self-funders, so therefore we can't use the same approach, because it has its own specific formula based on how many self-funders you would expect there to be in the area. Hence there will be a statement within the next few days about how that money is made available to local authorities, in terms of social care.

Chair: We might cautiously welcome that news about local authorities.

Q41 Karin Smyth: But are we expecting the money from 2016 onwards—the allocated funding of £260 million in 2016-17, £210 million in 2017-18, £220 million in 2018-19 and £230 million in 2019-20—to disappear? If it does, how will you make plans at least to offer people some hope that by April 2020 we may see the care cap?

Jon Rouse: That really is a matter for the spending review. The amount of money that is made available for the social care system and what it needs to do will be determined as part of the spending review. That obviously feeds through into the local government finance settlement now that we are not proceeding with the introduction of the phase 2 reforms until, in all likelihood, April 2020.

Q42 Karin Smyth: Thank you. Dame Una O'Brien, you said—and of course you are right—that the decision on social care spending is for each local authority to make. Mr Rouse, you then said that the Care Act has a national eligibility threshold. Given the impact of the health system on the social care system, and vice versa, could you comment a bit further on that?

Jon Rouse: I am happy to. The first thing to say is that we acknowledge that social care and the quality and the capacity of the social care system locally have an impact on the NHS. There is quite a lot of evidence that demonstrates that that is the case. A particular study from 2009 shows that pretty clearly. That is one of the reasons why the Care Act introduced the national eligibility threshold, amongst others—so that we knew that statutory packages of care would be in place for people who met that eligibility threshold, and so that if the threshold was higher, at what was the critical level under the old system, all that pressure would not just tip over into the national health service. It gives us a line that we know local authorities cannot go beyond, and therefore gives at least some assurance to the NHS in terms of what local authorities will be providing through the statutory social care system.

Dame Una O'Brien: What is striking at the moment is the degree of consistency in the direction of travel between where we go in adult social care and what we need to do on reform of the care system in the NHS. What we are seeking to do is orchestrate much greater effort on and attention to prevention and early intervention. There is a degree of consistency here, between the design of the social care system through the Care Act and what the Government is saying through its backing of the five-year forward view, that I certainly have not seen in my career in health.

The challenge is how we deliver that together. It is crucial that in each local area we are seeing more and more joint working between the leaders of the local authority, the leaders of the social services department and the local NHS, because only by working together can we serve the population in the way they now expect, which is to get support, information and advice early on, and get packages of care that, if we get this right, will be less expensive and better for individuals.

It is a big point, but we need to keep our eye on the big picture—what is at stake and the enormous opportunity we have as a country, nationally and locally, to bring about these changes. That is why the Care Act matters hugely and is very much a part of the changes we are looking to see in the wider health system.

Q43 Karin Smyth: I would completely agree, and think it is very welcome, but given that, as you said, the decision on that funding for social care is for local authorities to make—and we have heard about how much pressure they are under—but the eligibility remains national, what safeguards have you got, really, for that funding and its protection, to support the demands on health for those local authorities?

Dame Una O'Brien: In so far as there is a continued funding stream nationally, that is absolutely a matter for the spending review. From where we sit, we have no authority to determine an amount of money other than for this financial year. That is the first thing to say.

The second thing is that the power of joint working in a locality should not be underestimated; nor should the responsiveness of a local authority to its own population. That is what has helped to sustain the levels of social care that are currently still in place, despite the fact that local authorities have been under such intense pressure. For the most part, the vast majority have protected social care through the last Parliament, because they absolutely know that that is what their local population expect and need. I cannot give you the answer you would like on the money, because we simply do not have the outcome of the spending review as far as any additional direct funding from the Department is concerned.

Q44 John Pugh: The Report does show, doesn't it, that local authorities in the first phase of cuts endeavoured to preserve social care funding as a high priority, but that is becoming less true—you can almost draw a graph, can't you? It doesn't give us any confidence that they are going to continue to do that, does it?

Dame Una O'Brien: I think it is getting harder, but at the same time, there is something else going on and that is—I am talking generally here, I accept that, and not about specific authorities—first, the methods that local authorities are using. Their enormous, for the most part, innovation and redesign of the way in which they deliver services were starting to take effect in the last years of the last Parliament. Secondly, although we do not really fully know this, it might be that we are starting to see the impact of greater preventive services and early intervention.

Q45 John Pugh: Are you saying, or claiming, that although local authorities appear to be spending a little bit less on social services—they are actually cutting into the social services budget—they are possibly spending more effectively?

Dame Una O'Brien: I would certainly hope so. Equally, I am sure, there are cases where that is not happening. I think that some of the examples that we were talking about earlier on this vast differentiation in cost might be telling us something about that.

Q46 Chair: The NAO writes about this in paragraph 1.7, saying that efficiencies have run their course in local government. Mr Rouse, do you have anything to add to that? Where else will local authorities deliver from?

Jon Rouse: The first thing to say—and important—is what we say almost every time we come before you or the Select Committee: local authorities have done tremendously well over the past few years in terms of how they have relatively protected the adult social care budget and over the levels of efficiency they have managed to find outside of actually cutting services. I just want to state that first.

It will get more difficult going forwards to find further efficiencies. A lot of the low-hanging fruit has been taken by many authorities. There are exceptions. You can see when we look at any of the scatter graphs of where local authority costs are that there is still variation that cannot be explained by demographic factors; it can only be explained by relative levels of efficiency, so we still need those efficiencies to be taken by those local authorities that still have the opportunity to do so. But we are under no illusion that it is becoming more difficult for local authorities to find those efficiencies.

Q47 Chair: I am glad that you acknowledge that, because I think that they would say so. Amyas Morse, the Comptroller and Auditor General.

Sir Amyas Morse: The thing we found difficult in our previous work on the financial sustainability of local government is that you could quite often observe efficiencies coexisting with rationing, with the ratio appearing to change quite rapidly as certain points were reached. I am not saying that this is a debating point, but really the need to know the difference between the two is quite vital, I would have thought—I hope that you agree.

Jon Rouse: I do agree, but I would also say that it is incredibly difficult for the national Government level to understand that. I think back to my time as a local authority chief executive and how labels of “efficiencies” and “cuts” could sometimes be used somewhat marginally, shall we say? What we do acknowledge—this point I think was being driven at earlier—is that over the past couple of years local authorities have had to take more of their savings from the adult social care budget, and that is one of the reasons why the better care fund was introduced, to enable more resource to go into local government to protect adult social care services, which according to the initial information for 2015-16, looking at the BCF plans, seems to have had some positive effect.

Q48 John Pugh: On a point of clarification, paragraph 1.6 states that “15% of total savings from 2010-11 to 2011-12” were from social services, but now that is up to

“40%...between 2013-14 and 2014-15”, but the following statement from the NAO—perhaps Amyas can help us here—is that “Local authorities with big reductions in spending...have been less able to protect spending.” Do we mean big percentage reductions, or big totals? It is quite important.

Aileen Murphie: Those that had the biggest reductions—

John Pugh: Percentage-wise?

Aileen Murphie: In absolute terms, were less able to protect—¹

John Pugh: In absolute terms, right.

Q49 Chair: We know that there are huge challenges and one of them is that, although a standard setting is set by you in the Department of Health, you are not the ones spending the money on the front line, so there is a disconnect between the standard setting and those who are actually having to deliver with the money that is available. That causes some pressures.

I am very aware that Melanie Dawes and Matthew Style have sat there very patiently. I apologise that we did not get to you sooner. I wanted to move on more to new burdens, although we will be coming back to the Department of Health. The NAO Report tells us that you scrutinise new burdens that you learn about. I wonder what you are doing, Melanie Dawes, to make sure that you are learning about all new burdens that local government faces.

