Funding future care need: the role of councils in supporting individuals to access the capital in their homes

March 2010

This report is published alongside a second paper, *Home equity: accumulation and decumulation through the life cycle*, available on the Resolution Foundation website

Contents

Acknowledgements

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All conclusions and recommendations in this report, along with any inaccuracies, are the responsibility of the Resolution Foundation.

Summary

Background

The Resolution Foundation is an independent research and policy organisation. Our goal is to improve the well-being of low earners in today's mixed economy. We aim to deliver change in areas where this income group is currently disadvantaged by producing new research to engage actively in the policy-making process.

The Foundation has been working to improve outcomes in the long term care system since the start of 2008. We have focused on how the mixed market of care functions and what reforms are needed to bring about a more efficient and fair market, with particular concern for low earners.

Despite having below average household income, many older members of the group own their own home.[1] As such, where they are deemed by their council to qualify for care under the fair access to care services (FACS) guidelines, they often fail the means-test. Similarly, those older low earners who require help but fail to meet the FACS needs-test set by their local authority can struggle to secure the help they need. Older low earners with care and wellbeing needs can therefore find themselves in two different types of *funding gap*:

- Too 'well' to get council support, but too income-poor to self-fund services which could improve their wellbeing or reduce the chances of deterioration; or

- Sufficiently 'ill' to be considered for state support, but too asset-rich to get assistance and too income-poor to adequately self-fund their care needs.

In December 2008, we published a discussion paper that reviewed current long-term care funding arrangements and looked at a variety of options for increasing resources going to the sector.[2] We concluded that the current long-term care funding system is unfair and inefficient, particularly in relation to low earners. There have been three important developments since we published the report:

- The Government's social care Green Paper, published on 14 July 2009, sets out three options for a new national funding settlement: partnership, voluntary insurance and a comprehensive scheme.[3]
- The Government has subsequently announced further plans to introduce free personal care at home for older people with the highest level of needs from October 2010.[4]
- The Conservative Party has said that, if elected, it would legislate to introduce a voluntary insurance scheme that would offer individuals the opportunity to have all potential permanent residential care fees met in full in return for a premium of around £8,000 paid at age 65.[5]

[1] 84 per cent of low earner households where the head is aged 65-79 live in owned property, as do 80 per cent of those where the head is aged 80+ (based on analysis of DWP, *Family Resources Survey 2007-08*).
[2] Resolution Foundation, *Facilitating increases in long-term care funding: a discussion paper*, 8 December 2008
[3] HMG, *Shaping the Future of Care Together*, Cm 7673, 14 July 2009
[4] Gordon Brown speech at Labour Party Conference, 29 September 2009
[5] Conservative Party press release, "Petition to protect NHS from spending cuts", 2 November 2009

Given that none of these proposals will be realised for some months at least, many low earners remain in a funding gap. We believe therefore that there is a need for immediate reform to improve supply of, and demand for, funding products that allow individuals to make direct contributions to potential future care needs. In addition, all of the policies suggested will continue to require elements of both needs- and means-tests, meaning that funding gaps will persist beyond the introduction of any reforms. The purpose of this research is therefore to identify action that can be taken relatively quickly to help, both now and in the future, those older individuals with care and wellbeing needs who do not qualify for assistance with funding.

The December 2008 paper considered three different markets that could help improve individuals' ability to meet future long-term care costs: housing equity release; long-term care insurance (LTCI); and savings products. It found that existing failures in each of the three markets limit the current appropriateness and availability of products, particularly for low earners.

In trying to look in more detail at potential solutions that would have ongoing relevance but which could be introduced relatively quickly, it is clear that different vehicles are likely to be needed for different generations – the appropriate mix of products for the current, largely asset-rich, older population is likely to differ from that for younger cohorts, who have more time to plan but may not have the housing wealth of previous generations. Solutions centred around either LTCI or savings vehicles would require a significant lead-in before today's older low earners could use them to pay for care. By contrast, there is likely to be a 20-30 year window of opportunity during which older people with low incomes will hold relatively large amounts of wealth in property. This report therefore focuses on options based on this.

The role of housing wealth

The most popular means of accessing housing wealth in retirement is via trading-down (moving to property of a lower value) or trading-out (moving to non-owned property). Although relatively simple, such approaches are potentially inefficient ways of accessing funds to pay for care needs because they release all of the available wealth in one hit and are impractical for those individuals needing care in the home or home adaptation rather than residential care.

Equity release represents a more flexible means of accessing funds. However, growth in the market has stalled in recent years, with a number of demand- and supply-side failures meaning that take-up has been low, particularly in relation to funding care.

While private providers could consider a number of developments to improve supply it is unlikely that the market could be reformed quickly enough to meet the needs of older low earners already stuck in the funding gap. Moreover, given regulatory requirements and the complexity of the products, it is difficult to see how providers can significantly reduce prices particularly as a number of firms have recently exited the market in reaction to the housing market crash and the credit crunch.

In the work behind this report we have therefore focused on developing public sector solutions that can sit alongside private sector options and extend the scope for accessing housing wealth to pay for care needs to a broader group of households. In our December 2008 paper we suggested that the state could offer support to private firms – via reduced regulation, provider insurance and subsidised advice services – in order to reduce end-user costs. We also presented the possibility of developing a fully-functioning state-sponsored equity release scheme to meet the needs of those care users unable to access private mechanisms. While we feel there may still be some merit in pursuing these suggestions, we believe that the best way of developing solutions that can be introduced in the short-term is to build on existing powers.

Existing local authority powers

Deferred payment

Under Section 55 of the *Health and Social Care Act 2001*, councils have powers to take a legal charge on a care home resident's main or only home instead of seeking contributions from the individual. The accrued debt can be recouped when the house is sold. Unlike commercial equity release schemes, no interest is charged on the debt until 56 days after the person's death, at which point a "reasonable" rate of interest can be introduced.

These 'deferred payments' are available to people in residential or nursing homes who have capital (apart from the value of their home) under the local authority limit, cannot meet the full fees of the home from their income and do not wish to sell their home or are unable to sell their home quickly enough to pay for their fees.

Local authorities were provided with ring-fenced grants for the first three years of the scheme. After that point, it was expected that a revenue stream associated with the first wave of applicants would provide funding for continuation of the scheme. There is little official data available, but take-up appears to be relatively low, with considerable variation across local authorities.[6]

In June 2009, we ran an expert group to look in detail at the workings and failings of existing local authority powers and at the prospects for improvements. The group drew experts from three broad areas: council finance officers with experience of care funding issues 'on the ground'; senior strategic leaders from council adult social care departments with understanding of regulatory, financial and legislative practicalities; and third sector representatives with experience of the needs of care users.

While all of the authorities represented at the expert group offer deferred payment as a matter of course, a number of limitations were detailed and participants expressed concern about the variable use of the power by councils. A summary of the findings is provided in Box 1.

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[6] See for example, Ivan Lewis MP, HC Deb 5 Jun 2008 c964: http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080605/debtext/80605-0011.htm#08060598000826.

Box 1: Expert group key findings

In relation to the use of deferred payment by councils around the country, we were told that:

- Some councils fail to offer it at all.
- Others make it appear like a last resort, asking individuals to first prove that they have considered every other option.
- Some authorities do not offer deferred payment as a means of allowing residents to use the capital in their home to fund top-ups in their care, arguing that the initial outlay is prohibitive.
- There is inconsistency across the country in terms of frontline staff knowledge about deferred payment.

Reluctance among some councils was explained by:

- Perceptions of the costs of managing the scheme.
- Limitations of social care budgets. The grants provided alongside deferred payment following its introduction had helped make the scheme attractive initially to councils, but the absence of similar grants today causes some authorities to consider the expenditure to be prohibitive.

Despite being generally positive about deferred payment, members of the group noted some concerns:

- Several argued that the 56-day interest-free period following an individual's death is too short. It gives little time for families to sell a property, particularly as they will be under significant additional emotional and practical pressure.
- A number highlighted the difficulty of dealing with situations in which individuals are not the sole owners of a property. Deferred payment can only be offered on 100 per cent of the value of the property, even where a care user is a tenant-in-common for example.
- There was agreement that one of the key drawbacks is that deferred payment is only available to people who have been assessed by their council as being eligible for residential care under the FACS guidelines. It therefore is of no use to those with lower level or domiciliary care needs.

