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MONEY BOX LIVE

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LEWIS: Hello. It's now more than 5 months since the official report into paying for long-term care was published by Andrew Dilnot. The Government plans to publish its response in the spring, but there's no indication yet when things might change and some commentators suggested recently nothing may happen for many years. But for now it's certain we're stuck with the old system that everyone agrees is flawed, but no-one's yet had the political will or perhaps money to change. So today Money Box Live takes your calls on paying for care and paying for long-term care. Perhaps you care for someone yourself and need help. Perhaps a loved one is about to go into care and you need to know who'll pay. Does their house have to be sold? What choices do people have about the quality of care they get? Or perhaps you're trying to plan for your own very old age. Whatever your question, you can call Money Box Live now: 03700 100 444. And with me today to answer your questions are Jean French who is Head of Advice and Information at the charity Carers UK; Michael Stennett is a solicitor from Stennett and Stennett and, perhaps equally as important, a member of the Solicitors for the Elderly organisation; and Janet Davies is Managing Director of Symponia, a national network for care fee planning specialists. Our first question is from Susan in London. Susan, your question?

SUSAN: Oh hello, Paul. Yes, I wonder if you could help me. I'm lucky enough to have both my parents still alive. They're 89. They've been in a care home for 4 years now and as a family we've spent over £400,000. Now this has taken all their savings. We're down to about £20,000 now. And my father has a good pension of £4,000 a

year, but my mother obviously doesn't have a pension. Is there a limit as to how much a family has to pay out because they have elderly relatives still alive in their 90s? That's the question really: how long do we have to keep on paying?

LEWIS: Well yes, there's a number of questions there, I think. Families don't have to pay at all. It's the people in the home who have to pay. Let me start with Janet Davies from Symponia.

DAVIES: Hello Susan.

SUSAN: Hi.

DAVIES: It's such a shame really that obviously so much money has been spent out by your parents, and I think looking now to the current situation you need to separate them really because they'll now be treated as separate individuals. And when a person gets to the current threshold (in England it's £23,250), then the local authority is liable to contribute towards a person's care fees, but what they'll look at is they don't just look at capital, they will also look at a person's income. So for your father with £4,000 ... Did you say £4,000 a month?

SUSAN: Yes.

DAVIES: Then it's unlikely that your father will receive any local authority contributions. But your mother should and you should approach the local authority and ask them to help out with your mother's care fees.

SUSAN: We are actually getting help now - it's after two and a half years of paying out - but all their money has now gone and my worry is that they still need clothes, they still need toothpaste, you know, and that money's not going to last very long, and Harrow will only pay so much towards the care fees, etcetera.

LEWIS: Jean French, I mean there's an amount you can keep from your income, but

it's very little even to pay for things like toothpaste, isn't it?

FRENCH: I'm afraid it is, yes. The personal expenses allowance is currently £22.60 per person. So, Susan, your mum and your dad should both be ...

LEWIS: *(over)* That's a week?

FRENCH: That's a week, absolutely. Will be able to keep that, which will help out with those well minor expenses, but I do understand your anxieties entirely.

LEWIS: Michael Stennett?

STENNETT: Yes, the first question I would ask is whether, Susan, your parents have complex health needs, which may entitle them to free NHS continuing care?

SUSAN: My father has dementia, but when we've had him tested, he doesn't reach the criteria for help.

STENNETT: And mum?

SUSAN: Mum is very good except for needing a wheelchair to help her walk. So again she doesn't reach the criteria.

SENNETT: That appears the case, but always consider it. That should be the first question someone asks. They may be entitled to free nursing care.

LEWIS: And Michael, if I can interrupt. People get worse, don't they?

SENNETT: They do.

LEWIS: Dementia may be assessed one year and a year later they might well have crossed the barrier. And there have been cases recently, haven't there, about dementia

where it's become easier I think to get ... Well it's never easy, but easier to get NHS paying for it.

SENNETT: Well that's right. I mean if their behaviour is such that they are aggressive or a danger to themselves and to others, one could argue that their needs are complex. And I have dealt with cases where someone goes into a home who at the start of it they don't meet the eligibility criteria, but their health gets worse but unfortunately not advised by the NHS or social services to review the situation. And do remember that the NHS are obliged to carry out a nursing care assessment at the taxpayers' expense.

