Protection

Learning Outcome 8

By the end of this learning material you be able to demonstrate an understanding of the range, structure and application of long term care insurance to meet financial protection needs.

8 The need for Long Term Care

Long term care is needed when a person becomes ill or has a disability that means they are unable to look after themselves and carry out their activities of daily living. It is unlikely that this situation will improve – it is more likely to get worse.

This is usually as a result of ageing or the after effects of suffering a stroke, serious fall or crippling illnesses such as severe arthritis.

Long Term care may also be needed if a person is mentally impaired.

The most common illness is dementia and the most common form of dementia is Alzheimer's disease. A person suffering from dementia will need supervision and help to carry out normal daily activities. The care can take many forms – from simple domestic help in the home to daily medical help and medication.

People are now living longer – it is common for people to live well into their 80s or 90s. Advances in medical science, better public health, improved diet and greater affluence all add to the fact that today's population can expect to live considerably longer than their grandparents – and as a result – more and more people will need long-term care.

The Royal Commission's 1999 report says that an estimated 20% of men and 33% of women will need long term care at some point in their lives

8.1 Regulatory Considerations

The FCA sees long term care provision as "high risk" given the types of products involved, how these work alongside Social Security benefits and the relative vulnerability of the typical person requiring advice in this area. Their view is to treat long term care insurance (LTCI) pure protection contracts as "designated investments" This means that all LTCI is treated consistently and comes under the same regulations irrespective of the structure of the product

- Intermediaries who advise on LTCI come into the compulsory jurisdiction of the Financial Ombudsman Service and into the Financial Services Compensation Scheme
- There are specific Training and Competence (T & C) requirements for those advising on LTCI, those supervising them and the administration requirements.
- The main requirement is that individuals advising on long term care insurance must have an appropriate exam qualification
- There are pre and post sale disclosure requirements
- Much of the Insurance Conduct of Business Sourcebook (ICOBS) rules will apply to the handling of LTCI claims.

8.2 Political Environment, Social Care Policy, National factors

- The National Health Service's responsibilities for providing and funding care
- How the State assists with long term care
- How the individual's assets, including their home, are treated for means-tested benefits and
- The deliberate deprivation rule

For a person needing long term care in a residential care home – some costs are paid by the State and some must be paid for privately. The Care Act 2014 forces individuals with savings to pay for their own care.

Long Term Care is not the total responsibility of the NHS.

National Health Service Responsibilities

The NHS is responsible for people's medical and health care at home (via GPs and District Nurses) or in hospital.

It is also responsible for prescription drugs (these are free for anyone over 60 and to anyone registered with a GP in Wales or Scotland).

The NHS is NOT responsible for other forms of care – such as personal care or domiciliary care.

The NHS is responsible for meeting the full cost of care in a care home for residents whose "primary need" for being in care is health based. This is called "NHS continuing healthcare or fully funded care".

Continuing health care can be difficult to define although there must be a "primary health need" as defined under the National Health Service Act 2006 and such a health need is assessed by the patient's Primary Care Trust (PCT) or Health Board in Scotland and Wales.

An individual cannot receive fully funded NHS care in Northern Ireland.

The NHS will also pay for nursing care (and personal care in Scotland).

The weekly amounts paid vary by country within the UK. These do not usually rise each year but are increased from time to time.

NHS Funded Nursing Care

Individuals assessed as needing nursing care in a nursing home are entitled to receive an additional nursing care allowance - NHS funded nursing care.

This allowance is non-means tested and tax free although how much is paid will depend on where the individual lives.

Since October 2007, a new single rate of NHS funded nursing care has applied for England – except for existing claimants (previously there were 3 bands of payment depending on the level of care needed).

PAYMENT LEVELS

Country	Payment for nursing care need as at 2017/18
England	Local primary care trusts pay £155.05 per week. Those with a high nursing need established before 1 October 2007 receive a higher rate of £213.32 per week
Wales	Local health boards pay an NHS funded nursing care figure of £148.01 a week
Northern Ireland	The local health and social care trust pays up to £100 a week depending on how much they already contribute to the individual's fees.

In Scotland – a different system is in place:

If the patient is assessed as needing nursing care – their local authority will pay £78 a week towards their fees (2017/18)
If they are assessed as also needing personal care, the local council will pay an extra £171 a week towards their care (2017/18)
Attendance Allowance and the care component of disability living allowance are not paid

See also: http://www.scotland.gov.uk/Topics/Health/Support-Social-Care/Support/Older-People/Free-Personal-Nursing-Care

Attendance Allowance

If the person pays their own care fees – they can claim attendance allowance if they need help with personal care and/or supervision. This is paid by the Department of Work and Pensions.

- Attendance Allowance from age 65
- younger people may qualify for disability living allowance instead.

There are two levels of attendance allowance

- In 2016/17 the lower rate is £55.65 a week (if the need is for care during the day OR at night but not both)
- The higher rate (where care is needed during the day AND at night) is £83.10 a week
- Attendance Allowance is tax free

Means Testing

The Care Act 2014 states the Local Authorities' responsibility to provide means tested help with care costs. This means that Local Authorities (via their Social Services Department) have a duty to

- Assess, on request, someone's care needs
- Using a means test or financial assessment – determine whether the Local Authority should fund or partially fund the care needed
- Determine maximum fee levels

For respite care, a local authority is only required to apply the means tested benefit rules after 8 weeks, although income support may also be available.

Personal Expense Allowance

The Local Authority must leave the individual with some money to cover some of their own personal expenses. This sum – the personal expenses allowance (PEA) is set by the Government each year. This figure usually increases each April.

