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The Disability (Grants) Bill [Bill 152 of 1992/93]

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Patricia Strickland
Education & Social Services Section

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SUMMARY

The Disability (Grants) Bill was laid on the 4 March 1993 and is due to have its Second Reading on 15 March 1993.

The Bill provides for grants to be made to three organisations. These are:

The Independent Living (Extension) Fund;

The Independent Living (1993) Fund;

Motability.

The first two of these are successors to the Independent Living Fund (ILF). This was introduced in 1988 for a limited period of 5 years. The ILF gives discretionary grants to help disabled people live independently. Since its first year of operation, annual expenditure has risen from £1 million to £97 million.

For a while, the future of the ILF after April 1993 was unsure because of the Government's reforms to community care which are to be implemented then. However, in May 1991 the Government made it clear that there would be a successor body to cover existing applicants at the very least. This task is to be carried out by the **Independent Living (Extension) Fund**.

Then the 1992 Conservative Manifesto committed the Government to maintaining a fund which supported new applicants who are very severely disabled. This is the function of the **Independent Living (1993) Fund**. It is to be done in close partnership with local authorities, who are receiving extra funding in recognition of their role.

While the continuance of this kind of provision has been welcomed, groups representing the disabled have expressed serious concern about a number of issues. These include: the closure of the old ILF without warning in November 1992; the lack of consultation over the new arrangements; the adequacy of the extension fund to cope with reviews; the relationship with local authorities; the fact that payments from the 1993 fund are subject to a £500 ceiling; and the restriction of the 1993 fund to people aged 16-65.

The Bill's provisions concerning **Motability** are concerned with correcting a technical legal problem so that Government grants can continue to be paid to the organisation. Motability Motability is a charitable organisation set up by the Government in 1977 to assist disabled people to buy cars.

THE INDEPENDENT LIVING FUND

WHAT THE FUND DOES

The Independent Living Fund (ILF) is a charity set up by the Department of Social Security in cooperation with a voluntary organisation, the Disablement Income Group (DIG). It is administered by trustees according to provisions set down in the Trust Deed. The fund operates on a discretionary basis, although there are eligibility criteria. The criteria applying just before the Fund closed to new applications on 25 November 1992 were that applicants must be:

- **aged 16 or over;**
- **in receipt of the higher rate of attendance allowance, (or its equivalent, constant attendance allowance) or the higher rate of the care component of disability living allowance;**
- **in receipt of income support.**

In addition the person must have been living alone or with someone who is unable to care for them.

The Fund normally makes payments to help with the weekly cost of domestic help or personal care, up to a weekly limit. This is £560 in the London area, £520 in South England and £450 elsewhere. A payment for equipment can also be made if that would replace or substantially reduce the amount of help required.

HISTORY

The Independent Living Fund was launched on 8 June 1988 and was set up as a trust fund limited to a maximum life of five years. It was created as a response to social security changes which ended weekly payments in the old Supplementary Benefits system to disabled people who required domestic assistance. Social Security Minister Nicholas Scott stated recently that some 6 000 people received additions to help with domestic care (HC Deb 25.2.93 c 1124). Of these over 4000 received additions for private domestic help, with the average weekly payment being around £4.90 (Source: Supplementary Benefit Statistics Annual Enquiry, May 1987).

When the ILF was first introduced it attracted criticism from Opposition MPs and from a number of groups representing disabled people, who reportedly accused the Government of abdicating their responsibilities (see "Charities split over £5m to help severely disabled", Independent, 10.2.88, and "Government's new trust for disabled", New Society, 12.2.88). There were criticisms that it represented a "privatising" of provision for the disabled, and that it was a move away from legal entitlements to discretionary help (ibid).

The Growth in Demand and Expenditure

In the early stages it did look as though the take up of the Fund was going to be low. The provision in the first year of its operation (1988-89) was for £5 million, but actual expenditure was only £1 million. However, the Fund soon proved to be very popular as a valuable source of income which a disabled person could use to purchase his or her own care. Expenditure soon began to increase, to £10 million in 1989-90 (HC Deb 10.3.92 c516w). The final budget for 1992-93 was £97 million. By the time it hands over to the successor body in April 1993 it is expected that over 22 000 people will be receiving payments (HC Deb 2.12.92 c233w).

