

Devolution, integration and dismantling the NHS: the road to fewer NHS services and privatisation

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Title: Devolution, integration and dismantling the NHS: the road to fewer NHS services and privatisation

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SS is a specialist registrar in public health medicine supervised by AMP. SS extracted and combined relevant data from government publications and other sources. SS adjusted historical data on spending to 2014-15 prices using ONS GDP deflator.

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Seismic changes in the organisation, delivery and funding of health and social care services have been underway since the Secretary of State's duty to provide key services throughout England was abolished by the Health and Social Care Act 2012. Many public health services were devolved to local authorities, whilst Foundation Trusts (FTs) were able to generate half their income from non-NHS work and no longer required to provide mandatory services. ¹⁻³

Allied to the largest sustained reduction in NHS spending as a percentage of GDP since 1951 through to 2020/21⁴ and the highest ever deficit recorded by NHS providers⁵, these changes raise the spectre of reduced NHS services, more private provision and the introduction of user charges.

In June 2013, the Department of Health's Better Care Fund (formerly the Integration Transformation Fund) top-sliced clinical commissioning group (CCG) budgets to create a £3.8bn pooled health and social budget in order to promote integration.⁶ In the Care Act 2014, local authorities (LAs) were given a legal duty to promote the efficient and effective operation of a market in services for meeting care and support.⁷ In February 2015 £6bn of combined health and social care funding was agreed to be devolved to Greater Manchester LAs and NHS bodies from April 2016.⁸

In November 2015 the Chancellor of the Exchequer announced that by 2020 LAs will retain 100% of business rate revenues_whilst "ultimately" the revenue support grant "will disappear altogether". 9 10

In December 2015, the implementation of NHS England's Five Year Forward View divided the country into 44 'footprints' where "every health and care system in England will produce a multi-year Sustainability and Transformation Plan (STP), showing how local services will evolve and become sustainable over the next five years".¹¹

The Cities and Local Government Devolution Act was passed in January 2016 to allow LAs, led by Greater Manchester, to take over health service functions – though which health functions are devolved and to which LA remains unknown, and will depend on different deals made by different local

authorities with central government. The government's "Self-sufficient local government" consultation over the summer includes suggestions to fund the public health grant and attendance allowance from business rates.¹²

It remains of concern how integration and devolution of health and social care and the associated radical changes to LA funding will affect services, particularly as social care is a LA responsibility and subject to means-testing and user charges, whereas NHS services are free at the point of delivery.

One way to explore the likely implications of these seismic changes is to consider how (1) provision of LA adult residential and community care services and of NHS long-stay beds and (2) LA expenditure on adult social care and the funding mechanisms for LA expenditure, have evolved over time in the context of changes in statutory functions.

Weakening of LA statutory functions enabled outsourcing of social care provision and extended to include illness and disability

Under section 21(1)(a) of the National Assistance Act 1948, LAs had a duty to provide residential accommodation for persons needing care and attention which was not otherwise available to them because of age, infirmity or any other circumstances; compulsory means-tested charges at standard fixed rates were imposed. 13 Schedule 23 of the Local Government Act 1972 abolished this duty and replaced it with a power to 'make arrangements for providing' that accommodation with ministerial approval, and with a duty to do so only if ministerially directed. 14 Nevertheless LAs continued to provide the majority of services directly until the NHS and Community Care Act 1990. This Act removed 'infirmity' as a circumstance giving rise to the LAs' power, replacing it with 'illness' and 'disability'; and imposed on LAs a duty to recover from individuals the full cost to the authority of providing the accommodation. The legal foundations for the outsourcing, and thus privatisation, of residential accommodation, and for bringing illness and disability within the scope of LAs and thus for reducing NHS long-stay bed provision, were laid by the 1972 and 1990 Acts, respectively.

These changes were followed by closure of NHS long-stay beds,

reduction in LA provision, expansion of private provision, and more recently a fall in levels of community provision (figure 1,2 and 3)

Prior to 1990, geriatric, mental illness and learning disability NHS-funded beds had been closing under the policy of care in the community. Closure of NHS long-stay beds accelerated after the implementation of the Act decreasing by 38% from 106,173 NHS geriatric, mental illness and learning disability beds in 1992/93 to 65,764 beds in 2002/03. During the same period LA beds decreased by 53% from 117,400 beds in 1992/93 to 55,600 in 2002/03. While the number of available private long term care bed continued to increase from 384,900 in 1992/93 to 422,200 in 2002/03 (Figure 1).

