



House of Commons
Committee of Public Accounts

Oversight of user choice and provider competition in care markets

**Fifty-seventh Report of Session 2010–
12**

*Report, together with formal minutes, oral and
written evidence*

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Committee of Public Accounts

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Dr Stella Creasy (*Labour/Cooperative, Walthamstow*)
Justine Greening (*Conservative, Putney*)
Eric Joyce (*Labour, Falkirk*)
Rt Hon Mrs Anne McGuire (*Labour, Stirling*)

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Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at www.parliament.uk/pac. A list of Reports of the Committee in the present Parliament is at the back of this volume. Additional written evidence may be published on the internet only.

Committee staff

The current staff of the Committee is Philip Aylett (Clerk), Lori Verwaerde (Senior Committee Assistant), Ian Blair and Michelle Garratty (Committee Assistants) and Alex Paterson (Media Officer).

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Summary

Successive governments have supported the move towards using personal budgets and markets to promote user choice and provider competition in social care. Currently, 340,000 people, or 30 % of eligible care users, have a personal budget, which enables the individual to choose their care provider. The Government wants all eligible users to be offered a personal budget by April 2013. Personal budgets currently cost the taxpayer £1.5 billion each year. Individuals who fund and therefore choose their own care spend about £6.3 billion annually. The total annual expenditure on care is around £23 billion.

The Department of Health (the Department) is responsible for setting the overall policy framework for social care in England, with funding mainly coming through DCLG from the local government formula grant, which is not ring fenced. Local authorities have statutory duties to provide or fund social care for those they deem eligible by use of means testing. The Care Quality Commission, which reports directly to the Department, is the independent regulator of health and adult social care in England.

Effective oversight of the care market is essential to protect the interests of both social care users and of taxpayers. Given its policy responsibility, we look to the Department to provide this oversight. There is growing consolidation in the social care market at a regional level. Yet the Department did not have a view on what level of market share represents a risk of provider dominance, nor arrangements to protect users should a large-scale provider fail. The Department told us that it has insufficient powers and information to identify or prevent providers becoming too dominant. This is particularly worrying given the recent experience of Southern Cross and the high levels of debt that some providers are carrying.

There are risks to the future functioning of the social care market from local authority budget reductions. Social care homes face inevitable increases in costs at the same time as local authorities inevitably reduce what they will pay to fund places. At present, 63% of funding of care comes from the public purse. Reducing this funding could create some degree of pressure in the market.

Most users hold personal budgets in high regard, and the early research shows that they like having choice and control. However, users need more support to obtain optimum value from their budgets. Some users are confused about what they can spend their budget on, and there are wide disparities in the level of information and support they receive across different authorities. Only around half of users find it easy to change their support, or get relevant information and advice, and around a third of users find the experience of employing personal assistants to provide their care daunting. Yet we found the procedures for users to complain or get redress when things go wrong to be inadequate. These issues must be addressed if personal budgets are to be successfully sustained.

The Department has to rely on local authorities to implement its policy of universal provision of personal budgets to eligible users by April 2013 but it cannot compel local authorities to act. In consequence there are a small number of local authorities which are dragging their feet in offering personal budgets to users. There should be a clear line of

accountability on policies that are generally agreed. A more radical option might be to enshrine in law people's rights to a budget.

The Department will shortly issue a White Paper on reforming social care delivery. The changes the Department makes must address our concerns about giving users a real choice, overseeing the market to ensure competition and stability, and putting in place arrangements and contingencies to deal with major provider failure. On the basis of a report from the Comptroller and Auditor General¹ we took evidence from the Department on the current arrangements for the oversight of user choice and provider competition in care markets.

1 C&AG's Report, *Oversight of user choice and provider competition in care markets*, Session 2010-12, HC 1458

Conclusions and recommendations

- 1. There are no arrangements yet in place to oversee regional care markets, but the Department said that it was considering a range of options for overseeing the market in care.** Recent trends in care markets indicate a trend towards fewer providers controlling an increasing share of the market. Care markets tend to operate at a local or regional level yet the Department looks at market dominance from a national perspective. For example, Southern Cross had a market share of around 9 % of the national care home market but held up to 30 % of the market in certain local authority areas in the North East of England. The Department has nothing in place to oversee the market at the local level to avoid certain providers becoming too dominant in a region. It must specify what market share at the local level is acceptable, what arrangements will be made to keep market shares of large-scale providers under review, and what additional powers it requires in case it needs to intervene to prevent a provider becoming dominant.
- 2. There is no clarity about what will happen in cases of failure of large-scale providers.** The financial difficulties experienced by the then largest care home company, Southern Cross, in 2011, and the considerable level of debt held by another large-scale provider, Four Seasons Health Care, have demonstrated that the care home market is no longer the “land of milk and honey” it once was. There must be greater clarity over what will happen in cases of large-scale provider failure. The Department admitted to having insufficient powers, and must decide what pre-and-post failure regime powers it needs to put in place to protect care home residents, many of whom are frail and vulnerable, if or when large-scale providers fail.
- 3. The Department does not monitor the financial health of large-scale providers.** The Department acknowledged that it was unaware of the financial difficulties at Southern Cross until the company approached it in March 2011. It is currently considering a range of options for overseeing the social care market and how it will gather better intelligence about providers and the market more widely. The Department has issued a discussion paper² to inform the Social Care White Paper. The Department must decide how it will monitor the financial health of large-scale providers so that it has early warning of difficulties and develop ways in which it might respond should problems arise, so that the interests of both social care users and the taxpayer are protected.
- 4. The Department has no power to compel local authorities to implement personal budgets.** 25 out of 152 local authorities failed to meet the April 2011 milestone for implementing personal budgets. These failures undermine the Department’s ability to deliver its policy objective, yet the Department has no power to intervene to ensure the target for all eligible users to have personal budgets by April 2013 is achieved. The Department should specify the actions it will take, including penalties, to ensure local authorities meet this important Government target.

2 Department of Health, *Oversight of the Social Care Market*, Discussion Paper, 10 October 2011 (a copy can be found at www.dh.gov.uk)

5. **The quality of support available to personal budget users is variable.** Only around half of personal budget holders find it easy to get information and advice, and under half found it easy to choose care services or change their support. There are also wide variations in the support offered to users by different local authorities. Without sufficient, good quality information, users will not be able to exercise effective choice. In addition, around a third of users who employ a personal assistant to help with their care needs find the experience of being an employer daunting. The Department should work with the Association of Directors of Adult Social Services to produce an action plan aimed at developing and sharing best practice to improve the individual's experience of using personal budgets, and ensure that all the different user groups receive the necessary support. **Only in this way will personal budgets support individual choice and control over time.**
6. **There is inconsistency and confusion in what users can spend personal budgets on and inadequate redress when things go wrong.** Overall, evaluations suggest that most users to date have had a positive experience of personal budgets. However there has been confusion amongst some users, and inconsistency between local authorities, about what it is or is not permissible to spend their budgets on. Personal budgets should allow flexible and innovative ways of providing support to be balanced with the need for financial probity. Users also find it difficult to complain or get effective redress and have to fall back on the Local Government Ombudsman as a last resort. The Department should provide greater clarity on what personal budget spending is permissible and develop a clear complaints process aimed at resolving problems quickly and securing appropriate redress.

1 The oversight of care markets

1. Around £23 billion is spent annually by Government and private individuals on care services in the UK. Around £1.5 billion is spent by publicly-funded personal budget holders, mostly on domiciliary care. A further £6.3 billion is spent by those funding their own care. Both these groups have choice over the provision of their care. The term ‘social care’ covers a wide range of services from residential care homes and drop-in centres for disabled people, to help with daily routines in the home. The Department of Health is responsible for setting the overall policy framework for social care in England, and local authorities have statutory duties to provide or fund social care for those eligible for means-tested support. The Care Quality Commission is the independent regulator of all health and adult social care in England.³

2. Successive Governments since the 1990s have sought to diversify the provision of care services beyond direct local authority providers. Provider diversity is a necessary precondition for user choice.⁴ The Government has a target that by April 2013 all eligible users of care services will be offered a personal budget in order to choose their care services. A vibrant market of providers that compete for and respond to the needs of users will therefore be of ever increasing importance in delivering value for money from care services.⁵

3. The Office of Fair Trading sets a benchmark of 40 % market share above which it considers there is a possibility of a particular company becoming overly dominant and harming effective competition.⁶ There has been increasing consolidation in the care sector over recent years, in particular in the care home market, where a smaller number of providers now have a greater proportion of the market.⁷ While Southern Cross had a market share of around 9% at a national level, it held up to 30 % of the market in parts of the North East.⁸

4. Despite the increasing risk of a single provider having a disproportionately large share of any individual local authority market, the Department does not have a clear idea of the upper limit above which there would no longer be a healthy, competitive market.⁹

5. As care markets operate at a local and regional level rather than as a national market, concentration matters a lot to individuals and their ability to choose between providers in their area.¹⁰ The Department does not consider that it should monitor local markets and intervene if necessary, this being the responsibility of the local authorities.¹¹ Furthermore,

3 C&AG’s report, paragraphs 1–3

4 C&AG’s report, paragraphs 1.6, 3.1

5 C&AG’s report, paragraphs 4, 7

6 Qq 1, 4

7 Q 38

8 Q 2; C&AG’s report Figure 12

9 Q 1

10 Q 12

11 Qq 9, 13

there are no mechanisms for monitoring or intervening in markets that cross local authority boundaries.¹² There are, however, examples of where authorities have worked together to commission domiciliary care.¹³ The Department recognised that it had limited powers to intervene if there are problems in regional markets, and is exploring ways it can improve matters in the future, in particular whether Monitor may be given a regulatory role in this area.