Charging orders

Section 22 of the *Health and Social Services and Social Security Adjudications Act (HASSASSA) 1983* provides councils with an alternative means of recovering costs from residents who own property and fail to qualify for free care. The power allows local authorities to place a legal charge against residents' property where a debt is outstanding.

While the outcome can be similar to that provided by deferred payment, guidance issued to local authorities specifies the requirement to offer deferred payment in the first instance. Authorities are advised not to use Section 22 of HASSASSA in instances where the resident is willing to pay the charge of their residential care. Instead, it should be reserved for cases where residents are unwilling to pay their assessed contribution, either now or in the future, and a debt arises.[7]

However, we heard from our expert group that the charging orders available under HASSASSA are in fact preferable from the council's perspective to the more bureaucratic

[7] LAC (2002) 15: http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/LocalAuthorityCirculars/AllLocalAuthority/DH_4004731.

deferred payments, because they provide a simple and low cost mechanism for obtaining fees.

Developing the local authority role

The deferred payment scheme has the potential to provide older low earners who hold the majority of their savings in the form of property a more flexible means of using their wealth to pay for their residential care needs than simply selling their home. However, provision varies across the country and there is evidence that some local authorities fail to offer the scheme at all, restricting access for many older low earners. This, along with the limitations identified by participants of our expert group in relation to the inflexibility of the powers, suggests that some reform is required.

Existing deferred payment powers should be more actively and consistently promoted across the country. W**e recommend that the Government run a general awareness campaign, that literature be displayed in all relevant council buildings and that guidance issued to authorities is publicised by voluntary agencies working with potential clients**. **We recommend that consideration is given to making the provision of a deferred payment offer mandatory in England**.

Even if take-up is extended, the opportunities provided by existing deferred payment powers are limited. The mechanism is restricted to individuals entering residential care and therefore does not cover those not assessed by their local authority as having qualifying care needs, those who require help in their own residence, or those who wish to adapt their home. This probably reflects the fact that the powers were not designed to be used as a means of charging the home indefinitely, but were instead intended to provide breathing space for those willing but unable to sell their property in a hurry. Therefore, while councils could be encouraged to offer deferred payment in more instances, it is likely that the mechanism is not the optimal means of achieving the more general purpose of releasing wealth stored in housing to help individuals fund all of their care needs.

The social care Green Paper proposes a universal deferred payment mechanism for people needing residential care, allowing residential and accommodation costs to be charged upon the individual's estate when they die.[8] While this is potentially a step in the right direction, we believe that more can be done sooner. The use of HASSASSA powers, points to a possible way forward.

This mechanism represents the closest means of all decumulation methods to using the house as a bank. Currently, the biggest apparent barrier to councils using HASSASSA powers in this way is the fact they are considered to be a means of *forcing* rather than *facilitating* payment. This can be overcome by presenting the power in the first instance as an *option* for residents rather than an *obligation*. We heard in the expert group that councils can seek consent from residents to use it as a way of allowing debt to accrue for a number of services, including domiciliary care, under the 'Well-Being Power' defined in Section 2 of the *Local Government Act 2000*.

Given that this approach makes use of existing powers, it appears to offer a simple and low-cost way of allowing income-poor, asset-rich individuals to access their illiquid wealth to fund

[8] HMG, *Shaping the Future of Care Together*, Cm 7673, 14 July 2009, p20

their own care and wellbeing needs, irrespective of whether these needs are officially- or self-assessed.

The option for councils to use the charging order power provided under Section 22 of the Health and Social Services and Social Security Adjudications Act (HASSASSA) 1983 in combination with the well-being power provided under Section 2 of the *Local Government Act 2000* should be made explicit and promoted by the Government, the LGA and ADASS. Existing best practice should be spread within and across local authorities.

In the short term this would allow residents to use the capital in their home to fund a range of older age needs. However, given that there might still be a requirement to exercise the powers for the originally intended purpose in some instances, they may retain a negative image which would be unhelpful. In the medium- to long-term it may therefore be beneficial to legislate to introduce a new power for councils to offer interest free loans directly associated with older age needs, providing the flexibility of HASSASSA but distanced from perceptions of obligation.

Any new power could be designed to complement rather than compete with private sector equity release offerings. For example, councils could specify a maximum amount that households can draw down, and certain limitations on access could be attached (age, income and purpose of loan perhaps) to prevent abuse. Higher income/younger residents, those wanting to draw down larger amounts and those wanting to fund something other than care and wellbeing needs could follow a formal equity release route instead.

Given that the advance is repaid in full, the costs involved for local authorities are relatively small, amounting simply to lost investment income. To the extent that residents using their own funds to secure care and wellbeing support can prevent or delay the need for more intense (and more expensive) intervention, councils could even experience some savings over the medium-term. However, consideration could be given to attaching a small administration charge to advances, in order to reduce council costs still further.

Over the longer-term, councils can be given the authority to provide interest-free loans secured against their residents' homes to help them fund a range of older-age needs.

Joining-up approaches

Increasing the opportunities for individuals to use their housing wealth to fund their care and wellbeing needs prior to the stage at which they are assessed as needing to enter residential care has a potentially significant preventative benefit for the individual and for the state. However, it raises the challenge of identifying residents who could take advantage. If the local authority role is to be developed to include services for people who have not been assessed by their council as being eligible for residential care under the FACS guidelines, then the remit of social services will need joining-up with wider council responsibilities via the establishment of more effective multi-disciplinary teams.

Local authorities should seek to establish effective multi-disciplinary teams charged with taking a council-wide view of care and wellbeing provision in order to extend support to adults not assessed as being eligible for care under the fair access to care

services guidelines. Once such residents are identified, they should be supplied with, or signposted to, advice on the range of support options available to them.

The process of housing decumulation needs to be considered in a wider context. In particular, there would appear to be scope for connecting the need among some older residents to release funds with the desire among some younger residents to secure family-sized accommodation. Currently, this transfer is achieved primarily via older homeowners trading-down or making last-time sales. However, the lack of supply of appropriate accommodation for older people represents a partial barrier and is something that the government and housing authorities must seek to remedy as part of their overall approach to housing supply.

Where social service departments assist residents in accessing the capital in their home to pay for care, their councils should consider the opportunities for using the property to support wider housing policy goals.

Funding

Given that money loaned via deferred payment and charging orders is repaid within a relatively short timeframe, extension of councils' existing powers should be largely self-funding, particularly if the opportunity it gives to an individual to meet their care and wellbeing needs at an early stage has associated preventative benefits. It is likely, however, that tight annual budgets in social services departments will mean that there is reluctance in some to fund the initial outlay. We suggest a number of potential approaches.

- **The Government could provide one-off ring-fenced grants to councils tied to a condition of wider use of charging orders.**

- **Local authorities should take a wider view of funding in order to assist social services departments with the cash flow implications of charging the home**.

- **Local authorities' management of financial pressures could be improved by shifting to multi-year budget processes**.

- **Councils could use part of their reserves to fund loans, in the expectation that these can be replenished from future revenue streams**.

- **This idea could be taken further so that money is pooled across organisational boundaries**.

- **It might be possible for local authorities to sell a portfolio of home-charging loans to the capital markets as a means of releasing funds**.

Wider reform

While implementing the recommendations set out in this paper to provide individuals with opportunities for accessing the capital held in their homes would be likely to go some way to releasing additional resources, it is unlikely to be sufficient: the need for a more fundamental debate about the funding and delivery of care remains.

We have responded to the Green Paper separately,[9] and have argued that a new funding settlement is critical in the light of demographic change. Demand for long-term care is set to increase over the next few decades, with an increasing number of people living longer but with more complex conditions such as dementia, and significantly more money will be required simply to stand still.

Similarly, reform is required to tackle the often unfair and inefficient nature of the current care system. For example, current arrangements incentivise more costly remedial care, lead to the premature use of residential care and create a two-tier pricing system which penalises self-funders, who lack the purchasing power of local councils' block-purchasing provision.

We urge the Government to advance the reform process already in place by working closely with stakeholders to design a model of care delivery and funding that is appropriate for future needs.