Melanie Dawes: Thank you, Chair. The NAO Report does say that we are quite good at identifying new burdens. We use a number of different techniques to find them. We have a lot of ongoing dialogue with Departments. We also talked to the Local Government Association, and indeed to councils, who sometimes flag something the Departments have not thought about in terms of imposing a new burden. So we were reassured that the Report does say that we are quite good at identifying them. About a third of those generally turn out to need a full assessment, and that is where we work with Departments to do that. And increasingly—I think we have got better at this over the last year—we are also earmarking those where we think there is uncertainty in the costs and Departments need to do a further assessment, either after a consultation or after implementation.

So I think we are running the system as well as we can, but I would also highlight that, in some areas, things do not fall under the technical definition of a new burden in

¹ Aileen Murphie, NAO, wished to expand and clarify this point, as follows: “Central government reduced funding to local authorities between 2010 and 2015 by a combination of percentage reductions to revenue support grant and absolute reductions carried out by the removal of certain grant funded programmes. The NAO’s report in 2014 on the Financial sustainability of local authorities analysed the ability of authorities to protect spending on statutory services in areas such as adult social care by dividing them into high cut, medium cut and low cut authorities calculated by percentage median change in budgeted spend 2010-11 to 2014-15 in real terms at 2012-13 prices”.

accordance with this doctrine, like wider demographic pressure, as we have been discussing on social care. That does not mean that we ignore them; we try to take those into account as well. The spending review that we are going through at the moment is exactly the sort of time when we bring all those different detailed areas together to build a holistic picture.

Q50 Chair: Earlier, we heard—I think it was from Jon Rouse—that there was a lot of open and participative discussion with local government about the Care Act, which is one of the big new burdens coming forward. But it is a bit opaque which new burdens you are looking at and which you have identified as possible new burdens. If it is open at the point when you start assessing the cost of it, why not be more transparent further up the line, so that people know what you are looking at?

Melanie Dawes: That is a very good point, which is drawn out in the Report. We will certainly reflect on that and on any recommendations the Committee may make. More generally, I think as we move to an ever more devolved system of local government finance, bearing in mind the Chancellor's announcement last week on business rates retention and the aspiration towards the end of the Parliament, we need to look in the round, actually, at how we ensure that we have enough transparency and the right data. So I would want to cast the question, in a sense, that bit more widely even than the NAO Report does, but I think their points about transparency are well understood.

Q51 Chair: The revenue support grant will be phased out by 2020 with the business rate change. It is early days, but what planning are you doing to make sure that you are assessing the burdens on government? You touched on it, but can you give us a little more detail?

Melanie Dawes: It is very early days—we are just starting to think about this, to be honest. Our priority is to make sure that this spending review, and indeed next year's settlement, is properly landed and agreed, to make sure that all the right analysis and evidence is brought to bear in that to support Ministers in their decisions. But we are already starting to think about how we go about the longer-term reforms. They will need legislation, so this will be a big engagement and we will seek to do that, with a lot of external consultation, particularly with local authorities.

Q52 Chair: It is really important that that happens. There are a couple of particular burdens that I want to talk about. What are you doing about the additional demand for deprivation of liberty safeguarding assessments—figure 9 in the Report, page 23?

Melanie Dawes: Yes, as it happens, this is one where I know Jon is very active at the moment, because it is a Department of Health one. That is, I think, quite a good example of where we have tried to use the new burdens doctrine flexibly. Technically, this is not a new burden because it was a Supreme Court judgment that added to the costs on local authorities, but there is no question but that there are extra costs, so Jon and his colleagues

are working with local government at the moment to identify that, I think to provide a little more funding, but also to look at how some of the costs can be mitigated as well. I think the Department of Health do a very good job on new burdens, and this is a good example.

Q53 Chair: The legal ruling happened in March last year—just over a year and a half ago—so why has it taken so long? Perhaps Jon Rouse is the best person to answer that.

Jon Rouse: I am happy to answer this. First of all, just to make absolutely clear that we do not believe that this is a new burden as—

Q54 Chair: We can dance on a pinhead about definitions here. I know there is a legal definition of a new burden, but it is an extra cost to local government, which is through no fault of their own. It is about how the law is interpreted and what Governments have implemented.

Jon Rouse: It is. There are two dimensions to this. What can we do in the short term to support local authorities in this situation? We have provided them with an extra £25 million this year to help them. We are not obliged to do that under the new burdens, but we have done it because it is empathetic: it recognises that they have got these additional costs that were not their doing, so we have provided them with this extra resource.

The other thing that we are doing is that we have asked the Law Commission to undertake a root-and-branch look at the law around deprivation of liberty in the light of the Supreme Court judgment. It will come back to us by the end of next year as to whether we need to reform the system fundamentally to put it on a different basis that works both for individuals and for local authorities. We want a short-term response and then, in the medium term, we will ask whether we need to do something to reduce the burden.

Q55 Chair: If local authorities are spending more than the £25 million, are you looking at how to backfill that for them, or will they just have to bear the costs?

Jon Rouse: Not in terms of this year. It is an issue that we will be considering as part of the spending review.

Q56 Chair: The spending review—the answer to everything is the spending review, but fair point.

I just wanted to touch on another couple of issues and you can decide between yourselves who is the best to answer. There are other changes, such as the national insurance contribution rate and the refugee crisis. Local government would say the minimum wage, but you wouldn't say that that is strictly a burden under the strict rules. What are you doing to support local government in those respects?

Melanie Dawes: Again, these are not technically new burdens in the sense that the national insurance change and the national living wage are things that apply to all sectors, but that doesn't mean that we are not taking them into account—we are. I am afraid that my answer is again that we are trying to pull all this together in the spending review, but that is what we should be doing right now.

Matthew Style: The only thing that I would add is that those are specific examples that we are discussing with the Local Government Association and other representatives of the sector, including discussing their modelling of the costs and the implications. Although, as Melanie said, it is not a formal new burdens process; it is a rigorous process that includes the examination of exactly the same sorts of issues.

Q57 Chair: As we keep saying, we know that the spending review is coming down the line and that local government will not be getting more money, so there is a real challenge here as all these things come down to the line.

Before I hand over to Richard, Melanie Dawes, you are the champion of local government in Whitehall—they might not always feel that because you hold the purse strings to some degree. How much weight are you able to punch as one Department to protect local government services that our constituents use day in, day out in a spending review that will be very tough?

Melanie Dawes: Our job is to make sure that as Departments go about their business on individual service areas, such as the work that the Department of Health does on social care or the Department for Education on children's services, they do that job well, and also, vitally, to bring together the whole picture for local government. When we started in the last Parliament, we had a lot of ring-fenced grants, which had the benefit of transparency, so you could see what funding we intended for different services, but it also had the disadvantage that we tied local government up in knots to some extent and did not give much flexibility in how to deploy resources.

We are very aware that, because we essentially now have a single funding stream of revenue support grant plus business rates and council tax, we need to do even more in DCLG to pull together the whole picture. Our role is even more important than it was in the past. That is what we are doing right now. We have had a pretty rigorous process through the spring and summer to try to work with Departments and with external stakeholders, like the Local Government Association, to try to pull together the best analysis that we can.

Q58 Mr Bacon: Can you just explain why the refugee crisis is not a new burden?

Melanie Dawes: Well, in essence, it is occurring because of wider factors in society and in the economy.

Q59 Mr Bacon: Is it?

Melanie Dawes: Well, perhaps that is a—

Q60 Mr Bacon: Is it not down to 20 years of failed British and American foreign policy? Does that not have something to do with it?

Chair: Perhaps Melanie Dawes is not allowed to answer that.