6. Care homes are very reliant on their funding from local authorities.¹⁴ The overall split of public to private funding across all care services is about 63 % to 37 %.¹⁵ Since the financial crisis the care homes market is no longer what was once described as “a land flowing with milk and honey”. Because of the constraints on local authorities, the fees paid and the numbers of individuals referred have been cut.¹⁶ The drop in occupancy levels is part of a longer term trend, and they are now at their lowest level over the last decade.¹⁷

7. The failure of large care providers risks causing huge uncertainty and disruption to vulnerable individuals resident in those homes. This risk crystallised recently with the failure of Southern Cross. The Department has been working with the company, other providers, and local authorities to manage the impact. The Department issued a discussion paper in October 2011 that seeks stakeholders’ views on different potential options for protecting care home residents from large-scale provider failure, including the roles and responsibilities of the different participants in the market.¹⁸ However, the Department has not yet established a pre and or post failure regime.¹⁹

8. The problems created when a large provider fails were starkly illustrated with Southern Cross. This company failed because it relied on a business model that was based on low interest rates and high levels of debt, with presumed continuing certainty of revenue income. It was subsequently unable to adapt quickly enough when the financial crisis started.²⁰ The Department was concerned that Southern Cross was overvalued in 2007-08 and was also aware of concerns raised by various commentators about its business model. However, the Department was unaware of the true state of the financial difficulties facing Southern Cross until the company approached it in March 2011 to raise concerns about its viability and the continuity of care.²¹

9. There are signs that other providers may also be experiencing financial stress. For example, Four Seasons Health Care, a large-scale provider in the care homes market which has recently taken over 140 of the homes that were previously managed by Southern Cross,

12 C&AG’s report, paragraph 14

13 Q 38

14 Q 34

15 C&AG’s report, paragraph 2

16 Q 34

17 C&AG’s report, paragraph 3.5

18 Q 21; C&AG’s report, paragraph 3.19

19 Q 15

20 Qq 34, 45

21 Qq 47, 48

carries nearly £1 billion of debt that it is now having to re-finance for the second time.²² However, the Department does not scrutinise levels of company debt or business models of large-scale care providers as a matter of course, and has limited powers to assess the financial health of these organisations.²³ The Department is, however, now considering a range of options for overseeing care markets.²⁴

22 Qq 24-31

23 Qq 41, 42

24 Qq 19, 42

2 Users and personal budgets

10. Successive governments have supported the policy of encouraging personal budgets to promote user choice in social care.²⁵ By March 2011, out of a total of one million eligible users, around 340,000 people had a personal budget, spending between them £1.5 billion of public expenditure on care services. The Government has set a target that, by April 2013, all eligible users will be offered a personal budget.²⁶

11. Twenty five local authorities out of 152 projected that they would miss the milestone for 30 % of eligible users having a personal budget by April 2011, and 14 authorities reported that they had not ‘mainstreamed’ personal budgets as part of the way they managed social care.²⁷

12. The Department told us that it has a range of legal options to address the lack of responsiveness on the part of local authorities, including legal directions, strengthening the requirement for councils to offer users information on direct payments, or putting personal budgets on a legal footing. An even more radical option might be to enshrine in law people’s rights to a personal budget.²⁸ However, the Department does not currently know whether the barriers to implementing personal budgets and direct payments are legal or whether they are due to the attitudes and behaviours of people working in the sector. It therefore cannot determine what is the most appropriate course of action.²⁹

13. Independent evaluations and reviews of personal budgets to date suggest that they are delivering improved outcomes for users, and that users like them (Figure 1).³⁰ However, only around a half of personal budget holders find it easy to get information and advice, and under half found it easy to choose care services or change their support.³¹ The level of support provided by local authorities to users in planning their care varies widely, ranging from 38 % to 85 % of users in different authorities enjoying access to support.³² Without sufficient, good quality information, users will not be able to exercise genuine choice. An increasing number of direct payment users employ a personal assistant to help meet their care needs, thereby taking on much greater responsibilities than if they bought services through a domiciliary care provider. Around a third of respondents found the experience of being an employer daunting or difficult to cope with.³³

25 Q 50

26 C&AG’s report, paragraph 4

27 Q 50

28 Qq 52, 53

29 Q 55

30 Q 93

31 Q 62

32 C&AG’s report, paragraph 10

33 C&AG’s report, paragraph 2.15

Figure 1

The percentage of users who felt that personal budgets had had a positive effect on various aspects of their well-being

Being supported with dignity and respect	76%
People staying as independent as they wanted to be	75%
Being in control of their own support	72%
Getting the support they need when they need it	72%
Having control over the important things in life	68%
Relationships with those paid to support them	67%
Mental well-being	63%
Physical health	59%

Source: C&AG's report, Figure 2

14. Just under a half of older adults appear to feel personal budgets have made no difference to their mental well-being, and may not necessarily know whether they are being treated fairly (Figure 2).³⁴ The Department recognises that there is a long way to go to get good levels of user satisfaction and a system that delivers real independence, choice and control.³⁵ The Department considers that success will be achieved when upwards of 90 % of users are satisfied with their ability to exercise choice.³⁶

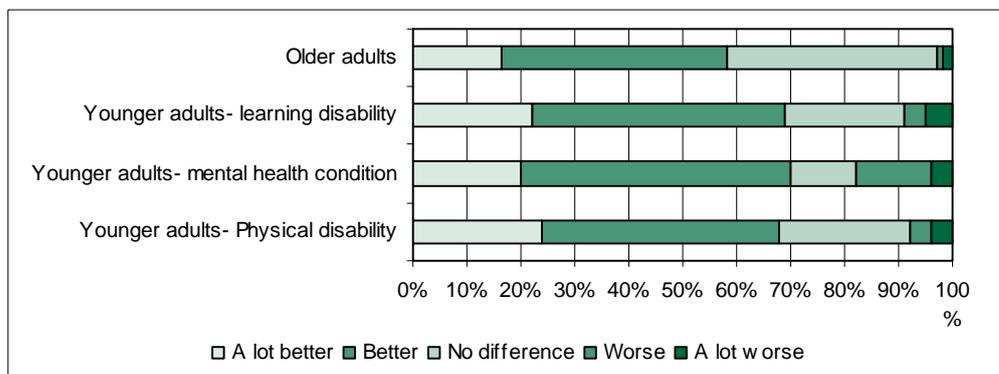
34 Q 73

35 Qq 74-77

36 Q 76

Figure 2

User views on mental well-being from using personal budgets



Source: C&AG's report, Figure 8

15. To make choice a reality for people, users need to switch providers or get redress if they are not satisfied with the services they are receiving. However, changing suppliers is often difficult and switching rates in some care services, particularly care homes, are low.³⁷ The mechanisms for gaining redress are similarly inadequate. A user can complain to the local authority, but the authority may have a conflict of interest if it is providing the services. Beyond that, the user then has to go to the Local Government Ombudsman, which is a bureaucratic and lengthy process. These mechanisms are unlikely to drive the kind of innovative way of using care services that is wanted.³⁸

16. There is confusion amongst care users as to what personal budgets can be used for, and differing advice given by individual local authorities.³⁹ For example, one user was given conflicting advice by their care worker and their local authority, resulting in the personal budget holder buying goods and services which were not actually allowable under the scheme.⁴⁰ The Department recognised that there are grey areas in what people might choose or be allowed to spend their personal budgets on, but considered that the majority of local authorities that use personal budgets have a policy that attempts to strike a balance between encouraging flexibility and creativity whilst ensuring probity.⁴¹

37 C&AG's report, paragraph 3.8

38 Q 69

39 Q 61

40 Qq 60-62

41 Q 59

Formal Minutes

Wednesday 23 November 2011

Rt Hon Margaret Hodge, in the Chair

Mr Richard Bacon
Stephen Barclay
Matthew Hancock
Chris Heaton-Harris
Meg Hiller

Jo Johnson
Fiona Mactaggart
Austin Mitchell
Nick Smith

Draft Report (*Oversight of user choice and provider competition in care markets*) proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 16 read and agreed to.

Conclusions and recommendations 1 to 6 read and agreed to.

Summary read and agreed to.

Resolved, That the Report be the Fifty-seventh Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for placing in the Library and Parliamentary Archives.

[Adjourned till Monday 28 November at 3.00pm]

Witnesses

Monday 10 October 2011

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Una O'Brien, Permanent Secretary, and **David Behan**, Director General, Social Care, Department of Health

Ev 1

List of printed written evidence

1 Department of Health

Ev 13

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2010–12

First Report	Support to incapacity benefits claimants through Pathways to Work	HC 404
Second Report	Delivering Multi-Role Tanker Aircraft Capability	HC 425
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Fifth Report	Increasing Passenger Rail Capacity	HC 471
Sixth Report	Cafcass's response to increased demand for its services	HC 439
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Ninth Report	Financing PFI projects in the credit crisis and the Treasury's response	HC 553
Tenth Report	Managing the defence budget and estate	HC 503
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Fourteenth Report	PFI in Housing and Hospitals	HC 631
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Twenty-First Report	The youth justice system in England and Wales: reducing offending by young people	HC 721
Twenty-second Report	Excess Votes 2009-10	HC 801
Twenty-third Report	The Major Projects Report 2010	HC 687