[9] http://www.resolutionfoundation.org/documents/ResolutionFoundation_GPresponse.pdf

1 Introduction

Background

The Resolution Foundation is an independent research and policy organisation. Our goal is to improve the well-being of low earners in today's mixed economy. We aim to deliver change in areas where this income group is currently disadvantaged by producing new research to engage actively in the policy-making process.

The Foundation has been working to improve outcomes in the long term care system since the start of 2008. We have focused on how the mixed market of care functions and what reforms are needed to bring about a more efficient and fair market, with particular concern for low earners.

Despite having below average household income, many older low earners own their own home.[10] As such, where they are deemed by their council to qualify for care (Box 2 presents assessment details), they often fail the means-test and therefore find themselves in a funding gap: too asset-rich to get state assistance, but too income-poor to adequately self-fund their care needs. Similarly, those older low earners who require help but fail to meet the needs-test criteria set out by their local authority have limited funding options.

The Government's social care Green Paper, published on 14 July 2009, sets out three options for a new national funding settlement: partnership, voluntary insurance and a comprehensive scheme.[11] We published our response to all aspects of the Green Paper in November.[12] Since the Green Paper's publication, the Government has announced further plans to introduce free personal care at home for older people with the highest level of needs from October 2010[13] and the Conservative Party has said that, if elected, it would legislate to introduce a voluntary insurance scheme that would offer individuals the opportunity to have all potential permanent residential care fees met in full in return for a premium of around £8,000 paid at age 65.[14]

Methodology

In December 2008, we published a discussion paper that reviewed current long-term care funding arrangements and looked at a variety of options for increasing resources going to the sector.[15] Section 2 provides a summary of our findings in relation to three particular markets: releasing stored housing wealth, long-term care insurance (LTCI) and long-term savings.

Given that none of the proposals set out in either the Green Paper or at party conferences will be realised for some months at least, many low earners remain in a funding gap. We believe therefore that there is a need for immediate reform to improve supply of, and demand for, appropriate funding products. In addition, all of the proposals continue to involve both needs- and means-tests, meaning that any long-term solution will require significant numbers of low earners to be able to access sources of private finance.

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[10] 84 per cent of low earner households where the head is aged 65-79 and 80 per cent of those where the head is aged 80+ are owned (Source: analysis of DWP, *Family Resources Survey 2007-08*).
[11] HMG, *Shaping the Future of Care Together*, Cm 7673, 14 July 2009
[12] http://www.resolutionfoundation.org/documents/ResolutionFoundation_GPresponse.pdf
[13] Gordon Brown speech at Labour Party Conference, 29 September 2009
[14] Conservative Party press release, "Petition to protect NHS from spending cuts", 2 November 2009
[15] Resolution Foundation, *Facilitating increases in long-term care funding: a discussion paper*, 8 December 2008

In trying to look in more detail at potential solutions that would have ongoing relevance but which could be introduced relatively quickly, we felt that both LTCI and savings vehicles would require a significant lead-in before today's older low earners could use them to pay for care. We therefore chose to focus on housing wealth.

To this end, we commissioned Peter Williams, Hon Professor, University of York, to produce a paper on our behalf detailing trends in, and prospects for, accumulation and decumulation of housing assets through individuals' life cycles. His paper is published alongside this report and summarised in Section 3.[16] Also in Section 3, we report on work carried out in this area by the Joseph Rowntree Foundation (JRF).

Peter's work provides a backdrop to the more specific consideration we wanted to give to the role local authorities can play in helping residents use the capital in their homes to fund their care needs. In June 2009, we ran an expert group to look in detail at the workings and failings of existing local authority powers and at the prospects for improvements. The group drew experts from three broad areas: council finance officers with experience of care funding issues 'on the ground'; senior strategic leaders from council adult social care departments with understanding of regulatory, financial and legislative practicalities; and third sector representatives with experience of the needs of care users.

Section 4 sets out a summary of the current powers available to local authorities and Section 5 reports on the June expert group discussions. In Section 6 we analyse a range of options for reform and present our recommendations. Membership of the expert group is listed in the appendix.

[16] Williams P for the Resolution Foundation, *Home equity – accumulation and decumulation through the life cycle*, January 2010

Box 2: Care funding assessment process

An older person who feels they need social care must request an assessment by their local authority. The subsequent Single Assessment Procedure (SAP) assesses all of the individual's needs (covering social care and healthcare) in one go. Once a SAP is carried out, a care plan is written, outlining the individual's assessed needs. There are three broad possible outcomes: the local authority thinks the person is not eligible for any social care; the local authority thinks the person needs social care at home (domiciliary) or in a care home (residential); or the local authority thinks the person needs social and medical care (a "combined package of care" or "continuing health and social care") at home or in a care home.

The assessment is dependent on locally-set eligibility criteria. There are four bands of need set out in guidance: *critical*, *substantial*, *moderate* and *low*, Faced with finite resources, local authorities have tightened eligibility criteria in recent years, thus reducing the numbers assessed as being eligible, particularly for domiciliary care.[17]

Where the local authority assesses the individual as being eligible for care, it can then use a means-test to determine who pays. This is done on a discretionary basis for home care and on a mandatory basis for residential care. The residential means test consists of a capital element and an income element. Individuals with qualifying capital above the upper threshold of £23,000 receive no financial support. Those with less than £14,000 capital are assessed on the basis of their income only. Those with capital valued between the two thresholds are assessed on the basis of their income and their "tariff income" which is valued at £1 for every £250 capital they have above the lower threshold. The current rate of the Personal Expenses Allowance (PEA) is £21.90 per week; any income, including tariff income, above the PEA goes towards the cost of the care home accommodation.

Where a combined package of care or continuing health and social care is suggested, all medical elements of the care, whether provided in a care home or at the individual's home, are provided without charge by the NHS. The individual may still be liable for social care costs though.

A local authority sets how much it is prepared to pay for care home fees. Homes charging below or at that rate are then open to contracts with the authority. The amount set by an authority is discretionary, but guidelines state this amount can't be so low that there may only be one home in the area charging that amount – a person should have at least some choice of eligible homes. If a person prefers a more expensive home rather than one of the ones with a contract with their authority, then a relative or someone else can pay a third-party top-up to cover the difference. Those with assets above £14,000 can also opt to contribute more in order to go to a more expensive home.

[17] Over two-thirds of local authorities responding to Counsel and Care's *National Survey of Local Authority Care Charging and Eligibility Criteria 2008* have eligibility set to critical or substantial.

2 Long-term care funding

Our December 2008 paper on long-term care funding concluded that the current system is unfair and inefficient, particularly in relation to low earners. We argued that a new funding settlement was required to meet these challenges, especially against the backdrop of an ageing society and increasing unit costs of care. We expected this settlement to require individuals to provide additional resources directly, in terms of personal contributions, and indirectly, in their role as taxpayers or national/social insurance contributors. We favoured the establishment of a mixed market of state-sponsored and private funding mechanisms that co-exist and complement each other to best meet individuals' needs, resources, attitudes to risk and inclinations to plan.

We looked in detail at three different markets that could help facilitate increases in long-term care funding: equity release, long-term care insurance (LTCI) and savings products. We concluded that different vehicles would be needed for different generations – the appropriate mix of products for the current, largely asset-rich, older population is likely to differ from that for younger cohorts, who have more time to plan but may not have the housing wealth of previous generations. We identified existing failure in each of the three markets, along with a range of suggestions for correction.

In relation to housing equity we noted that, on the private market side a number of demand- and supply-side failures mean that take-up of equity release products has been low, with very few people using such products as a means of funding care. There is an apparent lack of trust in equity release among the public amid concerns about value for money. Access is restricted for owners of lower value properties and benefit recipients face the prospect of losing their entitlements due to the relatively large minimum initial drawdown. In addition, there is reluctance among IFAs and brokers to sell equity release because of the complexity of offerings and the costs involved in acquiring the knowledge required to advise on the product.

On the public sector side we found that, while local authorities can place charges against residents' homes through the application of deferred payment powers, use has varied across councils. In addition, these powers relate primarily to users entering residential care and therefore provide no assistance to those individuals who would like to fund care in the home or those who have not yet been categorised as being eligible for assistance by the council.

