Income protection, resilient households and social care

During 2018 SAMI colleagues have been working in the fields of social care, income protection and also on the project Building Resilient Households.

How can the government address social care funding?

A new year and another social care green paper consultation.

Everyone agrees something needs to be done but no-one can agree what it is – we have been here so many times before.

We can go back to the Royal Commission in 1997; to the Wanless Report for the Kings Fund; to the Labour 'death tax'; to the Dilnot Report and the care cost cap and to the last Conservative manifesto and the 'dementia tax'.

In a sense, despite how peculiar and perverse our system of funding social care is, nothing has happened that has impacted on the public consciousness to the extent that a government has actually been forced to make significant changes to the system.

Maybe the current NHS crisis, caused in part by bed-blocking and elderly patients stuck in wards, is the tipping point, or maybe once we move out of "winter pressures" it will all settle down again.

Tipping point

Let us suspend disbelief and assume that we really do have a tipping point. How is the government addressing it beyond perverse tinkering with funding mechanisms?

Allowing local authorities (LAs) to increase council tax to add a little bit towards social care funding is a good case in point.

The areas with the lowest numbers of privately funded care home places are the same as the areas with populations which receive the biggest council tax rebates.

LA-funded places are cross-subsidised by private payers, and the council tax increases are a drop in the ocean compared to the post austerity cuts that have been imposed on LAs.

Department of health

The prime minister has recently reacted by addressing the chronic under-naming of Jeremy Hunt (**thanks to NHS Network News for this satire**) by making him secretary of state for health and social care.

But in fact, the department of health (DH) has always been responsible for social care policy.

The problem is that the new Health in Construction Leadership Group (HCLG) (CLG also suffered from under-naming) holds LA budgets and, overall, HMT controls the money – it was HMT who effectively vetoed the care cost cap.

Expert panel

To make things even more complicated it was the cabinet office along with DH that announced the commitment to a green paper being published this summer.

Mid-November they announced members of a new expert panel to support its deliberations.

As you would expect Sir Andrew Dilnot is to be on the panel as are the insurance industry.

Nothing wrong with that, though I do wonder how they haven't lost the will to live given the number of times they have been asked to do the same thing.

Social tax

Meanwhile in policy wonk world we have suggestions for a hypothecated social (and possibly NHS) tax.
HMT always resist these for two reasons: first they like to have the freedom to decide how to allocate the nation's resources and second because ring-fenced budgets have little incentive for efficiency savings as their income is guaranteed.

The other suggestion doing the rounds is for pensioners to pay NI contributions.

Apart from the fact that NI starts at a much lower base than income tax (which would bring many more lower income pensioners into the tax bracket), can anyone really see a Conservative government alienating its core vote in this way?

If the 'dementia tax' was a step too far, this policy is in another league altogether.

Questions and answers

If we have reached a tipping point, is there an answer? These are the key questions…

- How do we get more money into social care?
- How do we deal with the perennial problem of NHS and social care silos shifting budget costs to each other?

And how can at least some of the perversities of the current system be resolved?

I would bring in the care cost cap because it would encourage the development of long-term care insurance bought by the working population which would eventually lead to more self-funding entrants to care homes which would give more money to cross-subsidise LA-funded entrants.

I would merge LA and NHS responsibilities for health and social care.This is already happening in Greater Manchester.

The result has been that delayed discharges from hospital have been almost halved; care workers are being paid more (avoiding recruitment problems) and all of this has saved money overall.

And I would give DH the money from HCLG – not just rename it.

*Written by Richard Walsh, SAMI Fellow and **first published in Cover magazine, January 2018.***

Sick pay vs group income protection

Last year I wrote about the **Matthew Taylor Review into Modern Working Practices and this year the Department for Business, Energy and Industrial Strategy (BEIS) produced its response**.

Most of the commentary focused on the decision not to change the tax arrangements for self-employed people however their response covered a lot more.

Of particular interest to protection insurance providers are their plans on workplace statements for employees and that more people in the gig economy should have the right to move to more permanent employment arrangements – with the same rights on employer statements of their entitlements – as other workers.