The Restriction of Eligibility Criteria

When the ILF was first set up, eligibility was restricted to those who:

- lived alone, or with someone unable to care for them;
- received either the higher or lower rate of attendance allowance (or of constant attendance allowance);
- were severely restricted in their ability to perform normal personal care or domestic tasks without extensive help;
- were on income support, or had income and capital below income support levels after they had met the costs of essential personal care and domestic help.

By April 1990, however, at the beginning of the fund's third year, the budget of £24 million for 1990-91 had already been committed to existing recipients, leaving no money for new awards. The fund was temporarily suspended pending negotiations with the DSS to increase the budget. The ILF estimated that a further £16 million would be required to meet new claims in 1990/91. The DSS offered £8 million on the condition that the trustees restricted the number of people who could apply. On 13 June 1990 the trustees announced that they could only consider applications from people aged 16-74 who received the higher rate of attendance allowance (or constant attendance allowance). These changes affected applications received after 9 April 1990. The Fund re-opened in August 1990.

Organisations working with the elderly, such as Age Concern and Counsel and Care for the Elderly criticised the decision to exclude disabled people over the age of 74 as a "disturbing and retrograde step" (Age Concern press release, 31.7.90) and suggested that it could force elderly people with disabilities into residential care. A report in Community Care ("ILF report shows drop in applicants", 8.11.90) suggests that one in three potential beneficiaries of the fund was barred from applying by the new age restrictions. The upper age limit was dropped in March 1991 because the 1991/92 was higher than the trustees had expected. However, the restriction to people on the higher rates of attendance allowance and its equivalents remained.

A further eligibility restriction was introduced from August 1992, again in the face of increasing demands upon the fund. From that month, people had to actually be in receipt of

income support to receive help. This debarred people who could have received help under the old rules because their income would have been below income support levels after they had paid the cost of essential personal care and domestic help. The new restriction provoked further criticisms, with the Disablement Income Group expressing concern that people who had no other means of support would be denied help, and the Disability Alliance arguing that people with needs for specific forms of care should have those met by right ("ILF restrictions provoke dismay", Social Work Today, 20 August 1992).

An Uncertain Future?

The life of the Trust fund was limited to five years from the outset, and its future was obviously going to be determined in relation to the Government's community care reforms. Information on these reforms is provided by Library Research Note 92/93. In its White Paper, Caring for People (Cm 849, 1989), the Government identified the potential overlap between the Independent Living Fund and the intended responsibility of local authorities and said that this would "need to be reviewed" (para 9.10). Later in a written answer (HC Deb 10.1.90), Social Security Minister Nicholas Scott said that the Government was consulting to see "whether there might be a very small group of people for whom supplementary arrangements might be necessary".

The Social Services Committee in its Ninth Report Community Care: Social Security for Disabled People HC 646 of 1989-90 considered the ILF in some detail. Evidence from the Fund's Chairman of Trustees, Mrs Winifred Tumin, implied the existence of a great deal of unmet need:

65. Mrs Tumin told us that the Fund had been "victims of our own success ... there are many, many thousands of people who could, within the existing rules, benefit from the Fund if there were funds ... within our existing operation, were we to start advertising more widely we simply would not have the means to pay."³
- Mrs. Tumin agreed when we suggested that many more people might benefit from the Fund than were already doing so:
- "We would agree that there is an enormous amount, a huge amount, of unmet need and a vast amount of misery which is not being attended to. As trustees, obviously, we cannot do more than administer the resources in the most equitable way we can."⁴

The Committee's conclusions were as follows:

88. On 9 February 1990 the Minister for Disabled People issued a press release headed: "Independence is the key to better lives for Disabled People".¹
- The help provided by the Independent Living Fund cannot be appropriate for all disabled people. We believe however that the Independent Living Fund has given meaning to the Minister's phrase for many disabled people. Our concern is that the Government has not fully appreciated the innovatory nature of the ILF in giving some disabled people and their families the resources to build up their own packages of care. **We recommend that the ILF should continue to exist not only for an interim period, but also after the implementation of community care legislation, and should be provided with sufficient resources to meet the claims of those who meet the present criteria for help from the Fund, and whose needs have not been met through the eventual implementation of community care policy.** We further believe that the Government should consider the establishment of the Independent Living Fund as a statutory body.