We detailed a number of developments that private providers could consider in order to improve the appropriateness of equity release supply. We also suggested that the state could offer support to private firms in order to reduce end-user costs, or could develop fully-functioning state-sponsored equity release schemes to meet the needs of those care users unable to access private solutions.

In relation to long-term care insurance (LTCI) we concluded that providers face difficult pricing decisions because of the uncertainty associated with longevity estimates and that premiums have therefore erred on the side of caution, making them appear expensive to many potential customers who tend to underestimate the risk of needing to fund care. In any event, a significant number of individuals, including most low earners, are simply unable to afford the available premiums using their liquid assets.

Again we pointed to potential action that private providers could take to make their products more accessible, including the bundling of LTCI and equity release. We noted, however, that any significant reduction in costs would be likely to require state support. At the extreme, we again identified the possibility of the state supplying an appropriate product directly.

In relation to the final market, we highlighted the inadequacy of savings many people have in retirement and pointed to existing efforts to counter this, such as auto-enrolment. We argued that more could be done in terms of tax incentives and soft compulsion.

3 Housing and long-term care

Housing equity

The work we commissioned from Peter Williams looks at how households build (accumulate) and then draw down (decumulate) housing wealth over the life cycle. Accumulation patterns have altered in recent years with reduced flows of households into homeownership, particularly among lower socio-economic groups, and increases in the average age of unassisted first time buyers. These changes are likely to be accentuated by the effects of the credit crunch on mortgage availability, and could mean that younger cohorts (especially those on lower incomes) will be unable to achieve the same levels of gains in housing equity that those reaching retirement today have enjoyed. The paper concludes that, although homeownership among retired households is not universal, it is likely to be at a peak in the next 20-30 years, meaning that there is a significant window of opportunity during which the large sums of capital stored in housing[18] could be used to fund older-age needs.

The report explores the various mechanisms available to homeowners for accessing the capital in their homes:

- trading-down (buying a cheaper property) or trading-out (selling property and moving to non-owned property);
- housing equity withdrawal (via remortgaging or taking an additional mortgage);
- equity release (in the form of a lifetime mortgage or a home reversion);
- last-time sales (consequent on the death of the owner-occupier); or
- 'charging' the home (allowing costs and expenses to be accumulated against the value of the property).

The paper notes that around 3 per cent of housing wealth is drawn down each year, with the most popular methods being trading out/last-time sales, housing equity withdrawal and trading down. As we discussed in our December 2008 report, equity release forms a small part of the total.

Overall levels of housing decumulation among retired households appear relatively low. This is likely to reflect, in part, a lack of demand among homeowners who want to pass their properties onto their families. However, attitudes to inheritance appear to be changing and the report identifies a number of supply-side problems with each of the suggested mechanisms (such as a lack of appropriate accommodation for older households wanting to trade down) which could prove to be as important as demand-side issues in constraining the use of stored housing wealth today and in the next few decades.

In considering the role the state should play in correcting both demand- and supply-side failures and facilitating fuller use of home equity, the paper argues that, although it could be viewed as favouring the 'haves' (homeowners) over the 'have-nots' (non-homeowners), there are several good arguments for more active assistance.

First, as discussed above, many older low earners are homeowners. The Government is likely to face pressure to help this group with meeting the costs of ageing, particularly as the

[18] Equity among those aged 60 and over was estimated to be around £1 trillion in 2006, rising to £1.5 trillion by 2026.

population lives longer and as inadequate pension provision appears to be growing. Therefore, any costs associated with encouraging and allowing the income-poor, asset-rich to access wealth stored in their homes are likely to be offset by savings elsewhere.

Secondly, a number of government policies have pointed to the potential use of property assets as a means of filling funding gaps, without any consideration of how these initiatives might interact. The development of an explicit stance on housing decumulation would join up these approaches and reduce the potential for unintended consequences. It would also represent a natural balance to successive governments' emphasis on increasing homeownership for households during the accumulation stage of their life cycles.

Thirdly, the Government could achieve much with relatively minor changes. For example, the development of specific product subsidies or the alteration of tax and benefits rules to produce incentives and remove disincentives would be fairly straightforward. Indeed, the recent increase in the Pension Credit capital threshold from £6,000 to £10,000 means that fewer households should be deterred from drawing down a small amount of housing wealth by its impact on their entitlement to this benefit.

Joseph Rowntree Foundation pilots

Others have looked at the role housing wealth can play in helping low-income home owners release equity cost-effectively. The Joseph Rowntree Foundation (JRF) has worked with commercial providers, councils, government officials and others to facilitate the establishment of pilots in three local authorities designed to improve the appropriateness of equity release products for asset-rich, income-poor older homeowners. The pilots, which have all launched recently, attempt to deal in particular with three specific problems faced by lower income homeowners with existing equity release products: the excessive size of the minimum initial draw down, the relatively high up-front costs and the impact of the released capital on individuals' benefit entitlements.

In relation to the first of these problems, a commercial provider – Just Retirement – has agreed to offer products for the purposes of the pilots with a minimum initial draw down of £5,000. In relation to costs, the focus has been on reducing the charges associated with the financial advice that is mandatory for anyone considering an equity release product. The local authorities involved in the discussions feel unable to reduce the relevant costs by providing them directly. Instead, Just Retirement has offered to discount the services of its regulated advice firm – Just Retirement Solutions – by modestly increasing the interest rate charged on the pilot equity release product. In relation to the final problem, benefit entitlement, the increase in the Pension Credit capital threshold mentioned above will have a potentially positive impact on the success of the pilots. In addition, the JRF has liaised with the DWP to ensure that all potential interactions between the equity release product and entitlements have been identified and taken into account appropriately.[19]

While these developments are clearly encouraging, sustainability of the product beyond the limits of the pilots is likely to depend on the development of a significant volume of business: JRF will publish an assessment in autumn 2011. We have sought to complement this work by exploring the role the public sector can play in facilitating the use of housing wealth to fund care needs.

[19] JRF, "Can equity release help older home-owners improve their quality of life?" *Solutions*, January 2010

4 Local authorities and housing equity

Current practice

Currently, local authorities can and do help their residents access the capital in their property for a variety of purposes and in a variety of ways, including signposting to commercial providers, direct secured loan provision and charging the home. A number of examples are discussed below.

Home improvement schemes

Local authorities work with a range of organisations that provide home improvement services to residents. Although these schemes do not include mechanisms for accessing housing wealth directly, they signpost clients to funding options that include equity release. Two examples are presented in Box 3.

Equity loans

A number of local authorities provide access to equity loans for low income homeowners of all ages to carry out repairs or improvements to their properties. The loans are made available typically to residents who have been unable to source commercial funds. An example is given in Box 3.

Service charge loans

Local authorities can also offer service charge loans to some residents. Leaseholders of flats bought under the right-to-buy scheme may have the right to a loan to help pay for the repairs element of their service charge. The right is available to both the original purchaser of the flat under right-to-buy and subsequent leaseholders, but only if the landlord remains the housing authority which granted the lease or another housing authority.

Generally the loan takes the form of a right to leave the service charge outstanding for a certain period while paying interest on it. In England, local authorities and registered social landlords can purchase a share in the leaseholder's flat under the *Housing (Purchase of Equitable Interests) (England) Regulations 2009* or provide a loan with no, or limited, interest under the *Housing (Service Charge Loans) (Amendment) (England) Regulations 2009*.

Loans are repaid over a maximum of three, five or ten years, depending on the amounts involved. In addition to 'reasonable' interest, the landlord can charge a £100 administration fee.

Deferred payment

Under Section 55 of the *Health and Social Care Act 2001*, councils have powers to take a legal charge on a care home resident's main or only home instead of seeking contributions from the individual. The accrued debt can then be recouped when the house is sold. Unlike commercial equity release schemes, no interest is charged on the debt until 56 days after the person's death, at which point a "reasonable" rate of interest can be introduced.

These 'deferred payments' are available to people in residential or nursing homes who have capital (apart from the value of their home) under the local authority limit, cannot meet the full fees of the home from their income and do not wish to sell their home or are unable to sell their home quickly enough to pay for their fees. While in residential care, the individual can let the home, let a person live there who does not make the home a disregarded asset or leave it empty.