LEWIS: Yes. And I mean it's not the case with Susan, but even if her father had that test and it was found he was entitled, you could even look back and get some fees back.

SENNETT: That's right, you can make a retrospective application. And if the decision for NHS funding goes against you at local level, you can appeal to an independent panel review.

LEWIS: Yes, so it might be worth considering appealing ... having him reassessed, Susan, and appealing if you lose again.

SUSAN: *(over)* I did have him assessed the last 6 months, so ...

LEWIS: Right, but have you appealed?

SENNETT: Keep it under review.

SUSAN: Right, thank you.

LEWIS: Keep it under review and do try, and that's a good message for everyone. Thanks very much for your call. I'm sorry things have been very difficult, as I know

they can be in these circumstances. Stephen now is phoning us from Bournemouth in Dorset. Stephen?

STEPHEN: Hello. My question is when the funds I administer on my mother's behalf fall below £23,000 again, will I be able to contest Bournemouth council's refusal to pay towards her care on the grounds that the proceeds from her house sale were converted to a monthly payment for life direct to her care home and have there been any test cases?

LEWIS: Right. And so she's got savings of £23,000, or will have. The limit actually, as Jean French mentioned, is £23,250 in England. Slightly different in Scotland, Wales and Northern Ireland. So when her savings fall below that, then she will have that money coming in as well, so that'll be counted as income, I imagine.

STEPHEN: The problem is that when we applied previously prior to her getting continuum healthcare funding for two and a quarter years, we were told that converting the house proceeds into an immediate care annuity was the deprivation of capital.

LEWIS: Right. Michael, you're shaking your head.

SENNETT: Well it all depends upon intention, doesn't it? If you convert an asset whereby it's no longer in your hands - perhaps transfer it to a friend or relative - that may be deprivation, but if it was done deliberately to deprive yourself of a means by which you can pay for care fees only then can the local authority demand that it's taken into account. If you were to transfer an asset legitimately avoiding inheritance tax or if it were done years before care fees were envisaged or thought about, then it can and ought to be disregarded and ignored.

LEWIS: And I suppose in particular in this case, Janet, it was actually done not to avoid paying care fees but to have the means to pay the care fees?

DAVIES: Yeah. How much income does she get from the immediate care plan, Stephen?

STEPHEN: She doesn't get it. The care home receives £3,000 a month from the insurance company.

DAVIES: Okay and are Dorset saying ... sorry Bournemouth council saying she's got income above their thresholds?

STEPHEN: Well they specifically said she's deprived herself of capital. I haven't revisited the income situation.

DAVIES: What are the fees, Stephen?

STEPHEN: Well the fees are in excess of £60,000 a year.

DAVIES: Right, so she's getting £36,000 from the annuity and so that leaves another £24,000 to pay?

STEPHEN: Yes, her pension income doesn't bridge the gap. So the funds that accumulated during the CHC period are now being paid out again to bridge the gap.

DAVIES: I would say that there might be sort of a miscommunication here. I don't think it's deliberate deprivation because, as Michael's already said, it wasn't done with the motivation to deliberately deprive herself of assets.

STEPHEN: No, it was done to make it as tax efficient as possible.

DAVIES: Absolutely. But ...

LEWIS: *(over)* But okay ... Yes, sorry, go on.

DAVIES: I was going to say but, that said, the fact that the immediate care plan is paying out (albeit directly to the care home for the tax situation) it will be classed as income, so it might in itself preclude her from having local authority contributions.

STEPHEN: She might fail the income test, but I should have a reasonable chance of contesting that it's actually depriving her of capital?

DAVIES: Absolutely. I don't think it's deliberate deprivation at all. I think you did it for the right reasons at the right time. But the income from it will now probably exclude her from local authority contributions.

LEWIS: Michael, we often come across cases like this where we say oh these are your rights. You sort of think Stephen can contest this, but how does he do it?