Although the 1972 Act empowered LAs to outsource care, LAs continued to provide the majority of residential care directly: in 1989/90 LAs supported 129,000 individuals in residential care, of which 84% were placed in LA owned residential homes and the remaining 16% in privately (for profit and voluntary) owned residential homes. The decade following the 1990 Act saw a seven-fold increase in the number of LA supported individuals being placed in private residential care, increasing from 20,000 in 1989/90 to 138,000 in 1999/2000, while the number of individuals placed in LA owned homes decreased from 109,000 to 47,250 during the same period. This trend continued and in 2013/14, 94% of LA supported residents were placed in private residential homes (Figure 2).

The expansion of and switch to private provision was the result of policies that incentivised LAs to outsource care; such as the special transition grant from central government that required LAs spend 85% of the grant in the private sector¹⁵, residential allowance which LAs could recoup only for individuals placed in the private sector¹⁶ and the introduction of minimum space standards for care homes which chronically underfunded LA owned homes could not meet.¹⁷

From 2000/01 to 2009/10, the number of adults in receipt of non-residential adult social care services increased by 17% from 1.3m to 1.5m. Since

2008/09, the number of adults in receipt of these services has decreased by 33% to 1m adults in 2013/14, with the largest decrease for those in receipt of meals (85%) and day care services (51%) (Figure 3). The number of adults in receipt of direct payments (money given to individuals by LAs to buy social care directly) has increased from 5,000 in 2000/01 to 155,400 in 2013/14. This increase follows from extension of direct payments from working-aged disabled adults to older adults and carers and does not compensate for the decrease in other services.

Social care expenditure by LAs has decreased since 2010 and eligibility criteria have been tightened - (figure 4 and 5)

From 1993, LA expenditure on adult social care increased annually in real terms until 2010, as long term care transferred from the NHS to LAs. Ring fencing of the main central government grant to fund social care expenditure (the Personal Social Service grant) ended in 2010 and since then LA expenditure on adult social care has decreased in real terms from £18.5bn in 2010 to £17.5bn in 2014 (figure 4). These figures would be lower but for the transfer of NHS funds to LAs in April 2009 for the funding and commissioning of care of adults with learning disabilities 18, which resulted in a 27% increase in expenditure for adults with learning disability, up from £4.2bn in 2008/09 to £5.3bn in 2013/14. Over the same period spending on older people, adults with physical disabilities and mental health needs and other adult services decreased by 13% from £13.6bn in to £11.9bn (figure 5).

Reductions in funding and services have been accompanied by a tightening of eligibility criteria. Whereas 35% of LAs funded moderate care needs in 2005-6, only 10.5% of LAs did in 2013-14.¹⁹

LA funding is increasingly regressive and unfair (figure 6)

Since 1993, LA funding has become increasingly regressive and unfair, with greater reliance on local income (council tax and charges) and therefore the

wealth of the local area to fund LA expenditure.²⁰ Between 1993/94 and 2014/15, the share of centrally distributed income fell from 79% to 64%, with a large decrease after 2012 when LAs were given the power to retain 50% of their locally collected business rate growth (Figure 6). This will decrease further as the government plans for LAs to retain 100% of business rates as they move towards "self-sufficiency" and "away from dependence on central government".¹²

Differences among LAs in earnings from council tax charges are accounted for by adjustments made to the Revenue Support Grant distributed from central government to LAs. Changes to these adjustments in 2011/12 local government finance settlements have had a disproportionate affect on the poorest areas. Analysis by LAs in the North East revealed the 10 most deprived areas in England saw an average decrease in spending power between 2014/15 and 2015/16 of -10.5% while the 10 least deprived areas saw an average increase in spending power of 1.1%.²¹ LAs in poorer areas will have to make greater reductions in services than in wealthier areas and consequently will be unable to provide the same level of service compared to wealthier areas.

