Association of British Insurers

Social Care Funding: An update on the Statement of Intent, January 2015

Executive summary

1. In January 2014, the Department of Health and the ABI, on behalf of the insurance industry, launched a Statement of Intent (the Statement) setting out how we would work together during 2014 and beyond. This document provides an update on the progress made since and where further work is required, set out against the areas we identified in the Statement.

2. Since the launch of the Statement, the 2014 Budget has introduced a new framework for people's retirement income choices which permits greater flexibility, but also creates considerable challenges for providers, Government and regulators. The Care Act, which passed into law in May 2014, will provide the legislative framework for the implementation of the "capped cost" reforms to long-term care funding in 2016, and is intended to support the growth of a privately funded care market.

3. The key areas of both progress made and additional work required, as compared with the Statement, are summarised below:

    - The Government's commitment to a public awareness campaign is an important building block to ensure people understand their options, and the industry is keen to work with Public Health England at an early stage to help shape the campaign.

    - The role of local authorities in providing individuals with financial information and guidance, including how to access regulated advice, is crucial. We were disappointed not to see a stronger requirement in the statutory guidance on local authorities to actively help and direct self-funders to a regulated financial adviser. It is now vital that the practice guidance gives local authorities the help they need to achieve this.

    - The new guidance service Pension wise gives individuals with defined contribution pensions the right to free and impartial guidance at retirement. It is a critical opportunity to build awareness of the need to pay for care, and the scope of Pension wise must be wide enough to meet this objective.

    - The Budget reforms have addressed a number of tax changes and product rules which were identified in the Statement as important to deliver more flexibility for products to fund for care needs. However, much detail still needs to be worked through.

    - In terms of advice, it is vital that people advising on care products are suitably qualified to do so. However, the industry also continues to believe that the FCA should not require full later-life qualifications where a product only provides cover in the event of a pre-determined care trigger in the future or contains a small element of long-term care insurance, as this is a barrier to market development for protection products with a care element. We will continue to work with the FCA on this strand.

    - Finally, the new care landscape still needs further incentives to encourage people to save for care needs and to use insurance solutions to limit the risk to them and the State. There is no incentive if insurance solutions simply replace state support. We want to explore this with Government when the charging regulations are consulted on in 2015.

4. The industry has embraced the new flexibilities: providers are investing considerable resources to work with Government and regulators to support the new policies and the guidance service, and in the care market are engaging constructively with local authorities to help signpost people to independent financial advice. This demonstrates the industry's commitment to creating an enabling environment to support care funding in the future. It is

also likely that the industry will bring more innovative solutions to the market over time to enable customers to meet their needs in retirement, including funding for social care.

5. However, it is important to recognise that it will take time for this market to develop. Retirees benefiting from the new freedoms may not necessarily want to address care needs at age 55 or indeed 65, but are likely to consider this later. As a result, the immediate goal must be to ensure the new post-Budget framework is fit for purpose, with a thriving market for social care more of a medium-term ambition.

Helping people understand their options

6. The Statement of Intent called for the Department of Health in partnership with stakeholders and industry to design and deliver a public awareness campaign focused on the new care funding landscape.

7. The ABI has therefore been encouraged to learn that the Department of Health has now received full Ministerial sign off for a two phase campaign under the auspices of Public Health England. The industry is keen to support this campaign by aligning key messages and developing an informed and active market for care.

8. We understand that the timeframe for the second phase of the public awareness campaign, which looks to ensure everybody has a plan to pay for care, will not be rolled out nationally until 2016. Early sight of a draft campaign plan would help the industry to play a key role in the design of the campaign and to align messages.

9. We would therefore welcome working with Public Health England at an early stage.

Help with financial decisions

10. The ABI strongly believe that enhancing access to advice and guidance is critical to realise the promise of the Dilnot settlement for care funding. We welcomed the Government's commitment in the Statement to work with all stakeholders to develop more detailed proposals for the information service set out in section 4 of the Care Act, which sets out the duty on local authorities to provide individuals with financial information and guidance, including how to access regulated financial advice.

Statutory Guidance and Best Practice Guide

11. This underlines the importance of the statutory guidance for local authorities on how to discharge this duty, which was published in October 2014. In our consultation response, we strongly argued that the guidance was not clear enough, and that it is not sufficient for local authorities to simply provide a list of qualified advisers to self-funders. This is because care funding decisions are typically taken at a time of acute stress for families (usually after a fall or accident). The ABI believes it is essential that self-funders of care, who represent over 43% of all people in the care system, are encouraged to get regulated financial advice. In 2013, the Local Government Information Unit (LGiU) undertook research which found that 24% of self-funders deplete their assets prematurely and fall back on state funding with the estimated cost to local government of £425 million in England alone.

12. We were disappointed not to see stronger requirements on local authorities when the statutory guidance was published. We remain of the view that the statutory guidance in its current form is not sufficient to ensure that, where appropriate, local authorities actively help and direct self-funders to a regulated financial adviser so that they can make informed decisions about how best to pay for their care needs.

13. However, the statutory guidance will be supplemented with practice guidance for local authorities. We welcome this, as it would help local authorities by demonstrating how they can safely nudge people towards regulated financial advice. This could be achieved through good practice case studies and specific guidance on hand-offs. The forthcoming official Money Advice Service directory of retirement advisers has the potential to be a useful resource for local authorities.

14. The ABI would like to work with The Department of Health and other stakeholders to develop best practice guidance to help support local authorities.