Twenty-fourth Report	Delivering the Cancer Reform Strategy	HC 667
Twenty-fifth Report	Reducing errors in the benefit system	HC 668
Twenty-sixth Report	Management of NHS hospital productivity	HC 741
Twenty-seventh Report	HM Revenue and Customs: Managing civil tax investigations	HC 765
Twenty-eighth Report	Accountability for Public Money	HC 740
Twenty-ninth Report	The BBC's management of its Digital Media Initiative	HC 808
Thirtieth Report	Management of the Typhoon project	HC 860
Thirty-first Report	HM Treasury: The Asset Protection Scheme	HC 785
Thirty-second Report	Maintaining financial stability of UK banks: update on the support schemes	HC 973
Thirty-third Report	National Health Service Landscape Review	HC 764
Thirty-fourth Report	Immigration: the Points Based System – Work Routes	HC 913
Thirty-fifth Report	The procurement of consumables by National Health Service acute and Foundation Trusts	HC 875
Thirty-seventh Report	Departmental Business Planning	HC 650
Thirty-eighth Report	The impact of the 2007-08 changes to public service pensions	HC 833
Thirty-ninth Report	Department for Transport: The InterCity East Coast Passenger Rail Franchise	HC 1035
Fortieth Report	Information and Communications Technology in government	HC 1050
Forty-first Report	Office of Rail Regulation: Regulating Network Rail's efficiency	HC 1036
Forty-second Report	Getting value for money from the education of 16- to 18-year olds	HC 1116
Forty-third Report	The use of information to manage the defence logistics supply chain	HC 1202
Forty-fourth Report	Lessons from PFI and other projects	HC 1201
Forty-fifth Report	The National Programme for IT in the NHS: an update on the delivery of detailed care records	HC 1070
Forty-sixth report	Transforming NHS ambulance services	HC 1353
Forty-seventh Report	Reducing costs in the Department for Work and pensions	HC 1351
Forty-eighth Report	Spending reduction in the Foreign and Commonwealth Office	HC 1284
Forty-ninth Report	The Efficiency and Reform Group's role in improving public sector value for money	HC 1352
Fiftieth Report	The failure of the FiReControl project	HC 1397

Fifty-first Report	Independent Parliamentary Standards Authority	HC 1426
Fifty-second Report	DfID Financial Management	HC 1398
Fifty-third Report	Managing high value capital equipment	HC 1469
Fifty-fourth Report	Protecting Consumers – The system for enforcing consumer law	HC 1468
Fifty-fifth Report	Formula funding of local public services	HC 1502
Fifty-sixth Report	Providing the UK's Carrier Strike Capability	HC 1427
Fifty-seventh Report	Oversight of user choice and provider competition in care markets	HC 1530

Oral evidence

Taken before the Committee of Public Accounts on Monday 10 October 2011

Members present:

Margaret Hodge (Chair)

Stella Creasy
Mrs Anne McGuire
Austin Mitchell

Nick Smith
James Wharton

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL

Oversight of User Choice and Provider Competition in Social Care

Examination of Witnesses

Witnesses: **David Behan**, Director General, Social Care, Department of Health and **Una O'Brien**, Permanent Secretary, Department of Health, gave evidence.

Q1 Chair: We are thin on the ground and we apologise for that, but there is excellent quality in the Members who are here. I hope that this will be a positive and good exchange of views. I welcome both our witnesses. David, I don't think I have seen you since you were doing the ADASS job many moons ago, so it is nice to see you in a new role. I welcome Una as well.

I shall start the questioning on the market itself. We have seen in the NAO Report the growth of a private market, particularly in the provision of care homes, rather than domiciliary care; and we have seen the growing dominance of larger players in the care home sector. That has to be updated slightly because Southern Cross is in there. With care homes, you have four providers providing 20%, and you have domiciliary providers providing 9%.

May I ask you, Una, the first question? What level of concentration do you think is acceptable if you want to maintain healthy competition or, to put it the other way round, at what level do you move into an unhealthy, monopoly position?

Una O'Brien: That is a good question. The challenge for us is to find the best—the optimum—answer to that question.

Chair: That is why I am asking you to answer it today!

Una O'Brien: Of course. Different economists or market analysts take different views according to different sectors. I know the figure of 40% is talked about in some areas as the tipping point. The social care market is interesting because it has grown up from being a local market, where providers were very much single owners of individual homes. In the last 20 years, the development has been the coming together of owners—three, four or five homes. We have had the experience recently of Southern Cross owning about 9% of the market, so—

Q2 Chair: Hang on a minute. Southern Cross owned over 30% of the market in the north-east. It is a regional market, and that matters a lot if you are

thinking about individuals and their ability to choose—there is not much choice around.

I'm trying to get out of you your feeling about this. The Department is responsible for strategy. You must have a view of the level at which it is an unhealthy monopoly or oligopoly position, rather than a healthy competitive market.

Una O'Brien: I absolutely take your point that in the national summary there are variations in locality, which can really be distorting. What we want to do, following the experience of Southern Cross over the past few months—

Q3 Chair: Can you just answer the question?

Una O'Brien: We do not have a fixed view at the moment. What we want to do is to learn the lessons from Southern Cross so that we are able to make the changes, if necessary, to the regulation of the market, and that is where we are focused at the moment.

Q4 Chair: David, have you got a fixed view? What is acceptable? Was more than 30% in the north-east run by Southern Cross acceptable or not acceptable?

David Behan: The OFT set a figure of 40% over which it thinks there is market dominance.

Q5 Chair: Do you accept that?

David Behan: It is a benchmark—an independent benchmark—Chair. It is a good figure, and we have been working within that. Certainly Southern Cross raises some of the questions for exactly the reason you have raised, but Southern Cross's penetration nationally is 4%.

Q6 Chair: No, no, no. This is a regional market.

David Behan: We really do understand that point, but the national percentage is 4%. The OFT set the figure at 40%; 30% is still less than that, and you might be aware that today we published a document about oversight of the market.

Chair: We do know about that.

David Behan: One of the issues we want to tease out from the lessons learnt from Southern Cross is exactly that. Of course, what the Department does is to set the framework: the commissioning decisions are made by local authorities at a local level. One of the issues that the Report by the NAO flags up is that of market oversight, and of not confusing market analysis with market oversight. There is a symmetry between some of the recommendations that NAO colleagues have made about market oversight, and the work that the Audit Commission did last year, in which it made similar recommendations. We have been working with the Association of Directors of Adult Social Services and the Local Government Association around market development, and will continue to do that.

Q7 Chair: So you accept that a concentration of 40% by one provider would not be acceptable.

David Behan: We think that more than 40% would be an overconcentration.

Q8 Chair: And what would you do?

David Behan: There are a range of options open. It is not just what we would do nationally; some of this is what would happen locally.

Q9 Chair: No, what would you do nationally? You are responsible for the framework and the policy.

David Behan: We are responsible for setting the framework but nationally the proportion of beds—

Q10 Chair: Hang on a minute. You just said: “For the framework, I accept the OFT 40% figure and that seems to me a concentration over which we can’t go. Therefore we will come to it.” But I don’t know what Four Seasons Health Care now manages in the north-east—do you? What proportion of the market does it manage?

David Behan: I cannot give you that answer. I can make it available to members of the Committee if they would find it helpful.

Q11 Chair: Does anyone know? Do any of your officials know? It took over a lot of the Southern Cross ones.

David Behan: Four Seasons is a smaller organisation than Southern Cross, so it would be less than 4% nationally, that’s for sure.

Chair: Not nationally, regionally.

Q12 Mrs McGuire: I appreciate that you might well be using the OFT definition of concentration but, frankly, the care market is not a national market, it is a regional one, and we have to be realistic about this. So let’s abandon the talk about 4% nationally and look at it in regional terms, David, otherwise, we are going to go round in circles, because the impact of Southern Cross was not necessarily on the national market—it was on the regional market.

David Behan: That is absolutely right. I think it operated on both, which is why, when the Chair asked the question, I said that some of this is about not just

what national Government would do but also about what local government would do. Of course, the commissioners in the north-east are those local authorities that operate in the north-east.

Q13 Chair: What would you guys do? It’s down to you guys. You set the strategy. We are going to come across this time and time again, Una, on issues. You set the strategy. You have just told this Committee you think that 40% at a regional level is the maximum. If we can accept what Anne has said, which is our view, that this is a market that operates not nationally but regionally, and 40% is the maximum—I am a bit iffy about that, but if we take it as read—what would you do in the north-east if, let’s say, Four Seasons has 40% of the market after taking over from Southern Cross?

David Behan: The position that we have adopted is that we will work with local authorities to ensure that they are developing their skills and abilities to begin to manage the market.

Q14 Chair: What would you do? You would distance yourself from it completely, would you?

David Behan: That is not what we have been doing, Chair. We have been actively engaged in these arrangements since the beginning of March.

Q15 Chair: But would you say to local authorities in the north-east: “Stop it. There’s too much of a monopoly here”? I just need a straight answer. Or are you saying that you are so removed from this?

David Behan: No, that is not what we are doing. One of the issues we flag up in the document that we published today is what pre-failure regimes might need to exist moving forward, what the intelligence is that we might—

Q16 Chair: But what would you do? I know that you have very cleverly put out a consultation paper today, but what we need to know in this Committee is a few of the things that you would do in these sorts of instances. The first I have talked about is market share, which seems to me to be really important. I think that the thing that went wrong with Southern Cross is that you allowed too big a player in a region to go bust. It got too much and then it went bust, but come back to why it went bust.

David Behan: What we have said is that, in terms of pre-failure regimes, we have worked with key partners who have collected the evidence about the market penetration—the way the market needs to be developed—but the beds that are bought in the north-east are actually bought by those local authorities and PCTs. National Government do not buy any of the beds that are there.

Q17 Chair: So you would not put out any guidance or anything like that from the Department of Health that says, “We think it’s unhealthy if there’s a concentration of more than 40% of one provider”?

David Behan: We have asked a number of questions in the document we published today, not in a clever way—

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Q18 Chair: What would you do? I do not want to go back. What would you do? How would you ensure that the OFT view that 40% is the maximum would then get implemented?

David Behan: There is a range of options open to us, from pre-failure regimes to failure regimes. If we look at failure regimes, we will see that there are options and powers that regulatory bodies can be given—

Q19 Chair: No, we are looking at the issue of 40%. Just take the 40%. You have got to the point where you have over-concentration on one provider. What action would you take? That is all I need to know. It is very simple. Would you put out guidance to local authorities, saying, “You have reached 40%—stop using them or stop allowing them to expand”? This is a real question.

