

NORTH LANARKSHIRE COUNCIL

REPORT

TO: Social Work Committee	Subject: A NEW PARTNERSHIP FOR CARE IN OLD AGE - A POLICY STATEMENT ISSUED BY THE GOVERNMENT ON PAYING FOR LONG TERM CARE
FROM: Jim Dickie Director of Social Work	
DATE OF COMMITTEE: 22 April 1997	
REF: AFPART/REM	

**1. PURPOSE OF REPORT**

1.1 The purpose of this report is to advise members of a recently issued Government policy statement on paying for long term care. Issued at the same time is a consultation draft of a Community Care (Residential Charges) Bill which seeks to legislate for the proposed changes. The Government's intention is to introduce this legislation in England & Wales in the first instance.

**2. BACKGROUND**

2.1 In May 1996 the Government issued a consultation paper on paying for long term care which was the subject of a Committee report. The revised paper confirms original proposals for asset protection under a partnership scheme for people who take out insurance protection against the cost of long term residential or nursing care and also proposes to enable publicly funded residents to "top-up" the care arrangements by their authority.

2.2 The background to the statement remains that of an increasing elderly population, corresponding rises in the numbers of people requiring residential or nursing home care and the subsequent increase in numbers of publicly funded places, and a national policy of reducing NHS continuing care beds.

**3. THE GOVERNMENT'S PROPOSALS**

3.1 There are two main changes proposed:

- a) the introduction of partnership insurance policies for people at the point of need or for people who are prepared to take out advance provision for care needs to protect more of their capital from the means test. Payments received under the qualifying criteria for a "partnership policy" would then earn targeted protection for identified assets belonging to the insured person from any future means test for residential care, the protection being directly related to the amount of partnership payments made. The criteria of what insurance arrangements would be eligible for a partnership policy is still to be fully set out.
- b) introducing provision to enable current and future publicly funded residents to use any capital or income they have which is disregarded by the means test (including

partnership - protected capital) to pay for more expensive accommodation than the authority would otherwise arrange, which costs more than the usual limit.

- 3.2 The Government proposes an insurance scheme designed to give extra protection to assets from the statutory means test, so enabling people to safeguard assets to hand on wealth to their dependants rather than seeing them depleted by the costs of paying for long term care. These proposals are designed so that peoples care needs may activate payments under the Partnership Insurance either at home or to pay for their long term care for a time limited period before reverting to public funding of residential care, whilst retaining enhanced protection of their capital assets.
- 3.3 In addition the government intends to widen the choice of accommodation so that more expensive facilities can be accessed by those who can afford to "top up" from their own funds what is already paid by the local authority.

#### **4. ISSUES AND IMPLICATIONS**

- 4.1 The issue of funding for the provision of long term care for elderly people is of continued national concern - preliminary costings provided suggest that this partnership proposal involves around £200 million per year of public expenditure. The potential contribution of private insurance schemes will impact upon only a much smaller number of "better off" residents and does little to tackle the complex social and fiscal policy issues relating to the long term provision of both health and social care for elderly people into the next century.
- 4.2 Whilst the Government considers it impractical to give protection against means testing for non-residential services, it proposes that insurance benefits should earn protection from means testing for residential care with no test of how they are used. A simple physical and mental incapacity criteria has been suggested by the Association of British Insurers. In setting incapacity criteria failure to perform three or more activities of daily living would trigger payments which qualify for protection from the means test. An individual could therefore choose to use his insurance benefits to purchase domiciliary care or no care at all and still be increasing his protection against means testing for residential care, again with financial implications for local authorities. Indeed protection from the means test can be earned without evidencing that social care has been purchased. This invalidates the overall aim of assisting people to pay for their own long term residential care costs for as long as possible.
- 4.3 The Government initially invited views on whether or not care needs assessments should be required to establish whether protection payments should be made and if so, who should carry them out. The paper now confirms the view that this is essentially a commercial transaction between a policy holder and an insurance company. Consequently, there may be serious financial implications for Social Work Departments by not involving them in assessments of need. Specifically the incapacity criteria suggested by the insurance industry to access a policy and thus trigger future protection from the means test includes no test of whether residential care is needed and does not take account of the much wider range of factors that would influence care assessments. This is fundamentally different from that of the Department's criteria for accessing care and the cost to the public purse could be significantly greater.

- 4.4 There is an important issue about continuity of care once the protection runs out, if the Department's assessment of a persons need for long term care does not concur with the arrangements already in place. The Government offers no guidance to local authorities in this regard. The situation is further complicated by a recent legal judgement which apparently upheld the right of a local authority not to fund the continuing care of a resident whose self funding arrangement expired.
- 4.5 The Government's proposal will make it feasible to trigger protection for insurance payments and exhaust these prior to or closely following admission to residential care thus ensuring the protection of assets from the means test and making it possible to ensure public funding from the outset.
- 4.6 The Government has produced a set of assumptions and costing projections for implementation of a partnership scheme and state that implications for local authority expenditure will be properly assessed. Whilst this Department would not, in any case, have any confidence in being properly compensated if previous methods used to calculate local government financial aggregates are employed in this case, the methodology used gives cause for concern.
- 4.7 In particular the calculations for public expenditure appear to confirm that elderly profiles and activities are based on an English perspective ie. have assumed in their costings equal numbers of older people with very high capital rather than what is known of the older people population in Scotland. For instance Scotland has significantly less very well off older people and self funders would be concentrated in the band average of assets of £40,000. The government have highlighted that this group will generate a much higher cost to the public purse but have failed to quantify this in a Scottish equation.
- 4.8 The Government acknowledges that the public expenditure costs will be greater if people begin to receive partnership benefits before going into residential care. They do not however propose to discourage nor provide a disincentive to this and it is more likely than not to occur frequently. The government have not included this aspect in their costings formula.
- 4.9 The proposal to "top up" additional costs from any capital disregarded for the means test raises an issue about the needs for safeguards to prevent vulnerable individuals being pressurised into paying more against their will as well as implications for local authorities when the capital is exhausted. The paper indicates that this will be subject to further discussion and guidance issued to local authorities to deal with these concerns.
- 4.10 The government acknowledge that local authorities would forego income from charges and incur administration costs, but the latter has not been quantified and no extra resources to local authorities will be ringfenced.
- 4.11 An overriding concern will be that public resources will be allocated not according to care need but whether a person is insured or not.

- 4.12 Alongside these proposals the Government indicates that it wishes the Audit Commission to examine the scope for procedures to tackle the issue of evasion of charges. This raises questions about the extent of the problem at present, scope for tackling it within existing legislation, the possible need to legislate further and the need to assess the impact of the proposals in this respect.

## 5. CONCLUSION

- 5.1 "A New Partnership for Care in Old Age" is a complex policy statement, which raises important and fundamental issues about funding of care for older people. In particular legislation is proposed initially applicable to England and Wales with the intention of extending similar law to Scotland. A great deal of work requires to be undertaken however to ensure recognition and pertinence of the proposals and estimated costs to the Scottish situation.
- 5.2 Views are invited on a range of different insurance financial options and on anti-abuse requirements. It is not intended that the Social Work Department submission will comment in detail on the respective merits of the various insurance proposals but will instead seek to highlight the issues these proposals raise for local authorities.

## 6. RECOMMENDATIONS

- 6.1 Members are asked to note the terms of the above report.



**Jim Dickie**  
**Director of Social Work**  
**4th April 1997**

*For further information on this report please contact Anne Feeney, Senior Contracts Officer (TEL: 01698 332055)*