On 11 December 1990, during the Committee Stage of the Disability Living Allowance and Disability Working Allowance Bill 1990/91 an Opposition amendment sought to introduce a community care supplement to the new disability living allowance payable on the expiry of the life of the ILF. Alf Morris MP, introducing the amendment, said that the effect of it "would be to put the independent living fund on a statutory basis" (SC `E' Deb 11.12.90 c 55). In response, Nicholas Scott indicated that after the implementation of the community care proposals in 1993, most cases dealt with by the ILF would be passed to local authorities:

Almost every hon. Member who has spoken in this short debate has pushed me on the future of the ILF when the community care package—originally envisaged for April next year—is implemented in 1993. As the hon. Member for Dundee, East (Mr. McAllion) said, the ILF was introduced as, an interim measure, pending the introduction of the community care package and the new disability benefits. There is no doubt that the postponement from 1991 to 1993 of community care, because of the pressures on local authorities which are already facing substantial change, has altered the name of the game.

However, in a sense the end game is still the same. We should still look to the local authorities to undertake the vast majority of cases. I accept the point made by my hon. Friend the Member for Mid-Kent that this is sometimes a matter of competing priorities within local authorities. Some of those local authorities that diverted cases to the ILF said that they had higher priorities in their area than coping with the needs of disabled people where they have a specific and clear responsibility to respond to those needs.

After 1993, the generality of cases should go to local authorities. There will obviously be a need for some interim arrangement to deal with the existing load of the ILF. It is inconceivable that on one day in April 1993 the whole of its case load will move over to the local authorities. There will have to be some transitional provision and there may be some provision for new cases.

12.30 pm

I am not able to go much further than that today. The ILF has done a good job. It would be intolerable to envisage some great gap suddenly appearing in the provision for severely disabled people after that point. In general, we shall look to local authorities to do that and as we get closer to 1993, we shall obviously have to consider what interim provision needs to be made.

[SC `E' Deb 11.12.90 c63]

In March 1991, the Government was defeated on a Lords Amendment to the same Bill which again would have put the ILF on a statutory basis (HL Deb 7.3.91 cc 1514-16). After this was overturned by the Commons during consideration of Lords amendments, Nicholas Scott announced that the Government would, after all, be setting up a successor body to the ILF from 1993:

We intend to put in place a successor body to the ILF which will take on all existing beneficiaries and make cash payments to them in the same way as the ILF does now. The details of that body will have to be worked out during the coming months, but the principles are clear—the successor body will function in the same way as the ILF. It will be able to look in depth at the circumstances and needs of the people whom it will inherit from the ILF and to judge the most appropriate way of meeting those needs. The presumption at the outset will be that the new body will usually pay the same cash amounts to people as they had been getting the week before, but it will be possible for people whose circumstances then become worse to obtain more money to enable them to carry on living in the community.

I hope that that will come as welcome news to the more than 7,700 people who currently obtain help from the ILF. Hon. Members who follow these matters with care and, I hope with sympathy, will know that in each year of the ILF's life to date we have given substantial extra sums so that new claimants could be helped. Funding in 1991-92 is more than 10 times the level at which it was when we set out in 1988-89 and more than 20 times the amount that the old supplementary benefit system domestic system addition ever provided. That commitment will continue during the 1992-93 financial year so that there will be room in the ILF's budget not only to continue helping all existing beneficiaries but to carry on admitting new people during the year.

