

## **Provisional local government finance settlement 2018 to 2019: consultation**

United Response is a national charity with over 40 years' experience of providing skilled social care support to disabled people. We work under contract with local authorities across England and Wales and at any one time our 3500 staff are providing care and support to around 3000 vulnerable people in the community. United Response runs c.320 services that are funded through c.93 contracts with c.54 funders (local authorities).

United Response welcomes the opportunity to contribute to the Department of Housing, Communities and Local Governments consultation on the provisional local government finance settlement 2018 to 2019. Thanks to good social care, people with learning disabilities are living longer; however the challenge of meeting increased demand for care is putting a huge strain on a sector which has faced successive financial cuts in recent years.

### **Overview**

There is a mounting crisis in social care. Councils have reduced social care budgets to accommodate successive years of cuts to the local government central grant. United Response is concerned that the precept mechanism is insufficient even to maintain current levels of funding for social care, or additional future demand. Furthermore, the precept is incapable of providing the vital additional investment which Government itself recognises is necessary to provide the infrastructure required to meet the rising demands of Britain's disabled and aging population.

Although the Chancellor recognised the financial pressures on adult social care in the 2017 Spring Budget, United Response believes that funding announced for social care was insufficient, largely focused on elderly care and has not delivered for people with learning disabilities. Rather than investing centrally in social care, Government has ask local authorities to shoulder an impossible burden of funding and investment needed to implement the Care Act and the Government's own Transforming Care agenda.

### **Sustainable funding**

The measure of a society is how it treats its most vulnerable members. Adults with learning disabilities and complex needs are among the most vulnerable and disadvantaged groups in our society. They and their families rely on social care provided by local authorities – it is their lifeline.

The right, high-quality support makes the difference between someone fulfilling their potential, as independently as they can, at the heart of the community or simply existing. While wages are rising and demand increases, care providers have faced huge cuts in local government funding, amounting to 40% since 2010.

The social care funding gap is estimated to reach £5.8 billion by 2020 according to LGA research; social care services are currently at a tipping point because of rising demand and life expectancy. The local government finance settlement announced that every local council will be able to continue to implement the council tax precept of an additional 3% provided this is spent on adult social care. This precept increase which will be listed separately on the council tax bill and will have to be spent on adult social care but does not secure the additional funding for the longer term.

Although United Response welcomes the fact that additional money raised by increasing council tax will be ring-fenced to adult social care; even if all councils raised the maximum from the precept; this would not be enough to maintain social care even at the current level and cover the growing costs going forward.

We also know that these increases are at local authorities' discretion and some of those areas with the greatest need are those with the least ability to raise the funds they need. Other local authorities may choose not to raise taxes at all, with only around half of councils choosing to increase council tax in 2015 – 16. Disparity between adult social care spending in wealthier authorities and less wealthy, largely urban authorities is deeply worrying as the amount raised differs significantly from authority to authority.

**The crisis in social care which has been exacerbated by years of cuts can only worsen in the absence of central government investment. United Response is concerned that the precept is insufficient to maintain current levels of social care funding let alone cover the additional funding required going forward, for a growing population of disabled adults, and to cover additional costs in overnight care or 'sleep-ins'.**

### **Sleep-ins**

Under the 2014 Care Act, local authorities have duty to ensure that the principle of wellbeing is at the centre of care provided for vulnerable people, with an emphasis on helping individuals to connect with their local community. The reality is that seven years of central government cuts and reductions to the central grant mean that packages offered by local authorities fail to factor-in the community-based and specialist nature of vital services.

Compounding this, the single greatest threat to the learning disability sector is the 'sleep-in' back pay crisis. This critical error in the implementation of the National Living Wage (NLW) is entirely due to mistaken and inconsistent guidance provided by Government in past years. Though unintended, this error is nonetheless the root cause of the impending catastrophe in learning disability care.

In February 2015, in response to a number of tribunal judgements, the Department for Business, Innovation and Skills changed its guidance on 'sleep-in' shifts. The updated BIS guidance of a reference that a worker who was asleep 'could be deemed to be 'working''. This ambiguous change was not flagged in the introduction to the guidance, and was not the subject of any public announcement or communication to employers or their representative bodies. This included guidance and compliance structures from HMRC and CQC as part of their regular inspection of providers.

The new guidance was not adhered to by HMRC when inspecting providers, so that providers were not subject to enforcement on sleep-ins commensurate with the NLW until as late as November 2016. Critically, local authorities, which are the only source of custom for providers, did not pay sleep-in rates commensurate with the NLW during this time. Local authorities did not, and many still do not, reflect this change to guidance: the fact that 'sleep-ins' are subject to the NLW in care hour rates paid to providers and to people on 'Personal Budgets'. Providers, compelled to pay rates commensurate with the NLW for overnight care, have been forced to, and continue to run at a loss, as this additional money is still not paid by local authorities, which has clear financial consequences for the sector. The Local Government Finance Settlement must address this critical shortfall.

United Response calls on the Government to follow the logic of its own argument and ensure that funding is made available to honour the commitment that it has made to enable hard working staff undertaking these sleep in shifts to be properly paid. This funding must be retrospectively, (for local authorities to field the personal liability of vulnerable people on personal budgets), and going forward so that all care hour rates from the next Local Government Finance Settlement are fully commensurate with the NLW for overnight care. Government must address this at the same time as funding the massive 'sleep-ins' liability faced by providers, which is set to cripple to sector by 2019.

**United Response would like to point out that failure of the local government finance settlement to address the 'sleep-in' funding gap issue, or the longer-term funding of services for people with**

learning disabilities, is extremely worrying and is causing huge uncertainty within for the sector going forward. We urgently call on Government to address these issues in the final settlement.

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