User charges and patient payments are considered the most regressive forms of financing as they affect the poorest in society the most. In 2013/14, LA earned £2.6bn income from sales, fees and charges in adult social care, accounting for 15% of gross social care expenditure.²²

Discussion

Weakening and shifting of statutory functions allied to financial levers transferred NHS responsibilities for long term care to LAs and enabled the privatization of funding and provision. Reduced entitlements, greater variation in access and user charges have resulted.²³ This weakening and shifting of statutory functions is replicated in the HSCA 2012 which abolished the Secretary of State's duty to provide key health services throughout England in section 3 of the National Health Service Act 2006, replacing it with a duty on

CCGs to 'make arrangements for provision' of those services, thus providing the legal mechanism to outsource care. Since 2012 a third of NHS contracts awarded have gone to the private sector. Expenditure on private providers has increased by 36% from £6.5bn in 2013-14 to £8.7bn in 2015/16. Commercial contracting in the NHS is now virtually compulsory with CCGs being challenged in the courts for not putting contracts out to tender. The architects of Manchester's devolution deal (DevoManc) have stated that they will use the commissioning process to 'actively grow provider capacity' facilitating 'access to public service contracts', and 'any qualified provider' to provide services. LAs have an established history and culture of outsourcing care and it is likely that devolved health functions will be outsourced with little resistance. LAs can now rely on their legal duty to promote the efficient and effective operation of a market in services for meeting care and support under the Care Act 2014.

In the 2015 Autumn Statement and Spending Review the former chancellor allowed councils to raise council tax by 2% to fund adult social care. ²⁸ This measure benefits wealthier councils and is another regressive policy. ²⁹ The end of ring fencing of social care budgets gave LAs the freedom to spend on other areas. A real concern must be whether devolution of NHS budgets will result in the NHS finances being used to prop up other LA services, especially given the major reduction in spending power in many LAs. The Better Care Fund is already one example of using NHS funds for non NHS services. The government has yet to explain how integration will be achieved when one service is funded by central taxation and the other is mainly funded through means-testing and user charges.

The Sustainabilty and Transformation Plans topslices £1.8 billion of NHS funds and are conditional on CCGs and Trusts getting back in to financial balance. The plans show the scale of services reduction to bring the system back into financial balance.³⁰ At the same time CCGs are reducing and restricting services as it increasingly looks to control costs.^{31 32} Allied to the largest sustained reduction in NHS spending⁴ and 2/3rds of NHS trusts and

FT in deficit of £2.45bn³³, providers will need to reduce entitlements and level of NHS services and increase income from other sources such as user charges. Particularly FTs which can now generate half their income from private sources and no longer have to provide mandatory services.³ All of these measures dilute the central redistributive and evidence-based tenet of health and social care provision.

Bevan always maintained that local government would not be able to run a national health service. Devolved health care agreements in the absence of a legal requirement to provide key services throughout England spell the end of a universal national health services. In the future, people in England can not expect a national service based on universal entitlements because in different parts of the country a range of different bodies with different functions will be able to define different entitlements to services and with new charges.

Key messages:

The weakening and shifting of statutory functions combined with financial levers that resulted in the privatisation in provision and financing of long term care are now being replicated in the NHS.

Transfer of NHS functions and funding to local authorities through the guise of devolution and integration will accelerate outsourcing, privatisation and reductions in NHS funded care and shift NHS budgets to non-health services.

LAs have reduced service provision, outsourced almost all social care provision, and have almost no experience now of direct provision of health or social care.

The Health and Social Care Act 2012 allied to major reductions in expenditure on health and social care provides the framework for CCGs, NHS providers and LAs to reduce NHS services and increase private income to meet sustainability and transformation plans.

