

Reform of adult social care law

**Response from Parkinson's UK to
consultation by Law Commission on adult
social care**

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Parkinson's UK is pleased to have the opportunity to respond to this consultation. Approximately 120,000 people currently have Parkinson's in the UK and one in eight people are affected by the condition, through family and close friends. These people need, and are entitled to, access to high quality health and social care wherever they live. This is a key aim of Parkinson's UK Fair Care Campaign.

Provisional Proposal 2-1 We provisionally propose that there should be a single adult social care statute for England and Wales, unless policy in Wales diverges enough to require separate statutes for England and Wales.

Parkinson's UK strongly supports the proposal for a single adult social care statute and agrees with the analysis in the consultation of the problems caused by the sheer volume of law. This results in confusion, duplication and inconsistency.

This inconsistency undoubtedly contributes to the variations in service that people with Parkinson's experience: particularly around information, awareness and signposting to services. This was a key finding of the All Party Parliamentary Group on Parkinson's Disease inquiry, *Please mind the gap: Parkinson's disease services today* (2009). Ensuring that there is one legal framework with clear duties and powers will help people make sense of the system and raise awareness.

The reasons why the Commission believes that one unified statute is the best way forward for both England and Wales is not very clear, however provided developments towards fuller legislative powers in Wales are monitored, and having noted the Welsh Assembly Government involvement in the project, we believe there should not be delay in proposing these much needed reforms.

Question 2-1: Is our proposed three level structure for the regulation of adult social care law (consisting of primary legislation, statutory instruments and guidance) appropriate?

Question 2-2: Should there be a duty on the Secretary of State and Welsh Ministers to prepare a code of practice to bring together statutory guidance?

We agree that it is the proposed adult social care statute which should set out the basic responsibilities, entitlements and duties and powers that exist in adult social care.

Although the new system will allow for flexibility in the production of guidance, we have reservations that the amount of guidance could proliferate in number. This may work against the aims of consolidating and simplifying current systems. Therefore we prefer the proposal for a statutory duty to prepare a code of practice, which will ensure there is one set of guidance to mirror the statute. In doing so, there may be practical issues in terms of updating what will be a long and comprehensive document but this is not insurmountable. As noted in the consultation, this is a structure already in use under the Mental Capacity Act 2005.

Question 2-3: Is our process-driven approach to adult social care (a prescribed assessment and eligibility process, with support from prohibitions, a broad list of services, care plans

and statutory principles) sufficient to determine the scope of adult social care, or is further definition required?

Overall, the “process driven” approach focusses more on the rights to be assessed and have eligibility deemed.

By giving prominence to rights of those being admitted “into” the system there is less clarity on the rights of those who are “outside” of the system and who are told their eligible needs are of not enough significance to warrant local authority intervention. These people may still have rights to have access to information and advice, for example. As well as focussing on process we would therefore welcome more emphasis and priority on universal social care “rights” through the statute.

Question 3-1; Should there be a principle which provides that decision makers must maximise the choice and control of service users?

Question 3-2: Should there be a principles based on person centred planning, or should this be incorporated into other provisions of the legislation?

Question 3-3: Should there be a principle which provides that a person's needs should be viewed broadly?

Question 3-4 Should there be a principle based on the need to remove or reduce future need?

Question 3-5: Should there be a principle based based on the concept of independent living?

Question 3-6: Should there be a principle based on an assumption of home based living?

Question 3-7 Should there be a principle based on dignity in care?

Question 3-8: Should there be a principle based on the need to safeguard adults at risk of abuse and neglect?

Question 3-9: Should any one principle in adult social care be given primacy over all other principles?

In general we fully support the broad list of principles which have been set out in the consultation, and without one taking primacy over the other. If there were principles given primacy then, on balance, we would prefer the principle of maximising the choice and control of service users and dignity in care, as these concepts are those which work most towards the empowerment and protection of people in the system.

We also agree that there should be a principle based on the concept of independent living as it is noted in the consultation that adult social care statute law currently contains no specific reference to the concept.