David Behan: We will work with those local authorities in those areas where we have that market intelligence, and that market intelligence is being generated so that different parties that work at a national level—whether it is in national Government or regulators—can work with local parties to make sure that there isn’t that over-reliance on one element of the market.

Q20 Chair: Which national level? Who would tell them, “You can’t—you have to stop”? Who?

David Behan: On the decisions about which services are purchased at a local level, pick any one of the north-east authorities—the number of beds that are purchased in that authority are decisions that are made by each individual local authority.

Q21 Chair: Okay, so the Department of Health is divesting itself of any responsibility if people go over the 40%. You are leaving it to local authorities.

David Behan: I am trying to draw a distinction between what local authorities will need to do at a local level and what national Government might do by developing pre-failure regimes or, indeed, failure regimes, which will need to be run by local authorities themselves or by regulators. Just take the case of Southern Cross. The work that has been done to ensure that there are continuity plans was a piece of work that was shared between national Government and local government as we have gone forward. That work has been quite well produced. We have published a document on the different roles and responsibilities when something has a regional impact but is, effectively, a consequence of individual purchasing decisions by local authorities, and that allocates the clear roles and responsibilities in case of failure. If we had got into a position—

Q22 Chair: You are changing the question that I asked. I am not talking about failure. I will come on to talk about failure. I am talking about a monopoly concentration in the market, which I think will happen because the way this market is going is that you are moving it towards larger providers. What you have just said—perhaps you want to go away and think about it again—is, “Actually, it’s down to the local authorities. We’ll work with them, but if they go to

41%, which is over the OFT figure, we will do nothing.” Let me move on.

David Behan: I didn’t say we would do nothing.

Chair: I don’t think I have had a satisfactory answer.

Una O’Brien: I think it is important to explain the distinction between what we would do at the moment and the powers that are open to us at the moment, where the responsibilities of local government lie, and the relationship between the Department of Health, ADASS and the representative bodies of local government. As David has set it out, those are the tools and mechanisms that are open to us at the moment. We have recognised, through the experience of Southern Cross, that there are issues there for us that raise questions about market dominance. Ministers have gone on the record about this to say that we absolutely want to reflect on what we have learnt about this. We have gone out with what I think is a genuinely open set of questions about how we are going to get the balance right in regulating this market in the future. There are risks and trade-offs from over-reacting. Nevertheless, it is important that the Committee understands that this is a genuine intention to get this right. We want to understand what levers can have the best impact on the market.

Q23 Chair: I am really pleased, Una, that you are doing that. I am just somewhat surprised that that document is produced on the day that we take evidence, and therefore you can fluff on the re-evidence. That is the only thing that I feel slightly cross about.

Una O’Brien: If I might say, there is absolutely no intention on our part of that.

Q24 Chair: Well, I don’t believe that. I will come to you, James, as I know you want to come in, but I just want to pursue these points.

We had the disaster with Southern Cross. We now have Four Seasons Health Care which, according to our report, is the second biggest player in the field. My understanding is that it has a debt at the moment. It has taken over 140 of the homes that were previously managed by Southern Cross, and has a debt of nearly £1 billion. Are you worried about it? It is currently running a debt. Not only has it got a current loss, but it is actually running a debt of nearly £1 billion. It already restructured its debt in 2009. At that point, it was £1.6 billion. What are you doing about that one? That looks really dodgy to me and could go bottom up on us too.

David Behan: I think there were press reports last week. It has begun to have discussions with its lenders in relation to refinancing its debt. At the present time, that arrangement is a very different one to Southern Cross. Yes, we are looking at that and having discussions with Four Seasons in relation to that, but there is a commercial conversation that it will have with its lenders in relation to refinancing its debt.

Q25 Chair: Well, there is a commercial conversation, but there is also a public interest in its homes. It took over 140 homes that were formerly managed by Southern Cross. In those homes, there are a lot of people living there who are living in an organisation,

the financial health of which is hugely questionable. The lenders could foreclose on it any day. What are you doing to protect that, having learned the lessons from Southern Cross? What are you doing about Four Seasons, which seems to be the next in line?

David Behan: We have no alerts, Chair, that there is any threat to continuity of care in relation to Four Seasons.

Q26 Chair: Have you got any alerts that there may be problems with Four Seasons? I mean, there are problems with Four Seasons if it has restructured its debt once, maybe only two years ago, and is having to restructure again now. Does that not give you a sense of alert and concern?

David Behan: It is an issue that we need to attend to. It successfully restructured its debt. When it restructured its debt two years ago, a restructuring date was set for the future—

Chair: That was two years ago.

David Behan: Which will take place next year. This restructuring is not borne out of a crisis; it is absolutely to be anticipated. The last time it restructured the debt—

Q27 Chair: A £1 billion debt is to be anticipated for an organisation like this?

David Behan: It always knew, when it restructured previously, that it would have to come back and restructure the debt that it was carrying. So, in that sense—

Q28 Chair: £1 billion. Did it own these Southern Cross homes? I am very unclear about this. Does it own them, or is it another of these organisations, like Southern Cross, that are just dependent on the revenue that they get from the fees?

David Behan: It owns some of them. It was the landlord for some of the Southern Cross properties—in excess of 40.

Q29 Chair: It was the landlord?

David Behan: It was the landlord.

Q30 Chair: It owns some of the Southern Cross properties?

David Behan: It owned 40 of the Southern Cross properties. Other landlords have sought Four Seasons as their operator for their homes as they go forward to give the continuity of care to the individuals in those homes.

Q31 Chair: If it owns them, why the hell has it got such a huge debt?

David Behan: That goes back to its business model and how that business was taken over back from 2006 through to 2007–08. When the financial crisis began in 2008, it needed to restructure its debt. The structure is very different from that of Southern Cross. It had not got the same degree of opco-propco separation that Southern Cross had, but it did have a debt that needed to be refinanced. It refinanced that in 2008, I think it was.

Chair: 2009.

David Behan: It has to refinance it again next year, and that was to be anticipated.

Chair: No, this year.

David Behan: It begins it this year. I think it needs to be concluded by 2012.

Q32 Chair: Is it still Qatari owned?

David Behan: My understanding is that it is not owned in the same way it was when the original debt was set, when it was largely Qatari owned at that time.

Q33 Chair: Who owns it how?

David Behan: I will have to write to you with that detail.

Q34 Chair: The saga of Southern Cross and the emerging concerns around Four Seasons Health Care suggest to me that the way in which you have structured the market inevitably means that we will have failures. Let me develop that. All these private providers are dependent on their revenue income—that means the fees paid and the people referred to them—and because of the constraints on local authorities, the fees paid and the numbers referred have been cut. A former executive of Southern Cross speaking anonymously to *The Guardian* said, “I know it sounds corny but it really did seem like we were in a land flowing with milk and honey.” That has now passed. You have now created a landscape that is almost impossible for a private provider to survive in. We have seen the failure of Southern Cross. We are seeing the difficulties of Four Seasons Health Care. Those are two of the biggest players in this field. What on earth are you doing to try and ensure that this is a market that can operate?

Una O'Brien: It is important to draw a distinction between, on the one hand, the business model of Southern Cross and the way in which it constructed its model overall and the assumptions that it made and, on the other, the change in both the financial pressure on local authorities and, understandably, the way in which care is delivered. Over 20 years, as members of this Committee will know, we have seen entry and exit from this market and that has proved to be a good thing. What is different this time is not only the concentration that you have described in certain parts of the country, but the way in which the business model of that company was constructed, which was very insensitive to any changes in the flows of money for that rental income. When the financial crisis hit, it was unable to adapt its business model quickly enough. These questions are complex but they are about not just ownership but the business model and the assumptions that are made. Within that wider context, there are aspects of the market that function very well.

Q35 Chair: I don't think that that gets what is happening. I do not think that this is a Southern Cross problem. You will see it in Four Seasons and elsewhere. At the heart of what is wrong with this is that the land flowing with milk and honey has become a land bedevilled with local authority cuts, which means that the fee levels and the numbers are going

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down. We therefore have a market model that cannot be sustained. That is my assertion.

Una O'Brien: I appreciate that that puts even sole owner homes under some degree of pressure.

Chair: Whether you are tiny or big or whatever. I have been hogging this.

Q36 James Wharton: I'm not going to go into the issue of the potential impact of local authority cuts. Let me go back a step to when you were talking about the north-east. I am a north-east MP; I represent a constituency in Teesside. Something you said and the general approach that you seem to take worries me a bit. We started talking about Southern Cross, saying it was 4% of the national market. We got through that and drilled down so we are actually in the north-east and in a much bigger part of the market. These are not services that are being commissioned on a regional level. This is something that the local authorities are doing. Representing a constituency in Teesside, I know that Tyneside might as well be another country, never mind another region, in terms of how we approach service provision and the attitude and outlook that people have there. If councils are commissioning services, but we are assessing market dominance on a regional level, how does that stop a care home provider from having complete market dominance within a cluster of local authorities or even individual local authorities? What are you doing to make sure that that doesn't happen?

David Behan: I'm sorry, Chair, if I am going to be boring and repetitive, but the top four providers in this country—including Four Seasons, Southern Cross and Bupa—still provide less than 25% of all beds.

Q37 James Wharton: I'm not interested in the national figure—

David Behan: I think that Southern Cross in Middlesbrough, which is one of the areas in which I have previously worked, has three homes. That is nowhere near the 30% of penetration.

Chair: No, we know the position in the north-east—go on, James.

