Written evidence submitted by Bupa UK (CSR0034)

Key points

1. Bupa UK welcomes this opportunity to submit written evidence to the House of Commons Health Committee inquiry.

2. The Government’s decisions in the 2015 Spending Review to allow local authorities to raise additional council tax revenue to fund care for older people and to expand the Better Care fund are positive steps. However, we remain very concerned about the sustainability of the social care sector as a whole.

3. The policies and the funding settlement announced in the Spending Review are not sufficient to address the underlying structural problems facing the sector. Their likely effectiveness up to 2020 is also extremely hard to predict given:

   3.1 the discretionary nature of the Council Tax precept and the likely extreme variations in revenue that will raised between different areas; and

   3.2 the need to revise the governance of the Better Care Fund to ensure that any funding increase that is allocated to social care reaches the front line of care provision rather than being subsumed into other NHS budgets.

4. During the Spending Review, the Government received compelling evidence from Bupa and other independent as well as third sector and public sector organisations across social care, showing the true costs of providing quality care for older people. Our dialogue with the Department of Health, HM Treasury and Care Quality Commission (CQC) during the Spending Review was evidence-based and constructive.

5. It is clear, however, that although the care sector’s long-standing funding challenges have been acknowledged – through new measures such as the precept – the scale has not been addressed fully at the highest levels of government.

6. The key tests of success of the Spending Review will depend on the fee settlements which local authorities (and in some cases, NHS commissioners) agree over the coming months. This is especially important as several procurement processes around the country have been stalled due to unrealistic fee positions of local public sector commissioners. In several cases, numerous providers have already declined to participate in these tenders.

7. The funding settlement announced in the Spending Review will increase in scale up to 2020. However, the scale of the funding challenge facing the aged care

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1 Over the five-year period from 2009/10, total spending on adult social care has fallen 8% in real terms. Health and Social Care Information Centre, September 2015
sector is also likely to increase in light of ongoing national wage reform which will impact providers before the funding settlement kicks in. Providers also face a range of other challenges such as restrictive visa issues affecting the availability of nurses, agency costs and an often duplicative regulatory environment at local level.

8. The power of central government to ensure that the Spending Review funding settlement reaches the frontline of care through public sector fees for care appears very limited. However, we and other care sector representatives are in discussions with the Department of Health to explore mechanisms to ensure that national policymakers have accurate information about how local authorities are responding to the provisions set out in the Spending Review settlement.

9. If some public commissioners choose not to pay the fair costs of care and fail to use their new funding powers to pay for care then we expect that the Departments of Health and of Communities and Local Government and HM Treasury should challenge these decisions. We also anticipate any such decisions being challenged under the Care Act 2014.

Overview

10. Bupa sees its role as contributing to a strong UK healthcare system. In this response, we focus on the impact of the Spending Review on social care. Bupa is the second largest residential care provider in the UK, representing c.4.5% of the UK residential and nursing care market in terms of bed capacity across c.280 care homes, some of which are located across multiple sites. We also run six care villages. We care for c.40,000 individual residents every year. We employ around 27,000 people in the UK in our Care Services business including nurses, senior nurses, care assistants and senior carers.

11. The care of c.72% of Bupa’s residents in the UK is funded by the public sector (either by local authorities or by NHS commissioners in England through, for example, Funded Nursing Care (FNC)).

12. The aged care sector has operated for many years in an environment where fees paid by the majority of local public sector commissioners are well below the true cost of providing care.²

13. We are proud of the compassionate, quality care that our people provide to our residents. Pay constitutes around 60% of care homes’ costs and this percentage is higher when caring for residents with more acute care needs including dementia – then rising to 80% of the cost of care.

14. Assessments of the impact of wage reform on the care sector vary. According to the Local Government Association (LGA) an additional £1bn p.a. per year by 2020 is needed to cover National Living Wage³ - over and above the LGA’s

² Who Cares – Funding adult social care over the next decade, Bupa, 2011; A Fair Deal – Ensuring local authority fee levels reflect the real costs of caring for vulnerable older people, Bupa 2011; Bridging the Gap, Bupa, 2012.
assessment of a £700m p.a. shortfall before National Living Wage is taken into account.

15. While National Living Wage is a significant additional cost on the care sector from April 2016, this is in addition to the rising costs attached to running aged care services, including regulatory fees, agency costs, repairs and maintenance as well as continuing capital investment in our homes.

16. Despite the very difficult funding environment Bupa has continued to invest in our care homes to provide an appropriate environment for our residents, and invested all operating profit for several years in capital projects to support our portfolio. However, as the sector’s funding challenges remain, future investment decisions become extremely hard.