[HC Deb 21.5.91 c 794]

While it was now clear that there would be a successor body, uncertainty still remained about its scope. Originally it was thought that it would only cover the existing case load, and that new applicants would be entirely the responsibility of local authorities (see for example HL Deb 27.2.92 c 379). However the Conservative Manifesto, The Best Future for Britain (1992) stated that the Government were "committed to maintaining a fund which supports the most severely disabled people" (p31). This was reiterated later in a PQ:

Independent Living Fund

Mr. Flynn: To ask the Secretary of State for Social Security what plans he has to replace the independent living fund after June 1993; and if applications to the fund will continue to be accepted up to and including June 1993.

Mr Scott: The independent living fund will continue to make new awards until the end of the current financial year. From April 1993 local authorities, which are best placed to assess need and allocate local resources, will be responsible—in conjunction with users, carers and other interested agencies—for assessing individual needs and arranging flexible and innovative care packages under the community care arrangements. We are, however, committed to maintaining after that date a fund which supports the most severely disabled people. Details of these arrangements will be announced in due course.

[HC Deb 14.5.92 c183-4W]

THE SUCCESSOR FUNDS

On 24 November 1992, Nicholas Scott announced the Government's intention to legislate to create two successor bodies to the ILF: one to deal with existing cases; and the other to deal with "a small group of the most severely disabled people" for whom care in their own home would be more expensive than residential care. At the same time, he announced the ILF Trustees' intention to close the Fund to new applications to give them time to deal with the outstanding cases before April 1993:

Mr. Brazier: To ask the Secretary of State for Social Security if he will make a statement on future arrangements for independent living for the most severely disabled people.

Mr. Scott: We have decided to legislate in the current financial year to establish a new fund from 1 April 1993, to help people of working age with the most severe disabilities to live independently in the community. The legislation will also provide for a successor fund for existing cases to meet the commitment I made in May 1991 to continue cash payments to people getting help from the independent living fund-ILF-when it ceases to operate at the end of March 1993.

The ILF has proved very successful in helping severely disabled people to live independently in the community. With the introduction of the new community care arrangements from April, responsibility for arranging care for disabled people will rest with local authorities. However the Government recognise that there will be a small group of the most severely disabled people for whom the costs of care in their own home will exceed the cost of a place in residential care or a nursing home.

The new fund for this group will work in partnership with local authorities, reflecting their primary role following the April 1993 community care changes. The local authority will be expected to make a contribution by way of services equivalent to what it would have spent on residential or nursing care and the fund will be able to provide a cash payment in addition. Additional resources will be made available to local authorities in respect of these changes and there will be a further announcement about resources shortly.

The trustees of the ILF have today announced that they intend to close to new applications from midnight on 25 November, in order to ensure an orderly transfer of cases to the successor body. I understand that all applications received before midnight on 25 November will be dealt with in the usual way. Disabled people who meet the new criteria and who would have looked to the fund for help over the next few months will be able to apply to the new body from next April. The vast majority of potential ILF beneficiaries are already receiving help from their local authority.

Over the four years of its existence, the ILF has done a splendid job and I pay the warmest possible tribute to the trustees, the director and the staff who are involved with it.

[HC Deb 24.11.92 cc 597-8w]

The Budgets

The budgets for the two funds were first announced on 2.12.92 (HC Deb c 233w).

The **Independent Living (1993) Fund**, which is to take on the new cases after April 1993, will have £4 million in 1993/94, rising to £11 million in 1994/95, and £17 million in 1995/96. It is expected that the new fund will help 1,500 people each year.

The same PQ also stated that the **Independent Living (Extension) Fund**, which will deal with the 22 000 existing cases which the ILF is expected to be paying by April 1993 will receive £117 million in 1993/94, £119 million in 1994/95 and £121 million in 1995/96. However, the Press Release which accompanied the publication of the Bill showed that the amount for 1993/94 had been revised upwards to £120 million (DSS 93/37, 5.3.93).

The ILF's allocation for 1992-93 was £97 million (see page 3 above).