Lower and Upper Limits for Savings Thresholds for 2017/18

Country	Lower Limit	Upper Limit
England	£14,250	£23,250
Wales	£30,000	£30,000
Northern Ireland	£14,250	£23,250
Scotland	£16,500	£26,500

If a person's assets are between the upper and lower thresholds, each £250 of assets (or part) over the threshold is assessed as giving £1 a week of "tariff income". If assets are less than the lower limit, they are disregarded.

Income and Assets taken into Account

Local authorities must use national guidance in making assessments. These are contained in a Department of Health publication called "Care & Support Statutory Guidance" which relates to obligations that arise under the Care Act 2014. This replaced the Charging for Residential Accommodation Guide (CRAG). This guide contains details of both the income and capital that need to be taken into account when determining whether local authorities can assist with the payment of care fees.

Local authorities use this guidance when making assessments. The guide is updated annually. There are separate guides for England, Northern Ireland, Scotland and Wales.

The income which is fully taken into account includes:

Earnings	Pension Income	State and other benefits
Pension Credit	Trust Income	Income from Investments – e.g. dividends, annuity income

		and bonuses paid
Income from letting (or sub-letting part of a property) which is not part of the living accommodation	**Attendance Allowance**	**Income from Investment Bonds with or without life assurance, is taken into account in the financial assessment for residential accommodation**

Some income is fully disregarded e.g. Council Tax Benefit.

Some income may be partly disregarded i.e. 50% of an occupational or personal pension if the partner or spouse relies on that income to continue living at home.

In determining someone's assets, the local authority will take account of all their assets including

- Money in cash, deposit and savings accounts and national savings
- Shares – at their market value
- Property
- Businesses owned or part-owned
- ISAs
- Pooled investments e.g. unit trusts, investment trusts and OEICs

The Local Authority will exclude personal possessions and pension funds. The pension income from them WILL be counted.

The Local Authority will also disregard the surrender value of any life insurance policy - the current guidance makes it clear that an investment bond must be disregarded.

The Home

The value of an individual's home is disregarded

- where there is a spouse or partner living in the home
- they have an elderly (60 years or over) relative living with them
- a relative who is incapacitated (this is defined as being eligible to claim one of the range of social security disability related benefits)
- The value of the home is not taken into account where the individual has a child under the age of 18 living in the property

The Local Authority can also disregard the value of the property if a person other than listed above lives in the property e.g. someone who has given up their own property to live in the home and provide care or an elderly companion of the resident.

The value of an individual's home will be disregarded for 12 weeks from the date that the individual enters residential care. This means that if the person would have been eligible for local authority funding - but the value of the home pushes them out of this, then the Local Authority will contribute towards the cost of their care during this period.

If the person is assessed as needing care in their home then the process for means-testing is similar. The value of the house is disregarded but all other assets are included.

In England, if the individual has more than £23,250 in assets, (which would include the home unless 'disregarded') then they will be assessed as a "self funder" and will have to pay their own care costs. If they have less than threshold, then the Local authority will contribute.

If the person's assets, excluding their property, are worth less than £23,250, the Local Authority cannot force the sale of the house – it is possible to request that a charge is put on the property to be repaid on death. This allows the property to be rented and the rent can go towards the care costs. It also allows the person's estate to benefit from rises in property values. This is called a deferred payment plan.

If the home is not owned by the person needing care – then it cannot be taken into account. However if the person gave away the house e.g. to their children and continued to live in it – then the Local Authority might take it into account under the **deliberate deprivation rule.** (detail on this later)

Many couples do not realise they can take the home out of the care equation by altering the way in which it is owned.

Most people buy a house as Joint Tenants – which means that on either death – their share is automatically transferred to the other.

However, if ownership is changed to Tenants in Common – this gives either person the right to leave their share to whoever they like. So on the death of the first spouse their half of the house is passed to the children or into a trust then it is possible that the whole house may be disregarded should the survivor need nursing care later on.

Deliberate Deprivation Rule

If an individual transfers an asset e.g. their house out of their ownership – it does not necessarily mean that it will not be taken in to account in a means test.

- The Local Authority and the Pension Service can, when assessing a resident's eligibility for assistance, look for evidence of deliberate or intentional deprivation of capital.
- If they are found to have deliberately deprived themselves of capital – then they will be treated as having "notional capital" to the value of the capital disposed of.
- The notional capital is added to the individual's actual capital when assessing any rights to long term care benefits (see earlier).
- Deprivation of Assets is illegal and the Local Authority could claim the fees back by going to law – which also involves court costs.
- The Law recognizes that people may wish to give away assets for reasons other than to claim care costs from their Local Authority. There is no legal time limit –

there was a case in 1999 when the court held that the council could take a transfer made 18 months previously into account.

- Care is needed when considering any action that appears to result in asset deprivation.
- Local Authorities are empowered to take effective action against residents who deliberately attempt to avoid paying charges.
- The burden of proof is on the Local Authority who has to establish that the motivation of the donor was to diminish their assets in order to evade payment due to the Local Authority. They only have to prove that deliberate deprivation was a significant motive for the transfer of assets.
- Guidance provided does not specify what constitutes deliberate deprivation but it does indicate policy. A frequently used guideline is that it would not be reasonable for a Local Authority to determine that the motivation for the passing of a lifetime gift was deliberate deprivation if the "gift was made at a time and in circumstances in which the donor was in good health and did not anticipate care".
- In considering whether deprivation has occurred, the most important aspect is the motive or the intention of the person. It is very important that any financial adviser involved in such planning decisions record their reasons for such decisions in a suitability letter.

