



Department for Work and Pensions

The future of the Independent Living Fund

Response by the Low Incomes Tax Reform Group of the Chartered Institute of Taxation

1. About us/Introduction

1.1 The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes.

1.2 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it - taxpayers, advisers and the authorities.

1.3 Although LITRG is not a disability organisation itself, how the tax system affects people with disabilities, especially those who are unrepresented or are on low incomes, is an important part of our work. We represent many people who may be affected by changes to the Independent Living Fund ("ILF").

1.4 In the past we have been closely involved in consultations with HMRC, the DWP and the Department of Health on aspects of direct payments and personal budgets, in particular about the tax, PAYE, NIC and regulatory aspects of being an employer. We are also to launch shortly a website, using funding from HMRC, providing advice and guidance to the recipients of direct payments. We have been actively seeking the views of disability organisations on direct payments, and the tax and administrative problems which arise from them.

2. Our response to the consultation questions

2.1 Q1: 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 the ILF in 2015.

2.2 We are very concerned that the proposed closure of the ILF in 2015 does not allow sufficient time for a smooth transition and that this short timeframe will inevitably result in a painful transitional process for some ILF recipients. We recommend that an extended time is allowed to ensure that Local Authorities ("LAs") are fully ready for the transfer and to build national safeguards into the transition processes to minimise the disruption and anxiety for ILF recipients.

2.3 We recommend that pilot studies are conducted to ascertain and address the likely problems arising from the transition. Building on the experience of the pilots, the practical problems can be addressed before the wholesale transfer to LAs and the closure of the ILF.

2.4 We are particularly concerned about the ILF recipients who are elderly, have high support needs and with no previous interaction with their LAs. The process of changing to LA funding and administration could prove traumatic for such individuals. Unless a seamless transition of funding and administration can be achieved with the necessary support, we recommend that these individuals continue to be dealt with by the ILF for the rest of their lives or until their eligibility for ILF funding ends. The consultation acknowledges that a significant proportion of ILF beneficiaries are elderly (- 20% are over 65), have received ILF funding for many years, some for a period in excess of twenty years. Especially where such individuals have received funding only from the ILF, they will have no experience of dealing with LAs. For some elderly, disabled individuals we would expect the transition from ILF to LA funding to be extremely challenging and probably distressing as well. We recommend that individuals above a certain age who have received funding from the ILF alone for an extended period should be permitted to continue to receive ILF funding for the rest of their lives or until they cease to be eligible for such funding. The disruption and distress which such a major funding change can be predicted to cause outweighs the efficiency savings which may result from a complete closure of the ILF.

2.5 No full Impact and Equality Impact Assessment has yet been carried out and this is disappointing. We appreciate that a full assessment cannot be carried out until further details are determined. However, bearing in mind the age and very high support needs of some of those involved, a thorough impact assessment needs to be carried out before any final decision can be made as to whether it is appropriate to close the ILF.

3.1 Q2: 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?

3.2 At present the ILF provides an ongoing source of funding wherever the individual lives. This continuity of funding can enable individuals in receipt of ILF funding to move to a new LA area. There can be a protracted period during which the new LA assesses the individual as to their

entitlement to a personal budget and the detailed arrangements for direct payments are worked out. Whilst the Care and Support Bill provides for future portability of direct payments from one LA to another, it is not yet clear whether these arrangements will be in place before it is proposed to close the ILF. We recommend that the portability provisions of the Care and Support Bill should be put in place before the abolition of the ILF.

4.1 Q3: 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?

4.2 The development and expansion of personal budgets and direct payments is still very much work-in-progress, and LAs are at different stages in implementing and facilitating personal budgets and direct payments. This variation in availability of direct payments may be one of the underlying reasons for the varying uptake in ILF funding across different parts of the country.

4.3 Assuming that the Care and Support Bill is enacted, in due course LAs will be required to offer direct payments which will mean a period of intensive activity for some LAs. The transfer from ILF to LAs at around the same time will exacerbate the pressure on LAs.

4.4 Direct payments recipients who become employers of careworkers or personal assistants require considerable support from LAs or other local organisations to help them cope with the administrative, employment law and tax aspects. No comprehensive national guidance is available to assist LAs and individuals with direct payments and supporting individuals through the process is time-consuming and resource intensive. Progress made by LAs in implementing direct payments has been dependent to some extent on the availability of support from local organisations, including user-led support groups, to assist those interested in direct payments through the complicated process.

4.5 We question whether LAs will be able to cope with the additional workload from ILF transferees by 2015. To achieve such a transition in a short period of time would require additional government funding to enable LAs to deal with a sharp increase in workload. Any deficiencies in LA support will have a direct adverse effect on those individuals transferring from the ILF, as well as potentially on those who are trying to move to direct payments.

4.6 To quote the public consultation document, *“we know it will take some time to manage the move to sole local authority funding. It would be necessary to start such a process well in advance of 2015.”* As the proposal is only at the consultation stage in the final quarter of 2012, this leaves just two years to develop and manage the sensitive process of transferring individuals, some elderly and/or with high support needs, from one funding system to another. The process by which LAs agree individual personal budgets and direct payments is time-consuming, and sometimes protracted, with assessments generally taking several months and sometimes in excess of a year. We consider that it is already too late to achieve a smooth transition to LA funding, to achieve the government’s preferred result of closing the ILF in 2015.

5.1 Q4: 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?

5.2 The consultation indicates that there are approximately 2,500 Group 1 users, who have received ILF funding since 1993, and any transfer of these users will need to be handled with great sensitivity. They will need considerable support to assist them through the transfer process. As set out in more detail in 2.4 above, we recommend that Group 1 users who are elderly, have high support needs and have had no previous interaction with their LAs, should continue to be dealt with by the ILF for the rest of their lives or until their eligibility for ILF funding ends. Consideration should be given to maintaining the ILF for all Group 1 users.

6.1 Q5: 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 the ILF is taken?

6.2 We recommend that a longer timescale is adopted to achieve a thorough, well-planned and well-communicated transition. LAs will need funding to ensure that additional resources are available to evaluate and support those transferring from the ILF, without causing delays and financial damage to others being assessed for personal budgets and direct payments.

LITRG

10 October 2012