SENNETT: Right. The first thing he should do is challenge the decision by the local authority. Unfortunately local authorities, they don't tell you what your rights are. If they rebuff you, get good advice. If they still ignore your complaint or if your review is unsuccessful, then you can complain to the local government ombudsman who will take up the matter on your behalf.

LEWIS: Okay, good advice. Get some advice. Okay, I'm going to move on now to an email, I think, because it's sort of relevant to that. This is from Caroline whose mother has gone into care. And they haven't sold the house - and I want to come onto that in a minute because you don't have to sell the house - and what they're doing is letting it out and renting it. And Jean French, that's a perfectly reasonable way to pay for the care home fees or take some steps towards it, but what happens to the value of the home? That is still counted in a strange way.

FRENCH: Yes and there may be tax implications as well.

LEWIS: There might be. I'll come onto those. But how is the house counted, Janet? It's still counted as an asset.

DAVIES: It is counted as an asset unless there are certain circumstances that prevent it from being counted as an asset.

LEWIS: But the local authorities still have to pay the fees and then they put a charge against it?

DAVIES: Yeah if the house is being included in the means test so that the person in care was the sole occupant of that house, the house has been vacated and they've moved into a care home, the property will be included in the means test, except for the first 12 weeks. The property is excluded from the means test for the first 12 weeks. If the property is their only asset, after the first 12 weeks the local authority may offer what's called the deferred payment option where they will put a charge on the property and pay out the care fees for the person in care.

LEWIS: And then they get that money when the person dies.

DAVIES: Or the house is sold.

LEWIS: Or the house is sold. And of course it's tax free. Michael?

STENNETT: Always consider if the property can be ignored or disregarded. If your spouse or civil partner or long-term friend continues to live there, then it must be ignored. If you have a child over 60 or someone who's incapacitated, then it must be disregarded too.

LEWIS: Living in the house?

STENNETT: Living in the house. But if it has been rented out to raise an income, it's unlikely that it will be ... it will be taken into account, its full value.

LEWIS: Right, the income of course will be and that will be used to pay the care fees. And actually Caroline's main question is will I have to pay tax on that rental

income, and I think there's a simple answer to that.

SENNETT: Yes.

LEWIS: Yes, I'm afraid. Well she won't have to pay it. Her mother will have to pay it, so it will be assessed for tax. Okay, well thanks very much for that email, Caroline. And we'll move on now to David who's calling us from London. David, your question?

DAVID: Hi, good afternoon. Yeah, I'm almost 33. My parents are 66, both of them in reasonably good physical and mental health. I'd like to know, first of all, what the cost per annum would be in general terms, broad terms, for one of them or both of them to be in a residential home, or for one of them or both of them to receive home care. Secondly, to what extent would means testing of their assets/income apply and, thirdly, to what extent would means testing of my assets/income apply?

LEWIS: Okay, Jean French, do you want to do a quick rundown on the rules as they are?

FRENCH: Well I'll certainly cover some of them for you. It's never going to be your assets and income that are taken into account, David, okay?

DAVID: Okay.

FRENCH: So for your mum and your dad, it's how much money they have. It can be sensible as people grow older for them to have separate rather than joint bank accounts, so that you have separate capital limits. So when we're applying a means test, we're saying well if you have capital above a certain amount, you're going to be responsible for all of the care home fees and if it's below a certain amount then you may get a contribution from the local authority. And that amount is currently set, as I said earlier, at £23,250.

LEWIS: In England.

FRENCH: In England. And slight variations for the other nations. But possibly it might make more sense for you to talk a little about the costs involved. Would that make sense, Janet?

LEWIS: Janet, yes.

DAVIES: Hello David.

DAVID: Hi.

DAVIES: I think your parents are very wise to look at it. I'm assuming they're in good health, are they, at the moment?

DAVID: Yes, yes.

DAVIES: It's very pragmatic and sensible for people who don't need care to actually look to the future because you have the luxury of time to put plans in place and know what's involved. Cost is always going to be an issue and I think it's going to be in London ... Are your parents in the South East as well?

DAVID: No, they live in Cumbria.