Care Act 2014

The Act received Royal Assent on 14 May 2014.

As shown earlier, currently those with assets over the Upper limit are required to fund all of their own care. This limit was to increase to £118,000 from April 2016, which would have meant that those with capital under this limit will receive funding for a proportion of their residential care costs on a sliding scale.

Also, a cap was to be introduced of £72,000 on the cost of care that a person must self-fund. Any care cost above this was to be funded for them, although this funding will not cover the cost of accommodation or food.

However, the Government announced in July 2015 that these changes are now to be delayed , with the Government further announcing in June 2017 that they 'will bring forward proposals for consultation' .

8.3 Main Long Term Care Product Types and Features

The Government's Royal Commission on Long-Term Care Funding in 1999 states that at age 65 men had a 1 in 5 chance and women a 1 in 3 chance of needing long-term care at some point in their life. Although women tend to live longer than men – they have a higher risk of needing long-term care before they die than men do.

Long term care does not just apply in later life – someone who has an accident or illness in their 30s could need care for the rest of their life.

- The main types of long-term care and who provides it
- The differences between care at home and care in a home
- The costs involved in long term care

Family Care

- Family members may undertake general "caring" duties e.g. looking after partner after illness such as a stroke. Cooking, cleaning and shopping - the family member may well be able to look after themselves as long as they have help with these tasks.
- Latest figures show that there are nearly 6.5 million carers in the UK (http://www.carersuk.org/newsroom/stats-and-facts)
- This is about 10% of the population (12% of the adult population)
- Changed modern lifestyles often mean that family care is not available. More women – who traditionally provided most care – now work until retirement
- Children may move a distance away from their parents and may be unable or unwilling to provide care
- High divorce and low marriage rates mean fewer spouses are available to provide care

Professional Care

If care from family and friend is not available – or the level of care needed is greater than they can provide - then professional care will be required.

Sometimes an elderly person does not wish their family to help and they may prefer to be in an environment with others of their generation and interests.

Professional Care may be at the individual's own home or in a care home.

Care at home

Domiciliary care or care at the person's home – might initially mean an hour or so a day to help feed, dress and clean. Over time, this arrangement may need to be adjusted to meet new needs and to cope with short term variations e.g. after an operation or hospital stay.

The need may be for nursing care or for help with general domestic duties such as housework or looking after the garden.

Supermarket home deliveries and other services such as meals on wheels may allow someone to live at home even if they are not very mobile.

Domiciliary care is best suited to someone who does not want to move out of their familiar surroundings, but it can become very expensive or impractical for people who need a lot of care and support.

A move to some kind of care home may need to be considered if the person's ability to look after themselves deteriorates.

Care in a Care Home

A residential home generally does not provide nursing care whereas a nursing home does.

Both terms are usually replaced by "care home" with some homes being a "care home with nursing".

Some homes provide both residential and nursing care – which means that the residents don't need to move if a care need arises. Others may specialize in particular types of care e.g. for residents with dementia.

For most occupants, the care home is their last home. Their time there can be few weeks or days to many years. Although many people may dread the move into a care home - once settled in they may value the advantages and their health and life expectancy can even improve.

Hospices provide end of life care, often for the terminally ill – they are not viewed as providing long term care.

Sheltered Housing, Extra Care Housing and Close Care

Some people need supervision rather than care and Sheltered Housing comprising self-contained flats and bungalows within a housing complex with a warden/manager in regular contact with the residents provides this.

Extra Care Housing includes renting or buying (usually on a lease)

- Very sheltered housing
- Private retirement housing
- Supported housing
- Assisted living
- Close Care schemes built on the same site as a care home and allowing easy transition between facilities
- Continuing Care retirement communities (CCRCs)

As well as rent or buying costs, service costs may be split across all residents or just charged to those who use them

Costs

The cost of care varies considerably depending on the type of care, area, quality and a range of other factors.

- Home care agencies often charge £10-£30 an hour for care at home
- Nursing care is more expensive e.g. a live in nurse could cost around £180 a day weekdays and £199 at weekends.
- A visiting care assistant would cost less e.g. £59 per day
- Care homes typically charge £400 - £900 per week. Care homes with nursing charge from £500 to £1000 a week.

8.4 Long Term Care Planning

Long Term Care Insurance - Pre-funded and Immediate Needs Policies

Pre-funded Policies

This covers regular and single premium contacts that are either

- LTCI pure protection contracts which are insurance-only products with no investments content or
- LTCI investment bonds which do have an investment content

Immediate Needs Policies

These are a form of impaired life annuity which helps pay the costs of long-term care at the point at which it is required. The lump sum is exchanged for a regular income.

Long Term Care Insurance Market

- How pre-funded long term care insurance policies work
- How immediate needs cover works
- The different types of equity release products and how they can be used to fund long-term care
- How other financial services products may be used in long-term care fees planning

The aim of Long Term Care Insurance is to provide a planned way to pay for some or all of the cost of long-term care – whether it is needed because of long-term illness or is due to extreme old age requiring medical care.

The costs can include domestic help, physical aids e.g. stair lifts, medical services and nursing home care.

State benefits may be available e.g. disability living allowance and attendance allowance – but these will rarely cover all the non-nursing costs of long-term care. Some benefits are means tested and the individual may not get any help if their assets exceed a certain level.

There is a need for insurance products to prevent undue reliance on state benefits.