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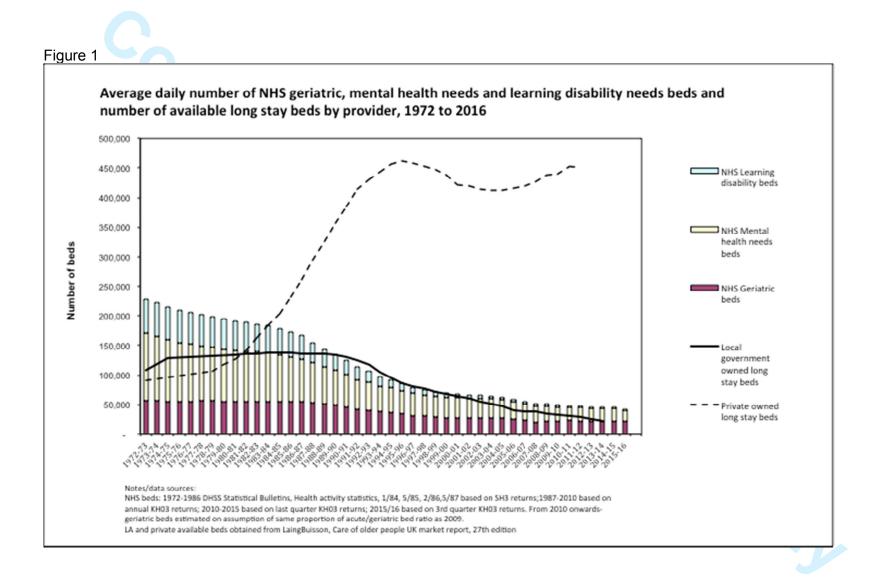


Table 1 Average daily number of NHS geriatric, mental health needs and learning disability needs beds and number of available long term beds by provider, 1972 to 2016

					Private
		Mental	Learning	Local	sector
	Geriatric	health	disability	government	owned
Year	beds	needs beds	needs beds	owned long stay beds	long stay beds
1972-73	56,700	114,500	57,500	108700	84100
1973-74	56,200	109,600	56,100	Č	-
1974-75	55,400	104,400	55,200	128300	90800
1975-76	55,600	99,400	54,200	-	-
1976-77	55,700	96,700	53,100	-	_
1977-78	55,900	93,500	52,300	-	-
1978-79	56,000	91,100	51,300	-	-
1979-80	55,100	89,000	50,100	-	-
1980-81	54,900	87,400	48,900	134500	106900
1981-82	55,100	85,400	47,900	135600	118200
1982-83	55,600	83,800	47,000	136200	127200
1983-84	55,800	81,800	45,600	137200	142000
1984-85	55,600	78,900	44,000	137100	162900
1985-86	55,300	75,900	41,600	136900	184100
1986-87	54,600	72,400	39,500	135900	204700
1987-88	53,273	67,122	33,421	135500	231200
1988-89	51,041	63,012	30,048	135,500	261400
1989-90	48,731	59,288	26,406	133,500	294600
1990-91	45,902	55,239	23,379	129,800	326200