Eligibility Criteria for the Independent Living (1993) Fund

The eligibility criteria for the new cases to be dealt with by the 1993 Fund were set out in a written answer (HC Deb 25.1.93 c 587w). **Those eligible will be severely disabled people:**

- **aged 16 to 65;**
- **in receipt of the higher rate of the care component of Disability Living Allowance;**
- **who, after paying care costs with help from the Fund are left with income at or about the level of income support; and**
- **who would otherwise have to go into residential care.**

Guidance on the possible definition of "severely disabled" is provided in a Department of Health and Department of Social Security circular (Local Authority Social Services Letter, LASSL(93)6, 4 March 1993). This suggests that if the person would be likely to be placed in residential care at a gross fee of more than £295 per week unless very intensive day and domiciliary services are provided, then the local authority should discuss the ILF with the individual:

"The gross fee provides a convenient test for local authorities to define 'severely disabled'. Those people whose care costs are lower than this are unlikely to be eligible for help from the Fund as they will not be considered the 'most severely disabled.'"

(LASSL(93)6)

The Role of Local Authorities

The intention is that the Independent Living (1993) Fund will operate in partnership with local authorities. The most detailed account so far as to how this will work is contained in the circular cited above. One important question which this resolves is whether individuals have the right to approach the 1993 Fund independently of the local authority. The clear intention is that they should not:

"The Fund will only provide help on the basis of a care plan agreed between the Fund, the disabled person and the local authority whereby the authority will provide a specified level of service which the Fund will supplement by a cash payment to the individual client."

(LASSL(93)6)

The idea is that the Independent Living (1993) Fund will act as a supplement to help provided by the local authority. The local authority will therefore provide domiciliary and day care services worth up to £210 per week. They would be able to levy their normal charges which are nationally, on average, £10 per week. So this equates to a cost to the local authority of approximately £200 a week on average.

The Government has also made it clear that there will be a ceiling of £500 on the total amount that the Independent Living (1993) Fund and the local authority can make available (see for example HC Deb 25.1.93 c587w). This is spelt out in more detail in the Circular:

"There will be an overall limit on the amount of help that can be offered to any individual accepted by the new Fund. The value of services provided by the LA and any cash payment from the Fund should together not exceed £500 per week. The LA services which count towards this total are described above. Services provided by other organisations not under LA contract eg charities, or by the NHS are excluded from the total."

Extra Funding for Local Authorities

Details of the way in which local authorities are to be compensated for these responsibilities were announced on 26 November 1992 by the Secretary of State for Health, Virginia Bottomley. Mrs Bottomley had already announced that a ring-fenced "community care transitional grant" of £539 would be transferred to local authorities to help with their general community care responsibilities (See Library Research Note 92/93 for details). On 26 November 1992, Mrs Bottomley announced that over £26 million would be added to this for 1993-94, with the extra amount rising to £64 million in 1994-95 and by £100 million in 1995-96:

Mr Nichols: To ask the Secretary of State for Health what resources will be provided for local authorities as a consequence of the changes to the independent living fund announced on 24 November.

Mrs. Virginia Bottomley: In addition to the £539 million I announced on 2 October for the community care special transitional grant, we have decided to allocate extra resources to local authorities to enable them to play a full part in meeting the needs of severely disabled people. I am therefore increasing the community care special transitional grant by over £26 million to £565 million in 1993-94. In 1994-95, the grant will be increased by £64 million to £716 million, and in 1995-96 it will rise by £100 million to £618 million. The detailed arrangements and distribution of the resources will be discussed with the local authority associations.

HC Deb 26.11.92 cc 809W]

While the total community care transitional grant will be ring-fenced (ie local authorities will only be able to use it for community care), the extra £26m will not be separately ring-fenced:

Independent Living Fund

Mr. Dewar: To ask the Secretary of State for Health, pursuant to her answer of 26 November 1992, to the hon. Member for Teignbridge (Mr. Nicholls), *Official Report*, column 809, if the extra funding to local authorities as part of the arrangements for replacing the independent living fund will be ring-fenced for purposes currently covered by the independent living fund.