Building Resilient Households

As some readers will know I have been working on a project known as Building Resilient Households which is exploring how to encourage people to prepare themselves in the event of income shocks – especially sickness absence from work. One of the obstacles to this is a lack of knowledge on what sick pay entitlements people may have and what the State will and will not provide.

On the second point it is worth noting that from this month the benefits system will no longer provide payments to support mortgage interest. Instead the only support will be a loan, charged against their property.

The Department of Work and Pensions have already indicated that they support workplace statements on sick pay entitlement and the fact that BEIS are also now moving to make this a reality is very good news. In fact, BEIS launched a consultation entitled **“Measures to Increase Transparency in the UK Labour Market”**.

Transparency

There are many businesses that already promote transparency in their employment relations.

There are also examples, however, where a lack of transparency has had a negative impact, leading workers to face concerns over insecurity of work and resulting in reduced workforce engagement and lower productivity.

Current legislation requires an employer to give employees whose employment has continued for at least one month a ‘written statement of employment particulars’. The Written Statements Directive was transposed in 1993 in Great Britain and it is embodied in the Employment Rights Act 1996 (ERA). It builds upon the legislative framework the UK already had in place via the Contracts of Employment Act 1963.

Group income protection

The written statement currently consists of a 'principal statement' in which a certain subset of information must be contained all in one document.
Examples of what must be included are hours of work and holiday entitlement (and if that includes public holidays). However the written statement doesn't need to cover sick pay – but it must say where the information can be found. In practice, the effect is that many employees do not know their sick pay entitlement.

The consultation proposes that this should change. They are also consulting on other information that could be included, for example all remuneration (not just pay). Although it is not specifically mentioned, I think there is a good case for group income protection to be included here.

Consultation response

Times have changed. In the past, GIP was often kept secret from employees and seen as a purely financial matter.
Today, a key feature of GIP is the provision of rehabilitation and GIP is seen as an employee benefit.

We have also seen a growing individual IP market. This market could grow further if people were clear about exactly what support they would get from their employers in the event of sickness absence and in turn help households become more resilient to this income shock.

Written by Richard Walsh, SAMI Fellow and ***first published in Cover magazine, April 2018***

Mortgage cover excluded from new means testing rules

SAMI Consulting were pleased to see the press release from the Building Resilient Households Group about the exclusion of mortgage cover from new means testing rules. The work by the group, co-chaired by SAMI Consulting's Richard Walsh and Alan Woods, brings much needed good news for householders.

The Building Resilient Households Group gives regular updates on its progress to the IPTF and the CII. The Building Resilient Households Group sought clarification from DWP about how pay outs from protection policies will be treated under the new system

Changes to State help with mortgage payments

From 6 April 2018 people who suffer a loss of income from sickness or other causes can no longer get state benefits to cover their mortgage payments. Instead some people may be offered and qualify for a loan, called a Support for Mortgage Interest Loan (SMIL) in which case DWP will, where possible, put a charge on their property. This means that all mortgage holders now need to consider protection if they want to avoid eating into the equity in their home in the event of a prolonged sickness absence (an occurrence that affects two million people each year.)

Clarification of how insurance pay-outs will be treated

In the light of these changes the Building Resilient Households Group, has sought clarification from DWP about how pay-outs from protection policies will be treated under the new system. The key point from the clarification we have now received is **any income received from an insurance policy which is specifically intended and used to cover mortgage payments will be totally disregarded when entitlement to means-tested benefits is assessed.** This applies to both legacy benefits and Universal Credit

Two provisos should be noted:

- If insurance pay-outs are restricted to the payment of a mortgage (e.g. by being paid direct to the lender) they will be fully disregarded. But if the claimant has choice over how to spend the payments then only any portion which DWP judge to be intended and used for mortgage cover will be disregarded.
- If a claimant applies for a Support for Mortgage Interest Loan their insurance payout will be taken into account when their offer of a loan is considered. However, this scenario is unlikely to be a common one as people would have no need for a loan while receiving insurance payouts which fully cover their mortgage.