Q38 James Wharton: The point isn't to say, "Oh, it doesn't look too bad now so it's okay." We are seeing a consolidation in the market, with a smaller number of providers having a greater proportion. That's a trend over a period of time. Therefore, I would suggest that there is an increasing risk of a single provider having a disproportionately large share of any individual local authority market. What are you doing to make sure that that doesn't happen, because when you talk about monitoring things, even on a regional level, that doesn't give me any confidence that you're looking at individual local authorities to ensure that markets function within them?

David Behan: Local authorities will act together. A number of authorities in London and a number of west London authorities are acting collaboratively in terms of commissioning domiciliary care. There are models in other parts of the country that could lend some experience to the north-east in relation to where

authorities can collaboratively commission and in relation to the way in which they plan their commissioning strategies to avoid the market dominance that could potentially otherwise arise. But this market has operated for 20 years and, after those 20 years, we still have a position in which the top four is still less than 25% of all beds. This is a hugely fragmented market.

Q39 James Wharton: I accept that but, again, it seems that what you are saying is: "It hasn't happened yet and they can work together to avoid it." What are you doing to plan for where this might be commissioned? You must surely accept that the trend is in that direction and the longer we leave it before we act to address it, the greater the danger is that we turn around one day and find out that we've got that problem of genuine market dominance in one area. What guidelines, procedures and ability do you have to allow you to intervene to stop that from happening if you perceive that it is becoming a danger?

Una O'Brien: This is very important. I appreciate the nature of your concern absolutely, which is why we are looking at a whole range of options. In the Bill before Parliament at the moment, clause 60 provides the opportunity for the Government to ask Monitor to take a broader role in the economic regulation of the social care market. We need to explore if that would help, if that would address these issues, and what would be the nature of that. That is something we want to hear people's views on.

There are issues to do with how homes are regulated, the role of the CQC and whether the way in which it registers against one of the 16 standards on finance could be developed in some way. There are two specific practical things there that already demonstrate that there could be a strengthening of the role of the Government. But the point I want to make is that it is important that we think this through, because often these actions have unintended consequences. Trying to deal with dominance can unintentionally have a down-side impact on another part of the market that you want to encourage. That is why it is important to have a debate about this and not to come forward with a single answer at this time. We heard from all the different voices that need to put their case to us.

Q40 James Wharton: Absolutely. I understand what you are saying. Just for clarity, you're talking about a lot of things you're looking at and consulting on that may come in the future that you believe will help to head off these problems.

Una O'Brien: Not in the distant future, but in the near future.

Q41 James Wharton: In the future. So, today, what powers do you have or what are you doing to monitor this problem? Are you saying: "Yes, we know it's a problem. We need to do something about it but we don't have the ability to do anything now?" Or, are you saying: "We have some sort of suitable powers now, but we think that they need to be extended?"

Una O'Brien: Well, we have got the powers that we have got at the moment.

Q42 James Wharton: I didn't ask that. I know you've got the powers that you've got at the moment. What I'm saying is: are they sufficient at the moment, or are you saying that what you're consulting on needs to happen quite quickly because you don't actually have sufficient power?

Una O'Brien: We certainly do have extremely strong relationships with local government and between the Department, ADASS and the bodies that represent local government. Those mechanisms have worked effectively in all the discussions that have been enabled around Southern Cross. First of all, I don't think we have something like a Southern Cross on our hands at this current moment. Do you need to introduce stronger powers straight away? Our view is that we are not looking at some emergency. However, we do recognise that there are significant lessons for where we need to act in the near to medium term to strengthen the regulatory regime, but getting the right balance of actions is what we are very focused on at the moment. So we are absolutely not complacent. We recognise the sort of problems that you and other Committee members are putting before us, and we want to take the right actions, rather than just act because there has been one particular problem.

That is exactly where we are at the moment, but I would not want to give the impression that there is any lack of pace on our part. We are expecting responses back before December. It is very much going to be part of the work building up to the White Paper on social care. If we need to act sooner, through the existing mechanisms we will do that.

Q43 James Wharton: I absolutely acknowledge that you are acting quickly to deal with the lessons you have learned, and to bring in what might potentially be useful new powers. If you can just be clear for me, does that therefore mean—it is a logical step—that there is some concern that the powers you have today are not necessarily sufficient to regulate the market properly? It is a yes or a no really.

David Behan: We need to think broadly. I am sorry, I do not mean to avoid the question, but one of the key issues in Southern Cross, to which the Chair alluded, was the over-optimistic view that the financial services sector had. The banks lent—

Q44 James Wharton: I am particularly interested in the issue of market dominance, which is where I started. In terms of controlling market dominance—I appreciate what you are saying, that you don't feel you are in a position in which that is a major problem at this time—do you have sufficient powers today, accepting that you are looking to make changes in the near future, to deal with any problems that might arise today or tomorrow, if you were to come across them?

David Behan: Directly, as a Department—

Chair: Yes or no, David.

David Behan: We have limited powers.

Chair: You have limited powers—you haven't got sufficient. Thank you.

I know a lot of people want to talk on this issue, so we will go to Nick first.

Q45 Nick Smith: I wanted to take up the point about this being a land of milk and honey, because it seems to me that companies were taking bets on the basis of an ageing population and economies of scale—in the model of provision that they were introducing—but they were also betting on low interest rates on high debt, and on high occupancy rates. It seems that Southern Cross went down because it had an occupancy rate of about 80%, and I understand that at the moment the new provider has occupancy rates of about 90%. So tell me something: what is the Department doing to scrutinise company debt if these companies and this new provider, Four Seasons, have such a massive amount of debt? How will they be scrutinised? Also, how will you make sure that there are high occupancy rates so that these businesses continue? That seems to be the nub of the difficulty.

David Behan: There are about 50,000 vacancies in the occupancy level nationally and, yes, that will be different in different parts of the country because, quite frankly, the number of beds per 1,000 of the population differs from one part of the country to another. They are normally decisions that would be taken by the local authority in the way that they operate. Last year, 175 homes closed—that is in 2009–10—and 4,600 beds went out of the system. Last year, 142 homes opened, introducing another 8,000 beds, so the year ended down on the number of homes but up on the number of beds.

What we have—coming back to the point about consolidation—is a market that has been consolidating over 20 years. Those adapted Victorian properties have closed and newer, purpose-built homes have opened, so this is a market that has changed quite dramatically over that period of time. The decisions about occupancy are made by local authorities and PCTs in the way that they commission services. The document that we are publishing today is around what pre-failure and failure regimes we need to introduce, and that is how we would propose to take forward the issue of the adequacy of the market.

One of the things I think was driven by Southern Cross was an over-optimistic view of how the sector would perform. Arguably, the people who invested took this to be an infrastructure project, like toll roads or roads, rather than a care business. If you look at the history of the care sector over the past 30 years, you see it has gone in cycles. Going back to your questions, Chair, we have a business agreement that assumed that the income payable from rents would be in excess of RPI for 30 years. That model was completely unsustainable, given not only the levels of occupancy, but the economic climate people found themselves in. One of the key lessons from this is to ensure that there are no similar business models, which is why I can say that the Four Seasons business model is different from the Southern Cross one. Yes, there is a huge amount of debt—

Q46 Chair: When did you, as the person in charge of this in the Department, know the Southern Cross one was wrong?

David Behan: When Southern Cross came to us in March this year, people speculated that this was an over-leveraged deal.

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Q47 Chair: But you never knew before that? There were no mechanisms in place that enabled you to understand that before it happened.

David Behan: When Southern Cross came to us in March this year, it said it did not think its model was viable and it was, therefore, worried about continuity of care. That was when the Department began to engage with it and insisted that the key issue was continuity of care. We began to work with the key partners from that point.

Q48 Nick Smith: But hold on, Southern Cross had more than 700 homes with 40,000 staff and 30,000 residents. Are you seriously saying that you did not have a watching brief on that organisation under your purview?

David Behan: We have a responsibility to look at the system as a whole. There was concern around the level of vacancies in the system, and we were aware of that level of vacancies, but as I tried to indicate by quoting the figures I did, every year for the past 20 years, homes have closed and homes have opened. Southern is different—I think the direction of the questions is absolutely right—and we were aware, going back to 2007–08, when this was taken over, that the company was overvalued. The key issue is not that it was overvalued, but whether it had the income coming through that allowed it to pay off its debts and get security.

Q49 Chair: But you were not aware of this until Southern Cross came in March and told you it was in trouble?

Nick Smith: You thought it was overvalued in 2007, but you did nothing until 2010, when it told you it was going down the pan?

David Behan: We responded to the concerns it voiced to us when it came to see us in 2010.

Q50 Mrs McGuire: I want to move away from the markets and perhaps to focus for a time on personal budgets. As David certainly knows—I am not quite sure of Una's experience—a lot of the developments on this go back to "Improving the Life Chances of Disabled People", the report published in 2005, which was about independence, choice and control for individuals. The aim of moving down that road was shared across the political spectrum. Given that the Department of Health has only strategic responsibility, how are you working with local authorities in implementing a policy that has such widespread support politically and among many older and disabled people? I was quite shocked to find in some of the key facts that "Twenty five local authorities... projected that they would miss the milestone for 30 % of eligible users having a personal budget by April 2011" and that another "14 authorities...reported that they had not 'mainstreamed' personal budgets as part of their operational business as usual." Where do we sit with the responsibilities shared between the Department of Health and local authorities? What does that say to users out there who anticipate the implementation of a strategic objective— independence, choice and control—through the use of personal budgets?

Una O'Brien: David will say something in a moment about the mechanisms and relationships, but I think that it is disappointing that, for all the progress that has been made, it has not gone further. When we look at the evidence about the benefits of personal budgets and, in many cases, of direct payments for people, they clearly make a very big difference in their lives. We certainly want to see progress in that area.

Q51 Chair: What will you do, Una? We keep coming back to that. What will you guys do?

Una O'Brien: We are doing many things and David will give you the specifics in a moment.

Q52 Chair: But can you take action?