DAVIES: Okay, so it might be slightly less up in the North West of the country. But as a broad average, I would say somewhere in a care home between £600 and £950 a week for a nursing care home. Slightly less if there's no nursing care involved. And care at home can be directly comparable if for instance they're having a live-in companion, someone living with them, or it could be considerably less if they just need someone to come in to help them get up, to maybe help with their lunch and then come back in the evening to help them retire.

DAVID: Right.

DAVIES: So it very much depends on what sort of care they need at the time, but they are very wise to be pragmatic. Maybe - not that it sounds like a great day out - but maybe visit some care homes so that they can see what they're like. Care homes have changed a lot. They are no longer the dreadful places that people think they are. They do have you know laptops, they have wifi, they have surround sound cinema. They have an awful lot of things. So if care isn't seen as a last resort and a crisis, a lot more pragmatism can be applied to looking ahead.

LEWIS: Yes and you were saying the figures there per week, but we're talking £30,000 to £55,000 a year, aren't we, which considering people - especially who have dementia - can live many years, we're talking, as our first caller indicated, hundreds, perhaps thousands of pounds. How do you provide for that, Michael?

SENNETT: Well we provide for it by saving, investing wisely, and also you could consider asking the local authority for assisting and arranging your care. Because of their bargaining position, they can often get placements at residential nursing homes at a lower rate than you would achieve were you to go there yourself, and you could make savings of around sometimes £200 per week, which adds up.

LEWIS: So that's when you're about to go into care, you mean? Just explain how that works.

SENNETT: Right. If you reach the point where your nursing needs are such that you need to go into care, then you should approach the local authority who have a legal obligation, notwithstanding your means, to assist you with a choice of accommodation and to help make arrangements for care in a residential home. And at that point the local authority can approach various homes that they have contacts with, and (subject to certain criteria) they must arrange that care which could be at a lower weekly rate than it would be the case were you to approach them yourself.

LEWIS: Jean?

FRENCH: I was just going to say that recently we advised a carer not to try and sort it out themselves, to actually say that they weren't willing to be responsible, because they knew that in their local area that if the local authority entered into the agreement with the home that they wanted their mother to go into that it would be at a cheaper rate than the carer would be able to achieve.

LEWIS: Yes, this is the common complaint by homes, isn't it - the local authority pays one figure and private people pay another to cross-subsidise. David, it sounds as if you're going to have to find a lot of money. Or your parents are. Is that going to be difficult for them?

DAVID: Well I don't know. We haven't discussed it. I'm keeping an eye on the future because obviously I care about them.

LEWIS: And, Janet, given that most people don't go into care, is there an insurance product you can buy - I mean this is what the Government wants us all to buy at some stage in the future - so you could pay say £50,000 because you know that only one in three of us will ever go into care?

DAVIES: Currently no. There have been in the past insurance products known as pre-funded long-term care insurance plans. They're not really viable at the moment because they've had reviews and people didn't have what they thought they had.

LEWIS: They didn't get their whole care costs paid for, did they?

DAVIES: No. And I think the one thing for you to look at, David, is you know having said that you're being great and looking to the future and being pragmatic, is also to seek the services of a qualified financial adviser who's used to dealing with the affairs of the elderly because our financial needs and requirements change as we get older. And no-one's asking you to sort of say oh this is how they will fund it, but investing time, an hour, an hour and a half of the services of someone who deals with later life issues will actually help them know what options they will have at the time. They may never need to call on those options, but if they have like a working plan

that you're aware of, then it will make it so much less of a crisis for you. And one thing I would say, and I'm sure Michael would agree with me here, is that one thing that should be put in your plan if you haven't already done it is to get them to look at giving you or another member of your family power of attorney over their affairs. Not now, not now while they're 66 and they're both in good health, but by drawing up the document now, you can file it, never need to use it, but it's there just in case they become confused or more frail later on.