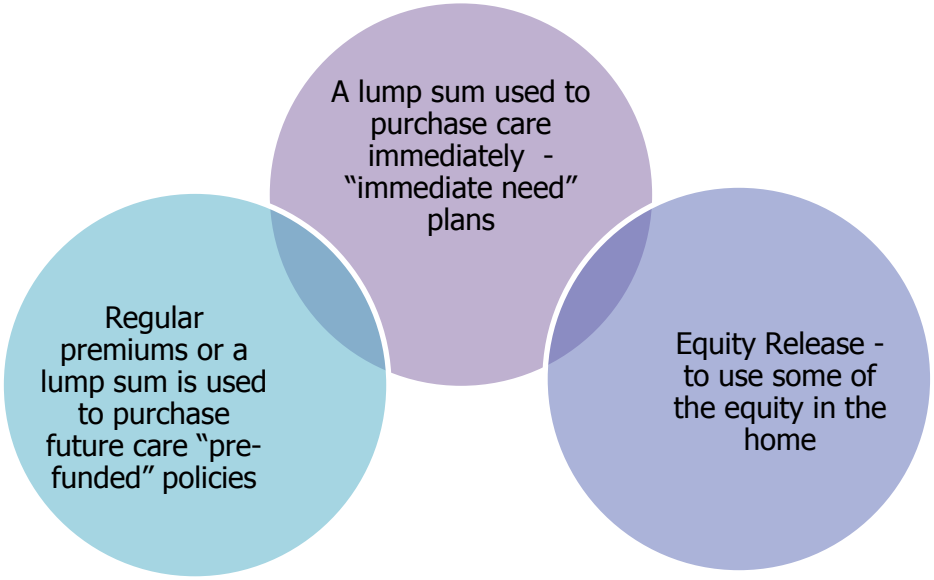
Policies vary so an individual needs to look at the number and measurement of the Activities of Daily Living (ADLs) which the insurance company uses to assess the need for care – before they take out the policy.

When considering the types of policy it is important to consider whether care is needed immediately or if the individual is planning ahead for care which may be needed in the future.

The Individual needs to think about how they wish to pay for the policy – lump sum or regular premiums paid out of income – or to wait till the care is needed and pay for it from their assets.

If the intention is to claim if care is needed in the home, a nursing home or residential care home – it is also necessary to consider the level of weekly or monthly payments needed from the policy. This may or may not equal the cost of the care that is needed.

There are 3 main types of Long term Care Insurance



Immediate Needs Plans (Impaired Life Annuities)

- These are impaired life annuities
- They are designed to provide the money to pay for care that is needed now
- If the individual is currently in poor health and already needs care or is about to go into a nursing home – then it is possible to pay a single premium to buy a policy that will begin paying for care immediately.
- These policies will pay out for as long as the person needs care with no time limit

- There are special tax concessions. The company assesses the future life span of the applicant and quotes a premium – which is payable as a lump sum. This guarantees to pay a set fee directly to the care home, **free of tax,** for as long as the applicant lives.
- Benefits can be level or index linked
- Guarantees can be selected – so that if the individual dies soon after taking out the plan some of the capital may be returned.
- The policies provide cover for people who already need care
    - The poorer the health of the insured – then the annuity is greater for the same lump sum
    - The annuity will continue even if the annuitant recovers
    - Unless a guarantee is selected, the capital sum paid for the premium could be "lost" in the event of early death as the annuity will stop. This risk needs to be explained to the client – and their relatives

Immediate care policies that are impaired life annuities are taxable as purchased life annuities if they are payable to the policy holder. This means that part of the annuity is a tax free capital content and part is taxable as savings income

The individual cannot normally cancel nor get their lump sum premium back, except during the statutory cooling off period after purchase.

In order to be eligible for an Immediate Needs Annuity – the applicant needs to be unable to do at least one activity of daily living or must be suffering a cognitive impairment such as any form of dementia. (Details of the definitions of ADLs later)

This means that most applications are made through an enduring power of attorney or lasting power of attorney. (details later)

The monthly benefits are free of tax when paid directly to a registered care provider;
- The care provider needs to be registered with the Care Quality Commission. This covers virtually all care homes and home care agencies (including local authorities providing care) in the UK
- And when the policy was taken out, the purpose was the provision of personal or nursing care for the person covered by the policy and that the care is needed because of their mental or physical impairment, injury or sickness which is expected to be permanent.
- If the benefits are paid direct to the policyholder then they are taxed in the same way as a purchased life annuity

- Options available include annual increases in benefits to meet the rising cost of care
- Premium Protection to protect the premium in the event of earlier than expected death of the care recipient.

Deferred Care

- Deferred care plans are designed to pay the benefits out after a few months or years.
- They tend to suit people who have the funds to pay for care for a few months/few years but want some protection if the care continues beyond that period.