Una O'Brien: Well, we take the action that we are able to take in the legal context that we find ourselves in, which is very specific about the role and responsibility of local authorities, and about the role and responsibility of ourselves and the Department for Communities and Local Government. Clearly, there are powers that are given to local authorities and we have to work with that legal framework, and that is what we are endeavouring to do. I think that David could describe some of the specific initiatives that we have got.

Q53 Mrs McGuire: But this is a contract between the Government—the Department of Health—and the individual, in terms of the implementation of personal budgets. The local authority, to a certain extent, is the intermediary, but it should not be allowed to get in the way of the implementation of the principle that disabled people and older people out there are entitled to make choices about how they live their lives. That is the whole motivation behind personal budgets.

David Behan: Just to build on what Una said, we have worked with the Association of Directors of Adult Services and others. So the "Think Local, Act Personal" partnership brings together 30 of the sector leaders who are supporting the delivery of the vision for adult social care. It is in that vision for adult social care that the commitment on personal budgets exists. It is the conference season, as you know. The association's conference is next week. It undertook a survey among its members in preparation for its conference, which it shared with us last week. It will publish the survey next week and it expresses confidence that it will hit the 30% target across the board—

Q54 Chair: Nationally, not—

David Behan: Across the board. The association acknowledged in that survey that some authorities have made more progress. For instance, Oldham and Manchester are up at about 58%.

Q55 Mrs McGuire: Oldham was always ahead of the game.

David Behan: And there are others that are behind. But I think where both of you are going, Chair and Anne, is to question what options remain open for Government if that failed. The options include legal

directions. We could strengthen the requirement on councils to offer information in relation to direct payments. There are other options. We could consider putting personal budgets on a legal footing. That is one of the recommendations that the Law Commission made to us when it reported earlier in the summer and we have said that we will consider its recommendations as we prepare for a White Paper. A more radical option might be to enshrine in law people's rights to a budget.

However, I think that the key issue that we need to be aware of, Chair and Anne, is whether the barriers that we have got to the penetration of personal budgets and direct payments are legal or whether they are the attitudes and behaviours of people working in the sector. If the barriers are attitudes and behaviours, the issues around development and training and leadership of professionals will be critical in changing the environment. Changing the legal entitlements of people will make some contribution to that, but of itself it will be insufficient.

Q56 Mrs McGuire: But this is not a policy that has been plucked out of the air in the last six months. This is something that has been part of a long-term development to look at how you give independence, choice and control. On page 19 of the NAO report, when you see the reaction of people, particularly the reaction of younger people with learning disabilities, mental health conditions or physical disabilities, there is massive support for the move towards personal budgets. And what I still cannot get a handle on is how you are intervening with those local authorities that are dragging their feet ever so slightly in some cases and, frankly, they will be dragging their feet because of vested interests at local authority level to maintain a system that they are comfortable with but that, frankly, does not meet the needs of disabled people and older people.

David Behan: Yes, and I would suggest that probably social care is in the vanguard of the personalisation agenda around personal budgets. The way that we are working is that those areas that have made much progress are beginning to work with and support those areas that have made less progress. That is the whole essence of the partnership "Think Local, Act Personal" which is taken forward by the sector, with the sector demonstrating leadership and commitment to deliver. If the Government feel that that does not progress quickly enough, one option open to them is to consider legislation. In deliberations over the past three years, the Law Commission considered this issue carefully and made a recommendation to us that we will consider as part of how we move forward.

Q57 Chair: Is this in the current Bill?

Una O'Brien: It is not in the current Bill, but we are looking at the Law Commission's proposals very much in the context of the White Paper.

Q58 Chair: Why didn't you take the advantage of this Bill to establish a power that you could have then implemented later? You will not get another Bill for another three years I would have thought, if you get this one through.

David Behan: On a straight approach, I do not think that the Law Commission had concluded its deliberations before the Bill entered Parliament. It was the intention of the previous Government to invite the Law Commission to review adult social care law. It took a three-year period to carry out that review in the way it put forward—

Chair: It will take you four years to get it into law.

Q59 Mrs McGuire: And by that time we will be 10 years down the line from the point at which the foundation was laid.

May I ask one final question? Are you aware of any restrictions that local authorities are putting on individuals concerning how they spend their personal budgets? Are local authorities being overly prescriptive concerning how individuals can spend their personal budgets? I will rephrase that another way. Do you have any recommendations about what is, or is not, acceptable for people to spend their personal budgets on?

David Behan: As you will probably appreciate there is a balance to be struck between giving people flexibility—people who want to gain confidence and go back into work might use their personal budget for gym membership. I am aware of people with mental health problems who have spent their budget on that, which is innovative and different in many respects from how social care has traditionally been provided. I met a young man on Friday afternoon—just through normal routine and not because of this Committee—who was using his personal budget to support him into employment as a disability training co-ordinator. We need that flexibility. Clearly, there are issues about how taxpayers' money is being spent and there must be certain proprieties about that. Most local authorities are trying to strike a balance between encouraging flexibility and creativity on the one hand, and being equally clear that the money cannot be spent on things that would be illegal.

Mrs McGuire: I think we will take that as read.

David Behan: Or things that would bring the authorities that are responsible for administering the system into some kind of disrepute. There are all kinds of grey areas about what people might choose to spend their personal budgets on, and people need to be clear about that. The evidence suggests that the majority of authorities that use personal budgets have a policy that attempts to strike a balance between flexibility on the one hand, and probity.

Q60 Chair: May I raise with you the case of Pam and the Ipsos MORI work—I don't know whether you have it in front of you? She cares for her husband who has Alzheimer's and was encouraged by her social worker to apply for a direct payment, which she told she could spend on a variety of things, including furniture. "You know they said, Pam it's for you to enjoy, go on holiday, buy what you need for James and for yourself, which we did. She said to me 'Pam, you'll be able to have things like furniture' because we needed it, the flat was nearly empty." Pam spent a substantial sum on furniture, but was then told that she had to pay the money back.

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David Behan: I am sorry, Chair, I am not familiar with the case.

Q61 Stella Creasy: May I tell you about a case that you should be familiar with, because I wrote to the Minister about it from my constituency? It is that of a woman who had 18-month-old twins. She was told that she could not spend her direct payments on child care for the twins because the money was for her because she was disabled. Clearly, respite care for her was about not having to have 18-month-old twins around all the time. You paint a great picture of where some local authorities are being very innovative and recognising the needs that people have, and attesting to, as Anne says, independence of choice and control, and yet on the ground the reality is very patchy. What are you doing to overcome that, and to help local authorities to help people in the way that direct payments are intended to?

David Behan: We are on a journey. I am sorry if I am not answering the questions; I am not trying to paint an overly rosy picture. There are many areas that still need to be developed. In working on this policy earlier this year, we published three practice guidance documents based on the work that those in the field were undertaking.

Q62 Stella Creasy: So, what are you doing? This report also tells us that only 50% of respondents to the In Control survey felt their local authority had made it easy or very easy to get information, and fewer than 50% found it easy or very easy to complain, choose their services or change their support.

David Behan: That's exactly the point: we are on a journey here and we have been working with local authorities to ensure that they are beginning to develop their administrative and finance systems to support the delivery of personal budgets.

Q63 Stella Creasy: So David, do you think that when the Secretary of State wrote back to me, saying, "Anybody unhappy with their service provided by a local authority has the right to make a complaint using the statutory local authority complaints procedure, and to refer their complaint to the Local Government Ombudsman if they remain unhappy", is enough, given the problems that we have just talked about? If you accept that you are on a journey and some local authorities are better than others, do you really think that if the onus is on the person who gets the direct payment to go through a local authority's complaints process if they are unhappy, that is enough?

David Behan: That is one of the options available to people, and it provides feedback to the local authority that makes the decision.

Q64 Stella Creasy: So how many complaints have you had about direct payments through that process? Do you know?

David Behan: I am sorry, but I couldn't answer that question.

Q65 Stella Creasy: Could we have a note on that?

David Behan: I could provide it, yes.

Chair: In a week.

Q66 Stella Creasy: Do you not think though, from what you are saying, that there is obviously a need to spread good practice? Do you not think that there might need to be other ways?

David Behan: I do. We published three documents earlier this year on good practice—

Q67 Stella Creasy: Really? Your Minister does not seem to be aware of them and does not seem to have told my local authority about them either, because this poor person is still stuck between a rock and hard place, trying to get support for her own needs by supporting her children's needs.

David Behan: I will ensure that we send you directly the three documents that provide the support to practitioners in relation to these issues.

Q68 Stella Creasy: It is interesting that you say that, though, because the Minister was also very clear with me that the Department does not have a role in this process of making that decision. So there does seem to be a disjuncture there, doesn't there?

David Behan: The individual decisions about access and eligibility are made by the local authorities and not by the Minister or officials at a national level. Officials at a national level have a responsibility—

Q69 Stella Creasy: I think you are missing the point slightly, aren't you? If we have not got the process right yet—if it is not according to the policy—and the only mechanism that there is to correct that is a formal process of complaint to the Local Government Ombudsman, that is not likely to drive the kind of innovative way of using those services that you want, is it?

David Behan: I draw a distinction between an individual's right to recompense in relation to their complaint with the authority that made the decision, which is open—I think that's what the Minister was advising you for your constituent—and the role that we have in relation to setting the policy framework. On personal budgets, what we did earlier this year was to publish some practice guidance, based on best practice, to allow that to be shared and disseminated. What many authorities have asked us to do is to disseminate the best practice.

Q70 Stella Creasy: But they can ignore it, can't they?

David Behan: Ultimately, they are under a range of responsibilities, which are set out in the law, to carry out assessments, and the direct payment legislation requires them to draw to the attention of each individual that they assess the fact that they could receive their service as part of the direct payment. So they cannot ignore making the offer to the individual being assessed.