LEWIS: Okay David, thanks very much for your call. I hope that's helpful and we'll be coming back I think to one or two of those issues in a minute. But let me just read this email first, which is from Yvonne. Her mother's in an assessment centre and there's going to be a case conference this week about her future. She could go back to her sheltered flat - though I think Yvonne's a bit sceptical about what sheltered means, she says she thinks it means she has a roof, so what services she get, I don't know - and if she does go back, she'll need support. Jean French, what kind of support can you get? I think Yvonne's mother, reading further on, she needs help with sort of activities of daily living - showering and that kind of thing.

FRENCH: If she's going back into the sheltered accommodation, I think the first thing is to make sure there's been a thorough local authority assessment of her needs. What will happen there is you, together with your mum and the local authority, can talk about what are the needs. Then the local authority needs to think about do they meet the eligibility criteria. And then if they do, then support must be provided. And there are two ways of providing that support: local authorities can either provide somebody maybe to come in and help your mum with tasks, or they can provide her with direct payments. And the direct payments can be really interesting because they can enable your mum to maybe employ somebody to come in and do things for her - somebody that she knows but isn't a close relative.

LEWIS: This is to give you more power over how your care is provided, which is a fairly new thing, isn't it, relatively new thing?

FRENCH: It is indeed and it can be very successful and very useful for quite a large

number of people. Some carers find it quite difficult because if the person that they're looking after are not able to manage their own affairs, then obviously that can become another duty for a carer. But broadly speaking, if your mum can sort things out reasonably well for herself, maybe with a bit of help from you, that could be a way of dealing with the situation. And there's a range of support available. It could be help with daily living - getting washed, getting dressed, getting out of bed, meals on wheels.

LEWIS: Yes Yvonne says she lives 90 miles away, so I suppose that's doable but it's a bit of a journey, isn't it?

FRENCH: I mean if what one's doing is using the direct payments to employ somebody to come in, then it's about keeping an eye on how that's working.

LEWIS: Right, well thanks very much for that and thanks for your email, Yvonne. Margaret now has a question from Newport and one we get asked quite a lot. Margaret, your question?

MARGARET: Oh hello. Yes, I'm in my early 70s and at the moment quite healthy, but I'm wondering if I should be making plans in case I should need long-term care and who I go to for advice. I do have a financial adviser, but I'm not sure that she specialises in this area.

LEWIS: Right, yes, because we've been talking about what you might do, but you very sensibly want to go to somebody that you trust who knows all about it.

MARGARET: Yes certainly.

LEWIS: And I'm sure I've got two people here who are going to recommend their own organisations. Janet, let's start with you?

DAVIES: Hello Margaret.

MARGARET: Hello.

DAVIES: I think the first thing to do if you already have a financial adviser who you know and trust is to ask them the direct question, and the specific examination that they need to have that shows you that they understand the legislation and the nuances and everything involved in the long-term care arena.

LEWIS: And this is what?

DAVIES: And it's either CF8 - that's Charlie Foxtrot 8. Or the equivalent is CeLTCI, which is the certificate in long-term care insurance. That will at least give you a benchmark of whether or not they understand the subject matter.

MARGARET: Right.

DAVIES: And if they haven't got that, then politely say I think I'll find somebody else. Where do you go?

DAVIES: Well there's two things. Like Paul says, I'm probably going to promote my own organisation here because Symponia is the national organisation for care fees planning advisers - be that solicitors or financial advisers - and we believe we provide a benchmark for people like yourself, Margaret, to be able to know that that person you're speaking to understands the care fees planning aspect of your enquiry. And our members do work with a lot of financial advisers like your existing adviser who might not have the qualification but can work in tandem with an adviser that does very much like a GP and a consultant.

LEWIS: I'm sure some people will be thinking HSBC. They of course were fined £10.5 million for giving the wrong advice to people in this situation. How can you be sure when you go to even one of your members that they are going to give advice that is unbiased? Maybe the best advice doesn't earn them a penny, but should you be making sure you pay them a fee for the advice? What should you do?

DAVIES: I think there's several things to learn from what happened with HSBC, and one is Symponia have always believed that advisers should charge a fee for the advice because advisers that only get paid if they're recommending a product are by their very nature going to be perceived as being slightly biased towards the product. So I think, as I've said to an earlier caller, Margaret, that you're being very sensible and very pragmatic and I would invest a couple of hours speaking with a financial adviser who will not be pushing a product at you, who will charge you for that advice because they will be professionally liable for that advice.