The only particular principle we query is the principle of home based living. It would seem that the overarching principle whereby people's own individual choices and preferences are maximised should render the home-based living principle as unnecessary. The consultation already notes that the principle would have to be worded carefully so it does not “trump” the preferences of a person, who may prefer residential care.

In addition to the principles suggested, we suggest that the Commission considers a principle based on the concept of universal access to information, advice and advocacy. As noted in our previous response, we are concerned that the process driven statute

focuses on those “admitted” to the system, when there is a considerable number of people who are lost to the system and receive no help at all (for example, *The State of Social Care 2006-7* (Commission for Social Care Inspection CSCI, 2008) found that an estimated 281,000 people in England in need of social care assistance are in this position).

A number of reports, including our own survey of member’s experiences published in 2008 *Life with Parkinson’s today: room for improvement*, is that if people do approach social services for assistance, their needs are insufficiently explored or they are often directed away from authority services, a process which CSCI called in its 2008 report “rationing by diversion”. Even if they are ineligible for an assessment of need, there is little signposting to relevant services or sources of help. The result is little monitoring of unmet need or demand for “lower level” services. Therefore an important principle should be the right to access information and advice in spite of your assessed or eligible need.

Lastly, while we understand the rationale for ensuring principles do not repeat other principles already enshrined or being addressed in statute such as the new Equality Act 2010 (which includes a ban on age discrimination in health and social care from 2012), there is the important principle of equality of treatment, which might be usefully replicated in the Adult Social Care statute.

Provisional proposal 4-1: We provisionally propose that there should be a duty to undertake a community care assessment in our future adult social care statute, triggered where a person appears to have social care needs that can be met by the provision of community care services (including a direct payment in lieu of services) and where a local authority has a legal power to provide or arrange for the provision of community care services (or a direct payment) to the person.

Question 4-1: Should our proposed adult social care statute include a right to have an assessment on request?

We believe there should be a right to request an assessment, which would complement the duty to undertake an assessment if the authority recognise there is a need. This will ensure that where an authority was not performing its duties there is additional recourse for the public. There is enough evidence, including from the CSCI report cited in the consultation (*Cutting the Cake Fairly, 2008*) to demonstrate that this would be a positive change.

However, we agree there would be a need to have a procedure to avoid vexatious or frivolous requests for repeated assessments but believe these instances would be rare.

Provisional proposal 4-2. We provisionally propose that the focus of the community care assessment duty should be an assessment of the person’s needs and the outcomes they wish to achieve, and should not focus on the person’s suitability for a service.

We fully support the focus on assessing needs and following on, the achievable outcomes for that person, rather than on suitability for a service.

Question 4-2: Should our proposed adult social care statute recognise co- produced self assessments as a lawful form of assessment?

We fully support initiatives that encourage greater co-production between the individual in receipt of services and those delivering services. We believe there should be an emphasis on inclusion of carers and other family members in the process, if the individual wishes it, as part of the “co-produced” assessment.

Question 4-3: Should our proposed adult social care statute allow for a pure self-assessment for certain people or groups of people?

We are uncomfortable with the suggestion that “pure” self assessments should be for certain people or groups of people as this raises issues of equity. If there is a principle to allow self assessment then this should really be for all individuals and the process should empower them by having advocacy to help everyone self-assess, particularly those groups who are less empowered or find there is little advocacy provision locally.

We do have concerns that if people are asked to self-assess they may well under report their needs unless they have good advocacy or are in a position to be well informed on their rights and the services available. The authority also has an important role to play in safeguarding and making a judgement on the individual’s ability to self-assess their presenting needs or understand risks. There may also be the danger that pure self assessments lead to unrealistic expectations or people over-reporting their needs which in an under-resourced system will lead to disappointment.

So on balance we believe some involvement from the authority would be necessary.

Provisional proposal 4-3. We provisionally propose that our future adult social care statute should place a duty on the Secretary of State and Welsh Ministers to make regulations which prescribe details of the assessment process. The statute should specify the areas which these regulations must cover.