1991-92
1993-94 37,440 43,532 16,269 105,200 414200 1994-95 36,795 41,827 13,211 94,600 429700 1995-96 34,328 39,477 12,676 85,900 443900 1996-97 31,646 37,640 9,693 80,100 455900 1997-98 30,240 36,601 8,197 77,200 461100 1998-99 28,697 35,692 7,491 71,000 457800 1999-00 27,862 34,173 6,834 68,500 452900 2000-01 27,838 34,214 6,316 64,000 447800 2001-02 28,047 32,783 5,694 59,700 438300 2003-03 37,073 33,753 5,694 59,700 438300
1994-95 36,795 41,827 13,211 94,600 429700 1995-96 34,328 39,477 12,676 85,900 443900 1996-97 31,646 37,640 9,693 80,100 455900 1997-98 30,240 36,601 8,197 77,200 461100 1998-99 28,697 35,692 7,491 71,000 457800 1999-00 27,862 34,173 6,834 68,500 452900 2000-01 27,838 34,214 6,316 64,000 447800 2001-02 28,047 32,783 5,694 59,700 438300 3003-03 37,073 33,753 5,094 59,700 438300
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1996-97 31,646 37,640 9,693 80,100 455900 1997-98 30,240 36,601 8,197 77,200 461100 1998-99 28,697 35,692 7,491 71,000 457800 1999-00 27,862 34,173 6,834 68,500 452900 2000-01 27,838 34,214 6,316 64,000 447800 2001-02 28,047 32,783 5,694 59,700 438300 3003-03 37,073 33,753 5,038 55,600 40000
1997-98 30,240 36,601 8,197 77,200 461100 1998-99 28,697 35,692 7,491 71,000 457800 1999-00 27,862 34,173 6,834 68,500 452900 2000-01 27,838 34,214 6,316 64,000 447800 2001-02 28,047 32,783 5,694 59,700 438300 2003-03 37,073 33,753 5,038 55,600 400000
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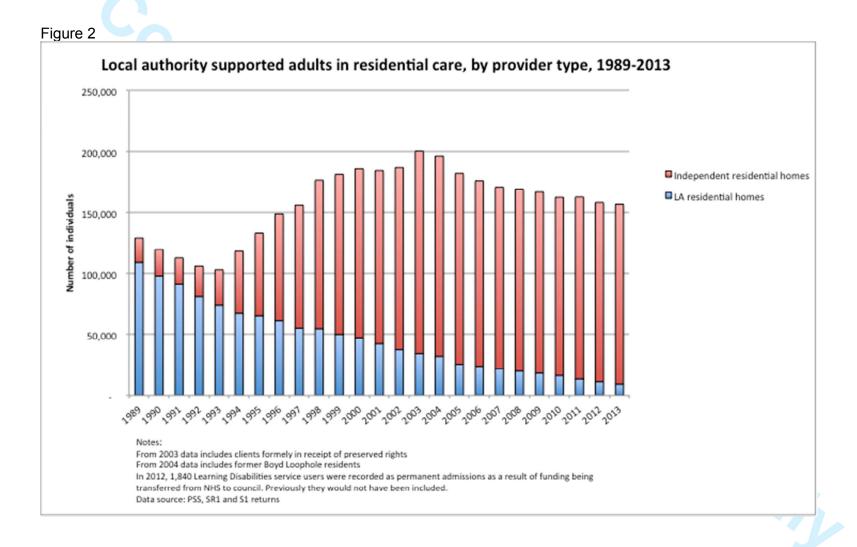


Table 2 – Local authority supported adults in residential care, by provider type, 1989-2014

		Number of adults in local	
	Total number of adults in residential	authority owned/managed care	Number of adults in privately owned
Year	care supported by local authority	home	care home
1989-90	129,000	109,000	20,000
1990-91	119,500	98,000	21,500
1991-92	112,600	91,000	21,600
1992-93	106,000	81,000	25,000
1993-94	103,000	74,000	29,000
1994-95	118,000	67,000	51,000
1995-96	133,000	65,000	68,000
1996-97	149,000	61,000	88,000
1997-98	156,000	55,000	101,000
1998-99	255,505	54,610	121,925
1999-00	260,725	50,060	131,160
2000-01	265,430	47,250	138,575
2001-02	261,805	42,300	142,070
2002-03	265,115	37,310	149,515
2003-04	284,135	34,115	166,340
2004-05	277,950	31,845	164,695
2005-06	258,795	25,155	156,845
2006-07	250,205	23,540	152,385
2007-08	239,060	21,525	149,135
2008-09	233,855	19,685	149,400
2009-10	229,770	17,975	148,780
2010-11	223,910	16,070	146,290

2011-12	224,450	13,275	149,300
2012-13	219,455	10,950	147,220
2013-14	218,185	9,035	147,645

Notes/data sources:

From 2003 data includes clients formerly in receipt of preserved rights

From 2004 data includes former Boyd Loophole residents

In 2012, 1,840 Learning Disabilities service users were recorded as permanent admissions as a result of funding being transferred from NHS to council. Previously they would not have been included. S1 returns