- Usually much cheaper than immediate care plans

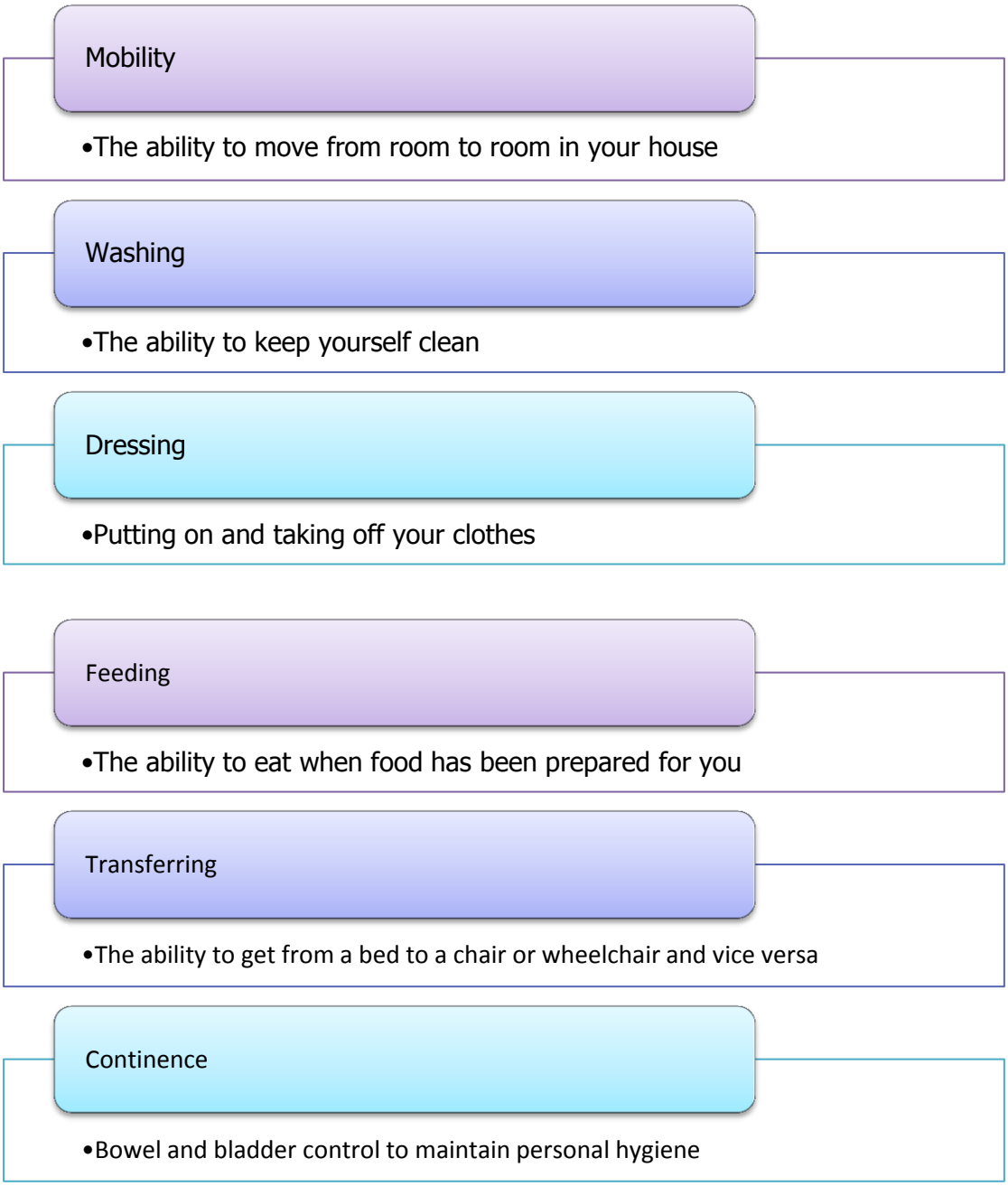
Pre-funded Policies

2 types – traditional insurance and investment linked policies

Traditional Insurance

- The policyholder pays a single lump sum or makes regular premium payments (which can be reviewable or level) – to insure against a possible future event.
- The insurance is usually underwritten – which means that the applicant's state of health is taken into account
- This allows the individual to choose the type of care they want to receive and can cater for deteriorating health, i.e. it can start with care at home but then residential care may become necessary
- There is no refund of premiums in the event of cancellation
- Future claims are not allowed if the policy has been cancelled
- Future claims can be made if the chosen long-term care policy permits the individual to stop paying premiums after a set period and retain limited cover. In this case, the insurer will make a reduction in the cover provided
- Benefit is triggered when the insured is unable to perform a certain number of ADLs. The ADLs will be defined in the policy and the ABI has a model set of ADL definitions.

Activities of Daily Living



Some plans pay out if the insured is unable to perform 3 or more ADLs or is cognitively impaired e.g. has Alzheimer's disease for 3 months and this situation is likely to be permanent. Top of the range plans with higher premiums tend to pay out when the insured is unable to perform 2 or more ADLs.

Payments made are free from income tax.

The activities are predefined and if you do not meet the criteria, but still need care, the plan will not pay out.

A pre-funded care plan pays out until the client no longer needs care, which is usually when they die. Some do have a restriction for payments e.g. 3 years.

If an individual simply wants to plan for living in a residential home but does not need specific care – then this product would not be available to the individual.

This product needs to be bought in advance of needing care and not at the time it is required.

- For prefunded insurance – the earlier the policy is started the lower the cost.
- Some insurers have a minimum age of 40 or 50. Few people under 55 buy this cover

Pre-funded investment-linked policies

This is a combination single premium investment bond and regular premium long-term care policy.

The intention of these plans is that should the policyholder need long-term care - there will be some benefits available to the policyholder and after their death for their heirs.

The premium needed to pay for the long term care insurance is withdrawn by the company each month from the value of the bond.

If care is never needed – then the value of the bond is returned to the individual's estate on their death.

This residual value will be the investment plus any growth minus the insurance premiums.

If a claim is made on the insurance policy any remaining balance of the residual value of the bond can be returned to the individual at any subsequent time.

While the bonds can be cashed in at any time – the individual needs to be clear about the impact this would have on their long-term insurance.

Many of these contracts can also be used for Inheritance Tax mitigation.

Investment linked long-term care plans have virtually disappeared from the marketplace due to low sales and market falls. The above would apply to existing plans

Most life offices have now withdrawn from the pre-funded sector of the market.