The distribution of funding for health and social care across the spending review period

17. Over the past five years, there has been a real-terms drop of almost 5% in the fees paid by local councils for care homes to look after vulnerable older people, while non-discretionary costs such as wages, energy and food have all risen.4

18. Local government and NHS payers act as monopsonies in many areas, and use their dominance to pay fees well below levels justified by volume and often below the true costs of providing care. Unlike other sectors, care is more exposed to the purchasing and pricing power of our public sector customers because we have far less ability to flex pricing.

19. Throughout the Spending Review we called on the Government to ensure appropriate funding is available to pay for publicly-funded care. Secondly, we said that public sector commissioners must use this funding to pay fees that enable them to fulfil their statutory duties under the Care Act 2014; to meet older people’s needs for care and support and to ensure a sustainable care market.

20. HM Treasury has stated that, taken together, the precept and additional local government Better Care Fund contribution mean that local authorities have access to the funding they need to increase social care spending in real terms by the end of the Parliament.5 Department of Health Ministers have also said: “following this additional funding, we expect councils will be able to increase the prices they pay for care in order to cover costs providers are facing such as the national living wage”.6

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4 LaingBuisson, Community Care Market news’ Annual Survey of UK Local Authority Usual Costs 2015/16


21. Despite the Government’s stated intention, we do not expect these measures to be used in full by local authorities, leaving a significant gap in funding at the local level. There are significant variations in the amount of revenue that local authorities will be able to raise through the Council Tax precept in the first place, and subsequently uncertainty around how the additional Better Care Fund will be allocated and governed.

22. In addition, the ‘back loaded’ nature of the Spending Review settlement is a serious concern. Local authorities will not receive any additional Better Care Fund funding for social care in 2016/17 and will receive only £105 million in 2017/18. Together with possible delays in implementing the Council Tax precept or inconsistencies of approach across councils, the next two financial years look extremely difficult for the whole social care sector.

**Implications for Local Authorities’ duties under the Care Act**

23. The Care Act 2014 sets out a series of important duties on local authorities namely the duties: to meet people’s eligible needs for care and support; to ensure that sufficient services are available for meeting the needs for care and support of adults; not to take any actions which may threaten the sustainability of the market; and to promote a sustainable, effective and efficient care home market.

24. This new legislation therefore sets a series of clear expectations for residents, their families and care providers to local authorities. During 2015, local government groups such as the LGA and ADASS were already warning about the likelihood that local authorities could breach these duties. Sadly, it is likely that in some areas we will start to see these duties tested.

**Impact of the spending review on the integration of health and social care**

25. For the Spending Review settlement to deliver for social care, it is essential that integrated local health and care budgets such as the Better Care Fund include a fair and protected allocation of funds that is directed towards core, statutory aged care provision, such as residential or nursing care placements.

26. Although the Better Care Fund has often been cited by the Government as a policy solution to social care funding, many care providers including Bupa, have not been able to point to any substantial evidence of this as a source of funding to residential, nursing or dementia care across our homes. Instead, the Fund is regarded by many in the sector as primarily an NHS resource that is rarely utilised for care.

27. We therefore welcome the “improved” Better Care Fund, provided that it is integrated between NHS and social care. We look forward to having detailed discussions with the Department of Health and others over its governance – which we expect soon. If the Spending Review settlement and the changes to the Better Care Fund are actually going to help local authority decisions, this funding needs to be protected for statutory placements for care – not just on setting up
new models of care. This needs to be made clear in the Fund’s new governance arrangements and audited.

28. Care homes in England currently care for over 400,000 older people. With any reduction of residential and nursing care places, more and more older people will become dependent on NHS support. It is easy to see that even a small proportion of bed losses in the aged care sector could have a major impact on the c. 137,000 NHS beds in England, especially in times of seasonal pressures.

**Funding decisions, implications for quality and access to services and provider exit**

29. As far back as 2005, the Low Pay Commission urged government to ensure that local councils reflected minimum wages increases in the fees they pay for care. Many have not even done that – let alone supported any move to higher rates of pay for carers.

30. Recent research shows that local authority funding for residential care often equates to as little as £2.00-£2.50 per hour per resident, and, in some cases, it is as low as the equivalent of £1.60 per hour. This is to provide round-the-clock care, all accommodation, food and laundry, as well as entertainment, and the necessary capital reinvestment to upgrade our homes.

31. During the 2015/16 financial year, councils have given fee uplifts of an average of just 1.9%. This is well below the 2.5% that independent market analysts LaingBuisson have assessed as necessary for providers to just keep pace with inflation. In many cases, local authorities have given no uplift at all following previous years’ decisions.

32. If sufficient funding is not made available to public sector commissioners for them to support people’s care needs, many providers will find it even less sustainable to continue to deliver care in some areas of the country. Analysis conducted by Care England in 2015, based on data from providers, suggested that even before the National Living Wage is introduced, nearly 50% of care homes run by the top five care providers are operating at a loss or only just about break-even.

