



Legal update — March 2017

Budget 2017: the knowns and the unknowns



The budget provided some relief to the social care funding system this week, although the consensus is that it will not go far enough to meet the current funding shortfall in the system, even with £1bn provided up-front. This is estimated by different think tanks at between £1.3bn and £2bn for the 2017/18 financial year. How much of this money actually hits front line services will also be crucial to the impact it has.

The increase in funding will not solve the funding pressures on local authorities on its own, particularly as there are limits on what can be raised through Council taxes. Councils will have to be more innovative and consider new ways to deliver services more efficiently and with better integration. This may create opportunities for providers to be more involved in market shaping. Our public sector lawyers are working hard with local authority clients around the decision-making processes involved and Councils should welcome input from the provider sector.

action to fund care packages for more people, support social care providers and relieve pressure on the NHS locally

- This will be supplemented with measures to ensure a reduction in delayed transfers of care between the NHS and social care
- £100m for capital investment in A&E
- £325m to support capital investment in projects linked to Sustainability and Transformation Plans
- A green paper intended to put adult social care on a secure long term footing, establishing a fair and more sustainable system. Philip Hammond has ruled out inheritance or "death" taxes being used to fund any new system

While welcome, these additional funds are a short term measure to prop up a struggling system of social care. There appears to be a focus on the continuing problem of hospital bed-blocking which, while important, should not detract from other areas of funding pressure such as services to disabled people. Providers should be alive to the possibility of securing additional funding and indeed to the possibility of resisting price reductions (in real or actual terms) – something Trowers & Hamblins can help with if your organisation is faced with that sort of problem. As the payment is not expressly for any particular provision of social care it may be argued by Government that social care providers will now be able to fund sleep-ins paid at the NMW.

The biggest news from the budget could be the green paper. It appears Government will take another look at an issue they have considered on several occasions in the last 20 years, most recently through the 2011 Dilnot report. The key funding recommendations from that report remain firmly in the political long grass and presumably will form part of a fresh look at the issues, along with other possibilities such as insurance or savings based systems.

We would also suggest that housing is an essential part of wellbeing and has itself been subject to its own



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Key announcements:

- An additional £2bn for English Local Authorities over the next three years to fund adult social care
- £1bn of that money will be provided in the 2017/18 financial year, so that Councils can take immediate

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pressures particularly in the context of supported housing for older and disabled people, with much uncertainty currently surrounding Government proposals on housing benefit and universal credit funding for housing costs above Local Housing Allowance caps. The outcome of the recent consultation on this issue will be keenly awaited and has the potential to have as great an impact on the sector as changes to the social care funding system. In a wider context the recent housing white paper made some positive noises about improving the planning policy for housing for disabled and older people, the implementation of those measures will of course be key.

Ultimately, any attempt to put the system on a sustainable financial footing needs to consider how to better integrate social care and health (and indeed housing) provision which have completely different funding regimes and hence insufficient incentives to work preventatively to save money overall. The budget exhorts Councils to work with NHS colleagues to ensure the funds are spent well, and that conversation must continue into the discussions on any new financial settlement or system. Devolution and the Sustainability and Transformation Plans provide platforms which might be used to this end, though the provider sector needs to be effectively engaged in these discussions too and has not always been. If providers are interested in engaging in those conversations we may be able to help through our local authority and NHS connections.

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