Melanie Dawes: I don't think that I can, actually. The important point is that we do recognise that it is creating pressures. We accept that the number of people, particularly in London, with no recourse to public funds is becoming a problem for some London councils. They have raised that with us, and we are actively discussing it with them. We have ensured that the Home Office is sitting down with local government to have the same kind of conversations that Jon and his colleagues are having on social care. Part of DCLG's role is to ensure that that happens. It is one of the important pressures, particularly for London, that we would need to factor in as part of the spending review.

Q61 Mr Bacon: I don't understand. Why is the refugee crisis not a new burden?

Melanie Dawes: Because it doesn't arise specifically from any identifiable act of central Government. Perhaps that is arguable and a matter for discussion.

Q62 Mr Bacon: That is highly arguable, but, just to be clear, is that the criterion?

Melanie Dawes: That is essentially the criterion. There is a detailed chart in the NAO Report that sets out—

Q63 Mr Bacon: Yes, so the doctrine basically says that if it is a new requirement of Government in some respect or other, that creates a new burden. If it is not a new requirement by central Government on local government, it is not a new burden and is just more of the same old burden but at a higher level. Is that right?

Melanie Dawes: Yes, that is essentially the way the doctrine operates.

Q64 Mr Bacon: What practical impact does it have, given that you acknowledge quite openly that the issue is not a new burden, but we know that it is more money—I paraphrase what Mr Rouse more or less said a minute ago. Given that things that are not new burdens can have consequences that are burdens that were not there before—I can imagine civil servants love having this type of discussion, because that is what civil servants

love doing—what practical difference does this make in terms of how you go about reaching a financial settlement with local government?

Melanie Dawes: We aim to identify anything that is material and that affects the pressures on, or indeed the opportunities for savings by, local government.

Q65 Mr Bacon: Just to be clear, is the most important question not whether something is a new burden, but whether it is material?

Melanie Dawes: I think that is part of the question, yes. The new burdens doctrine is specifically designed to make sure that Departments do not make changes without regard to the consequences for local government. That is essentially what it was—

Q66 Chair: To avoid cost-shunting?

Melanie Dawes: Yes, to avoid cost-shunting. That is essentially what it is there to do. But that is not the only reason why there might be pressures on local authorities. Particularly with budgets falling, it is very important that we are alive to all the pressures, and that is what we try to be. That is the sort of conversation we try to make sure Departments have with local government.

Q67 Mr Bacon: So it is specifically for the purpose of keeping Departments alive to the issue of not creating new kinds of financial pressure, rather than for any other particular reason. That is a fair summary, is it?

Melanie Dawes: Well, it is designed to make sure that the consequences of any Government decisions are properly assessed and understood, but that does not mean that we confine ourselves only to looking at things that central Government has done. Actually, the fact that we have quite a clear process for new burdens means that Government Departments are more likely to have in place the kind of dialogue that they may need if something more unexpected comes along.

Q68 Mr Bacon: In other words, it is one factor among several. In terms of the overall landscape of how you negotiate a financial settlement with a local authority, and how it negotiates it with you, it is one factor among several. You are saying that you are alive to the other factors and that those other factors can ultimately influence how much a local authority ends up receiving. Yes?

Melanie Dawes: Yes, they may, particularly when we have—as we have right now—a spending review that gives us a chance to look several years ahead. But we also have an annual process of consultation on, and indeed parliamentary scrutiny of, the year-ahead

budget for local government, which is another opportunity for all the issues to be aired and discussed.

Q69 Mr Bacon: Mr Style, can you say how you deal with cost uncertainty when you are deciding how much funding local authorities actually need for these new burdens?

Matthew Style: For the new burdens, yes. It is one of the things we have developed our approach to over this Parliament. If you take the example of the new burden around Prevent, for example, we specifically recognised the uncertainty in terms of the costs that that would have for local authorities. That is why we provided a certain amount of funding up front, but built in a process to provide additional resources to some authorities where they faced particular costs beyond those faced by authorities in general. The Report recognises that we could do more to flag where our estimates are uncertain, and we certainly welcome that, and we will clarify issues in our guidance with Departments.

Q70 Mr Bacon: How do you deal with cost uncertainty for things that are not new burdens?

Matthew Style: In a very similar way, Mr Bacon. We will, in our discussions with local authorities and with Government Departments, engage in survey work or modelling and do whatever we can to try to get the best possible understanding of the range of costs—whether it is a new burden technically, in the terms of the guidance, or whether it is not, in the terms of figure 4. That distinction does not affect the seriousness with which we treat the issues, or how important cost uncertainty will be.

Q71 Mr Bacon: Do you think—inevitably this is going to happen, and it appears to be happening already—that there is going to be discussion between local government and central Government as to whether something is a new burden or not? That is inevitably going to happen, because it may or may not have financial consequences. I am trying to get to how important, in reality, is something's being or not being a new burden, in terms of working out the impact on funding. That is what I still do not fully understand. If you go about dealing with cost uncertainty for new burdens in a particular way and use a pretty similar route for working out the cost uncertainties for things that are not new burdens—you have just said you do—how much difference does it make anyway?

Melanie Dawes: With new burdens there is a particular responsibility on central Government to acknowledge the impact of any decisions that we may have made. Sometimes, like central Government and the private sector, local government has to absorb a particular cost pressure. That is simply what large organisations have to deal with. It depends a little on the source of the pressure, but the important thing is that we have that conversation with local government. One of the questions we will ask is, “How certain do you think these costs are, and how variable might they be across different types of

authority?" Local government is pretty good at coming back and telling us if it thinks there is a risk that we are underestimating or perhaps even overestimating costs.

Q72 Mr Bacon: Can I ask about business rates? You mentioned the Chancellor's announcement. I was talking to a very senior local government official last week, who said, "Huh. It is all very well to announce that, but just doing that would make funding care pretty much impossible, so there is a lot of work to do around that." How is that going to happen in practice?

Melanie Dawes: We are going to need to look at the distribution across local authorities within the system. The Government has already said that there will remain a redistributive element within business rates. We are going to need to look at particular pressures on certain authorities, and also at the risks: the more we devolve responsibility and essentially make councils fiscally sustainable, the more risk they are bearing in terms of their own business and council tax bases affecting their budgets much more materially. We are going to have to think about those things as absolutely essential to the policy work that we are now going to have to do.

Matthew Style: As Melanie said earlier, we are absolutely committed to doing it in partnership with the sector as well, and drawing on the expertise. Local authorities have been working on business rate retention for some years now and can work with us to answer some of these questions.

Q73 Mr Bacon: For some years there has been an increase in the proportion of local government funding that local government raises itself compared with the reliance on the centre. It used to be 75:25; what is the latest average proportion of what is provided locally through council tax?

Matthew Style: It is roughly the same.

Mr Bacon: So it is still 75:25?

Matthew Style: Roughly.

Q74 Mr Bacon: At the end of this process of business rate reforms and the reduction of the revenue support grant, where do you see that proportion ending up? Is it going to change markedly?

Matthew Style: They will be almost wholly reliant on funds that they raise themselves.

Q75 Mr Bacon: The policy intention is that they should be almost wholly reliant on funds that they have raised themselves. What are we looking at—80:20 the other way, or 75:25 the other way, or roughly what?

Matthew Style: We are looking at it being almost entire. This is one of the things that we will have to work through, as there may be some cases where there will still be some small grants from central Government to local government.

Q76 Mr Bacon: Yes, but between 90% and 100% will be coming locally, you would think?

Matthew Style: Yes.

Q77 Mr Bacon: And presumably the policy intention is that that would impact on how they implement things locally, on cost recovery, management, entrepreneurialism and all of that—that is the shift and the policy intent, is it?

