

REPORT TO: SOCIAL WORK AND HEALTH COMMITTEE - 28th JANUARY 2013

REPORT ON: THE FUTURE OF THE INDEPENDENT LIVING FUND AND THE IMPACT OF CLOSING THE FUND

REPORT BY: DIRECTOR OF SOCIAL WORK

REPORT NO: 38-2013

1.0 PURPOSE OF REPORT

1.1 This report provides elected members with information about the Social Work Department's response to the Department for Work and Pensions public consultation on the transitional arrangements of the Independent Living Fund, as appended to this report, as well as providing information on the potential impact that closing the fund may have.

2.0 RECOMMENDATIONS

2.1 It is recommended that the Committee:

- Agree the content of the response submitted by the Social Work Department as appended to this report.
- Note the current and future financial impact the closure of the fund will have on the Council as detailed in paragraph 3.3.

3.0 FINANCIAL IMPLICATIONS

3.1 In Dundee, the Independent Living Fund makes a contribution of £23,414.13, on a weekly basis towards the care and support costs of some seventy two adults. This equates to an annual contribution of £1,217,534.

3.2 On the 12 March 2010 the Minister for Disabled People announced to all local authorities in the United Kingdom that the Independent Living Fund would no longer accept new applications as of 1st May 2010 or consider adjustments of a higher monetary value to existing awards.

3.3 Since the fund has been closed to new applications, the Social Work department has been faced with higher care costs. There is also concern that by freezing the awards to existing recipients, Social Work funding will be placed under even greater pressure to meet the assessed needs of individuals. Additional resources amounting to £200,000 will be added to the 2013/14 Social Work Revenue Budget to meet these additional pressures.

3.4 The future financial implications of changes to the fund from 2015/16 are not yet known and a report will be brought back to a future Social Work and Health Committee once this becomes clearer.

4.0 MAIN TEXT

4.1 The Independent Living Fund is a United Kingdom, Executive Non-departmental Public Body of Department for Work and Pensions. Finance comes from a single publicly financed discretionary Trust Deed, managed by 9 Trustees.

4.2 The Independent Living Fund has been in existence since 1988 providing income to support individuals with complex care and support needs, who want to live independently in the community. This funding has empowered individual recipients to make decisions that directly influence their daily living.

4.3 Individuals who meet the Independent Living Fund's eligibility criteria submit applications for funding. This funding can help support individuals to live fully inclusive lives in the community.

- 4.4 The current fund works in conjunction with the Local Authority and can contribute up to a maximum of £475 per week towards an individual's package of support, if the Local Authority's contribution is at least £340 per week, depending on assessed need. An earlier version of the Independent Living Fund did not require Local Authority contribution towards care and support costs.
- 4.5 To date the Social Work Department and Independent Living Fund have operated in partnership and individual's care packages are monitored regularly by the Social Work Department and every 2 years by the Independent Living Fund.
- 4.6 As noted above it was announced on the 12 March 2010 that the Independent Living Fund would no longer accept new applications as of 1st May 2010, or consider adjustments of a higher monetary value to existing awards.
- 4.7 The Government also put forward a proposal that the Independent Living Fund would close completely in 2015 and that local authorities would take on the funding and responsibility for Independent Living Fund recipients' care and support. This was the focus of the public consultation, which the Social Work Department submitted the aforementioned response to.
- 4.8 The Minister for Disabled People issued a written statement on the 18th December 2012 confirming that the Independent Living Fund will be discontinued by 31st March 2015. The statement also confirmed the Government's continued commitment to maintaining current awards until 31st March 2015. The level of award will be based on the pattern of expenditure in 2014/15. After this date, the arrangements for Scotland will be that the funds will be administered by each local authority.
- 4.9 It is expected that the Scottish Government will engage with the Independent Living Fund to produce a guide for local authorities on how Independent Living Fund recipients can be best supported through this transition. It is expected that this will include a programme of engagement with recipients and key stakeholders on what the transition process should look like and how it will be managed. Central to this will be the need for effective communication and focussed care and support review arrangements.
- 4.10 In Dundee we will continue to provide support to our citizens who are in receipt of Independent Living Fund money and take forward any forthcoming transition management recommendations.

5.0 POLICY IMPLICATIONS

- 5.1 This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

An Equality Impact Assessment has been carried out and will be made available on the Council website <http://www.dundee.gov.uk/equanddiv/equipact/>

6.0 CONSULTATIONS

- 6.1 The Chief Executive, Director of Corporate Services and Head of Democratic and Legal Services have been consulted in preparation of this report.