Guidance from Pension wise

15. The Government's Budget reforms to retirement income choices were complemented by the announcement of a guidance service, to be available from April 2015. This guidance service (Pension wise) gives every individual with defined contribution pension savings the right to free and impartial guidance at retirement. Pension wise has an important role to play in building awareness about the need to pay for care and, consequently, demand for long term care products. We intend to work with Government and the delivery partners for Pension Wise to make the most of this opportunity to get people to think actively about how to fund future potential care needs, and to make use of the synergies between local authorities' duties to provide information, and Pension Wise. It is important the scope of Pension Wise is wide enough to meet this objective.

Regulation of financial products and advice

16. The regulatory landscape is in flux following the fundamental reforms introduced in the Budget. The reforms have gone some way in addressing a number of areas highlighted in the Statement, although important details still need to be worked through.

Tax changes and product rules

Annuities

17. The Statement called for disability-linked annuities and, more generally, annuity products to provide greater flexibility to support long term care needs. The Budget reforms now allow annuities to reduce as well as increase in value which we welcome as it will support the development of more flexible products.

Value Protection

18. The Statement called for a review of the appropriateness of a 55% tax charge applying to customers who opt for a value protection option which returns the fund held in an annuity (minus pay outs) if the person dies early. We therefore publicly welcomed the Chancellor's recent announcement of changes to the tax treatment and removal of the 55% charge on drawdown pension and value protected annuities on death.

The rules on drawdown products

19. The new rules for drawdown products have increased the flexibility of the product by removing the maximum 'cap' on withdrawal and minimum income requirements for all new drawdown funds. The new rules will also enable those with 'capped' drawdown to convert to a new drawdown fund once arranged with their scheme. We welcome these developments, as they have delivered on two key industry asks in the Statement.

20. Although some of the detail remains to be worked through, it seems clear the changes will create greater flexibility for individuals to cater for social care needs.

Deferred Payment Agreements

21. The Statement called for Deferred Payment Agreements rules to be kept flexible in terms of how the loan can be repaid. We therefore welcome the inclusion in the Care Act statutory guidance that local authorities must accept alternative payments, including a life insurance policy. This will make it easier for the home to be kept for future generations and should help encourage the market for social care products.

Advice

22. The Statement highlighted that the success of financial products is strongly linked to customer understanding. In particular, the Statement set out our intention to explore whether or not there is sufficient evidence to suggest that the regulatory rules about advising on long-term care insurance products require review; and how the capacity and capability in the specialist care fees financial adviser market can keep pace with increasing demand and meet consumer needs.

23. We continue to believe that FCA rules should not require full later-life (COBS) qualifications for advisers where the product only provides cover in the event of a pre-determined care trigger in the future or contains only a small element of long-term care insurance, or is a protection product with an optional conversion to a care insurance product, as this is a barrier to market development of protection products with a care element which could be sold during people's working life. We will continue to work on this strand with the FCA.

24. The ABI would also emphasise the importance of ensuring people who advise on care products are suitably qualified to do so. One of the drivers for a vibrant market for financial service products for care is the recognition among advisers that obtaining the appropriate qualification, and demonstrating competence, is the right way to access this important potential market.

Regulatory requirements

25. The industry working group on developing products for social care in 2013 stated that it did "not believe that stand-alone products bought early in life are likely to be in demand, and therefore we cannot see these being developed in the near future". Instead of pre-funded long-term care products, useful products would leverage the assets people already have, for the most part, housing and pension wealth.

26. Our analysis has not changed. We would also point out the time it would take to launch a new product – the Prudential Regulatory Authority expects providers to be able to model how products will behave, and sets very high standards in this respect. A lack of data and past experience makes modelling product projections extremely challenging for pre-funded long-term care products, especially as it would need to capture the interaction between mortality risk, morbidity risk, and care costs.

Ensuring the care system and financial products work well together

27. The Statement stated that people who choose to financially prepare for their long term care should be able to realise better incentives than is currently the case.

28. We strongly agree that the new care landscape still needs further incentives to encourage people to save for care needs and to use insurance solutions to limit the risk to them and the State. There is no incentive for people of modest means to protect themselves if the result is

simply to replace state support. Consideration should be given to (limited) exemptions from income tax on funds withdrawn from pension products to pay care fees, or to purchase care insurance.

29. However, we understand that the bulk of the charging regulations for the Care Act will be consulted on in 2015. Until the new rules are outlined, it is unclear what incentives will be needed and how care assessments and financial products will dovetail.

30. More work on qualifying assets for care assessment and tax incentives to save are critical in developing a market for care funding products. The ABI is keen to work with the Department of Health over the coming months to develop the right incentives to save for care.

Developing the evidence base

31. An informed evidence base is critical in developing a market for social care products. The potential demand for different products and how consumers will respond to the funding reforms will be key for the industry when considering whether to commit capital to the development of a new product.

32. ABI members are already researching the potential demand. For example, research has suggested that the 'squeezed middle' - who have saved some money for retirement and care costs, but cannot be confident that it is enough to cover all eventualities - are the largest market. We will continue to monitor consumer behaviour and share consumer research.

Moving forward

33. The Budget reforms have created new flexibilities which will allow greater innovation in retirement income products to be more responsive to funding social care needs. This is very positive, but it is as yet unclear how people will respond to the new freedoms, which will take time to work through. The cohort using the new freedoms in 2015 will comprise of "pent up" retirees from 2014. This will be followed by the "baby boom" cohort up to and including 2020, which is not representative in terms of asset wealth of those likely to be retiring from 2025 onwards. The industry is committed to working with Government in fostering the right conditions to develop a market which meets the needs of all consumers, both now and in the future.