Box 3: Selection of home improvement schemes available through local authorities

Houseproud

Houseproud is a home improvement scheme for older and disabled people that is run by a non-profit organisation, the Home Improvement Trust (HIT), in partnership with local authorities. The service is delivered locally with case workers and advisers, usually from the council's Home Improvement Agency, providing a single point of contact for clients.

Assistance includes: practical help and advice on repairs, improvements and adaptations; help with planning the work; sourcing of reliable trades-people; checking of completed work; and advising on and providing finance, including equity release. Where relevant, loans are sourced from private firms at 'competitive prices', with HIT acting as impartial intermediary.

Anchor Staying Put

Anchor Staying Put, run by the not-for-profit Anchor Trust, operates along similar lines. It offers a signposting service for older and disabled people across England via a network of regional agencies. Each agency helps residents identify repair and home adaptation needs, advises on the availability of local contractors and on funding options, including grants, loans, equity release and charitable funding. The agency inspects all completed work.

Anchor Staying Put receives part of its funding in the form of a central grant from Communities and Local Government. The remaining funds are supplied through partnerships with local authorities (via housing, environmental health and social services departments), charitable trusts, voluntary organisations, the police and business partners.

Liverpool City Council equity loan

Liverpool City Council's Property Appreciation Loan works like a home reversion equity release product. The resident can borrow up to £30,000, with the value of the loan expressed as a percentage of the value of the property. The amount repayable is the same percentage of the new market value of the property following the improvement work. Rapidly rising house prices could result in residents being required to repay an amount that is greater than the total cost of a commercial loan. In order to avoid this outcome, a cap is placed on the repayment value. No repayment is required (although it can be made) until the property changes ownership.

Residents must make a weekly contribution made up of their after-tax income minus their Personal Expenses Allowance (PEA). People not claiming income support who set up deferred payments are classed as 'retrospective self-funders' and are therefore entitled to keep their Attendance Allowance. The individual can ask the council to pay fees in excess of its baseline level in order to achieve a higher level of care, but the local authority will only agree if it is certain of obtaining the difference in top-ups during the lifetime of the person from either the care user or from a third party.

Local authorities were provided with ring-fenced grants for the first three years of the scheme. After that point, it was expected that a revenue stream associated with the first wave of applicants would provide funding for continuation of the scheme. There is little official data available, but take-up appears to be relatively low, with considerable variation across local authorities.[20]

A recent local authority circular, issued by the Department of Health, reminded councils that they are: "expected to have a deferred payments scheme in place" and could be challenged if they "do not consider exercising their discretion to offer deferred payments in individual cases".[21]

A similar reminder was issued in 2002. In addition, this amendment to the original guidance announced that the Department of Health, in association with the National Association of Financial Assessment Officers, had drafted a model legal agreement that councils could consider using or adapting when agreeing deferred payments with individuals, in order to reduce the administrative burden for individual authorities.[22]

Charging orders

Section 22 of the *Health and Social Services and Social Security Adjudications Act (HASSASSA) 1983* provides councils with an alternative means of recovering costs from residents who own property and fail to qualify for free care. The power allows local authorities to place a legal charge against residents' property where a debt is outstanding.

Guidance issued to local authorities specifies the requirement to offer deferred payment in the first instance. Authorities are advised not to use Section 22 of HASSASSA in instances where the resident is willing to pay the charge of their residential care. Instead, it should be reserved for cases where residents are unwilling to pay their assessed contribution, either now or in the future, and a debt arises.[23]

In certain situations, individuals can be switched, subject to the individuals' agreement, from Section 22 of HASSASSA to a deferred payment scheme.

Experiences of current practice

Participants in our June expert group were asked to share their experiences, both positive and negative, of the opportunities already available to local authorities for facilitating residents' use of capital in their homes to fund their care needs.

Members of each council reported differing approaches to existing powers across the country. While all of the authorities represented at the expert group offer deferred payment as a matter of course, a number of participants expressed concern about the variable use of the power by councils.

- It was pointed out that some councils fail to offer it at all, despite instructions to the contrary in the Charges for Residential Accommodation Guide (CRAG).[24] Such

[20] See for example, Ivan Lewis MP, HC Deb 5 Jun 2008 c964: http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080605/debtext/80605-0011.htm#08060598000826.
[21] LAC (DH) (2009) 3: http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/LocalAuthorityCirculars/DH_097576
[22] LAC (2002) 15: http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/LocalAuthorityCirculars/AllLocalAuthority/DH_4004731
[23] *Ibid.*
[24] DH, *Charging for Residential Accommodation Guide (CRAG)*, April 2009: http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_097578

avoidance was thought to be particularly likely to occur if the council anticipates the resident moving out of its area (and therefore outside its responsibility) in the absence of a deferred payment option.

- Other councils offering deferred payment were said to make it appear like a last resort, asking individuals to first prove that they have considered every other option – including taking out commercial loans and asking their care home to enter into a financing arrangement.

- One participant told us of a council that only offered deferred payment if individuals could prove that they had sufficient equity to fund four years' of residential care – even though this is longer than the average duration in a care home.

- We also heard that some councils do not offer deferred payment as a means of allowing residents to use the capital in their home to fund top-ups in their care, arguing that the initial outlay is prohibitive.

- There were reports of inconsistency across the country in terms of frontline staff knowledge about deferred payment.

In terms of explaining why some councils are reluctant to offer deferred payment, we were told that the perceptions of the costs of managing the scheme acted as a discouragement.

- Limitations of social care budgets were said to represent a significant barrier for some councils. The grants provided alongside deferred payment following its introduction had helped make the scheme attractive initially to councils, but the absence of similar grants today causes some authorities to consider the expenditure to be prohibitive. We heard that often the different attitudes of councils to the availability of funds for deferred payment reflect the treatment of the associated income on their balance sheet: authorities that do not account for the future income until it is obtained are less willing to countenance spending on the scheme than those that do.

By contrast, members of our group suggested that the administrative costs associated with deferred payment need not prove prohibitive, if accounted for in the right way. One participant explained that the extra work attached to the introduction of the scheme had been simply "absorbed" by existing staff in their authority.

Despite being generally positive about deferred payment, members of our group did note some concerns.

- Several argued that the 56-day interest-free period following an individual's death is too short. They pointed out that it gives little time for families to sell a property, particularly as they will be under significant additional emotional and practical (organising a funeral for example) pressure. This was felt to be an increasingly important issue because tightening eligibility requirements mean that residents are entering care later in life and are therefore spending less time on a deferred payment scheme. The barriers to selling the home that exist on entry to residential care are therefore less likely to have been removed within 56 days of their death.

- A number highlighted the difficulty of dealing with situations in which individuals are not the sole owners of a property. Deferred payment can only be offered on 100 per cent of the value of the property, even where a care user is a tenant-in-common for example. It was felt that guidance on when a legal charge can be placed against/on a property needs to be a lot clearer. Indeed, several members of the group argued that councils would prefer disregard rules in the financial assessment to be mandatory, rather than subject to discretion. The existing arrangement produces inconsistency within and across local authorities.

- There was agreement that one of the key drawbacks of deferred payment is that it is only available to people who have been assessed by their council as being eligible for residential care under the fair access to care services (FACS) guidelines. It therefore is of no use to those with lower level or domiciliary care needs.

More generally, there was comment that the legal charge power provided under HASSASSA is in fact preferable to deferred payment from the council's perspective, because it provides a simple and low cost mechanism for obtaining payment. While one local authority participant stated that the council is limited in its ability to use the power because it can only be employed as a means of *forcing* people to use their property to pay for their care needs, another member of the group argued that councils can seek consent from residents to use it as a way of allowing debt to accrue for a number of services, including domiciliary care, under the 'Well-Being Power' defined in Section 2 of the *Local Government Act 2000* (see Box 4). In using the HASSASSA power in this way, the authority does not have regard for the value of the property, meaning that it offers even those with relatively low value properties a means of accessing capital.

Box 4: Section 2 of the Local Government Act 2000

(1) Every local authority are to have power to do anything which they consider is likely to achieve any one or more of the following objects—
- (a) the promotion or improvement of the economic well-being of their area,
- (b) the promotion or improvement of the social well-being of their area, and
- (c) the promotion or improvement of the environmental well-being of their area.