Q71 Stella Creasy: So, there is not very much independence, choice or control to be guaranteed in that system, is there? The onus is on the individual to keep complaining, and on the local authority to keep deciding what it thinks they need.

David Behan: The onus is partly on that, but it is also on the creativity of the professional who is having the conversation with the person being assessed about how best to meet their needs and how best that can be taken forward. The very best practice shows practitioners who are having a conversation with people—

Q72 Stella Creasy: That does rather feel a bit like Henry Ford, doesn't it—any colour car, as long as it's black?

David Behan: If you go back to the figures that Anne has just pointed out, about the huge degrees of satisfaction that have come out, that does not—

Q73 Stella Creasy: But I think that's the point. I have just pointed out that the satisfaction levels are very low. Fewer than 50% of people have found it a responsive service and, in fact, what Anne was talking about were the figures about users' views. In particular, if you look at older adults, they feel they have had no impact at all on the quality of service, much more so than some of the younger users of direct payments. That is rather worrying isn't it—that there might be particular service groups finding it particularly difficult to get the best of the system?

David Behan: Absolutely, which is why I described this as being a journey; and I do not think we should snatch defeat from the jaws of the victory—the fact that many people with learning disabilities, many people with physical disabilities and many people with mental health problems describe much higher levels of satisfaction with the services they get, as a consequence of personal budgets.

Q74 Stella Creasy: So is it a victory if fewer than 50% of people who use a service find it very easy to choose their services?

David Behan: No, it is not a victory, and there is more still to be done; and that is why we describe this as a journey. We have set out an agenda with local authorities, which is one of continual improvement and development.

Q75 Stella Creasy: What would be a success marker? What sort of level?

David Behan: Governments have set the ambition that 100% of people should be offered a personal budget by 2013.

Q76 Stella Creasy: Not just in terms of people being offered a budget, but in terms of satisfaction with the system—being able to really ensure that independence, choice and control are being delivered: what would be the success marker that you would set, if fewer than 50% of people are happy right now?

David Behan: I think most places would be describing success as based on something in the low to mid-90s.

Q77 Stella Creasy: So you have got a long way to go. You would accept that?

David Behan: I think the sector as a whole has a long way to go. I do accept that, yes.

Q78 Austin Mitchell: I think I should be doing my question with the royal corps of heralds. It is not only the last, but the one that is nearest to me in the care we are talking about today.

You are not setting out on a journey. You are venturing into a mess, aren't you, because the controls you have got from the centre, the audit you have got from the centre, are all inadequate. You have got money given to local authorities, which is not ring-fenced, and local authorities are in desperate need at the moment and are likely to be jumping from one account to another. The National Audit Office is responsible only for seeing that a robust local accountability system is in place; but it is not responsible for the performance of individual local bodies or service providers.

The Care Quality Commission is not taking much interest either, because it has given up inspecting old people's homes, and they are waiting for inspections and grading. You have not got the control. Local authorities can juggle about with the money, and your suggestion—the most pathetic thing you have said today—is that for a means of control we should have a royal commission, to take minutes, and waste years, on the issue. That is absolutely barmy.

Here we have a system that will be subject to wide local variations—a self-reporting system for how well local authorities are doing, dealing with old people who do not know whether they are being dealt with fairly or not—and you have got no control: no means of maintaining standards, no means of seeing that money is spent properly, and no means of seeing that quality is maintained.

David Behan: I am sorry; I do not recall saying that what we need is a royal commission, so perhaps I can correct that. In relation to personal budgets, we have a policy ambition that 100% of people should be offered a personal budget by 2013. That is the objective that has been set. The Association of Directors of Adult Social Services and the Local Government Association have signed up in support of delivering that policy ambition—because they believe it promotes better outcomes for people. That is what the emergent evidence says.

Our approach has been to work with the 30 organisations to support the delivery of personalisation. The regulators have an important role to play in ensuring the quality of care, and will continue to assure the quality of care, but the key issue here is that local authorities, through their professional arm, ADASS, and their political arm, the LGA, are committed to promoting personalisation and will work with it.

In answer to Anne's question earlier, I said that if we feel that progress is not made sufficiently, one of the options open to us is to consider whether legislation is required, and the Law Commission, in its report earlier in the year, provided us with a recommendation that we have said we will consider.

Austin Mitchell: But you have no powers—

Q79 Chair: I do not understand why you did not put a clause in the Bill. The Law Commission came out with a bit of concern. Why on earth didn't you take a clause in the current Bill? I don't understand it.

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David Behan: Because I do not think the Law Commission work concluded until after the Bill began its passage through Parliament.

Q80 Chair: Well, you have managed to revise the whole bloody Bill. You could put in an extra little clause that might make a huge amount of difference to individuals.

David Behan: The intention had always been to consider reviewing policy in relation to the social care system. The Law Commission was invited by the previous Government to carry out the review with a view to rationalising social care law and bringing us down from 100 pieces of legislation to one simple piece of legislation that would assist people using the system and those staff who work within the system.

Chair: You'll be lucky to get that in three years' time.

Q81 Nick Smith: Did the Law Commission put forward its views before or after the pause?

David Behan: The Law Commission reported in July of this year.

Q82 Austin Mitchell: What is to stop a local authority in desperate financial need charging too much?

David Behan: We set the framework within which the charging policies are introduced by local authorities—

Q83 Austin Mitchell: I am an old age pensioner, I don't know what the framework is and I feel I'm being ripped off.

David Behan: In a democratic system, what is open to you is to go back to your local authority, but we set the policy framework within which local authorities should operate. In our guidance, we issued calculations that provide a range to ensure the income that people who are particularly benefit-dependent should be left with after charges have taken place. My recollection is that income support level plus 25% of income must be left with the individuals after a charging regime has taken place. The Government's policy set the threshold below which people should not fall, to absolutely prevent the case that you have just identified.

Q84 Austin Mitchell: We all express good intentions. I am sure that local authorities have them. My good intention for everybody is that they should all have happy outcomes, but to put it another way, you give us a situation in which home providers—you can view Southern Cross as the Greece of the system and the Four Seasons as the Portugal of the system—rushed into a land of milk and honey which investors thought would be very profitable. It was people farming. It does not get any new subsidy, but it is going to be profitable. They are now in a situation where it has not proved so profitable. That situation is going to be made worse, because the imperative on local authorities now is to take people out of care homes or not to send them there, because they are more expensive, and to maintain them at home with domestic services.

That is going to affect care homes very adversely. It might particularly affect the smaller ones—I think that

will be the case in north-east Lincolnshire; I was talking about it with a care trust only last Friday—but it might affect the big ones too. Care homes are going to become less profitable as a result of this, and therefore less financially viable.

David Behan: All the care homes are going to have different financial arrangements. Clearly, what we had in Southern Cross was a business model which was unsustainable. They were not able to deal with falling occupancy.

Q85 Austin Mitchell: But it looked profitable at the time. That is why they did it.

David Behan: It looked profitable based on a set of assumptions which, looking back in retrospect, people would no longer make.

Q86 Austin Mitchell: That there would be more and more old people to people farm.

David Behan: I know you're not going to want me to say this, Chair, but it is for local authorities to assess how many beds they need in their community, based on assessing the needs of their population, and then begin to set the number of beds.

Q87 Chair: I have to interrupt you there. It isn't just what they need—this brings us to the kernel; I know some Members are in a bit of a rush—it's also what they can afford. The Dilnot report suggested that we needed something between £1.7 billion and £3 billion extra in the system to make it work. One reason why there is a drop in demand for care homes is that people can't afford them. It is a pricey end of the market. You are leaving people in their homes not because you are giving them a personal budget and they are doing it by choice but because local authorities can no longer afford the average of just under £30,000. That creates your Southern Cross problem, and I bet you it will create a problem in organisations like Four Seasons.

You've just got to grapple with that one. You can't say, "Shove it off to local authorities." That comes back to you in the Department. What are you doing about the funding gap? It's a real, big funding gap.

Austin Mitchell: You put my question so much better than me, Chair.

Chair: Sorry, I shouldn't have interrupted you.

Una O'Brien: The Dilnot report has been published. There is now a process to work through. That process has three elements to it. It has the—

Q88 Chair: Una, don't answer me process-wise.

Una O'Brien: I would like to give you the substantive answer right now—I really would. I wish I had it, but a process has to be gone through of engagement, of cross-party talks, for example—that's another part of it—and bringing that together to a resolution—

Q89 Chair: Are you confident that you will identify sufficient moneys in the system to ensure two things? One is that for those people who do need to go into residential care, local authorities will commission those places. The other is that those who are to have domiciliary care will get enough money to have a good quality of life. Are you confident about that?

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Una O'Brien: Well, are we confident about any money in the economic situation? What I want to say is that in relation to this year and to each of the subsequent three years of the spending review, additional money has been put into the social care system from the Department of Health—

Q90 Chair: How much?

Una O'Brien: First of all, we have transferred—I can't give you the exact figures right now, but it's broadly £1 billion a year directly into the revenue settlement. That's gone from the—

Q91 Chair: This is the health money?

Una O'Brien: Yes. Secondly, in addition to that, which is very significant, is money that builds up to £1 billion per year in years 3 and 4, which is for a combination of reablement—that's NHS spending—and NHS direct transfers to local authorities. This is the first time that we have ever done this, so you're seeing a direct transfer of NHS money, recognising the deep interconnectedness between the NHS and social care—the ability, for example, to support people as they come out of hospital after an operation being enhanced. We already know that, midway through the year, half of that money has been allocated and is being spent right now, so if you're asking me whether we're making additional resources available to mitigate the local authority pressures on social care in this spending review, the answer is yes. There's a separate question: what is the funding model that follows this system—the propositions that have been put to the country from the Dilnot report? There are a number of options in there. There are significant amounts of money proposed. There are questions, about where that money would come from, that need to be considered in a rounded way. That's why we're having the consultation and why there are discussions with the Opposition, so although I would love to be able right now to give you the answer you've asked for, it's only right that, in this period, so soon after the report, we do allow for that debate, because what Dilnot proposes is a radically different approach from the one that we have at the moment.