Provisional proposal 4-4. We provisionally propose that local authorities should retain the ability to provide temporary services in urgent cases.

We strongly support the duty on the Secretary of State and Welsh Ministers to prescribe regulations on the detail of the assessment process and for the statute to specify the areas the regulations should cover. This should ensure greater consistency amongst local authorities as the assessment process that people experience can be extremely variable.

We stress that there must be a full public consultation on regulations. We also support retention of the power to provide services in an emergency, prior to carrying out an assessment.

Provisional proposal 5-1 We provisionally propose that there should be a duty to undertake a carer’s assessment in our future adult social care statute.

Provisional proposal 5-2 We provisionally propose that the duty to assess a carer should apply to all carers who are providing or intend to provide care to another person, not just those providing a substantial amount of care on a regular basis.

Provisional proposal 5-3. We provisionally propose that the duty to assess a carer should not be triggered by the carer making a request, but should be triggered where a carer appears to have, or will have upon commencing the caring role, needs that could be met either by the provision of carer's services or by the provision of services to the cared-for person.

Provisional proposal 5-4. We provisionally propose that our future adult social care statute provides that the following carers are not excluded from the definition of a carer for the purposes of a carer's assessment: (1) a previously unpaid carer who now receives payment for their services through direct payments received by the cared for person: 2) a carer who is paid for some but not all of the care they provide: 3) a carer where the local authority believes the caring relationship is not principally a commercial one.

These are all welcome proposals in order to improve the care and support of carers themselves. Our own research (*Life with Parkinson's today: room for improvement* 2008) found that seven out of ten carers were not even aware of their right to request a carers assessment. Making it a clear duty on authorities to provide one without needing to be asked or without carers having to meet substantial caring tests should mean more carers get a proper assessment.

However, the fact that a carer has an assessment does not necessarily mean they will get a service to meet their needs. In our experience, some carers of people with Parkinson's feel their assessment is a paper exercise rather than anything which results in more assistance. So the process will need to be complemented by the duties (expressed later in the consultation) on producing care plans for eligible carers.

Question 5-1: Should our proposed adult social care statute encourage a more unified assessment process for carers and cared for people?

Question 5-2 Do you think the carer's assessment duty should be merged with the community care assessment duty in our proposed adult social care statute?

We believe these matters are best left to guidance rather than the face of the statute. While we recognise some more unified processes could mean more prominence for carers needs in the assessment process and joined up thinking, we would be very cautious about something akin to a joint assessment as carers and cared-for people will have very different needs.

The risk is either service user or carer may not have their needs fully recognised if the assessment is joint. There may be practical issues (for example if the carer lives in a different authority to the service user) or difficulties in the service user – carer relationship that either party might feel they are best able to express via separate assessments.

Another proposition would be to ensure that carers receive greater rights for self-assessment alongside service users, if they wish. This would give carers the flexibility to look at their circumstances, often at a time which is best suited to them and their caring responsibilities. However we offer the same note of caution to self assessment for carers as we did in our earlier response on self assessment for users.

Provisional proposal 6-1 We provisionally propose that our future adult social care statute should place a duty on local authorities to: (1) determine whether a person's social care needs are eligible needs, using eligibility criteria; and 2) provide or arrange community care services (including a direct payment in lieu of services) to meet all eligible needs.

We believe that the duties around eligibility assessment would benefit from clarity and welcome the move to put the criteria on a firmer statutory footing in both England and Wales. Setting national eligibility criteria should also introduce more consistency between local authorities on their approach and interpretation. This is a key aim of Parkinson's UK, ensuring that people can get access to the social services they need, wherever they live.

We believe there should also be a corresponding duty to ensure that the authority informs service users of the eligibility criteria in operation, as the duties on authorities to perform their statutory requirements do not necessarily translate into the public being made aware of these duties.