Implications for mortgage-holders, advisers and insurers

Richard Walsh, Joint Chair of the Building Resilient Households Group, said: "This clarification means that:

- people who choose to protect their mortgage payments with an appropriate insurance policy can do so without fear that their pay-outs will lead to their benefits being cut
- advisors should alert clients to the risk that loss of income through sickness or other causes may lead to mortgage holders into spiralling debt – and advise on appropriate protection
- insurers may see opportunities to design new protection policies with a portion specifically designated to cover mortgages"

Written by the IPTF and BRHG, published 12 July 2018 .

Income protection payouts and Universal Credit

SAMI Consulting were pleased to see the latest news from the Building Resilient Households Group, co-chaired by SAMI Consulting's Richard Walsh and Alan Woods, about their latest clarification on a range of policy types and related wording. In an article for the **IPTF**'s November 2018 newsletter, Richard Walsh explains the news as follows.

In my last bulletin I covered the clarification the Building Resilient Households Group received from DWP on the interactions between means-tested State benefits and IP. A particular focus of our work has been on mortgage protection post the abolition of State support for mortgage interest payments. In summary, any income received from IP which is specifically intended and used to cover mortgage payments will be totally disregarded when entitlement to means-tested benefits is assessed. I know that many insurers are considering how to ensure that new policy wordings will be designed to ensure that customers can benefit from this clarification. And from an adviser perspective my view is that it would be worth documenting this at sales point.

On 1 November we launched, through the CII, (see article **here** and press release **here**) our latest clarification which covers term life, terminal, illness and CI policies. The key change is that Universal Credit (UC) legislation makes it clear that if a person uses their capital to pay off or reduce a debt, including a mortgage, they will not be treated as depriving themselves of that capital. Once the capital has been used to pay off a debt, it will no longer be taken into account in the assessment of entitlement for UC.

Advisers should check, at the point of claim, if their client is in an area where UC has gone live. And whether the client is in receipt of a legacy benefit. Only claimants of UC, State Pension Credit and Housing Benefit for people over the qualifying age for State Pension Credit can benefit from the DWP clarification. You can check if your client is in a UC area by reading the 'Where you Live' section here: **https://www.understandinguniversalcredit.gov.uk/new-to-universal-credit/is-it-for-me/**

This is very important at claims stage because for legacy benefits the 'deprivation of capital rules' mean that if a customer uses capital to pay back a debt before the agreed date, they may be treated as still having the capital. This may occur when, for example, they pay off their mortgage and the agreement says it is not due to be paid back for another 15 years or when they make payments to a flexible current account mortgage which reduce the outstanding balance on the mortgage. However the roll out of UC for new claimants is nearly complete and this complication will not arise post February next year for new claimants.

This does beg the question – what happens if it takes some time between receipt of a capital payment and actually using it to pay off a debt? Unfortunately, the legislation does not allow for such a "breathing space". In my view this does make a case for advisers who are selling term life etc policies for mortgages to consider some extra cover to tide customers over this period. The capital limits are the same for UC and legacy working age benefits and are based on the total capital of both partners combined. Up to £6,000 the capital is disregarded. Above that claimants are treated as having tariff income of £1 a week for each complete £250 of capital over £6,000 up to and including £16,000 – the cut-off point.

Not covered in either release is Family Income Benefit but we have received clarification on that too. In essence FIB is treated as unearned income in the same way as IP. It is NOT treated as capital. The only exception would be if the customer were to commute it to a single capital lump sum, in which case it would effectively be the same as a term life or CI policy. I am aware of some policies which pay out an initial capital lump sum followed by a regular income. In which case it could be argued that the initial payment should be treated as capital and the payments that follow would be income.

But there is no case law on this.

To summarise the complete picture for advisers:

- IP remains an excellent option for mortgage cover and it pays out in circumstances that other policies do not. The key thing is to ensure that it is clear that the payment is indeed for a mortgage
- Term life, TI and CI are also good for mortgage cover and especially so after the roll out of UC is completed for new claimants. However additional cover should be considered to ensure that a customer doesn't have to eat into the amount they have available to pay off the debt for the period that they will not be entitled to means tested benefit
- FIB does what it says on the tin. It provides an income for the period of the policy. Many people will also be entitled to non-means-tested bereavement benefits in addition to their FIB or term life policy

Written by Richard Walsh, SAMI Fellow and co-chair of BRHG, and originally published in the November 2018 IPTF newsletter.