Care Cash Plan

- A care cash plan pays out a specified cash sum and/or income for a set period
- This is planned to pay for care needed in the future – it is not suitable if care is needed immediately
- Income lasts for a set period only. It does not continue till death.
- There is no link between the amount and the costs of care
- Elderly care cover pays out on specified physical and medical illnesses that are more likely to occur with age

- Cover pay outs may vary by insurer

Can include
- Alzheimer's disease
- Motor Neurone disease
- Parkinson's disease
- Pre-senile dementia

The plan also covers "failures of activities of daily living" caused by an injury or disease meaning the individual can no longer perform 3 out of the 6 ADLs.

Equity Release

Equity Release means securing some of the equity in the house for funds – that could be used to pay for long-term care premiums /costs.

It works best for home owners with no outstanding mortgage who want to raise capital without selling their house. It is a consideration for people who have equity in their home but a low level of income. The home can therefore be used to finance long term care insurance /costs, though it is unlikely to be available if the client is already in a care home.

Various Types of Equity Release Products are available

Lifetime Mortgage

- Allows for a lump sum to be released from the home
- Repaid – with the interest that has rolled up – when the individual dies or sells the house in order to move into long-term care
- The money can either be released as a lump sum or as a regular income for the rest of the individual's life.
- Available to the over 60s although some companies will accept the over 55s
- Can only be sold by a specialist adviser authorised by FCA
- A drawdown mortgage is similar to a lifetime mortgage but is more flexible as it allows for the cash to be taken over a period of time – as and when needed. This could mean that less interest builds up.
- Money taken could affect entitlement to means-tested benefits

Fixed Repayment Lifetime Mortgage

- The house owner takes out a loan secured against their house
- They receive a lump sum
- Instead of being charged interest on the loan, the individual pays the lender a higher sum than originally borrowed when the home is sold.
- This higher amount is fixed at the outset
- The risk is that the individual agrees a higher sum when they have life expectancy of e.g. 10 years – but die within a few months. The lender still expects the full higher sum
- Disadvantages are that the cash received from the mortgage could reduce or remove any means tested benefits that the individual is entitled to.

- Substantial early repayment charges could be involved if the individual changed their mind
- All of these plans can have big implications – especially if the family were expecting to inherit the individual's estate.

Interest Only Mortgage

- The individual takes out a loan that pays a lump sum which is secured against the value of the home
- The interest is paid at a fixed or variable rate
- The amount originally borrowed is repaid when the house is sold
- If the interest rate is variable and the individual's pension or other source of income is fixed, then if interest rates rise – this could mean a problem for the individual

Roll-up Mortgage

- The individual takes out a loan that pays a cash lump sum or income
- The loan is secured against the value of the house
- No interest is paid on the mortgage until the home is sold
- The amount borrowed is typically small and probably not enough to pay for care home fees
- The amount owed can grow quickly – especially if a lump sum is taken

Home Reversion Plans

- Part or all of the home is sold to a reversion company
- The homeowner gets the sale proceeds as a cash lump sum
- Some schemes allow for the homeowner to do what they like with the cash others insist that it is invested in a fund or annuity in order to give the individual a regular income
- In a home reversion plan
    - The individual retains a lifetime tenancy i.e. has the right to remain in the property until death or the sale of the property
    - Some plans require the individual to pay a peppercorn rent
    - It is often possible to release tranches of capital at a time
    - There is a chance to gain from the future appreciation in the property value

Restrictions

- It is unlikely that the individual will get the market value for the property at the time it is arranged – more likely to be one to two thirds
- This will depend on the individual's age and chosen scheme
- This reflects how long the reversion company's money is likely to be tied up in the property
- It is only available for older lives – generally over 60 or 65
- Plans are difficult to reverse – sometimes it is not possible to reverse at all
- The individual is likely to lose out if they move soon after taking out the reversion
- Regulation of home reversion plans has been under the FCA since 6 April 2007

There is a developing market in equity release and home reversion plans for those who have impaired health and could be excluded from conventional products or have

prices loaded heavily against them. Those offering these health plans are mostly in the home reversion market at present.

How Can An Individual Meet Their Own Care Costs?

- Investment capital to meet immediate long-term care needs
- The tax implications of such investments, especially regarding capital gains tax and inheritance tax
- How savings, capital investments and pensions can be used as funding tools

Savings

- Most people of working age are looking to build up some capital.
- This includes cash and deposit accounts, stocks and shares, gilts, bonds, pooled investments such as unit trusts and open ended investment companies (OEICS), insurance based investment products e.g. investment bonds and commercial property

Pensions

- A pension is a very tax efficient long-term savings vehicle designed to produce capital and/or income on retirement. Tax advantages include:
    - Tax relief on contributions
    - Favourable tax position or no tax on investments held within the pension fund – depending on the types of investments held
    - Tax free cash on retirement or before in some cases
    - Retirement income subject to income tax only, not National Insurance contributions

One strategy for people of working age in coping with potential future care needs is therefore to invest in pensions. If a person needs care before taking their benefits from the pension, they may be able to take benefits before their normal retirement age and may also be able to secure an impaired life annuity. Pension freedom has also enabled them to access part or all of the pension fund from age 55.

Selling Existing Capital Assets

Existing capital assets may have to be sold to pay for care

The Home

It is estimated that 70,000 people a year sell their home to fund care fees (source: Age UK 2006) in addition to those who move into sheltered housing.

Despite house price falls between 2007 and 2013 – many older people still have significant equity in their homes and have benefitted from big rises in values in the previous years

A person who needs to pay for long-term care needs to consider

- The income they need – now and for the future
- What capital they have available
- Tax issues

As noted earlier – there is a wide range of possible income needs under long-term care. The main objective is to have a steady source of cash to pay the care home fees and cover any other expenses.