Melanie Dawes: This is one of the reasons why local government has been asking for this for some time, yes. They think that they can drive up revenues by having more control and more incentive through keeping revenues. I should add that because, at the moment, a share of business rates is simply returned to the Exchequer, we are also going to be looking at whether there are functions that central Government currently does that can be devolved to local government so that we no longer have to take that money back. At the moment we recycle right back into central Government spending an element of what local government collects.

Q78 Mr Bacon: One more question. While we are talking about local government having greater financial autonomy, the obvious other next step would be for it to have greater autonomy over borrowing, including the ability to borrow against its asset base. I notice from Mr Rouse's CV that he used to be chief executive of the Housing Corporation, and a lot of people in the housing space have been talking about that for a long time. Is the kind of autonomy that you have been talking about in relation to local government finance likely to extend in that direction, because if it does, it means a whole set of new risks for central Government to manage that it is not currently having to worry about too much, doesn't it?

Melanie Dawes: That wasn't part of last week's announcement. It is something that local government do sometimes raise with us. Of course, it feeds straight into overall borrowing for the country as a whole, which is one of the constraints on it. It wasn't part of last week's announcement.

Q79 Chair: You talk about all funding, bar a small amount, coming in from business rates.

Matthew Style: And council tax.

Q80 Chair: And council tax, yes. Melanie Dawes, you talked about a bit of redistribution being part of the discussion. If you compare Westminster Council, which brings in billions in business rates, with a small rural area where they are struggling to keep the post office-cum-shop going—let's say Northumberland. I am sure that Northumberland has some great businesses—I'm thinking of Alnwick and so on—but there are very, very diverse business rate bases in different local authorities. Matthew Style seemed to say that most of it will come from business rates, but even among authorities with some redistribution, there will surely be some major losers.

Matthew Style: In the system as it is currently constructed, we run a system of what is called top-ups and tariffs, which redistributes business rates receipts around the system. We will envisage running an extended system of top-ups and tariffs in the new system, such that we do not envisage consequences along the lines that you spell out.

Q81 Chair: But they will not be able to keep 90% to 100% of what they raise if you then take quite a chunk and redistribute it.

Matthew Style: But of course, some authorities get top-ups, as it were—business rates receipts redistributed within local government at a national level.

Q82 Chair: Could you explain that a bit more? Give us an example, if you can, to make it live a bit.

Matthew Style: A number of authorities will receive additional business rates receipts beyond those that they collect locally at the moment. They are redistributed nationally from receipts raised elsewhere. We would envisage that sort of system continuing.

Q83 Chair: But less redistribution. If they can keep 90% of business rates, for argument's sake—when Richard Bacon was pushing you about whether it is 80:20 or 75:25, you said that they can keep between 90% and 100%. If they can keep that, what is left to redistribute?

Matthew Style: In the sector as a whole, the amount that each individual authority retains will differ from authority to authority. The very important thing from the announcement the Chancellor made is that every authority will get to keep 100% of any growth in business rates at the margins, so they will have that strong incentive to focus on

growing their business rates tax base. But below that, in terms of the stock of business rates receipts, there will be redistribution within that on a larger scale.

Chair: But that is arguably a benefit for towns and cities, compared with some other areas where businesses are struggling. If you have ever been to Middlesbrough high street, you can compare and contrast that with—well, I’m sure Norwich is lovely.

Mr Bacon: It’s doing well and is an ideal location for further investment by international and domestic actors, as well as central Government.

Q84 Chair: I don’t want to divert us too much down that path. I am sure we will come back to it once we hear more about the policy and financial side of it. Going back to new burdens and how you make an assessment, Matthew, there are clearly some local authorities that operate very efficiently and effectively and others that are less efficient and effective. When you are looking at new burdens, how do you differentiate between the outliers—the good and bad performers—in both camps?

Matthew Style: Jon referred earlier to the particular case where the ranges of estimates have been very significant, and how in that case we relied on a median, as it were. The truth is that it is difficult for us in central Government to make judgments about the particular efficiencies and the way in which particular services are delivered and operate in individual local authorities. What we try to do is understand the range of estimates, work with the sector to understand why those estimates vary in the way they do and, as Jon said, where necessary, use techniques such as deep dive if there is an outlying authority to understand what sits below that data and so on.

Q85 Chair: So it is not an exact science?

Matthew Style: It is not an exact science, no.

Q86 Chair: What are you doing to improve this inexact science?

Matthew Style: We are working more closely with authorities and deploying techniques, as Jon said, such as deep dives.

Q87 Chair: How many civil servants are there in your team doing this sort of work?

Matthew Style: In the new burdens team, there are four civil servants who have a range of responsibilities alongside new burdens.

Q88 Chair: So the deep dive is not going to be very deep, is it?

Matthew Style: We do that jointly with other Departments who are actually responsible for the services. We draw on expertise right across Government, whether it be the implementation unit or others who have experience of working closely with local partners to understand their estimates.

Melanie Dawes: It is very important to emphasise that it is Departments who own the policy change that we are assessing who are primarily responsible for doing the assessment, and that is what we expect of them. Our team in DCLG's primary role is to make sure that that happens and to link up and facilitate discussions when we need to, but it is Departments, as indeed the Department of Health has been on social care and the Care Act, who are primarily responsible.

Chair: This is something we will keep going back to.

Q89 David Mowat: The purpose of this whole new burdens area, as I think you said earlier, is to make sure that central Government understands the consequences of its decisions on local government, and there is a cost to that. Does that mean that the originating Department of the new burden has that in its budget, or is it a DCLG budget in all cases?

Melanie Dawes: Generally, this should be something that the Department has to think about when it is considering a new policy. It needs to factor in the administrative cost or other cost—

Q90 David Mowat: Yes, but in order that it thinks harder, if a spending Department such as Education comes up with a new burden—I think the funding for disadvantaged two-year-olds is an example, because there is a cost associated with it that is given out to local authorities—which central Government Department bears that cost? Is it DCLG or is it Education?

Melanie Dawes: It should be Education, and they shouldn't be agreeing that policy without factoring those costs in.

Q91 David Mowat: So it is always Education. So you are just a buffer, really—you would have to agree the cost with Education and local authorities and then administer it.

Melanie Dawes: We may well administer any grant that is paid by the Department for Education, or it might be something that they are doing themselves through another funding mechanism. Essentially, our role is to oversee this as a system.

Q92 David Mowat: Yes, but for clarity, this policy has come out of Education, so it will be a line item in the budget for the Education Department. Presumably it is monitored

in other ways throughout Whitehall that that policy has driven that cost, which has been borne by the Education Department, and that all that DCLG has done is administer the process.

Melanie Dawes: Yes, that's correct. We make sure the process works well. We are responsible for it happening.

Q93 David Mowat: Right, so there is complete alignment between costs and responsibility.

Melanie Dawes: Yes, there should be.

Q94 David Mowat: And that is the case with other types of new burden, including very large ones like social care—that would be a Health cost, and there is no ambiguity around that?

Melanie Dawes: No, there shouldn't be.

David Mowat: Okay, thank you.

Q95 Chair: Just before I pass on to Stewart, I will ask Dame Una about the uncertainty around the estimates, which you have acknowledged is there. What action will you take if a local authority spends more than you have provided for?

Dame Una O'Brien: The first thing to say is that it is very clear that the responsibility for social care rests with the Department of Health—we had this debate here last time—and it is about getting the accountability between Melanie, as an accounting officer, and myself. If you recall, with her predecessor Bob Kerslake we spent quite a lot of time on that, and I have submitted an accounting officer's statement to the PAC, which I think is a good practice to continue.

Q96 Chair: Sorry, my question was actually what you will do if a local authority exceeds the budget that you have passed down.