(2) The power under subsection (1) may be exercised in relation to or for the benefit of—
- (a) the whole or any part of a local authority's area, or
- (b) all or any persons resident or present in a local authority's area.

(3) In determining whether or how to exercise the power under subsection (1), a local authority must have regard to their strategy under section 4.

(4) The power under subsection (1) includes power for a local authority to—
- (a) incur expenditure,
- (b) give financial assistance to any person,
- (c) enter into arrangements or agreements with any person,
- (d) co-operate with, or facilitate or co-ordinate the activities of, any person,
- (e) exercise on behalf of any person any functions of that person, and
- (f) provide staff, goods, services or accommodation to any person.

(5) The power under subsection (1) includes power for a local authority to do anything in relation to, or for the benefit of, any person or area situated outside their area if they consider that it is likely to achieve any one or more of the objects in that subsection.

(6) Nothing in subsection (4) or (5) affects the generality of the power under subsection (1).

5 Developing the local authority role

Participants in the expert group were asked whether the local authority role in relation to facilitating capital release among its residents should and could be developed.

Signposting options

The discussion about the various ways in which residents could use their homes to help fund care and wellbeing services highlighted the need for social workers, as the first point of contact for individuals, to be aware of the range of options. While some of the councils explained that they produce leaflets on deferred payment and train their officers on the detail of the scheme, there was an acknowledgement that there is no service offering a comprehensive guide to residents about their funding options. It was felt that this was a particular problem given that individuals with care needs are often overloaded with information from a variety of sources at a time of significant vulnerability.

In terms of highlighting the existence of privately provided equity release products for people with care needs, participants from the councils all noted that they were unable to directly advise residents. The incentive for local authorities to advise residents to choose a route that maximises the income they can expect to receive was thought to be a powerful argument in favour of retaining this barrier.

Consideration was given to developing a (potentially national) financial advice service that provided specialist support for people who wanted to fund care, with a stipulation that costs were subsidised for certain individuals in a way that is analogous to legal aid. There was an expression of interest in the Money Guidance pathfinder projects currently taking place in the North West and North East of England as a potential vehicle. However, Money Guidance can only take people so far because it is limited to generic advice, while equity release requires regulated financial advice.

State-sponsored equity release

As discussed above, one of the aims of the JRF work has been to provide access to equity release products that are relevant for income-poor, asset-rich individuals. However, only one provider from the 23 contacted was prepared to invest in developing an appropriate product. Clearly the future of the product will be dependent on the success of the 18 month pilots. JRF's experience reflects the difficulties faced in designing a product that both works for low income homeowners and works commercially.

In our December 2008 paper we raised the possibility of councils providing equity release directly to residents. Our model was designed to allow individuals to access relatively small amounts of equity to help with domiciliary care needs in order to encourage and enable people to remain in their own home for as long as possible.

Members of the expert group felt that it was not appropriate or feasible for local authorities to provide an equity release product or products directly. It was argued that such an initiative would be outside of the expertise of council staff, would carry a significant reputational risk and would stretch limited resources. There was some discussion of whether councils and private providers could work together to establish a social enterprise that offered equity release on a non-commercial basis, but there appeared to be little genuine appetite in the group.

Making better use of existing powers

Participants identified a number of ways in which councils could make better use of the powers already at their disposal.

- Members argued that councils not already offering deferred payment as a matter of course should do so. There was a suggestion that such an approach could be made mandatory, as it is in Wales. It was pointed out that councils that view the scheme negatively could meet such obligations by explaining deferred payment in a way that deters people from applying for it. However, this was not considered to be reason enough not to pursue it. At the very least, the group thought that there should be a requirement to display information on deferred payment in relevant council buildings such as one-stop shops, and to train social workers on how the scheme works.

- Picking up on the point mentioned above about the simplicity of HASSASSA and the option to use this power in a consensual way, it was suggested that councils could move beyond deferred payment and instead provide secured loans for residents to spend as they choose on care and wellbeing. Loans could be recouped through simple charges placed on the home and would represent an appropriate use of a council's general wellbeing powers.

- Alongside any such developments, participants argued that local authorities should be given a clearer steer from central government about which powers to use and when, in order to reduce confusion among officers and provide a more consistent approach across the country. New guidance could be issued alongside any shift towards mandatory deferred payment offers, and this could be publicised via voluntary agencies such as Citizens Advice and Age Concern/Help the Aged.

- It was suggested that social services departments should aim to take a council-wide view of budgets in order to access additional funds for deferred payment or charging orders. One participant pointed out that many local authorities have significant sums of money that had previously been invested in Icelandic banks which are now earning very little interest: transferring such funds to facilitate the use of housing capital for spending on care and wellbeing would therefore involve little opportunity cost and could save money in other areas.

With each of the suggestions listed here, there was discussion of the need for additional front-loaded funding from the government. It was argued that potential council recalcitrance could be reduced if any move towards making deferred payment provision mandatory or increasing the obligations faced by local authorities could come attached with some additional government funding. The group also identified the need to limit eligibility for assistance by some means in order to control the size of the initial outlay. Age, needs and income restrictions were considered.

Engaging with pre-FACS eligibility residents

While the flexible use of HASSASSA described above offers the possibility of facilitating capital release among individuals with care needs not recognised by their council, several group members said that authorities would have difficulty identifying and therefore helping pre-FACS eligibility individuals, particularly as a large group of people prefer to avoid contact with social services.

It was felt that the best way of including pre-FACS eligibility individuals as 'clients' would be to take a council-wide view of residents rather than asking social services departments to simply spread their net wider. The council could then have a role in supplying such individuals with, or signposting them to, relevant high-quality advice covering all aspects of wellbeing. One council member detailed the work of joint visiting teams in their area. The teams have expertise in benefits, allowances and financial assessment, and are able to pass their clients onto third sector organisations and services such as Age Concern England.

The authorities were unaware, however, of any existing service providing the required balance between advising on general financial issues and on the navigation of policies, charges, laws and regulations associated with adult social care. Members also pointed out that close association with an advice service would carry reputational risk for the council. It was also felt that such an ambition would increase the expectation of, and pressure on, frontline staff to widen their knowledge and skills.

The Foundation has been working separately with ADASS on development of market shaping in care. At the expert seminar we ran in April, it was noted that local authorities currently only really know about the needs and characteristics of those users they come into contact with and only know about the costs and demands for services they currently provide. Gathering intelligence about self-funders, non-users of traditional support services and services provided in the third and voluntary sectors was recognised as being a sizeable task, but one that it is vital to the development of more holistic support.

Linking adult social care with other services

If the local authority role is to be developed to include services for pre-FACS eligibility residents, participants highlighted the importance of joining up social services with wider council responsibilities by establishing more effective multi-disciplinary teams.

The ability of non-social services teams to identify residents who might benefit from releasing capital in their homes to fund care and home-adaptation services that could delay the need for official intervention was discussed. One participant said that their council's social services received referrals from environmental health officers, district nurses, finance officers and others who were able to identify early warning signs. Another group member argued that promoting the use of individuals' own assets to fund preventative services was 'essential' to avoid the bankrupting of social services departments as the population ages. It was pointed out, however, that many individuals would be resistant to such a message.

There was also consideration of the potential links between councils supporting residents to decumulate and wider housing policy. For example, one participant explained that clients in receipt of deferred payment are automatically sent letters asking if they want to rent out their property. Housing officers then visit the property to explore whether it can be used to meet wider needs, such as re-housing residents currently living in overcrowded conditions. In these instances, the local authority acts as an agent for the resident, managing the relationship with the new tenants.

It was noted, however, that many residents prefer to leave their property empty. In addition, such policies can create difficulties where residents decide to return to their property after a spell in residential care. However, such difficulties were not thought to be prohibitive. Instead, they highlight the need for developing a menu of choices from which individuals can select.

Our seminar with ADASS on market shaping also looked at options for joining budgets across areas of council responsibility. For example, the coordinated use of education, business development and regeneration budgets alongside social care was seen as offering a better approach to creating inclusive communities. It was suggested that a *resources forum* could be developed to bring together relevant budget holders at the local level.