It is necessary to establish what the costs are now and how these may change in the future.

Long-term care costs will almost certainly rise faster than prices measured by RPI because most of the costs are related to wages. It is likely that the costs will rise at least in line with the National Average Earnings index.

A person may progress from needing care in the home to needing to move into a residential care home. They may then need to meet the higher costs of living in a care home with nursing. It is important to plan ahead for these potential costs.

It is important to consider how long the income to meet the care costs will be needed. Life expectancy tables are a good start but these assume average health.

If there is more than enough income and capital then the inheritance tax position may be a higher priority and needs to be considered.

Where there is sufficient income and capital it may be possible to meet the required costs without eating into capital. In most cases – the calculation is how long the capital will last.

Another consideration is what to do with the client's home – letting the home is an option if the capital is not required. A deferred payments agreement is another option – but this may not be practical. If a deferred payments agreement is ruled out, selling the property may well be the only viable option in many cases.

- The rental income may not be enough to cover the expenses of long-term care even with the client's other available resources
- The income from the property may be less than expected and could turn out to be unreliable
- Property cannot be gradually disposed of – so there is not the same flexibility as with other assets
- There is the risk that putting off the sale of the property might mean trying to sell in a difficult market, with both delays and the possibility of a lower than expected disposal value

Risk

Funds earmarked for future payments of care fees should be confined to low risk investments e.g. cash deposits including cash ISAs, direct investment in high grade fixed interest securities or index-linked securities – other low risk investments can be considered.

If the timescale is relatively long – 10 years or more – then it might be worth considering the investment of a proportion of the funds in equities to provide the possibility of growth to offset the rise in the costs of care. Guaranteed equity growth funds may be considered.

Many people avoid annuity-based investments because of the risk of their dying prematurely and the inflexibility of these contracts. However, they are the only investment product that insures against the risk of the money running out because the investor has lived longer than expected. Usually, some element of capital protection or payment guarantee can be built in – but this can then affect the level of income provided.

Inheritance Tax and Long Term Care

Where an individual or couple has substantial wealth over and above the funds needed to pay for long-term care then inheritance tax planning is likely to be a high priority. In theory, what the client does not need for long-term care could be transferred to the next generation e.g. by transferring into a trust for the offspring.

If a son or daughter helps a parent with care fees by making a series of interest free loans that are repayable on demand or on the parent's death – then a debt will build up against the parent's estate. On their death, the loans would be repaid and reduce the overall size of the estate subject to IHT.

Spending on care fees reduces the size of the estate and may also mean a reduced IHT bill on death.

Accelerated Death Benefits

The need for long-term care might mean that the client was eligible to make a claim under

- A life policy with critical illness cover
- A stand-alone critical illness policy
- A life policy with terminal illness cover

Viatical Settlements

A viatical settlement is the sale of an existing life assurance policy by a terminally ill person to a viatical company – they will pay an immediate cash sum which is a percentage of the expected value of the policy to be paid out on death.

The investor company becomes the legal owner of the policy and has to pay all future premiums until death when they will receive the final value of the policy.

Applicants for viatical settlement are required to be the beneficiary of the policy proceeds at maturity or earlier death and the policy must

- Have been issued by a major UK life office
- Be assignable to a third party or
- Have regular premium payments still being paid

The viatical company would normally require evidence of some minimum surrender value or death benefits as well as evidence of terminal illness itself.

This type of arrangement remains a very sensitive subject with regard to the handling of medical information. A terminally ill person may not be legally competent to give consent because of their medical state – and the insurance company may not know this. Another issue is the loss of death benefits by the dependents.

It is important to ensure that a valid consent form has been signed by the applicant and the viatical company should confirm that the investor is aware of any alternatives before deciding on the viatical route. The policy holder will execute a deed of assignment in favour of the viatical company.

The use of the secondary market in life assurance policies may be of growing importance, although the automatic inclusion of a terminal illness benefit in many term assurance policies may reduce such a need. A viatical settlement may provide a suitable option for someone with a terminal illness with a prognosis of less than 36 months – particularly if they require costly medical care at home.

Consideration has also to be given whether or not a settlement might affect Department for Work and Pension benefit entitlement, particularly where a policy is of a low value. In such a case it would be more beneficial not to accelerate the life assurance benefit.

Future Needs Planning

Care at Home

When choosing the type of care at home, then advice is usually taken from the GP and other medical advisers. In domiciliary care, the Local Authority will carry out a care assessment.

Care in a Home

The Local Authority can carry out a needs analysis – although waiting lists and delays are common. The patient and family may look at several homes before reaching a decision – the care home is required to provide accurate costings and other information.

Getting Help with Care and Benefits

Local Authorities provide help and guidance but that may be limited or rationed if demand exceeds available resources. Charities such as Help the Aged give a lot of help – usually free of charge.

Family

The family may be involved by
- Providing care
- Choosing the care package
- Providing financial assistance

Legal Consideration and Power of Attorney

Lasting Power of Attorney

From October 2007, legislation changes replaced the Enduring Power of Attorney (EPA) with a Property and Financial Affairs Lasting Power of Attorney.

An existing EPA that has not been registered can be revoked at any time – as long as the individual has the mental capacity to do so. Once an EPA has been registered – it cannot be revoked except by permission of the Court of Protection. Registration is required where the individual is, or is becoming, incapable by reason of mental incapacity to deal with their financial affairs.

The Lasting Power of Attorney (LPA) covers responsibility for healthcare decisions as well as financial affairs and includes the authority to make decisions on which medical treatments should be administered in the case of an individual who is no longer able to make those decisions for themselves.