Dame Una O'Brien: Well, there are two different elements to this. One is the additional money that we are putting in in order to implement the Care Act, and the second is what happens with normal business as it becomes the way in which care is delivered.

I can only repeat what Jon said earlier. The first step is close monitoring this year. The second thing is taking the learning from that into the discussion about the spending review, to see if we have to make any adjustments to the profile. The third thing is that it is not always a case of actual spend necessarily being the answer, because there are many different ways of implementing these reforms, as we have learned—we see the wide

distribution. The first thing is that we would want to look at ways of not just having pots of money that we hand out. We do not want to create moral hazard, either, in holding back money that people think they can come back and bid for—it just wouldn't work.

I think that has got to be the process—to get as much money out to the front line as possible, work with the sector to understand what is driving the costs, use peer-to-peer support to address particular problems that occur in individual local authorities, and capture the data that we can into the quantum of discussions about the SR. Those would be the four things that I think we would do this year. I don't know if I have missed anything on that, Jon.

Jon Rouse: No, I would agree.

Q97 Chair: The Comptroller and Auditor General has a question.

Sir Amyas Morse: I just had a thought. When the spending review is over, it might be interesting if the Committee could have the benefit of some of your high-level thinking about, by the time the revenue support grant has gone in 2020: what is the net effect between assumptions about business rates being retained and the revenue support grant; what is the assumed rate of income growth required to be generated by local authorities; and where do we come out net on that compared with the spending capacity today? That would let everyone be a bit more oriented. Is that reasonable?

Dame Una O'Brien: These are big questions for the next decade about the ways in which local authorities will meet their statutory duties.

Sir Amyas Morse: We are asking because I imagine that, as the spending review goes through, all these things are bound to be in people's minds and it might be enormously valuable to the Committee just to understand what the thinking was at that level.

Melanie Dawes: We would be very happy to do that. I think it is important for me to emphasise that in DCLG we will still need to keep an overview of the system. Even if local authorities are self-financing, we will need to be doing assessments about where that distribution should lie. As Matthew said, perhaps 90% of overall funding may be generated by local authorities themselves, but there will be tariffs and top-ups which mean that the number for any individual authority could be quite different to that. So that will be an important role that we will continue to have.

Matthew Style: We will need a system, as Melanie said, for underpinning that and making those judgments.

Q98 Mr Jackson: Coming back to the increasing reliance on locally raised revenue funding from business rates, you intimated that it will be significantly over 85%—possibly 90%-plus. Given the geographical spread of certain problems, I am slightly concerned that that will be quite difficult for some local authorities who are encumbered by particular burdens, unless you are reviewing the burdens assessment almost in real time.

I direct your attention to page 6 of the London Councils briefing, which I have some interest in, on unaccompanied asylum-seeking children. That is not just a London issue; it has affected my own local authority, Peterborough City Council, not least because Lincolnshire police have a propensity to locate unaccompanied asylum-seeking children found in Lincolnshire in the nearest urban area, which is often Peterborough. What is your methodology for updating the regime? We are already in a position where the funding is somewhat adrift in terms of those 16 to 25-year-olds, who are considered to be young people, and care leavers are in residential care. How nuanced would you be when looking at an issue like that? That is a massive issue in terms of long-term cost to, say, a medium-sized unitary authority.

Melanie Dawes: Yes, it has imposed quite significant difficulties for some authorities, particularly in London where the problem is most acute. As I said earlier, we are working to make sure that the Home Office and local government are having deep conversations about this at the moment, which they are doing. It is good timing to factor this into the spending review.

It is important to say that sometimes we may not provide new funding. I am not saying that this is one of those, but sometimes it will not be appropriate. Even if there is a small shortfall, we may well expect local government to absorb that. We have to ensure value for money overall from the system and we do not have a presumption that we always fund every extra pressure, as that could create the wrong incentives; neither do we have a presumption that we would always take money back if it became clear that we had overfunded something.

What we are increasingly doing—the Home Office work on Prevent, which Matthew mentioned earlier, is a good example of this—is starting off with initial up-front funding. In the case of Prevent, there is also a pot into which local authorities can bid right now and a commitment to a review next year, because it recognises that the costs are quite uncertain and also potentially quite different in different areas. So we are trying to manage the uncertainty in the system—

Q99 Mr Jackson: It is that latter issue that is the problem, because local authorities in effect have no control over unaccompanied children. If you are the London borough of Hillingdon, which I think contains Heathrow airport or most of it, or if you are Brent, Harrow or Hounslow, you are bound to be taking a large number of unaccompanied children; the same is true of Birmingham or other local authorities like Peterborough. The point is that, given that there is nothing that local authorities can do about it, there will obviously be an unfairness if you are a rural authority with a decent business rate income in the west of England where you will not have those unaccompanied children. I know that is a narrow example, but it is an example on which I am pressing you, I suppose, to reassure me that there is a proper review of the regime and a methodology to make sure that, just by virtue of geographical location or demographic and social profile, a small group of local authorities will not be financially disadvantaged as a result of movements of people.

Melanie Dawes: We do have, I believe, a proper process in place. Matthew might like to say a little bit more about that.

I will make one other point, which is that increasingly local authorities are pooling business rates in order to share risks across an area. Also, the creation of combined authorities and the devolution deals alongside those in some areas is precisely enabling local authorities to share some of this risk, and I think that we will see more of that. Local authorities generally want to go more in that direction. That is not a complete answer to your question, because in the end this is a very good example of the issue you raised of where there is a new pressure that cannot be solved just by local authorities working together, but I wanted to say that sometimes that is quite a good way of building more resilience into the system.

Q100 Mr Jackson: I should also mention Kent, because it is under severe and acute pressure.

Melanie Dawes: Kent is an area that has been hit by this too.

Matthew Style: The new system from 2020 will have to be underpinned by a refreshed assessment of the relative needs and resources in different areas. We would certainly want to consult extensively with the sector on the variables and indicators that should be taken into account in a new and modern way of looking at the needs and the particular sorts of pressures that different authorities will face, whether because of their socio-economic or their geographic circumstances. We will consult systematically on that.

Q101 Chair: I have a few questions before—I give Dame Una notice—we talk about land disposals at the end of this hearing. We are not on to that bit yet, so may I ask Melanie Dawes, or perhaps Matthew Style, if you have any examples of when you have pushed back with the Department—when you have identified a new burden, but you feel that the Department has perhaps not given enough money for it? Have you got an example of when you have made a difference, stepping in for the local council taxpayer?

Melanie Dawes: There are lots of examples that go on day to day.

Matthew Style: I would not want to reveal too much about some of those conversations in government—

Chair: We would love you to.

Matthew Style: But we certainly on a day-to-day basis are looking closely, with authorities, at different examples of policies that are proposed, whether the new statutory guidance that the Department of Health is introducing on autism, which we looked at recently, or changes in speed limits for heavy-duty military vehicles—

Q102 Chair: Sorry, how does that become a new local government burden?

Matthew Style: Well, we concluded in that case it was not a new burden, but is a good example. As Melanie was talking about earlier, we engaged systematically with Departments to check whether—

Chair: Sorry, but how did that cross your desk as a possible new local government burden?

Melanie Dawes: There was a potential for it to increase the cost of highways maintenance.

Chair: Said the Department.

Melanie Dawes: Said we.

Matthew Style: Said we on spotting that the Ministry of Defence had a proposal—indeed, that is where our networks across Whitehall are really important—

Mr Bacon: Your nasty big tank will damage our nice roads, basically.

Melanie Dawes: Yes, in the end we concluded that it did not need an assessment.

Q103 Chair: How much time did that take to look at?

Matthew Style: A proportionate amount of time.

Chair: That's a very good answer, Mr Style, but we would love you to give us an actual time, because that is more useful.