7.0 BACKGROUND PAPERS

None.

A RESPONSE BY DUNDEE CITY COUNCIL, SOCIAL WORK DEPARTMENT TO THE INDEPENDENT LIVING FUND CONSULTATION

Dundee City Council welcomes the opportunity to respond to the consultation on 'The Future of the Independent Living Fund.'

Question 1

Do you agree with the Government's proposal that the care and support needs of current ILF users should be met within the mainstream care and support system, with funding devolved to local government in England and the devolved administrations in Scotland and Wales?

This would mean the closure of ILF in 2015.

Dundee City Council has always acknowledged the important role that the Independent Living Fund (ILF) has played in supporting people with complex care needs to lead independent lives. For that reason Dundee City Council was not in agreement with the decision to close the Fund to new applicants from June 2010: The financial implications, resulting from the closure of the Fund, in Dundee City has been significant and has come at a time of budgetary constraint and rising needs in our population. We are also mindful of the potential impact of the wider welfare reforms on the benefit entitlement of disabled people and the potential affect this may have on the quality of their lives.

However, we agree that the proposal to transfer ILF funding to local authorities and devolved administrations will potentially be fairer, but are mindful that for some individual recipients of ILF, there may be a reduction in the amount of funding allocated to them as a consequence of the proposed change.

As with all of our citizens, we are concerned that those in receipt of ILF do not suffer undue hardship and reduction in quality of life as the process of transition. In particular we would wish to seek clarity around the following issues:

- **The size of the Fund to be transferred:** ILF expenditure is reducing significantly year by year as a result of the decision in June 2010 to close the Fund to new applicants. This decision was taken to bring ILF spending back into line with the budget: We strongly believe that it should be this balanced total budget that is transferred, not just the reduced amount spent by 2015. It would not be fair to disabled people to take the difference between the 2010 balanced budget and the 2015 reduced spend as a saving for the DWP.
- **What should be included in the amount transferred:** We believe that the amounts transferred should include the current administrative costs for ILF as well as any one-off costs noted in preparation for and during the transitional period, such as the need to undertake additional community care assessments or reviews.
- **Transitional arrangements:** We are concerned about the lack of clarity around any proposed degree of protection that could be given to existing recipients and the timescale for transition to new arrangements. This is highlighted in recognition that wider equity and fairness will be an integral part of discussions with individuals.
- **How funds will be distributed to local authorities:** We would seek clarity whether the distribution will be based on the current level of use.

Question 2

What are the key challenges that ILF users would face in moving from joint ILF/local authority to sole Local Authority funding of their care and support needs? How can any impacts be mitigated?

We would suggest that if the funds are transferred and care and support needs are then solely funded by local authorities, the following key challenges will need to be considered prior to 2015:

- We would suggest that the application of local assessments/eligibility criteria could result in a reduction in funding for ILF recipients. We would therefore recommend that further discussion on how to support current service users, possibly during a period of transition, is taken forward.
- We believe that the breadth/variety of service delivered through the individual arrangements ILF recipients have in place needs to be considered. If an individual were to have their funding reduced there would be an impact on the amount of service the individual could purchase and this could have an impact on the local economy as PA's would potentially have reduced hours and less salary. The other significant concern would be on the quality of life of the recipient of ILF.
- For some individuals and their unpaid carers, the impact of reassessment and a potential adjustment of funding may cause anxiety at best and in some cases will have the potential to be traumatic. It is anticipated that some individuals will require a great deal of practical and emotional support and this will potentially place a strain on the social work system.
- Benefits appointees cannot be given cash payments by local authorities (in Scotland). Where adults lack the capacity to manage their own affairs, a Welfare and Financial Guardianship application may be needed to maintain the current support. This could take months to achieve and early preparation would be needed before 2015. Assessment of capacity requires medical input and there could be implications for health services in carrying out the assessments. Additionally, families may not be willing to take on the challenging role of legal guardianship.

We would therefore suggest that consideration be given to phasing in an implementation/transition plan in order to support individual, unpaid carers, PA's and Social Work Staff. We would also recommend that co-produced national guidance for local authorities (led by the Department of Health in England and the devolved administrations in Scotland, Wales and Northern Ireland) be considered.

Question 3

What impact would the closure of the ILF have on Local Authorities and the provision of care and support services more widely? How could any impacts be mitigated?

We believe that there are a number of potential impacts for local authorities:

- We work within existing legislation and apply statutory guidance when undertaking service user assessments. We are required to consider needs against eligibility and risk factors in order to determine the individual level of

resource allocation for each service users or carer. We do this to ensure that an equitable approach to service provision is applied across Social Work.