Provisional proposal 6-2: We provisionally propose that our future adult social care statute should place a duty on the Secretary of State or Welsh Ministers to make regulations prescribing the risks to independence that will call for the provision of services and the objectives that are to be achieved by the provision of services.

Placing a duty to produce regulations prescribing an eligibility framework rather than leaving it to statutory guidance is a welcome development as it should lead to greater adherence to, and consistency of interpretation and therefore fairer access to services. For both England and Wales, we believe there should be a clear opportunity for public consultation on the regulations, as eligibility for services is a very important area of policy debate.

Provisional proposal 6-3: If a right to reablement services is introduced, we provisionally propose this should be accommodated in our future adult social care statute.

We fully support policy developments which promote independence, control and choice including the idea of a national entitlement to re-ablement services.

Provisional proposal 6-4: If the eligibility criteria are to be set at a national level in England and Wales, we provisionally propose that eligibility criteria should be prescribed in regulations issued by the Secretary of State and Welsh Ministers.

We welcome the move to put the criteria on a firmer statutory footing in both England and Wales. Setting national eligibility criteria should also introduce more consistency between local authorities on their approach and interpretation.

Provisional proposal 6-5: We provisionally propose that our future adult social care statute should prescribe that the Secretary of State or Welsh Ministers may by regulations require that a local authority must allocate a personal budget in fulfilling the duty to meet all needs that are eligible.

We welcome the possibility that people are informed of their personal budget allocation upfront, providing it means that people can ask for their allocation in the form of their usual

services as part of the choice that a personal budget can bring, maximising the choice available to people rather than routing them down a “cash for care” model. We particularly welcome greater access to personal budgets for older people but this must be accompanied by greater emphasis on people being enabled and empowered to take them up, for example, through greater investment in advocacy services.

We believe there should also be a corresponding duty to ensure that the authority informs service users of their rights to re-ablement and/or a personal budget if the authority has a duty to allocate one, as the duties on authorities to perform new statutory requirements do not necessarily translate into the public being made aware of these duties.

Provisional proposal 6-6: We provisionally propose that there be a mandatory national eligibility framework which local authorities must use to decide whether or not to provide services to carers, and a duty to meet the eligible needs of carers.

We believe that the duties around eligibility for carers would greatly benefit from clarity. We welcome the proposals to put the criteria on a firmer statutory footing in both England and Wales as this will also lead to greater fairness in the system. However we believe there should be a corresponding duty to ensure that the authority informs carers of the eligibility criteria in operation and authority's duty to meet their eligible needs. This would empower carers who are often lacking information on their rights or the obligations of authorities to meet their needs.

Provisional proposal 7-1: We provisionally propose that section 21 of the National Assistance Act 1948 should be repealed and that the Government should ensure a proper scheme for the provision of residential accommodation to those people who might lose their entitlement.

Provisional proposal 7-2: If the government does not introduce a proper scheme for residential accommodation, we propose that section 21 should be retained only in relation to those people who would otherwise lose their entitlement.

Question 7-1: If section 21 of the National Assistance Act 1948 were repealed, do you think that any groups would lose their entitlement to accommodation under our proposed structure?

Provisional proposal 7-3: We provisionally propose that section 2(1) of the Chronically Sick and Disabled Persons Act 1970 should be removed from adult social care legislation.

We agree with proposals which will cover any unintended consequences from the repeal of the 1948 Act.

Provisional proposal 8-1: We provisionally propose that the local authority be placed under a duty to provide services for people ordinarily resident in their area and have the power to provide services for people who are not ordinarily resident in their area. In cases of urgent need of residential accommodation, there should be a duty to provide accommodation to those people not ordinarily resident in the authority's area. Assessments of need and the provision of temporary urgent services should not be limited by ordinary residence rules.

These are appropriate responsibilities and will be particularly welcome where people have no settled residence.

Provisional proposal 8-2: We provisionally propose that the local authority in which the care for person lives should given responsibility for providing carers services.