Matthew Style: I could not give you man hours, days and minutes on that, but it is a good example of—

Q104 Chair: A good example of “Yes, Minister”—it would be a great episode. Can you give us any other examples?

Matthew Style: We have been working recently with a number of different Departments on different examples. The Health and Safety Executive has had some proposals around mandatory testing of emergency plans, for example, so we have worked with them to ensure that the impact on local authorities has been taken into account there.

Q105 Mr Bacon: You are going to regret mentioning speed limits, because I have stood on kerbsides with highways officials from my local county authority who said, in my hearing and that of local residents, that in a situation manifestly requiring change, “There is

nothing we can do.” I said, “What do you mean there is nothing that you can do?” They then sought to tell me and after about a minute and a half, as I struggled not to lose the will to live, I learned that, basically, changing the speed limit costs about £15,000, of which about £14,500 or £14,700 is guff of one kind or another and £200 or £300 is the sign. My natural suggestion is that they go and get a pole and put a sign on it.

Talking about burdens on local government and the costs and what you do about becoming an efficient and effective Department and ensuring that your local authorities are as well, has your Department ever done a thoroughgoing analysis, step by step, of the overall cost? It is all to do with some Act or regulation somewhere and every bit of it can be justified, but it results in a situation that is lunacy. They have agreed with me to sit down and go through it step by step so that I can understand every stage in this ludicrous burden, so that I can then come back to you and to Ministers with some examples of how you might become more effective and efficient. Have you ever done that?

Chair: Does Melanie Dawes look enthusiastic?

Melanie Dawes: I am nodding enthusiastically. That sounds like a very good deep dive from which we could benefit. It is a very good point that some of this is about Departments assuming that local authorities are going to go about their business in the way that they were able to do perhaps some years ago, but they need to rethink that now because of the funding pressures. We can sometimes go on doing things that are no longer necessary, so an important part of this is our cross-cutting role in ensuring that we understand the overall pressures on local government, some of which can be alleviated without any more money at all. Indeed, they save money. We need to keep that under review, but the example raised is a good one.

Q106 Mr Bacon: Can you check whether such a deep dive has ever been done?

Melanie Dawes: We will do that.

Q107 Mr Bacon: If not, I am going to start one locally and feed the information into you.

Chair: That is very cheap for the taxpayer.

Mr Bacon: Yeah, it is.

Q108 Chair: On that, just to reiterate my earlier point, it would be very helpful if you could consider publishing more of the investigations that you start. Why not be open about it? People like Richard Bacon will do it for free. There is probably an army of taxpayers out there who would be keen to look at it. Seriously, it would be helpful if you could consider that. We may make a recommendation, but we will wait and see.

Going back to Jon Rouse and Una O'Brien on the health stuff, I just have a couple of quick points. To Jon Rouse first of all, how will you protect vulnerable people and their carers if things do not work with the Care Act? You have given some very good Whitehall answers—I do not mean that pejoratively—from the system point of view, but the Care Act is a bold piece of legislation, as I said at the beginning, that could really do some good. If it doesn't work and if authorities are struggling to fund it, the losers are the carers and their relatives and vulnerable and disabled people. What are you going to do if it goes belly-up in an authority?

Jon Rouse: Let me first of all mention the things that worry me—the things that I am anxious about in terms of the implementation process. One is that carers do not actually understand their new rights and do not come forward and say, “I want to be assessed.” Some of these carers are locked into really complex caring situations and have very little time. One of the amazing pieces of information that I got from the Government Digital Service, which I assume is right, is that one of the peak times that people are filling in carer's allowance forms is the early hours of the morning. We really need to ensure that the not-particularly-expensive parts of the Act, such as the provision of information, advice, advocacy, working closely with the third sector and ensuring that respite opportunities are in place for carers, actually work.

The only way that we can do that is obviously through an ongoing monitoring process and all the things that we have already talked about in terms of deep dives. If it is not working, we have a series of escalating tools that we will have to look at. We obviously have the peer support mechanism and the money that we give to ADASS, the adult service directors association, which is made up of regional networks that provide peer support. We can do work through that when we think that something is not working in a local authority.

Secondly, we might have to reflect on our own statutory guidance. Have we termed things the way we need to? Are we specific enough about our intentions? The third option, which we would not move to straight away, would be to look at the regulations and whether we have got those right in terms of their content. So we have some tools, but the important thing, at least in the first 18 months, is to see whether the system is working in the way that we intended.

Q109 Chair: One of our concerns, though, is how you will know that. The person suffering fastest and first will be the carer, or the person they are caring for. By the time they have suffered in silence for a while—my experience of carers is that they often do that—it might be a long time before your interventions make a difference. Does that keep you awake at night? Do you feel that that is your responsibility?

Jon Rouse: Ultimately, as stewards of the system, we do have a responsibility. That is one reason why we have to stay very close to the third-sector organisations in this space, and why we have involved the third sector through the reform process and will continue to do so. In that case, due to their access to their local network and the intelligence that we get

from that, Carers UK and the Carers Trust are very important indeed. They need to be around the table.

Q110 Chair: We will surely come back to this. I wanted to ask Una O'Brien a couple of last questions about this area before we move on to the others. You are devolving a lot of money down to local government; it ultimately goes into the general fund. We know that when cuts and pressures hit local government, social services are in the firing line; it is a free budget, and it is not ring-fenced like housing revenue. How are you going to make sure that the money is spent on the purposes for which you are giving it to local government? How are you going to watch that?

Dame Una O'Brien: Well, obviously, we will be deeply concerned, and it will be highly controversial if we are funding local authorities to do something for vulnerable people and that money is being spent in other ways. We need transparency from local authorities, but we also need to work with DCLG on that, because we did not secure the money to implement the Care Act in order to have it swiped off for other things. We will have our own mechanisms in terms of tracking with ADASS and the LGA, but we obviously look to the transparency of local authority accounts and our joint work with CLG to make sure that that happens.

Q111 Chair: We know that it happens. I can think of an example—it is not current, so it is not directly relevant—where a local authority simply delayed assessments in order to save money; I am sure that it has happened with more than one. It was always well known that you could never get a social services package in March, but you probably could on 1 April. There is often a cliff-edge issue at the end of the financial year. How are you going to be watching that?

Dame Una O'Brien: Obviously, I think that access to local networks is incredibly important. Often, as Jon was saying, we hear of things through the third sector partners faster than we do through complaints arising or the local government ombudsman service. Those processes take a long time. I think that it is about naming the risk, being aware of it and watching out for it. We had a slightly rocky phase four or five years ago around some of those behaviours, but I think that that is behind us now. I am certainly not expecting it, and it would be very evident to people if they started behaving like that in some organised way. I am not expecting that. I don't know if you want to add to that, Jon.

Jon Rouse: I think we are all very proud of the relationship we have built with the local government sector and the care sector more generally over the last few years. As far as we can make it, it has been non-adversarial and has been based on openness and recognising when we have a difficult situation, including in an individual locality, using peer support and using data to challenge the local authority from within the sector. We have not needed to use statutory powers of intervention over that period. We have them; they are still on the statute book through section 48, and we could ask the Care Quality Commission

to go into a place. We have not needed to do that over the last few years, and we hope that that will continue to be the case.

Q112 Chair: Thank you. Obviously, we will keep coming back to this. On that point, Melanie Dawes and Una O'Brien, can you tell us—yes or no—whether you are willing or planning to conduct a review of how it is going a year after implementation, in terms of both new burdens and this particular issue around the Care Act?

Dame Una O'Brien: Yes.

Q113 Chair: Good. Melanie Dawes?

Melanie Dawes: Are you asking us whether we will review—

Chair: The burden on local government of the Care Act a year after implementation.

Melanie Dawes: I think one review with the Department of Health—

Chair: Yes: efficiently, one review.

