

## Long Term Care Advice – Why Regulate?

With effect from 31<sup>st</sup> October this year Financial Advisers wishing to provide advice on funding long-term care are required to pass new Long Term Care (LTC) examinations to prove their competence in this complex arena. One of the main features of the new rules provided by the FSA will introduce enhanced training and competence requirements for all LTC advisers, including a new LTC examination. This means that all Financial Advisers wishing to advise on Long Term Care will need to pass an appropriate LTC exam. (Existing advisers who have already been deemed competent to advise on LTC will have until 30 October 2006 to pass the examination.). Is this necessary?

The depth of knowledge required for appropriate selling of pre-funded LTC insurance is probably adequately covered by existing requirements. When LTC insurance is sold the adviser would not know for example if at the time of claim the NHS may be fully responsible and the insurance no longer required. It is a policy offering cash benefit payable when certain conditions are met (rather like Critical Illness) rather than something which will definitely meet a predetermined need.

Immediate need advice on the other hand was not adequately covered by previous competence requirements. When an older person needs care the adviser must first determine who is responsible for that care. Should it be fully NHS funded, is there a liability on the LA under the Mental Health Act, should property be disregarded. The State cannot be relied on to get it right. Once identifying that the client is responsible he must then be aware of any partial help available and the consequences of interaction / claims between different agencies i.e. NHS, LAs and the DWP. The adviser must also be aware of the rights of partners/dependents at home and the impact any decisions might have on their personal financial security.

Once all these issues are dealt with the financial advice is quite straight forward – You have a shortfall in income to be met from a certain amount of capital.

As part of its training programme NHFA uses this true case study which illustrates the need to understand how the complexities of Community Care Legislation and DWP benefit regulations fit in with financial advice if mistakes are to be avoided and best advice delivered for funding long-term care.

*As a result of reading an article in a retirement magazine Elizabeth called the NHFA querying her Liable Relative's contribution towards her husband Eric's care home fees.*

*Eric was 78 years old and mentally ill, had State pension, private pension and attendance allowance totalling £149 per week. The care home fees were £330 per week leaving a shortfall to be found by his wife of approximately £200 per week to include his personal expenses. Social Services wrote to Elizabeth informing her that they would **not** provide any financial assistance towards his fees until such time as they **both** had capital of below the means test limit.*

*Eric had savings of around £6,000 and Elizabeth had around £68,000. Their property was jointly owned.*

*The simple solution? To sell Elizabeth an immediate need care plan or alternative investment to meet the shortfall of £200 per week*

**WRONG!** Because Eric's capital was below £16,000 a claim was submitted on his behalf for Income Support benefits to which he was rightfully entitled. These increased his income by £92 per week bringing it up to £241. The effect of these decreased the shortfall to £108 per week.

*The simple solution then for Elizabeth? To purchase an immediate need care plan or alternative investment to meet the reduced shortfall of £108 per week.*

**WRONG!** The next step was to challenge the Social Services demand for the liable relative's contribution. This because they have no right to financially assess the spouse remaining at home, Elizabeth required her income from investments to meet her usual living costs, Eric's capital was below the means test limit and consequently 50% of his private pension should be returned to his wife. The result, Social Services to take over the funding taking into account Eric's Income only resulting in the shortfall being reduced to nil and an increase in Elizabeth's income by £13 per week.

*Advice now required is to recommend investments to generate a higher income for Elizabeth as all her husband's Income except 50% of his private pension was taken towards his fees and personal expenses.*

**WRONG!** It transpired that Eric had been sectioned under Section 3 of the Mental Health Act 1983. It follows therefore that he is entitled to free after care under Section 117 of the same act. The NHFA challenged Social Services on behalf of Elizabeth and Eric. Their legal department agreed that lawfully they should have been fully funding Eric's care home fees and they took over the full liability immediately.

*Now the Local Authority are fully funding his care costs Eric keeps all of his pension and most of his Income Support Benefits and, Instead of Elizabeth having to pay out £330 per week she now has additional income to spend on her self and her husband of £241 per week. The local authority were further challenged for a refund of fees unlawfully charged plus interest amounting to £21,100 which they duly paid.*

*Elizabeth now has adequate income and requires advice on how best to invest for growth the £21,100 refund from the Local Authority.*

**CORRECT!** Need we say more? NHFA advice and information is free and available to all regardless of means and combines financial advice with the complexities of local authority charging and assessment procedures, health authority responsibilities, DWP benefits and legal matters. The aim of the NHFA is to enable older people meet the cost of their chosen care for life whilst also preserving their original capital, independence, dignity and right of choice.

**Copies of the NHFA Long Term Care Guide and detailed LTC information sheets can be obtained from NHFA, St Leonards House, Mill Street, Eynsham, Oxford, OX29 4JX, or through the Care Advice Line 0800 99 88 33, or website [www.nhfa.co.uk](http://www.nhfa.co.uk)**

#### **Notes for Editors**

1. NHFA / Help the Aged LTC Advisers undergo an initial two week residential initial training course to understand the complexities of LTC. They must pass relevant examinations to be permitted to advise, are monitored for their first six months of activity and continue to receive regular ongoing training.
2. FSA LTCI Regulation Press Release can be found at <http://www.fsa.gov.uk/pubs/press/2004/087.html>