The person executing the LPA needs to be in full charge of their mental faculties and able to make decisions for themselves – once created – it can continue despite subsequent mental incapacity. When the individual becomes unwilling or unable to handle their own affairs then the attorney takes over. The LPA is registered with the Office of the Public Guardian at outset and then the attorney can utilise the individual's assets to make sure the care costs are paid and can also make claims for state benefits in their behalf.

If a long-term care patient has not given an EPA or LPA and then loses mental capacity, any relative wishing to take over the patient's affairs would have to apply for a Court of Protection Order. Then their affairs are placed under the jurisdiction of the Court which appoints a Deputy to act on the client's behalf and the Deputy is answerable to the court.

The Court of Protection is important because it safeguards the interests of people who do not have close family of friends, but if possible every elderly person should make sure they have appointed an LPA while they are still capable of doing so.

There are 2 different types of LPA:

- A health and welfare LPA
- A property and financial affairs LPA

Anyone over the age of 18 and with the capacity to do so can make an LPA, appointing one or more attorneys to make decisions on their behalf. It is not possible to make LPAs jointly with another person – each person must make their own LPA.

The Attorney	Is the person appointed on the LPA form to make decisions on the individual's behalf- either about health and welfare or property and financial affairs – or both
Donor	The person who makes the LPA – appointing an Attorney to make decisions about their health and welfare, property and financial affairs
Named Person	Is someone selected by the donor to be notified when an application is made to register their LPA. They have the right to object to the registration if they have concerns
Certificate Provider	The person selected by the donor to complete a Part B certificate - which confirms that the donor understands the LPA and is not under any pressure to make it
Witness	Signs the LPA to confirm that they witnessed the donor signing and dating the form. A further safeguard

Protection Learning Outcome 8 (PROT8) – End of Module Test

Multiple Choice Questions

Question	Answer	
8.1 - What is the normal requirement for a valid claim under a Long Term Care Policy?	A.	A Claimants inability to carry out a number of specified activities
	B.	A minimum of 6 months total incapacity
	C.	Diagnosis of a specified illness
	D.	Medical evidence to support the need for residential care

8.2 - What happens under an Investment based LTCI if a client dies?	A.	Nothing is paid out
	B.	Premiums are returned
	C.	Units remaining are encashed and form part of the estate
	D.	The sum assured is paid

8.3 - Which of the following income would be fully disregarded in a long term care means test?	A.	Pension credit.
	B.	Trust income.
	C.	Attendance allowance.
	D.	Council Tax Benefit

8.4 - Kelly owns her own home and lives alone. Which one of Kelly's assets may be disregarded for long term care means testing?	A.	Her investment bond valued at £200,000
	B.	Her ISA Portfolio worth £30,000
	C.	Her home worth £150,000
	D.	Her emergency fund at the local building society

8.5 - For how long is the value of the home disregarded once someone enters residential care...	A.	4 weeks
	B.	8 weeks
	C.	12 weeks
	D.	16 weeks

8.6 - Which of the following statements about the regulation of long term care insurance is FALSE?	A.	Individuals advising on long term care insurance must have an appropriate qualification
	B.	Intermediaries who advise on long term care insurance come into the voluntary jurisdiction of the Financial Ombudsman Service.
	C.	There are pre and post sale disclosure requirements.
	D.	Much of the Insurance Conduct of Business Sourcebook rules will apply to the handling of long term care insurance claims.

8.7 - Which of the following sources of income is NOT taken into consideration when means testing for local authority funding of long term care?	A.	Pension credit.
	B.	Trust income.
	C.	Attendance allowance.
	D.	Personal possessions.

8.8 - Under the deliberate deprivation rule, what is the legal time limit, if any, after which a transaction will be disregarded as intended to reduce the claimant's estate in connection with local authority funding for long term care?	A.	6 months.
	B.	12 months.
	C.	18 months.
	D.	There is no time limit.

8.9 - Which of the following is NOT considered an activity of daily living?	A.	Transferring.
	B.	Walking.
	C.	Dressing.
	D.	Feeding.

8.10 - Which of the following is NOT a party to a Lasting Power of Attorney?	A.	Certificate Provider.
	B.	Donee.
	C.	Named Person.
	D.	Witness.

- **End of Questions** -

Answers

Question	Answer	
8.1 - What is the normal requirement for a valid claim under a Long Term Care Policy?	A	A Claimants inability to carry out a number of specified activities
8.2 - What happens under an Investment based LTCI if a client dies?	C	Units remaining are encashed and form part of the estate
8.3 - Which of the following income would be fully disregarded in a long term care means test?	D	Council Tax Benefit
8.4 - Kelly owns her own home and lives alone. Which one of Kelly's assets may be disregarded for long term care means testing?	A	Her investment bond valued at £200,000
8.5 - For how long is the value of the home disregarded once someone enters residential care...	C	12 weeks
8.6 - Which of the following statements about the regulation of long term care insurance is FALSE?	B	Intermediaries who advise on long term care insurance come into the voluntary jurisdiction of the Financial Ombudsman Service.
8.7 - Which of the following sources of income is NOT taken into consideration when means testing for local authority funding of long term care?	D	Personal possessions.
8.8 - Under the deliberate deprivation rule, what is the legal time limit, if any, after which a transaction will be disregarded as intended to reduce the claimant's estate in connection with local authority funding for long term care?	D	There is no time limit.

8.9 - Which of the following is NOT considered an activity of daily living?	B	Walking.
8.10 - Which of the following is NOT a party to a Lasting Power of Attorney?	B	Donee.