If ILF was transferred with no preserved rights, there may be a reduction in care packages and a subsequent negative impact upon the individuals concerned. In addition to this there may be particular issues for the small number of ILF recipients where there has been no previous Social Work involvement. Guidance on transition arrangements would need to consider this issue.

- Changes to support levels could result in some individuals experiencing a reduced quality of life and for these individuals they may also feel that their right to live well in their community and be a valued citizen would be undermined. As noted before there may also be consequences for the continued employment of PA's/paid carers etc who are currently employed through ILF payments. As a result of these changes we believe that there could potentially be a higher incidence of formal challenges made to the Council. We would therefore suggest that National guidance, and a programme of information giving for all those involved is developed in order to support all parties through this process.
- We will be required to formally consider the suitability of some support arrangements where an ILF recipient has employed a relative/s, through their ILF funding.
- We currently operate a charging policy and are aware that this differs from the ILF policy on user contributions. If local authorities take over current ILF functions, a transfer to the local authority charging arrangements will need to take place. Clarity is required through guidance on how ILF will assist with this process, particularly in preparing service users before the transfer.
- Where there are ILF recipients over the age of 65, issues associated with free personal care would need to be covered in Scottish guidance.
- Where people employ personal assistants, the rate paid by ILF may be different from that paid by the local authority and will need to be aligned. This could result in an increase in costs over and above the level of transferred funds to bring rates into line – particularly where PA's are being funded at minimum wage by ILF.

As well as some of the previously made suggestions as to how to respond to the above identified concerns we would also suggest that a proactive review of existing systems and procedures could be carried out to ensure efficiency and non duplication of effort. For example it may be possible to use current SDS financial monitoring systems to monitor new packages making audit and reporting less complicated for service users and a single service user review could stop duplication for social work assessing staff and save on time.

In addition to administrative benefits, a more rationalised approach to allocating and mobilising resources to meet support needs has the potential to produce a climate within which self-direction and co-production can take place. A phased approach could be adopted to mitigate the impact of changes for individuals and this could be further developed in co-produced national guidance to local authorities.

Question 4

What are the specific challenges in relation to Group 1 users? How can the Government ensure this group are able to access the full range of Local Authority care and support services for which they are eligible?

We would require information as to the number of Dundee people on the Group 1 service user list. Whilst we would acknowledge that some of these individuals may already be known to Social Work, other may not. Social Work staff would be required to carryout an assessment of need and this could lead to a slight rise in case load numbers.

We would also suggest that for those individuals on Group 1 lists, who are unknown to Social Work, they might be reservations about engaging with Social Work and providing consent to share information. We would urge the ILF administration to make contact with Group 1 service users as soon as possible in order to prepare for transfer. We would recommend that this includes obtaining consent to share information with the local authority. If consent to share information is refused by Group 1 list individuals we would wish to know if any other options have been considered in order that the individual continues to receive support and is not placed in a position of risk. We are also aware that there may be differences in eligibility criteria applied between local authority and ILF which might mean that not all ILF recipients would be eligible for local authority funding.

We would expect that information from ILF will be required on whether Group 1 recipients have the capacity to consent or whether this has been managed by a benefits appointee. Transfer and management of PA employee arrangements may be more complex and involve contracts and payroll procedures.

Guidance should address the issue of different charging arrangements for Group 1 recipients.

We also acknowledge that Group 1 recipients who have no contact with Social Work will require to be given information on assessment and support arrangements. We would suggest that ILF continue to provide support leading up to and during the transition phase.

Question 5

How can DWP, the ILF and Local Authorities best continue to work with ILF users between now and 2015? How can the ILF best work with individual local authorities, if the decision to close ILF is taken?

As noted in the previous question clear communication will be required between ILF and ourselves to ensure that the transition is planned and smooth.

ILF recipients, individually and as a group, should have the opportunity to voice their views on how delivery of future financial arrangements will take account of their diverse needs, individual circumstances and current use of funds. They require access to information and support. Communication between central and local government must support this process.

We would suggest that there should be a planned programme of events arranged in order to inform, guide and support service users, carers (including unpaid carers) and local authorities, aiming to minimise any negative impact of the changes.

We believe that it would be enormously helpful if guidance and a communication strategy was developed to support the transition. We would further recommend that this includes the role of advocacy in supporting individuals through the change.

We believe that the changes will place additional demands upon us in terms of resources and capacity. Consideration is therefore required as to how these additional demands could be supported at a central level.

October 2012