We agree this is an appropriate response given it seems to be the least bureaucratic solution for carer and service user, with only one authority to deal with rather than two. Perhaps the accompanying code of practice could discuss practical solutions on joint working where the carer's services could most appropriately be provided by the authority where they live.

Provisional proposal 8-3: We provisionally propose that our future adult social care statute should enable the portability of service by the introduction of: 1) an enhanced duty to cooperate when service users move areas; and 2) if there policies are implemented, a national portable needs assessment and national eligibility criteria.

We strongly support the proposals for greater portability in the system, by an enhanced duty to cooperate when service users move services. We also welcome the Commission ensuring that the statutory framework will be left open to allow for a national portability assessment and national level eligibility for state funding should policymakers in Wales and England propose these changes.

Provisional proposal 9-1. We provisionally propose that community care services should be defined by a short and broad list of services.

Provisional proposal 9-2: We provisionally propose that the list of community care services should be set out on the face of our future adult social care statute.

Question 9-1: Do you think that community care services should be undefined in our future adult social care statute?

On balance, and due to the financial pressures that will exist on authorities for the foreseeable future, we would prefer to see the short and broad list of services on the face of the statute, if only to give an indication as to the services that are within the scope of local authority social care services should authorities seek to cut back on what they provide.

The accompanying guidance could reiterate the need for innovation and wide interpretation so that services develop and modernise according to the personalisation agenda. But leaving the list undefined could risk ongoing battles of interpretation and given the rationale for the review is clarity on the face of the law so everyone is aware of entitlements and scope, it could be counter-productive to leave matters undefined. It may also increase the burden on the NHS if the lack of definition leaves authorities able to cut back on what they provide under the community care "banner".

Provisional proposal 9-3 Provisionally we do not propose that our future adult social care statute should include a central definition of a disabled person or service user.

We strongly support the proposal that the statute does not contain a definition of a disabled person or service user. This is in line with the principle of person centred planning where it is individual needs that give rise to support, not a blanket classification based on notions of disability.

Provisional proposal 9-4: We provisionally propose that carers' services should remain undefined in the statute.

For the foreseeable future local authorities will be controlling their expenditure closely. We consider that a broad definition of carers services is needed on the face of the statute in case local authorities use the lack of definition to tighten up their interpretation of what they should provide. Perhaps the accompanying code of practice could reiterate the need for innovation and wide interpretation so that services develop and modernise according to the carer's support agenda.

Provisional proposal 9-6: We provisionally propose that the existing divide between health and social care service provision should be maintained in our future adult social care statute. This would mean that local authorities would be prohibited from providing residential accommodation, if this is authorised or required to be provided under NHS Acts 2006; any non residential services that are required to be provided under NHS Acts 2006; and nursing care which is required to be provided by a registered nurse.

Provisional proposal 9-7: We provisionally propose that social services authorities should continue to be prohibited from providing ordinary housing and connected services, if these services are authorised or required to be provided by or under other legislation.

We understand the reasons why the existing dividing line remains, however the accompanying code of practice will need to reiterate the reasons why as outlined in the consultation. This interface between NHS and social care funded accommodation is an area of law which is one of the most perplexing and contentious for individuals in the receipt of care services. Ensuring everyone in the system is clear as to why health or social care is responsible for the types of residential accommodation outlined in the consultation is very important. Furthermore as the NHS and social care become more integrated, particularly through joint commissioning arrangements, it is important that full consideration is given to any unintended consequences of prohibition.

Provisional proposal 10-1: We provisionally propose that our future adult social care statute should place a duty on local authorities to produce a care plan for people with assessed eligible needs. This would be supported by a duty placed on the SOS or Welsh Ministers to make regulations concerning the form and content that the care plan must take.

We strongly support the case for putting care plans on a statutory footing. It would strengthen user and carer rights particularly in holding services to account as to delivery against the plan and its outcomes.

Question 10-1 Should direct payments be extended to cover residential accommodation?

We strongly support the extension of direct payments to cover residential accommodation *as a principle*. Having a direct payment is a more explicit way of demonstrating the choice and budget available to someone choosing residential care.