Q92 Chair: Does David Behan accept that the reduction in demand for care home places is partly due to the lack of local authority funding—partly?

David Behan: That will no doubt play a part, but there's a—

Chair: Thank you. That's all I wanted to know. I know there's a change as well, and people want to—

David Behan: If I may say so, Chair, there's a very important challenge, which Anne mentioned, about the trajectory of personalisation and introducing choice and control, but also it has been the policy of

successive Governments to strengthen the ability to support people in their own homes.

Chair: Only if you have enough money. It's hopeless putting people in their own homes and then not giving them the services they need.

Q93 Mrs McGuire: In fairness, there is a genuine movement out there—notwithstanding the debate we can have about funding—in that people do want to exercise the choice of staying in their own home with a spectrum of support, rather than having as their only option residential care. Perhaps today we have got the two issues slightly confused. I do think there are different arguments, but as you know, Chair, I come at this from a slightly different position than some others.

My final question—I do not know about anyone else's—is: notwithstanding the economic background, do you think that personal budgets give good value for the taxpayer's pound, and are you comfortable with the way in which you can monitor, within the terms of our earlier discussion, how that pound is spent? Is it good value for money, in other words?

David Behan: The independent reviews by researchers on the individual budget pilot—the Ibsen reports and the work undertaken by the Audit Commission—said that, for no cost over and above traditional services, direct payments, personal budgets deliver much improved outcomes for people, particularly people with learning disabilities, physical disabilities and mental health problems. That contributes to a definition of delivering value, so we think that these introduce improved outcomes for people, and I think that NAO colleagues' report begins to draw that angle.

Una O'Brien: I definitely agree with that.

Mrs McGuire: For me, Margaret, that's the positive element of this report. It's where the principle has met the value-for-money issue as well. This Committee needs to consider that carefully, that the principle is the right principle, but that it also delivers value for money for the taxpayer's pound. Next time we see a *Daily Mail* headline criticising people for the way in which they choose to spend their personal budget, we should remember the comments that have been made in this Committee today.

Q94 Chair: Any more questions?

Una O'Brien: If I may, I just want to say that the Law Commission reported in May, during the pause, on the point that you asked earlier. We've always said that we would deal with the Law Commission, personal budgets and Dilnot together precisely to get over the issue of piecemeal legislation. It is important to put the record straight.

Chair: You won't get a Bill for yonks.

Written evidence from the Permanent Secretary, Department of Health

PUBLIC ACCOUNTS COMMITTEE—OVERSIGHT OF USER CHOICE AND PROVIDER
COMPETITION IN CARE MARKETS

At the Public Accounts Committee on Monday 10 October, I promised to write to the Committee in response to a number of questions raised. The Department of Health response is set out at Annex A.

18 October 2011

Annex A

DEPARTMENT OF HEALTH RESPONSE TO QUESTIONS RAISED AT THE PUBLIC ACCOUNTS
COMMITTEE HEARING ON MONDAY 10 OCTOBER 2011

What proportion of the market does Four Seasons Healthcare currently own? (Question 10)

Four Seasons had 16,700 beds for older and physically disabled people and a market share of 4.6% of the for profit sector in July 2010. This does not include the care home freeholds owned by Four Seasons and leased to other operators, nor does it include the recent transfers from Southern Cross homes.¹

In September 2011, Four Seasons announced that it would take over the operation of 140 Southern Cross Care Homes. The total transfers include Four Seasons taking back 45 homes it owns that had been leased to Southern Cross under an historic arrangement.

Currently, Four Seasons operate in 7% of the homes in the North East Region, accounting for 12% of the places available.²

Who owns Four Seasons Healthcare now? (Question 33)

Four Seasons is owned by its former lenders, of which the Royal Bank of Scotland (RBS) is the biggest shareholder with 38%.

Background on Four Seasons from *Care of the Elderly People: UK Market Survey 2010–11*, Laing and Buisson, 2010

Four Seasons, in July 2010, operated 320 care homes for older and physically disabled people with 16,700 beds, giving it a 4.6% share of the for-profit sector. In addition, Four Seasons is an operator of 23 care homes with 759 beds for people with learning disabilities, mental health problems, alcohol addiction and brain injury, plus seven mental health hospitals with 218 beds. It is also a substantial landlord of care homes leased to other operators.

The company operates under two brands, *Four Seasons Health Care* for the bulk of the portfolio including elderly care homes, and the *Huntercombe* brand, which operates specialised care facilities and the mental health hospitals.

Four Seasons reported revenues of £460.7 million for the year ending December 2009. EBITDAR stood at 24.5% of revenue, placing Four Seasons in the second rank of performance below Barchester (29.6%).

Statutory accounts for the year ending December 2009 reported average occupancy of 87.6% (2008: 86.4%) across the Four Seasons portfolio as a whole.

History

- Four Seasons was established in the early 1980s and achieved growth both through acquisition and construction of care facilities. In terms of earlier history, Four Seasons merged with the previously quoted CrestaCare plc in July 1999 with financial backing from Alchemy Investment Plan, within the stable of venture capital company Alchemy Partners.
- In September 2002, Four Seasons Health Care Ltd purchased Omega Worldwide Inc (owner of Idun Healthcare Ltd) and Principal Healthcare Finance Ltd, the Jersey based care home landlord. The deal value was reported at \$500 million (£325 million).
- In July 2004, Four Seasons was acquired by Allianz Capital for a reported £775 million.
- In May 2005, Four Seasons acquired the BetterCare Group from management and 3i for £116 million.
- In September 2006, Four Seasons was sold to Delta Commercial Property LP, an investment vehicle for Three Delta LLP acting on behalf of the Qatar Investment Authority (QIA), for £1.4 billion, a multiple of about 14 times EBITDA.

¹ Data from *Care of the Elderly People: UK Market Survey 2010–11*, Laing & Buisson, Laing & Buisson 2010.

² Information from the Care Quality Commission.

- The new owners found they were unable to refinance the asset following termination of the short term loans with which it had been acquired in 2006. Lenders lost substantial sums. A restructuring was agreed in September 2009 which saw a £1.55 billion debt pile reduced to £780 million via a debt-for-equity swap with RBS.
- In September 2010 a £600 million loan owed to special purpose vehicle Titan was due to mature in the wake of the 2009 restructuring. At this point, a deal was struck to extend the maturity of the loan to September 2012.

Complaints about direct payments (Question 64)

57 items of correspondence received by the central correspondence team in the Department of Health since 1 October 2010 were complaints about direct payments. This represents 6.6% of letters that included a complaint about social care received by DH central correspondence in the last year.

Ways to spread good practice (Question 66)

We have produced a number of best practice documents in relation to personalisation. Four of these are available on the Department of health website.

For details, see the attached links to these documents below.

Productivity and personalisation:

http://www.thinklocalactpersonal.org.uk/_library/Practical_Approaches_doc.pdf

Practical approaches to safeguarding and personalisation:

http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_121671.pdf

Personal Budgets—checking the results:

http://www.puttingpeoplefirst.org.uk/_library/PPF/NCAS/personal_budgets_checking_the_results_final_29_October_2010.pdf

Enabling risk, ensuring safety—self-directed support and personal budgets:

<http://www.scie.org.uk/publications/reports/report36/index.asp>

What are you doing about the funding gap? (Question 87)

The Dilnot Commission estimated that the cost of implementing its recommended changes to the funding system would cost around £1.7 billion in 2010–11 rising to £3.6 billion in 2025–26 (based on a cap of £35,000 and in 2010–11 prices).

The Dilnot Commission also said that in addition to implementing its recommended reforms the Government should devote greater resources to the current adult social care means-tested system. It did not put a figure on the amount needed, but said that any periodic review of local government financing should have regard to the importance of the sustainability of funding for adult social care.

Are you confident that you will identify sufficient money in the system to ensure that (Question 89):

- *Local authorities will commission residential care places for those people who need them; and*
- *People who need domiciliary care will get enough money to have a good quality of life.*

The Local Government settlement was challenging. Local authorities received a 26% decrease in revenue grant support from central government over the spending review period—excluding schools, fire and the police.

However, Local Authorities also gain revenue from council tax. Once Office of Budget Responsibility projections on income from council tax are taken into account, this represents a 14% real terms reduction in spending power.

To help to mitigate the impact of these reductions, the Government allocated an additional £2 billion by 2014–15 to support the delivery of social care.

Of this additional funding:

- £1 billion by 2014–15 will be allocated within the NHS to be spent on measures that support social care, which also benefits health.
- Additional grant funding, totalling £1 billion by 2014–15, will be made available for social care. This funding will be allocated in addition to the Department's existing social care grants, which will rise in line with inflation. In order to support local flexibility and to reduce administrative burdens, this funding will go to authorities through the general formula grant.

This additional funding was based on our assessment of the pressures faced by social care services, the efficiencies that authorities could achieve, and the implications of formula grant reductions.

We are not setting a burdensome central target for efficiency in social care. However, both the LGA and ADASS suggested the 3% per annum efficiency savings are achievable in social care. This would deliver around £1.9 billion of savings by 2014–15. The Department broadly agrees with this analysis.

It is up to Local Authorities to chose how best to use their available funding. However, we believe that the extra investment, combined with a rigorous focus on efficiency, means that there is funding available to protect people's access to care in the Spending Review.

This view was broadly corroborated by a report from the *King's Fund—Social care funding and the NHS*—which showed that, in its worst case scenario, efficiency savings of 3.5% per annum would be needed to close the so-called “funding gap”.

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