Data source: PSS, SR1 and S1 returns

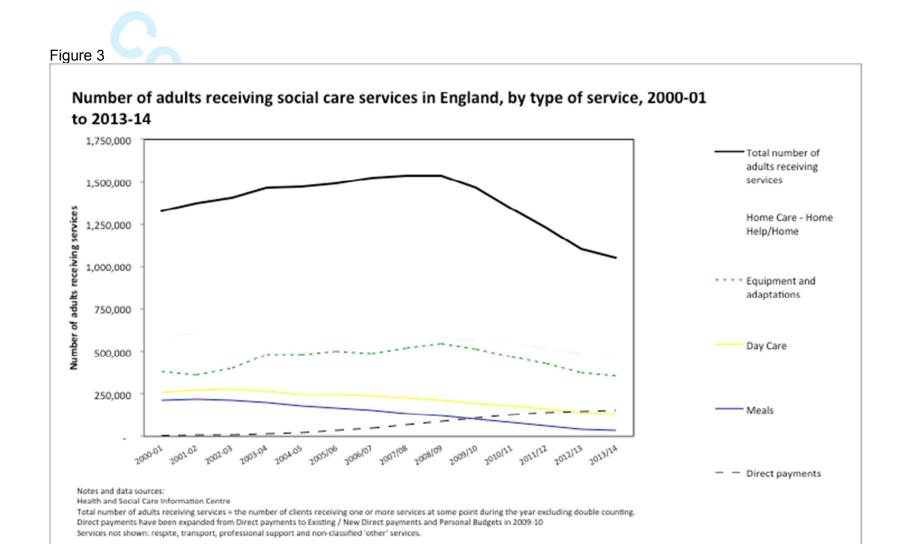


Table 3 - Number of adults receiving social care services in England, by type of service, 2000-01 to 2013-14

		Adult social s	ervice type				
	Total number of adults receiving					Equipment and	Professional
	services	Day Care	Meals	Home Care	Direct payments	adaptations	Support
2000-01	1,329,700	260,600	211,900	588,000	5,000	379,500	301,300
2001-02	1,372,700	272,900	219,900	605,000	6,300	363,600	321,900
2002-03	1,403,800	279,000	212,000	596,000	9,000	399,000	370,000
2003-04	1,462,000	267,000	200,000	589,000	15,000	481,000	389,000
2004-05	1,470,000	242,000	176,000	583,000	24,000	478,000	420,000
2005-06	1,491,850	243,760	165,170	592,535	37,375	499,170	442,415
2006-07	1,525,655	237,370	149,605	585,725	48,085	490,360	502,790
2007-08	1,534,890	227,310	135,505	577,360	66,790	519,105	506,720
2008-09	1,537,380	213,550	120,545	582,485	86,110	547,070	501,220
2009-10	1,464,135	194,670	100,455	556,960	91,625	511,955	444,625
2010-11	1,340,095	178,700	81,460	542,965	124,780	465,670	371,910
2011-12	1,231,395	159,265	60,065	517,430	138,855	430,590	267,670
2012-13	1,102,150	141,135	41,535	484,940	148,095	373,195	196,005

Notes/data sources:

2013-14

Total number of adults receiving services = the number of clients receiving one or more services at some point during the year excluding double counting. Direct payments have been expanded from Direct payments to Existing / New Direct payments and Personal Budgets in 2009-10 Services not listed: respite, transport and non-classified 'other' services.

155,400

357,555

194,925

470,210

Data source: Health and Social Care Information Centre

1,051,540

127,560

31,950

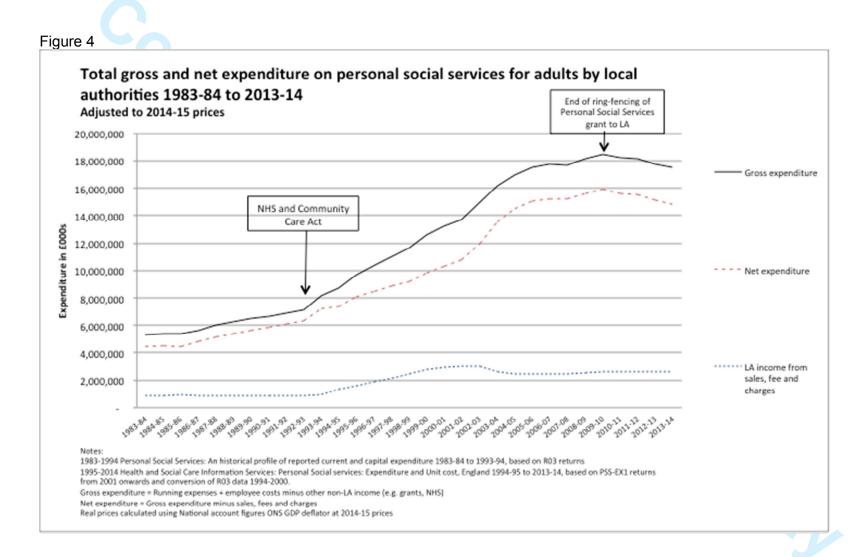


Table 4 Total gross and net expenditure on adult personal social services for adults by local authorities 1983/84 to 2013/14, adjusted to 2014-15 prices