Mr. Yeo: No. The extra funding is included in the special transitional grant which is itself ring-fenced solely for use on community care.

Mr. Dewar: To ask the Secretary of State for Health, pursuant to her answer of 26 November 1992 to the hon. Member from Teignbridge (Mr. Nicholls), *Official Report*, column 809, if the extra funding to local authorities as part of the arrangements to replace the independent living fund will be used for cash grants for those in need of help to remain in their own homes.

Mr. Yeo: No. Local authorities have no powers to make cash payments.

Mr. Yeo: In purchasing continuing care, health authorities are expected to consider the whole range of available services, including those in the independent sector. The extent of such provision, including any purchased from independent providers, is a matter for individual health authorities to determine in the light of local needs and priorities.

[HC Deb 9.3.93 c 499W]

Trustees

The old Independent Living Fund was established with 10 trustees, five of whom were appointed by the Government and five of whom were appointed by the Disablement Income

Group and the Disablement Income Group (Scotland).

It is intended that there should be seven trustees for the two new funds. So far only two of these have been named, and they are cited on the face of the Bill. One is Robin Wendt, currently Secretary to the Association of County Councils and the other is John Shepherd, formerly Finance Director of Remploy.

REACTIONS TO THE CHANGES

In an Adjournment Debate on the Fund, Alf Morris was critical both of the reasons for the original introduction of the old Independent Living Fund and of the new arrangements:

Mr. Alfred Morris (Manchester, Wythenshawe): This inevitably has to be a short debate, but it is one of crucial importance to many thousands of the most severely disabled people in Britain today. The independent living fund came into existence to deal with the extremely worrying consequences of the Government's decision to end the special allowances that were available to help disabled people to remain in the community under the supplementary benefits system. By reference to case after case, we demonstrated that if new help was not quickly made available, more and more severely disabled people then living independently in their own homes would have to go into institutional care, almost certainly at far greater cost to the taxpayer than that of enabling them to continue to live at home. Then, as now, the issue was the undoubted and incontestable right of disabled people to live in their own homes instead of being shut away in long-stay institutions.

From the outset, the Disablement Income Group-DIG-worked with the then Department of Health and Social Security to make the independent living fund an effective means of achieving its purpose. What the ILF proved beyond any question was the very urgent and essential need to repair the gap created by the ending of the supplementary benefits system, but last November the fund was closed to new applicants, with reserved rights for existing recipients of help.

From 1 April, there will be new arrangements. Two bodies will then be established. The first will continue to pay severely disabled people who applied to the ILF before 26 November last. The second body will pay, from 1 April 1993, new applicants who are of working age and whose costs of care at home exceed those of residential care. Local authorities will then be expected to provide domiciliary services equivalent to what they would have spent on residential nursing care and the ILF will be responsible for topping this up.

Help for new applicants will be subjected to a ceiling of £500 per week. That is totally unrealistic. No individual should be forced into institutional care against his wishes, and the ceiling of £500 will result in the Government having to spend more, not less, taxpayers' money.

The Greater London Association for Disabled People recently rang four residential homes at random in four different London boroughs. Their charges were £510, £605 upwards, £800 and £925 per week. Those figures speak for themselves. "Too Little-Too Late", based on research by the Royal Association for Disability and Rehabilitation and the

Disability Alliance, spells out the consequences of the announcement of the original ILF's closure last November.

In a letter about this debate from Peter Large of DIG, who has won the respect of both sides of the House, he tells me:

"We have been so worried by developments-or sometimes the lack of developments-that we wrote to the Prime Minister expressing grave concern. I have to say that his reply did not reassure us. We remain deeply worried about the prospects for severely disabled people".

He goes on to say:

"There are now even worries about future payments to existing beneficiaries ... There is great concern that payment mechanisms will not be ready. You might seek from the Minister a categorical assurance that no existing beneficiaries will have to wait for payment after 31 March when the ILF ends.

You can imagine our distress to see the threat of the ILF being throttled to death."

