# A Solution for the Long-Term

***Article written by Chris Horlick, managing director of care at Partnership***

The debate around how to reform adult social care in England has been on the political agenda for over ten years. However, the issue has been repeatedly kicked into the long grass as Government after Government has been forced to move it down the agenda due to a lack of political consensus. When the Coalition Government came into power, they made it a key issue in their programme and three years later it looks as though adult social care will finally be reformed.

Comments in recent weeks have however hinted that the much vaunted political consensus around the Bill may be breaking down with the level of the cap being criticised by Labour MP's Andy Burnham and Liz Kendall. The passage of the Bill may be rougher than anticipated.

The Care Bill received its first reading in the House of Lords on 9th May and was published in its full 125 page glory the following day. Many of the Bill's proposals have already been through pre-legislative scrutiny, which was conducted by the Joint Committee on the Draft Care and Support Bill, Chaired by the former Care Services Minister, Paul Burstow MP. The scrutiny committee were certainly thorough with more than 100 recommendations put to the Department for Health.

So what broadly does the Bill propose? It aims to pull together the complex current legislation into a single Act to provide a modern framework for care and support. It will prioritise individual wellbeing, promote prevention and reducing needs, promote the needs of carers, improve information and advice, address quality and safeguarding issues and promote both a market shaping role for Local Government and better integration between health and care services.

For the financial services world it is the funding proposals, which along with the desire for significantly improved information and advice services, which excite the most interest. Whilst the broad approach is now clear many of the fine details remain work in progress.

The Care Bill now sets out legislation to introduce a cap on social care costs which will be set at £72,000 and will be introduced in April 2016. In addition, the upper level of the means test threshold is to be raised to £118,000 theoretically enabling people with needs to preserve much more of their wealth. From April 2015, a deferred payment scheme will also be introduced where Local Authorities (LA) will be required to offer interest bearing loans secured on people's houses to fund their care - subject to certain criteria which are yet to be decided.

These loans are repayable on death and likely to only be available to those requiring residential care who fit eligibility criteria. The current betting is that the eligibility criteria will be set at "substantial and critical" where 80% plus of LA is today. This will leave people with "Low or Moderate" needs to fund their own care irrespective of wealth.

Although the cap is to be welcomed, it is vital that people are clear about what it covers and what it does not - the cap will only apply to the "personal social care" element, which for those in residential care is typically only a third of all costs. It will also be subject to both the eligibility criteria and the prevailing LA rate.

In practice, this means that if the LA rate for care funding is £500 per week – of which £230 goes on general living expenses and £270 count towards the cap – it will take five years and two months for a client to reach the £72,000 cap - provided they do not deplete their funds to the means test level before then. After which, they will receive state assistance for this proportion of the fees. Any costs above the LA rate is for the individuals own account from the outset of their care journey. The key is still for self-funders to get good regulated financial advice!

For many people needing care their main financial asset is their family home. It is suggested that up to 40,000 people have to sell their homes to fund their care. In order to prevent this, the Government has proposed a development to the deferred payment scheme as outlined above.

What is as yet unclear are the answers to questions such as what interest rate will be payable? What will the loan to value be? What happens if I outlive the value in my property? Will I be able to choose a care home or will the council choose one for me? These questions will all be addressed in the fullness of time, but it remains an overriding concern that no deferred payment loan should be offered without reference to regulated financial advice.

For all its good intentions, this move could be the worst financial decision an elderly customer ever makes and they need a holistic view of the market before making a choice. Once again the key is access to good regulated financial advice!

Finally we need to look at what happens to a self-funder whose assets fall below the £118,000 upper level of means test. Under today's system a tariff of £1 for every £250 of assets above the lower level of the means test threshold is levied on a sliding scale as assets reduce. This is a fairly trivial sum when the difference between the upper and lower levels of means test is small. When the upper level of the means test rises to £118,000 and the lower level remains below £20,000, the sums required becomes far less trivial and could be £400 per week in situations when someone's assets have fallen just below the upper level.

So for all its benefits the new system will remain complex and good information and advice will be essential. As part of the Bill, a duty is placed upon LAs to provide information and advice on how to access independent financial advice. This is a huge step forward and will hopefully mean that people will be better prepared to face the process. This is where there is a huge opportunity for the advisers to make a significant difference.

To give you an idea of the potential, it is worth noting that data from the LA Information Unit suggests that 25% of self-funders deplete their assets and fall back on the state which we believe is linked to the lack of appropriate financial advice. Indeed, of the 53,000 who entered residential care in 2009, only 7,000 received appropriate financial advice.

However, in the Bill's present form ***regulated*** financial advice is not explicitly mentioned which raises some questions. Could local authorities simply point people to an information service that they may or may decide not to use and say they have fulfilled the criteria? What happens if the advice proves to be wrong, negligent or not in the best interest of the consumer? Does the person have any redress?

We anticipate that the need to refer to regulated financial advice will be detailed in explicit guidance supporting the Bill with the Government indicating as much in their response to the Scrutiny Committee. They have said that the importance of access to independent, regulated financial advice for "anybody considering the Deferred Payment Arrangements" will be covered within guidance that is published with the bill. We would expect to see a similar response for all self-funders for care.

So what can advisers do at the moment? This Bill needs to go through various readings but I would suggest that it is vital that as an industry we show we are prepared and willing to be part of the process. Advisers who don't already have care qualifications should seriously consider investing in training. CF8 is the Chartered Insurance Institute qualification which allows intermediaries to provide advice on care products. In addition, LAs may well seek further evidence of expertise such as SOLLA accreditation when deciding which advisers to use.

**How the cap will work in practice**

Assuming a care home costing £700 per week and a Local Authority contribution of £500 per week:

| | Weekly Cost | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 | Year 9 | Year 10 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Excess above Local Authority Rate | £200 | | | | | | | | | | |
| Local Authority Rate less Living Costs | £269 | | | | | | | | | | |
| Living Costs | £231 | | | | | | | | | | |
| TOTAL | £700 | | | | | | | | | | |

| Key | |
|---|---|
| | Self-funded for life |
| | Contribution limit, i.e. Dilnot Cap to £72K |
| | State Funding support |