1986-87 5,644,127 4,798,213 845,914 1987-88 6,026,406 5,139,929 886,477 1988-89 6,261,871 5,411,885 849,985 1989-90 6,515,286 5,642,114 873,172 1990-91 6,691,876 5,863,562 828,313 1991-92 6,909,001 6,080,758 828,244 1992-93 7,160,104 6,303,463 856,641 1993-94 8,189,893 7,251,174 938,719 1994-95 8,698,177 7,357,185 1,340,992 1995-96 9,664,614 8,058,919 1,605,695 1996-97 10,385,001 8,479,841 1,905,161 1997-98 11,013,111 8,858,842 2,154,269 1998-99 11,678,486 9,212,423 2,466,064 1999-00 12,589,529 9,847,394 2,742,135 2000-01 13,259,828 10,337,181 2,922,647 2001-02 13,730,358 10,742,483 2,987,875 2002-03 14,971	
2006-07 17,737,598 15,256,718 2,480,880	

2008-09	18,140,160	15,631,053	2,509,107
2009-10	18,486,936	15,909,268	2,577,667
2010-11	18,238,572	15,632,612	2,605,960
2011-12	18,116,905	15,509,195	2,607,710
2012-13	17,757,041	15,138,761	2,618,280
2013-14	17,489,691	14,851,501	2,638,190

Notes/sources:

1983-1994 Personal Social Services: An historical profile of reported current and capital expenditure 1983-84 to 1993-94, based on R03 returns

1995-2014 Health and Social Care Information Services: Personal Social services: Expenditure and Unit cost, England 1994-95 to 2013-14, based on PSS-EX1 returns from 2001 onwards and conversion of R03 data for 1994-2000.

Gross expenditure = Running expenses + employee costs minus other non-LA income (e.g. grants, NHS)

Net expenditure = Gross expenditure minus sales, fees and charges

Real prices calculated using National account figures ONS GDP deflator at 2014-15 prices



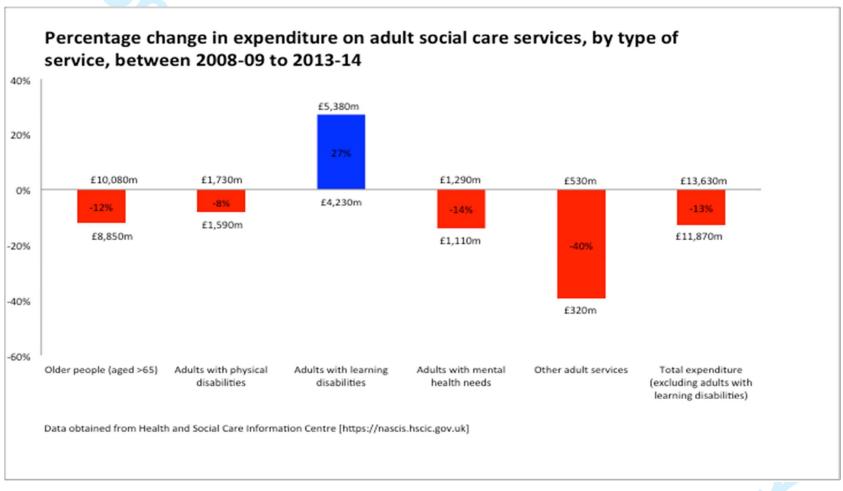
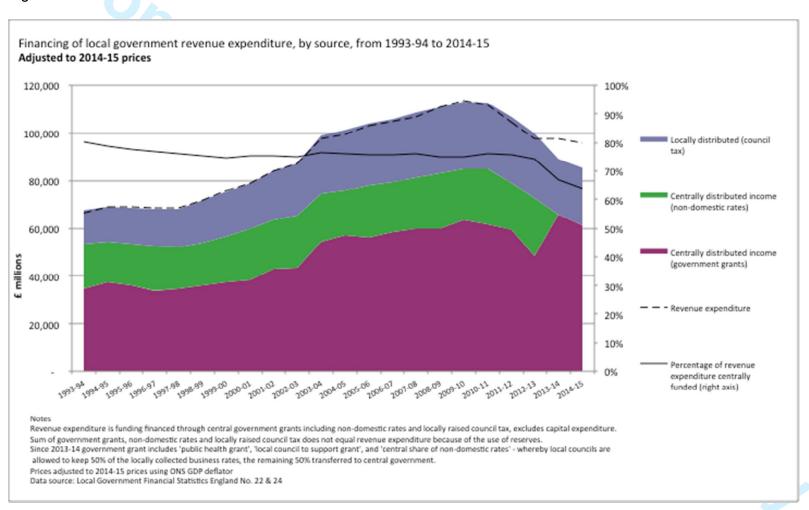