33. In a recent House of Lords debate we note the response from the Department of Health Minister, Lord Prior, to a question from Baroness Wheeler where he said: "I think that if a large provider went into insolvency, many of those homes would be taken over by the industry. The important thing is that the industry has confidence in its long-term future". We would suggest strongly that both industry sentiment and financial circumstances have changed significantly since

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7 LaingBuisson Annual survey of UK local authority usual costs 2015/16 (July 2015)
8 LaingBuisson, Community Care Market news’ Annual Survey of UK Local Authority Usual Costs 2015/16
9 This analysis prepared by Care England and shared with HM Treasury in October 2015 indicated that 50% of Barchester, Bupa, Care UK, HC-One and Four Seasons care homes were achieving EBITDA returns below 5% or are loss making, stated after operating overheads allocation, rent and typical maintenance capital, but before any capital charge for freehold properties and before financing costs and before the costs of the National Living Wage.
10 Hansard, HL 11 Jan 2016 : Column 6
2011. The closure of Southern Cross was managed in an orderly way with homes, residents and staff transiting to other providers but for the foreseeable future we find it hard to see that other providers would be able, let alone willing to take on insolvent homes.

34. Unless funding is made available to, and by, local authorities to cater for people’s true care needs it will become unsustainable for providers to continue to deliver the right quality care in some areas. In the past year, we have reluctantly closed or sold homes which no longer meet our longer term strategy or where fees simply do not support the true cost of the quality care required.

35. To cover the true cost of care, the introduction of National Living Wage alone would require a fee increase from local authorities of several percentage points each year from 2016 to 2020. The percentage increase needed for local authority nursing care residents to cover cost of care would be significantly higher.

36. We have increasingly come to the conclusion that we have no option but to withdraw from certain local contracts due to unrealistic pricing frameworks. One metropolitan borough council where we operate has decided on a limit of two admissions per week due to budgetary pressures when there is much greater demand for admissions in that area. In one area in the East of England a very significant tender (4,000 placements) has stalled due to a lack of bidders who have declined to tender as a result of the terms, which are impossible to meet. In another area in the South East a further major tender has not progressed because the required capacity simply does not exist in the system to meet the local authority’s needs.

37. There are several further examples we could cite. Under commercial confidence we are happy to provide the Committee with current examples of tender processes / fee negotiations with local authorities or NHS commissioners that Bupa has been involved in, but where we are now taking the decision not to proceed.

38. We are in contact with public sector commissioners to make them aware of our expectations and willingness to work in a constructive way with them. We recognise that they will face difficult decisions and significant cost pressures to the adult social care budget. However, in order to meet the needs of our residents, fee rates will need to rise to a level where they more accurately reflect the true costs of care. We will continue to share the analysis of our costs and the methodology behind our stated intention for an increase in fee rates to help support local authority decision making.

Other comments

39. The adult social care sector provides services that are critical in ensuring that the NHS can function effectively and efficiently. Without the sector, the NHS would see increased hospital admissions and a greatly reduced ability to discharge people from hospital. The lack of a stable supply of qualified nurses into the adult social care sector directly impacts the continuity of care and quality of care that residents should expect and which providers want to give.
40. We acknowledge that the Committee’s scope in this inquiry is the Spending Review, but it is imperative to highlight the range of factors that government and agencies can influence, which in addition to unsustainable public funding bring added complexity and cost.

41. Firstly, the shortage of appropriately trained and skilled nurses in the UK. The importance of nurses to the social care system and the wider healthcare system has recently been highlighted by pressures on overstretched NHS services. Nursing is a vital part of residential and nursing care – and this is often overlooked.

42. The sector faces particular difficulties in recruiting appropriately trained and skilled nurses, challenges which are not directly shared by NHS settings. We recently wrote to the Migration Advisory Committee to state that qualified nurses in residential care homes and nursing homes satisfy the criteria of both “shortage” and “sensible”. Qualified nurses working in CQC registered care home settings should be added to the Shortage Occupations List, and there should be no distinction between nursing in health settings and nursing in care settings in these regulations.

43. Secondly, we wish to highlight the duplication of national regulatory and local implementation processes on the social care sector. Although the CQC is the overall regulator, its national standards are not always seen as sufficient by local commissioners (both local authority and NHS) and additional quality and contract monitoring requirements are often overlaid onto national standards in local contracts.

44. In practice, we would like to see local authorities (both as commissioners and in their safeguarding role); NHS Clinical Commissioning Groups and the CQC align their work much better for the benefit of residents and families. In some instances, the actions of multiple agencies with differing interpretations of regulations and procedures and their responsibilities leads to duplication and serious resource challenges for individual care homes to manage.

**Recommendations**

45. From a provider’s perspective we would welcome: a) an annual inquiry by the Committee during the course of this Parliament of the Spending Review’s impact on social care; and b) Government taking an active oversight and intervention role over public sector commissioners’ use of the aged care settlement when they propose fees that do not meet the true cost of care.

22 January 2016

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