Melanie Dawes: Yes.

Q114 Chair: You will be working with the Department of Health?

Melanie Dawes: Yes, we will.

Q115 Mr Bacon: A joint DCLG-DH review.

Melanie Dawes: Yes, I think—

Mr Bacon: Signed by both of you.

Jon Rouse: I should say that we are commissioning a full independent evaluation of the reforms and the impact of the reforms. It will be carried out by an independent body—an academic institution, say.

Q116 Mr Bacon: When you say you are commissioning someone, you mean you haven't appointed them yet.

Jon Rouse: We haven't appointed them, but we are actively in the process of appointing them.

Q117 Mr Bacon: That is likely to be a university department somewhere.

Jon Rouse: It could be. I don't know who it's going to be.

Chair: We have just advertised it very effectively to anyone watching.

Q118 Mr Bacon: Back to what Una O'Brien was saying a moment ago—that we have not secured all this money from the Treasury on behalf of vulnerable people only to go and see it being spent on other things, so we'll want to watch all this carefully and there will need to be transparency. Can I just be clear, for the avoidance of doubt, that that is in a context where none of this money will be ring-fenced? Is that right?

Dame Una O'Brien: That is correct.

Q119 Mr Bacon: Okay. The rationale for it not being ring-fenced may be a perfectly good one, but can you just state what it is for the record?

Dame Una O'Brien: There is an overall view that we want to encourage local authorities to take responsibility and that there are downsides to ring-fencing as well as upsides. We got to a point in the Parliament before last where, first, there were just so many inflexibilities, and secondly, money was being spent that did not actually need to be spent, because it was locked into a ring fence. It was not so much, "Oh, let's not ring fence this," as "This is the overall approach. This is the grown-up way to work with local government." I would second what Jon has said: we do have powers down the line if we think that people are not fulfilling their statutory responsibilities.

Melanie Dawes: We want councils to be able to flex their budgets, so if a council finds that one thing is slightly less expensive for them, but that they have pressure elsewhere, I think we would want that kind of flexibility to be there and for councils to be acting on it. What would concern us, in a different way, is a more systematic, deliberate underfunding or ignoring of a statutory duty. That would concern us. As we move towards a more devolved system, we are going to have to think about the protections that we build into the system. Sometimes that is about inspection regimes, but also, in the last hearing I attended on wave 1 city deals, we talked about the need to make sure that local electorates are clear about what they should be holding their local councils to account for. If they do not know, how they can hold them to account? I think that was a very helpful thought and some of these issues are even more relevant in the light of the Chancellor's announcement last week.

Q120 Chair: Sounds great, but—dare I say it?—I wonder whether the majority of people worry about social care as much as those who receive it, which of course, is not the majority, but we'll park that one for now. I have one final question in this area. There is a

worry about the role of private providers, and this may play into the delay in the phase 2 side of things. It may impact on some of the changes that are coming or are under way at the moment. We hear a lot about private providers pulling out or threatening to pull out of provision for local authority-placed clients, because local authorities have been very good in negotiating down the cost of those places. Is that a problem you see, Jon, at the Department of Health, and what are you doing about it?

Jon Rouse: The first thing to say is that we still have a very vibrant market in terms of numbers of new market entrants.

Q121 Chair: From the private sector and the third sector.

Jon Rouse: Yes, exactly, but what we are seeing are patterns in terms of geographical variation and that can affect different parts of the social care sector in different ways. There is no question but that the constraints on local government finance have meant that things have got tighter for providers who are active in the local authority-funded market. Clearly, our main concern here is to protect the individual service user, and to make sure that there is continuity of care and that the local authority can access sufficient care within its area. So we have done two things: first, within the Care Act, we have put a duty on local authorities that they have to ensure that there is a diverse and sufficient market within their locality to meet care needs. They have to publish a market position statement that shows how—

Q122 Chair: When you say a diverse market, do you mean a mixture of types of provider?

Jon Rouse: Yes, a mix of types of provider, so there is choice, but also different cohorts. It is no good having a good market for older people if you have done nothing to provide meaningful activities during the day for people with learning disabilities, to give one example. So their market position statements have to cover that diversity of provision.

But then there is a second dynamic to this, which is much shorter term: ensuring that, if there are capacity constraints in a particular sector in a particular area, we are working with those involved to unlock that. We are doing that, increasingly, jointly with NHS England, because one of the ways that constraints in the system can impact is by delaying discharges from hospital. We have pretty good data now on which localities have a problem. Then, through NHS England and local government experts, we can get into that locality and find out what the problem is and how we unlock it.

Q123 Chair: Have you got any examples you can give us of where there has been a problem and you have intervened?

Jon Rouse: Yes, although it is not so much “intervened”; it is more about a relationship, I suppose. If we think about the last 12 months, Oxfordshire is an area where

we have been working with the whole health and care system, because they had very high levels of delayed discharges and seemed to have some degree of under-commissioning of care. They also had all the constraints of being an area with high employment and therefore had the difficulties of recruiting and retaining care staff. That is an area where we have been working with all parts of the system to try to improve their commissioning and their level of integration of care and to, hopefully, take pressure off the acute system.

Q124 Chair: That is helpful, but one of the concerns around this area is the cost-shunting to the self-sufficient. There is a lot of discussion about prices going up for the private purchaser of a place in a care home, but costs going down because of the local authority squeeze, and about a divide emerging between providers—those who will do a better job because they earn more money from the private individual and those who are having to screw their costs down tightly. A figure I had was that 69% of private providers said they planned to reduce the amount of state-funded care, because it is no longer worth while. How are you managing to make sure there is not a “pile ’em high, put them in tiny rooms, treat them cheap” model on the one hand, and a “I’d like to send my mother there” model on the other hand?

Jon Rouse: It is a very fair question. We can also see some of the signs of that possible market dynamic. The question is, on one level, whether the price mechanism will, to a certain extent, act as a way of bringing those markets back a bit closer together. In other words, at the end of the day, a private provider should not be agreeing to a price with a local authority, unless they can actually meet the service for that price, pay their workers at the very least the minimum wage and, obviously, make a reasonable, but not excessive margin.

Where it gets concerning for all of us, including the local authority, is if you have a situation in a market where there are providers who cannot provide a high quality of care and the local authority is still commissioning their services because that is all it can afford. The backstop there—thankfully, we have this now—is the robustness of the Care Quality Commission inspection system, which means that, within a reasonable period of time, the Care Quality Commission will be in, inspecting and saying, “Actually, that care is not adequate and not acceptable.” Therefore, the provider has to improve, which may mean renegotiating their contract with the local authority, or they have to stop providing care.

Q125 Chair: What about the new minimum wage? Will that not have an impact on the care costs in the private sector that local authorities have to have? Have you taken that on board in looking at the costs of the Care Act?

Dame Una O’Brien: That’s going to have to be looked at across the piece, for all aspects of the public sector. It’s very much something that will be factored into our discussions in the weeks to come. I did just want to add that there is another element to what Jon was saying. We could perhaps go into it in greater depth when we have the

discussion on the Care Quality Commission, but the CQC have now taken on oversight of the finances of—how shall I put it?—the most difficult-to-replace providers, so it's not necessarily the largest. We now have 46 providers that are participating in that regime. It has just commenced, and it is organised under the auspices of the chief inspector of social services. So it's a further backstop so we don't fall into a Four Seasons situation, although, obviously, a lot of steps were taken to put that right.

Chair: That is very helpful. We will pick that up when CQC is here—is it in three weeks? They seem to be in front of us a lot. It's one of those things.