6 Conclusions and recommendations

Developing local authority powers

The deferred payment scheme, introduced in 2001, has the potential to provide older low earners who hold the majority of their savings in the form of property a more flexible means of using their wealth to pay for their residential care needs than simply selling their home. However, provision varies across the country and there is evidence that some local authorities fail to offer the scheme at all, restricting access for many older low earners. This, along with the limitations identified by participants of our expert group in relation to the inflexibility of the powers, suggests that some reform is required.

As a minimum, **existing deferred payment powers should be more actively and consistently promoted across the country**. In order to ensure that individuals are aware of the option of deferring payment, **we recommend that the Government run a general awareness campaign, that literature be displayed in all relevant council buildings and that guidance issued to authorities is publicised by voluntary agencies** (such as Citizens Advice and Age Concern/Help the Aged) **working with potential clients**. In addition, **we recommend that consideration is given to making the provision of a deferred payment offer mandatory in England** as it is in Wales.

Even if take-up is extended, the opportunities provided by existing deferred payment powers are limited. The mechanism is restricted to individuals entering residential care and therefore does not cover those not assessed by their local authority as having qualifying care needs, those who require help in their own residence, or those who wish to adapt their home. This probably reflects the fact that the powers were not intended originally to be used as a means of charging the home indefinitely, but were instead designed to provide breathing space for those willing but unable to sell their property in a hurry. Therefore, while councils could be encouraged to offer deferred payment in more instances, it is likely that the mechanism is not the optimal means of achieving the more general purpose of releasing wealth stored in housing to help individuals fund all of their care needs.

The social care Green Paper proposes a universal deferred payment mechanism for people needing residential care, allowing residential and accommodation costs to be charged upon the individual's estate when they die.[25] While this is potentially a step in the right direction, we believe that more can be done sooner. The use of HASSASSA powers, points to a possible way forward.

As described in Peter Williams' paper, this mechanism represents the closest means of all decumulation methods to using the house as a bank. Members of the expert group appreciated the flexibility, simplicity and low cost of using these powers. The successful combination of HASSASSA with the well-being power provided under Section 2 of the Local Government Act 2000 by one of the councils represented at the group suggests that such an approach could be adopted more widely.

CLG's 2008 review of the use of the well-being power concluded that take-up and awareness among authorities had been limited because of the complexity of the legal power – which provides considerable discretion along with a list of exceptions – and that future

[25] HMG, *Shaping the Future of Care Together*, Cm 7673, 14 July 2009, p20

attempts to promote use should be tailored to meet specific needs.[26] Suggesting that councils make use of the power to assist those with care and wellbeing needs would appear to meet this objective.

Currently, the biggest apparent barrier to councils using HASSASSA powers in this way is the fact they are considered to be a means of *forcing* rather than *facilitating* payment. This can be overcome by presenting the power in the first instance as an *option* for residents rather than an *obligation*.

Given that this approach makes use of existing powers, it appears to offer a simple and low-cost way of allowing income-poor, asset-rich individuals to access their illiquid wealth to fund their own care and wellbeing needs, irrespective of whether these needs are officially- or self-assessed. We therefore feel that **the option for councils to use the charging order power provided under Section 22 of the Health and Social Services and Social Security Adjudications Act (HASSASSA) 1983 in combination with the well-being power provided under Section 2 of the Local Government Act 2000 should be made explicit and promoted by the Government, the LGA and ADASS. Existing best practice should be spread within and across local authorities**.

In the short term this would allow residents to use the capital in their home to fund a range of older age needs. However, given that there might still be a requirement to exercise the powers for the originally intended purpose in some instances, they may retain a negative image which would be unhelpful. In the medium- to long-term it may therefore be beneficial to introduce a new power for councils which provides the flexibility of HASSASSA, but is distanced from perceptions of obligation.

Any new power could be designed to complement rather than compete with private sector equity release offerings. For example, councils could specify a maximum amount that households can draw down, and certain limitations on access could be attached (age, income and purpose of loan perhaps) to prevent abuse. Higher income/younger residents, those wanting to draw down larger amounts and those wanting to fund something other than care and wellbeing needs could follow a formal equity release route instead.

Given that the advance is repaid in full, the costs involved for local authorities are relatively small, amounting simply to lost investment income. To the extent that residents using their own funds to secure care and wellbeing support can prevent or delay the need for more intense (and more expensive) intervention, councils could even experience some savings over the medium-term. However, consideration could be given to attaching either a small administration or interest charge to advances, in order to reduce council costs still further. Table 1 presents schedules of indicative costs in a number of potential scenarios.

[26] CLG, *Evaluation of the take-up and use of the Well-Being Power: Research Summary*, November 2008, pp3-4

Table 1: Example schedule of payments using charging order approach

£	In year: Amount 'charged' against property	In year: Admin fee paid	Cumulative: Amount 'charged' against property	Cumulative: Admin fee paid	Repayment at year end	NPV of state subsidy
Scenario 1: Funds accessed once, 3% discount rate, no admin fee						
Year 1	7,000	0	7,000	0	7,000	204
Year 2	0	0	7,000	0	7,000	402
Year 3	0	0	7,000	0	7,000	594
Year 4	0	0	7,000	0	7,000	781
Year 5	0	0	7,000	0	7,000	962
Scenario 2: Funds accessed every year, 3% discount rate, no admin fee						
Year 1	7,000	0	7,000	0	7,000	204
Year 2	7,140	0	14,140	0	14,140	604
Year 3	7,354	0	21,494	0	21,494	1,194
Year 4	7,575	0	29,069	0	29,069	1,969
Year 5	7,802	0	36,871	0	36,871	2,923
Scenario 3: Funds accessed once, 3% discount rate, £200 admin fee for each advance						
Year 1	7,000	200	7,000	200	7,200	10
Year 2	0	0	7,000	200	7,200	213
Year 3	0	0	7,000	200	7,200	411
Year 4	0	0	7,000	200	7,200	603
Year 5	0	0	7,000	200	7,200	789
Scenario 4: Funds accessed every year, 3% discount rate, £200 admin fee for each advance						
Year 1	7,000	200	7,000	200	7,200	10
Year 2	7,140	200	14,140	400	14,540	227
Year 3	7,354	200	21,494	600	22,094	645
Year 4	7,575	200	29,069	800	29,869	1,258
Year 5	7,802	200	36,871	1,000	37,871	2,060

Note: Example funds based on average number of home care hours received by clients in 2008-09 charged at £15 per hour. Additional funds accessed in susbequent years include 2 per cent annual uplift. Accumulated admin fees paid at point of sale of property.

Source: NHS IC, *Personal Social Services Expenditure and Unit Costs, England Provisional 2008-09*, 30 Sep 2009

Scenario 1: the resident accesses £7,000 of the capital in their property to pay for home adaptation. They need no further advances and repay the loan after five years. In this instance, the net present value of the subsidy provided by the resident's council, based on the interest foregone on the original advance (discounted at a rate of 3 per cent) would be £962. If the loan were repaid sooner, this subsidy would be smaller.

Scenario 2: the resident again accesses £7,000 in year one, but goes on to draw down advances in each subsequent year to pay for ongoing domiciliary care needs. The cost of meeting these needs is assumed to rise by 2 per cent each year so that, by year five, the resident applies for a loan of £7,802. In total, the resident accesses £36,871 of the capital in their home. In this instance, the implicit council subsidy would be £2,923 at the end of year five.

Scenario 3: as Scenario 1 except that the resident is charged a £200 administration fee for their initial drawdown, which they repay when they sell the home. As such, the value of the council subsidy at the end of year five is reduced from £962 to £789.

Scenario 4: adds an administration charge to Scenario 2. In this instance, the resident is charged £200 for each of the ten advances they receive. Again, the charge is only paid when the house is sold. As a result, the council subsidy at the end of year five is reduced from £2,923 to £2,060.

The details of such a mechanism would need further development but it is clear that **over the longer-term,** a more specific approach can be designed that does not require the use of charging orders, with their negative connotations of reclaiming debts. Instead, **councils can be given the authority to provide interest-free loans secured against their residents' homes to help them fund a range of older-age needs**. This would have continued relevance because any system of care funding will retain some form of means- and needs-testing which will exclude some individuals from accessing support.