Table 5 Gross expenditure by local authority on adult social services by type and year (in real terms)

	£ million						
	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	% change in funding since 2008-09
Older people (aged >65)	10,080	10,170	9,950	9,230	9,020	8,850	-12%
Adults with physical disabilities	1,730	1,780	1,750	1,630	1,590	1,590	-8%
Adults with learning disabilities	4,230	4,350	4,410	5,350	5,330	5,380	27%
Adults with mental health needs	1,290	1,320	1,280	1,190	1,160	1,110	-14%
Other adult services	530	590	550	430	380	320	-40%
Total gross expenditure	17,860	18,210	17,940	17,830	17,480	17,250	-3.4
Total gross expenditure (excluding adults with learning difficulties)	13,630	13,860	13,530	12,480	12,150	11,870	-12.9
Data/sources Health and Social Care Information Centr	e						

Figure 6



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Table 6 Financing of local government revenue expenditure, by source, from 1993-94 to 2014-15 Adjusted to 2014-15 prices

	D		Centrally distributed		0/ 6
	Revenue expenditure	Centrally distributed income (government	income (non- domestic rates)	Locally distributed (council tax)	% of revenue expenditure centrally
	(£millions)	grants) (£millions)	(£millions)	(£millions)	funded
1993-94	66,369	34,675	18,523	14,251	80%
1994-95	68,905	37,421	16,897	14,601	79%
1995-96	68,835	35,833	17,446	15,013	77%
1996-97	68,551	33,888	18,773	15,411	77%
1997-98	68,401	34,507	17,419	16,271	76%
1998-99	71,511	36,035	17,854	17,571	75%
1999-00	75,654	37,257	19,204	18,724	75%
2000-01	79,027	38,334	21,238	19,574	75%
2001-02	84,124	42,731	20,564	20,702	75%
2002-03	87,187	43,177	22,015	22,026	75%
2003-04	97,566	54,171	20,242	24,567	76%
2004-05	99,686	56,890	18,860	25,516	76%
2005-06	103,237	56,054	22,017	26,065	76%
2006-07	104,977	58,450	20,842	26,732	76%
2007-08	106,864	59,752	21,407	27,308	76%
2008-09	110,705	59,814	23,139	27,938	75%
2009-10	113,601	63,529	21,466	28,196	75%
2010-11	111,591	61,713	23,031	28,101	76%
2011-12	104,394	59,135	19,997	27,814	76%
2012-13	97,427	48,394	23,935	27,646	74%

2013-14	97,762	65,478	-	23,697	67%
2014-15	95,943	61,312	-	23,964	64%

Notes/sources

Revenue expenditure is funding financed through central government grants including non-domestic rates and locally raised council tax, excludes capital expenditure.

Sum of government grants, non-domestic rates and locally raised council tax does not equal revenue expenditure because of the use of reserves.

Since 2013-14 government grant includes 'public health grant', 'local council to support grant', and 'central share of non-domestic rates' - whereby local councils are allowed to keep 50% of the locally collected business rates, the remaining 50% transferred to central government.

Prices adjusted to 2014-15 prices using ONS GDP deflator

Data source: Local Government Financial Statistics England No. 22 & 24