However, in practice, there are challenges faced by some in accessing direct payments and using them to the best effect. The lack of advocacy services in the community may be a particular problem for those already in residential care, who may not find it easy to access information and advice.

Moreover, local authorities use their bargaining power to keep down the costs of residential placements. This has ramifications for self funding service users who find themselves effectively subsidising the local authority placements.

In homecare, local authorities are failing to recognise that direct payments need to be set at a rate higher than they can achieve through their bulk purchasing power, leaving some on direct payments “topping up” their community care package to choose the provider they want.

A transfer of such practices into residential care would exacerbate the problems inherent in the residential care system in terms of underfunding and the subsidising of the system by self-funders. Moreover, if those on direct payments approach residential care providers with their “cash budget” they may find the package quoted will be at the level of individualised package offered to self funders, with no room for negotiation. These are important practice issues that would need to be addressed if the system was changed.

Provisional proposal 10-2: We provisionally propose that the choice of accommodation directions should be placed in statute law and that the additional payment regulations should be retained in secondary legislation.

We support this in principle.

Provisional proposal 10-3: We provisionally propose that the direct payment provisions should be retained in their existing form in our future adult social care statute.

We support the proposal to maintain the direct payment duties in statute with the details set out in regulations.

Provisional proposal 10-4. We provisionally propose that our future adult social care statute should include a regulation making power to enable the Secretary of State or Welsh Ministers to require or authorise local authorities to charge for non residential and residential services.

Other areas of the consultation have avoided encroaching into policy but still posed questions as to whether reform is needed. This would have been welcome on charging for care, as this is an area where reform has been called for.

There have been a number of reports which analyse the reasonableness of charges for non residential services, which in some cases can be well over the actual cost of providing the service and vary hugely between different authorities (for example, Counsel and Care's

annual surveys of homecare charges, and the work of the Coalition on Charging campaign). Wales has taken the opportunity to introduce a more equitable system which is set to be introduced in 2011.

Because of the potential for long term policy reform, we believe the proposals should maintain the status quo ie. should be a power for authorities to recover the costs of non residential care, rather than a requirement for them to do so, as this may exacerbate the existing problems that people experience with charges levied.

Provisional proposal 10-5. We provisionally propose that the existing regulation making power, which enables certain community care services to be provided free of charge, should be retained. All services that must be provided for free should be listed in the regulations.

Fully support the protection of current rights to free services, which are extremely important (particularly aids and adaptations) for people with Parkinson's.

Provisional proposal 11-3. We provisionally propose that the C(RS)A 1995 and the the CDCA 2000 should be retained and amended so that they only apply to young carers.

We fully support any provision which will protect the rights of young carers to a carer's assessment.

Question 11-1. We welcome further comments on how the wellbeing power is being or should be used in practice.

Enabling authorities to establish an ability to progress with projects and initiatives quickly, through the use of the wellbeing power, is very welcome. This is particularly the case for personalisation, as the wellbeing power could be used to establish preventative services or services for people that might not meet the eligibility criteria in operation, or services that are innovative.

Provisional proposal 11-5. We provisionally propose that the delayed discharge provisions should be retained in their existing form in our proposed adult social care statute.

We support the retention and incorporation of these provisions in the adult social care statute.

Question 11-2: We welcome comments about whether prisons should be included or excluded from adult social care

We support the maintenance of the current system, whereby prisoners should not be excluded from receiving community care services.

Provisional proposal 11-6: We provisionally propose that the choice of accommodation directions should cover residential accommodation provided under section 117 of the Mental Health Act 1983

Provisional proposal 11-7: We provisionally propose that the additional payments regulations should cover residential accommodation provided under section 117 of the Mental Health Act 1983

Provisional proposal 11-8: We provisionally propose that the concept of ordinary residence should be extended to apply to after care services provided under section 117 of the Mental Health Act 1983

Provisional proposal 11-9 We provisionally propose that section 117 should be amended to clarify that the duty falls on health authorities to provide health after care and on social services authorities to provide social care after care. We also propose that section 117 should be amended to clarify that health and social services authorities can commission after care services.