By introducing a scheme specifically designed to help older residents draw down the funds tied up in their properties to pay for their care and wellbeing needs, the deferred payment power can be used simply for what it was originally designed – to assist individuals entering residential care who want, but have been unable to, sell their home.

Joining-up approaches

Increasing the opportunities for individuals to use their housing wealth to fund their care and wellbeing needs prior to the stage at which they are assessed as needing to enter residential care has a potentially significant preventative benefit for the individual and for the state. However, it raises the challenge of identifying residents who could take advantage. If the local authority role is to be developed to include services for people who have not been assessed by their council as being eligible for residential care under the fair access to care services (FACS) guidelines, then the remit of social services will need joining-up with wider council responsibilities via the establishment of more effective multi-disciplinary teams.

Non-social services teams such as environmental health officers, district nurses, finance officers and others can all provide a gateway to identifying residents who might benefit from releasing capital in their homes. **Local authorities should seek to establish effective multi-disciplinary teams charged with taking a council-wide view of care and wellbeing provision in order to extend support to adults not assessed as being eligible for care under the fair access to care services guidelines. Once such residents are identified, they should be supplied with, or signposted to, advice on the range of support options available to them.**

As discussed in Peter Williams' paper, the process of housing decumulation needs to be considered in a wider context. In particular, there would appear to be scope for connecting the need among some older residents to release funds with the desire among some younger residents to secure family-sized accommodation. Currently, this transfer is achieved primarily via older homeowners trading down or making last-time sales. However, the lack of supply of appropriate accommodation for older people represents a partial barrier and is something that the government and housing authorities must seek to remedy as part of their overall approach to housing supply.

To this end, **where social service departments assist residents in accessing the capital in their home to pay for care, their councils should consider the opportunities for using the property to support wider housing policy goals**. This can include connecting residents who are entering residential care with potential tenants, or offering older people in large homes the opportunity to convert their property into flats, with the homeowner being re-housed in one of the units, adapted for their needs.

Funding

Given that money loaned via deferred payment and charging orders is repaid within a relatively short timeframe, extension of councils' existing powers should be largely self-funding, particularly if the opportunity it gives to an individual to meet their care and wellbeing needs at an early stage has associated preventative benefits. It is likely, however, that tight annual budgets in social services departments will mean that there is reluctance in some to fund the initial outlay. We suggest a number of potential approaches.

First, while the realities of fiscal consolidation mean that the Government is unlikely to be in a position to provide new money for the extension of the use of charging orders, the fact that it operates a three-year budget process means that it could choose to bring forward some social care expenditure in the expectation of achieving future savings. **The Government could** therefore **provide one-off ring-fenced grants to councils tied to a condition of wider use of charging orders**. This has parallels with DEL-AME plans considered in relation to welfare to work which use anticipated future benefit savings to fund investment in reducing unemployment.

Secondly, the broader social and economic benefits associated with facilitating residents to use the capital in their homes to fund their care and wellbeing needs means that **local authorities should take a wider view of funding in order to assist social services departments with the cash flow implications of charging the home**. Councils could be helped further by ending the requirement on them to produce annually balanced budgets. Just as central government's three-year financial planning provides freedom to bring forward spending as appropriate, so **local authorities' management of financial pressures could be improved by shifting to multi-year budget processes**.[27]

Thirdly, English councils held around £12.6 billion in reserves in 2008,[28] some of which could be used to provide initial funding for home-charging programmes. Following the collapse of the Icelandic banks in which a number of councils had invested their money and the fall in the Bank of England's official base rate, a significant slice of these reserves will be earning very little return. **Councils could** therefore **use part of their reserves to fund loans, in the expectation that these can be replenished from future revenue streams**.

Fourthly, **this idea could be taken further so that money is pooled across organisational boundaries**. For example, authorities could pool some of their reserves in a local government mutual bank that could provide loans to councils wanting to invest in infrastructure projects such as a home-charging programme. Alternatively, regional umbrella groups such as Multi-Area Agreements, City Regions and Total Place can take a view of the wider benefits of facilitating access to housing capital for people with care and wellbeing needs across boundaries and so provide some funding.

Finally, as set out in Peter Williams' paper, **it might be possible for local authorities to sell a portfolio of home-charging loans to the capital markets as a means of releasing funds**. This would involve selling at a discount, but would provide councils with the opportunity to achieve a return prior to the resident selling their home.

[27] See for example, NLGN, *In The Balance: Granting local authorities new financial flexibilities to cope with the downturn*, May 2009
[28] Audit Commission, *Crunch Time? The Impact of the Economic Downturn on Local Government Finances*, 2008

Wider reform

As discussed in the introduction, the purpose of this research is to identify action that can be taken prior to the establishment of a national funding settlement to help, both now and in the future, those older individuals with care and wellbeing needs who do not qualify for assistance with funding.

We have chosen to focus on the role that housing equity can play because, as Peter Williams' paper notes, there is likely to be a 20-30 year window of opportunity during which older people with low incomes will hold relatively large amounts of wealth in this form. Therefore, in addition to providing a potentially useful short-term solution, options based on housing capital are likely to have continued relevance over the longer-term, particularly as all of the proposals put forward for discussion by the major political parties in recent months include some element of contribution to costs from the individual. Given the apparent shortage of appropriate private sector solutions, we have focused in particular in this paper on the role councils can play in facilitating the use of their residents' housing equity.

However, the need for a more fundamental debate about the funding and delivery of care remains. As we argued in our Green Paper response, a new funding settlement is critical in the light of demographic change. Demand for long-term care is set to increase over the next few decades, with an increasing number of people living longer but with more complex conditions such as dementia, and significantly more money will be required simply to stand still.

While implementing the recommendations set out in this paper to provide individuals with opportunities for accessing the capital held in their homes would be likely to go some way to releasing additional resources, it is unlikely to be sufficient. A wider range of mechanisms for increasing collective and direct individual contributions is required. Moreover, in stimulating demand for, and supply of, products that allow individuals to better meet potential future care costs, a mixed market approach of both state-sponsored and privately provided solutions is likely to prove most appropriate given differing levels of individuals' needs, resources, attitudes to risk and inclinations to plan.

In addition to providing inadequate resources, the current funding arrangements are unfair and inefficient. For example:

- They incentivise more costly remedial care, which is less complex to organise and to fund than a package of home-based support;
- They lead to the premature use of residential care;
- They create a two-tier pricing system which penalises self-funders, who lack the purchasing power of local councils' block-purchasing provision;
- The means test penalises those with modest assets and low incomes and creates a 'cliff edge';
- This 'cliff edge' is not uniform – variations in eligibility criteria across (and sometimes within) local authorities make it hard for people to know what they are entitled to, and what they need to plan and save for;

- A lack of joined up working across social care, health and housing creates inefficiencies and duplication; and

- It is likely that the prevalence of informal care masks further inefficiencies and a level of unmet need (the Social Market Foundation estimates that 6,000 higher-need older people and 275,000 lower-need older people are not having their care and support needs fully met[29]).

The process of reforming social care still has a long way to go. This paper aims to provide suggestions for actions that can be taken immediately to narrow the funding gap. However, **we urge the Government to advance the reform process already in place by working closely with stakeholders to design a model of care delivery and funding that is appropriate for future needs**.

[29] James Lloyd presentation, 10 November 2009

Appendix: expert group members

The expert group in June comprised:

- Sarah Pickup (Chair), Hertfordshire County Council and ADASS
- Caroline Bernard, Counsel and Care
- Ian Buchan, Independent Age
- Vicki Combe, Alzheimer's Society
- Zena Cooke, Maidstone Borough Council
- Trevor Harding, Durham County Council
- Matt Hibberd, Local Government Association
- Athina Ioannidis, Resolution Foundation
- Richard Jones, Lancashire County Council and ADASS
- Julie Knight, Leeds City Council
- Beverley Lambert, Hertfordshire County Council
- Anne McDonald, Local Government Association
- Stephen Richards, Local Government Analysis and Research
- Pauline Thompson, Age Concern England and Help the Aged
- Matthew Whittaker, Resolution Foundation
- Helen Winfield, Wolverhampton City Council