Q126 Mr Bacon: I just have a quick question that arises from something that Mr Rouse said. You were talking about providers not providing a suitable standard of care, or perhaps doing so but not consistently. You mentioned the subject of the minimum wage. Notoriously, there have been many examples of care providers paying, sometimes, above the minimum wage but not paying for portions of the day—for example, for travelling between appointments. They say, hand on heart, “We are paying above the minimum wage,” but it is only for those 15 or 20 minutes, or whatever it is. There is a segment of 30 or 40 minutes when they do not pay anything. A term of art that I had not heard before is “clipping” appointments, where, for example, a 30-minute appointment becomes a 22-minute appointment so they can get to the next appointment on time, which is basically physically impossible. As a result, carers who are paid in this way are being exploited. I just want to be clear, does the Department have a view on that approach by providers? If so, what is it?

Jon Rouse: There are two aspects to this, which are related. First, there is the question about length of visit. NICE—is it better that they do it than we do—have published guidance on the expectations on length of visit. Basically, they say that those short visits should only be in very exceptional circumstances where it is a logical part of a broader care package. The second dimension is on the actual payment of the minimum wage. We continue to work closely with HMRC to take strong action against those providers who are not paying the minimum wage. We have had a number of cases—even in the past few months—where providers have been fined, and named and shamed, for not paying the minimum wage. We will continue to work with HMRC on that basis.

Q127 Mr Bacon: I am talking not only about the payment of the minimum wage. It ends up being an argument about whether they did or not because they will pay significantly in excess of it but not for the whole time. That speaks to the question of whether they should be being paid for the journey or not. I was specifically asking about the question of whether staff or carers are paid for the journey or not and whether the Department has a view on that.

Jon Rouse: More importantly, HMRC has a view, which is that those travel costs should be included as part of the time for which they should be—

Q128 Mr Bacon: Part of the remunerated working day. Okay. Could you send us a schedule of all the providers that have been fined, and named and shamed, so far so that we can include that in our report?

Jon Rouse: Yes.

Q129 Chair: My final question relates to this a bit. According to the Carers Trust, which did a freedom of information survey of local authorities, eight out of 132 councils that answered the question were charging carers for the assessment and support that they are getting. Dame Una, you look surprised. Is this something that the Department condones? Are you doing anything about it?

Jon Rouse: There are circumstances in which they are permitted to make a charge. I would like to have a look at that data.

Q130 Chair: I think it is being published properly very soon. So is that no Government policy—definitely yes or no on that? It is that there are some criteria?

Jon Rouse: There are criteria within statutory guidance. I would like to see what the evidence is telling us against that guidance.

Q131 Chair: I just want to sum up this bit of the hearing before we move on to the quick update on land disposals. You have heard from us that we are quite positive about the change and the possibilities but we are very sceptical because of the reductions in funding down the line. It will be a real challenge, as demands keep increasing, to maintain the spirit of the Care Act. Of course, they are real services for real people, which I think we would all acknowledge.

We do not want to predict our recommendations but you have heard that we would like more transparency on how the Care Act is being implemented and, in particular, on the new burdens. I hope that you will be looking at the cumulative impact of cuts and changes to services across the piece on the users. The cost-shunting, which we have often talked about in this Committee, is a very real risk. Our report will come out in a few weeks so thank you for that.

Finally, Dame Una, we heard from Melanie Dawes just before the summer about the Government programme to build home on land disposed of by the public sector. In that Report, figure 4—for those of you have got it—in “Delivering against target” on page 19 shows that the Department of Health released 427 sites for house building. Do you know how much money you raised from the sale of those sites?

Dame Una O'Brien: I do not have the figure, and I can let you have that, but I do know that the amount we released was the equivalent of space for just over 15,000 homes.

Chair: It was 15,185.

Mr Bacon: That is potential homes.

Q132 Chair: My next question is: do you know how many homes were built on the land?

Dame Una O'Brien: We do not monitor the actual follow-through of the building of homes on those sites.

Q133 Mr Bacon: That is a separate question. That would be the accurate answer to the question: do you monitor it? The question was: do you know? You may know even though you do not monitor it, or you may not know.

Dame Una O'Brien: By definition I could not know, because I have not monitored it.

Q134 Mr Bacon: We want to know how many actual homes, rather than potential homes, have been built. There were 109,000 potential homes altogether, but I have never met a constituent who lives in a potential home. As the chair of the all-party group on self-build, I am particularly interested in this—I thought I would get that in—and as the author of the Self-build and Custom Housebuilding Act 2015, I might add. If you can come back to us with the total amount of money, and if you can find out information on how many actual homes have been built, that would be very kind.

Q135 Chair: You are significant. In terms of homes, potentially, on the land you release, you are the third-largest contributor as a Department.

Dame Una O'Brien: Yes, and we will be a contributor in this Parliament. I will certainly come back to you with the information I am able to bring together. I think all Departments that are responsible for releasing land or for encouraging others, as in my case, to get on and release land and to do it in a way that is good value for money, because we do not want a fire sale—we want to work together with DCLG to come up with an agreed system of following this through. We are all aware of the points you made in the last hearing.

Q136 Chair: Can I ask, then, if you do not know how much money you have sold the sites for, and you do not know how many homes were built on the sites, who does?

Dame Una O'Brien: Certainly in the accounts of each trust will be the details of the value of the land.

Q137 Chair: Given that this was a Government-wide programme, announced with great fanfare—there was actually cross-party support for a policy of building more homes; I think everyone would want to see that—surely your job was partly to monitor that the homes were built and the land was sold.

Dame Una O'Brien: That is why I know that the land has been sold. What I have not got is the aggregate figure that it all added up to. What we have not been monitoring routinely is when the houses are actually built and made available, and I think we have to agree on a system.

Q138 Chair: House starts are recorded—I think Jon Rouse will know this—for the social and private sectors. Sales, obviously, are recorded. Housing associations parade new tenancies in their annual reports. The data is not collected.

Dame Una O'Brien: So we need to link them to these locations to be able to do it.

Q139 Mr Bacon: It isn't hard. DCLG has a website on which the last available figures show 140,960 dwellings under the "all dwellings" category for the last year available. That, by the way, compares with 378,000 in around 1970, so it is 37% of what was being done 40 years ago. The population is a lot bigger than it was then.

When you say that you are going to work with DCLG to come up with a method, what will that entail? Not only going back to what has been sold already, but going forward to what has not yet been sold, what are you going to do to ensure that there are clear outcomes that you, or somebody, tracks—if you want me to do it, I will do it—so that we know how much is being built?

Melanie Dawes: To be fair to the Department of Health, as you know from our last conversation on this, we did not ask it to monitor house building. Neither did we collect at programme level the value of sales. That just wasn't part of our framework. To be fair to Una, it was not something that we asked for. Right now, we are forming the programme for the new Parliament. We are in the process now of agreeing the targets—earlier than we did last time, actually—with Departments. We are also discussing, including with Ministers, precisely what targets we should set and what monitoring data we should have. Of course, we will have regard to the recommendations that you have made in your report, as we discussed in the last hearing. We will be saying more about this at programme level in a few months.

Chair: I am sure we will be coming back to this. In fact, the Ministry of Defence are up next on Wednesday on this issue.

Mr Bacon: This is going to become, I'm afraid, a regular feature.

Chair: We said it last time: people want to know how many homes are being built, what type of homes are being built and where they are being built, and whether that will make a difference to them and their family who need housing, whatever tenure they occupy.

I thank all our witnesses for coming along: Jon Rouse, Director General of the Department of Health; Una O'Brien, Permanent Secretary of the Department of Health; Melanie Dawes, Permanent Secretary of the Department for Communities and Local Government; and Matthew Style, Director at the Department for Communities and Local Government. We will be publishing our report in due course. We have a little bit of backlog because of our break, but we will let you have a copy as soon as we can.