Question 11-3: If the section 117 duty should be split between health and social services authorities should the termination of the duty also be split so that, for example, social care after care ceases when the social services authority is satisfied that the person no longer needs social care after care or should both authorities be involved in the decision.

Parkinson's as a condition can cause mental health difficulties and it is estimated that Dementia does occur in an estimated one in three cases of those with Parkinson's. Therefore there are people with Parkinson's who may find themselves detained in hospital for treatment if their condition has not been managed by medication and appropriate therapy in the community. Ensuring they have the same rights to aftercare through amendment of section 117 is something we fully support.

We also agree with amendments to section 117 so that both health and social care authorities can commission after care services. However, we agree that both authorities should be involved in the decision, so that someone's mental health package is not undermined by one party withdrawing care earlier than the other might agree to.

Provisional proposal 11-10 we provisionally propose that our future adult social care statute should place a duty on each social services authority to make arrangements to promote cooperation between the local authority and specified relevant organisations.

Provisional proposal 11-11 we provisionally propose that our future adult social care statute should specify that a local authority can request certain authorities to assist in a number of circumstances, including when an assessment of a service user or carer is taking place, and in providing services to a service user or carer. In such cases the authority would be under a duty to give due consideration to the request.

We strongly support greater cooperation between authorities. This should aid integration and the cost effectiveness of services if there are enhanced duties to cooperate. A recommendation from the All Party Parliamentary Group on Parkinson's Disease *Please mind the gap: Parkinson's disease services today* (2009) was the need to integrate and remove barriers between organisations in treatment and care of those with Parkinson's.

Provisional proposal 12-1: We provisionally propose that our future adult social care statute should place a duty on local authorities to make, or cause to be made, such enquiries as it

considers necessary where it has reasonable cause to suspect that a person appears to be an adult at risk and consider whether there is a need to provide services or take any other action within its power in order to safeguard that person from harm.

We support the suggested requirements on authorities as the additional duty should ensure greater profile and investment in adult protection.

Provisional proposal 12-2: We provisionally propose that the term vulnerable adult should be replaced by adult at risk for the purposes of the duty to make enquiries.

Provisional proposal 12-3: We provisionally propose that an adult at risk should be defined in our statute as anyone with social care needs who is or may be at risk of significant harm.

Although we support the emphasis on not defining someone as an adult at risk because of their condition or disability, we would welcome greater clarity on the definition of social care need and who judges this – particular if the person isn't already in receipt of services. In addition the use of significant, if left undefined, will be unclear to the public.

Provisional proposal 12-4. We provisionally propose that if the Government in England or the Welsh Assembly Government decides to introduce new compulsory or emergency powers to safeguard adults from abuse and neglect then these will be included in our future adult social care statute.

Provisional proposal 12-7. We provisionally propose that our future statute should place a duty on each social services authority to establish an adult safeguarding board and should specify the functions and membership of the board, the requirement to share information and a duty to contribute to serious case reviews.

Provisional proposal 12-8: We provisionally propose that the enhanced duty to cooperate as proposed in Part 11 of this consultation paper, should include specific provision to promote cooperation between the organisations in safeguarding adults from abuse and neglect.

Provisional proposal 12-9: We provisionally propose that No Secrets and In safe Hands or their successors are linked clearly to a local authority's statutory functions to safeguard adults from abuse and neglect, as set out in our future adult social care statute.

We agree with the strengthened duty to establish statutory boards or committees, share information and put the guidance on a clearly and more aligned footing for adult protection.

Provisional proposal 13-3: We provisionally propose that our future social care statute should place a duty on a local social services authority to provide information about services available in the local area.

As noted in our response to the consultation questions on the statutory principles, we welcome the duty and believe this would complement our suggested statutory principle of the need to provide access to information and advice in spite of your assessed or eligible need.