LEWIS: Although it might ...

MARGARET: My current adviser doesn't charge a fee.

DAVIES: Okay.

LEWIS: Well we always say it's better if they do and a few hundred pounds on fees is money well spent when you could be talking about tens, even hundreds of thousands. Michael Sennett, you're Chairman of Solicitors for the Elderly.

SENNETT: I'm with Solicitors for the Elderly.

LEWIS: Oh you're not Chairman.

SENNETT: I wouldn't want to usurp Caroline Bielanska. Margaret, you need to ensure that the adviser is regulated, so if they're a financial adviser do they or are they linked to a network regulated by the Financial Services Authority?

MARGARET: Yes.

SENNETT: If they're a solicitor, are they regulated by the Solicitors Regulation Authority? I would also ask the person yes what organisations are they a member of because that can be persuasive, but can they recommend you to a client of theirs for

whom they've recently advised on the same topic. If I want someone to decorate my house and the recommendation was given by a neighbour, I want to go into the neighbour's home and see the quality of their work. And if they are quite willing to recommend somebody else, then that often is a good indication that they know what they're talking about.

LEWIS: So pick someone carefully and preferably someone who charges fees. And Jean French, people can ring Carers UK for a lot of information and advice, can't they?

FRENCH: They can indeed. And I would also just suggest do remember if you're going into old age and your health is failing that there are disability benefits - attendance allowance for instance which can help out with care costs - and do talk to your local authority because they can help out with that planning, not the financial aspects of it.

LEWIS: Attendance allowance of course you only get in England, not in Scotland. In Scotland you don't get it at all even if you pay for yourself, do you, but in England you get it if you pay yourself?

FRENCH: If you're a self-funder.

LEWIS: Briefly if you would, Janet, because I want to squeeze one more call in.

DAVIES: Yes, certainly. I was just going to advise Margaret for you to look at a sort of holistic way of your care needs in the future but also maybe involve the services of a solicitor to make sure that your will is up to date and you have given someone power of attorney for the future.

MARGARET: Yes, I've done all that.

DAVIES: Okay, excellent.

LEWIS: And I'm sure Solicitors for the Elderly members will do that. Thank you very much for your call, Margaret. We'll move onto Dorothy to try and squeeze you in, Dorothy, before the end of the programme. If you could be brief.

DOROTHY: Okay. Yes, yes, my question is different really. My mum sadly died at the age of 100 on 22nd November just as I was in the middle of fighting for fully funded care for her because she's in a nursing home, totally dependent, needs 24 hour care, lifted by hoists, completely deaf and yet the complex care team in October 2010 said she didn't tick enough boxes.

LEWIS: Okay, let me ...

DOROTHY: And I want to know if I can claim retrospectively because the care ... you know she had deteriorated so much?

LEWIS: I'm sorry to hear about your mother's death. Let me just bring Michael in briefly because we've only got 30 seconds.

SENNETT: Yes, Dorothy, you can claim retrospectively. They must review your claim notwithstanding your mum's death. What they take into account is if at the time of the review your mother had a primary health need, and if that is successful then they must pay out.

DOROTHY: Okay, that's lovely.

LEWIS: And they have to pay out retrospectively.

SENNETT: And they must pay out retrospectively.

LEWIS: Okay, well that's something to do, Dorothy, in your mother's memory. Thank you very much for calling us. That is all we have time for today. I'm sorry, there are other calls waiting and lots of emails I haven't managed to read out. Let me

thank Michael Stennett from Solicitors for the Elderly; Jean French of Carers UK; and Janet Davies of Symponia. And thanks for all those calls and emails. There is more about paying for long-term care on our website, bbc.co.uk/moneybox, and you can listen to the programme again if you missed anything, sign up for the podcast, and in a few days read a transcript. Probably after Christmas, I suggest, at this time of year. I'm back at noon on Christmas Eve with a special Money Box and I'm here to take more of your calls on Money Box Live next Wednesday afternoon when the subject is consumer rights.