From an acknowledged expert in the ILF's work, himself a severely disabled person, that is very strong criticism in regard to the future of the fund.

When he announced the closure of the original ILF to new applicants, the right hon. Gentleman said on 24 November that the new fund would ensure a continuation of one of the most significant features of the ILF-an element of cash payments to individual disabled people to control provision of part of their care."

He revealed on 2 December how "pitifully small"- I use Peter Large's words-that element would be when he said:

"A total of £4 million-on a UK basis-will be made available in 1993-94 to enable the new fund to provide cash payments to new applicants from the most severely disabled people of working age."

Government figures are that 1,500 people each year will qualify for cash payments. This compares very disturbingly with the 22,500 the ILF will have given cash payments to this year. Moreover, as a percentage of an individual's overall package it will be very small.

To quote the Association of Metropolitan Authorities, the Association of County Councils, the Association of Directors

of Social Services and organisations of disabled people in a joint statement:

"This makes a nonsense of the Government's recognition of the importance of cash payments and will lead to muddled personal assistance provision for severely disabled people." Even more pressing than the question about existing beneficiaries after 31 March is what is to happen to severely disabled people who ask the ILF for help between now and 1 April? For the Minister to reply that they must look to their local authorities would be to ignore the reality that many do not have adequate resources and do not give sufficient priority to the needs of severely disabled people.

[HC Deb 25.2.93 cc 1120-1121]

In contrast Nicholas Scott commented on the success of the old ILF:

The independent living fund, as we all know, was introduced as an interim measure. I am mildly aggrieved by the right hon. Gentleman's suggestion that it was in some way a mean-minded measure by comparison with the arrangements that had hitherto been made by means of the domestic care additions under the old supplementary benefit regime. Under that regime, I would remind the right hon. Gentleman, 6,000 people were getting those additions at a level substantially below what the 22,000 people that the ILF has been providing for are getting in cash terms.

I do not believe for a single moment that we can be accused of injustice or mean-mindedness in the way that the ILF has been operating compared with any arrangements which existed before. By the time it is handed over in April, some 22,000 cases will be on the ILF's books, with an average award of over £100. It has helped those severely disabled people who did not want to go into residential care but who could not live in the community without a considerable degree of domiciliary support to maintain their independence. That is something that we can all applaud and welcome. I do not believe that it would have been right to seek to continue the supplementary benefit arrangements, which were set at much lower levels of care needs than the ILF.

I remember very well, because I had recently embarked on my job as Minister of State for Social Security and Disabled People when we launched the ILF, that many argued that it was wrong for this to be given to an independent body; they wanted it to be part of the regulated system. My own view is that the success of the ILF has proved that a system based upon individual assessment and on the discretion and judgment of independent trustees has been a considerable success, and has been able to respond much more flexibly to the needs of individual disabled people than any regulated system might have done. That is why we have built on this approach of individual assessment in deciding what the successor arrangements should be.

I think that it is fair to say that the arrangements after April must change. There will be an entirely new set of circumstances with the introduction of a community care system. Local authorities will have the responsibility to produce community care packages for elderly disabled

people and others, and to ensure that services are delivered to them. Having come to the conclusion that that is where the main responsibility will lie, the Government decided that there was a level of costs beyond which it would not be reasonable in ordinary circumstances to expect local authorities to go in delivering care.

[*ibid*, cc 1124-5]

Both DIG and RADAR, the Royal Association for Disability and Rehabilitation would have liked the old Independent Living Fund to continue. They welcome the fact that the Extension Fund is going to continue payments to existing claimants, but they fear that the new 1993 Fund is too restrictive and will be under resourced (Source: Information from DIG and RADAR). They also raise particular concerns below.

The Early Closure of the Old Independent Living Fund

Press reports immediately after the ILF trustees announced that they were closing the Fund to new applicants with only 24 hours warning focused on the anger of groups representing the disabled. The Disability Alliance were reported as being *"very angry with the way the government has gone about this with no warning"* and the Association of Metropolitan Authorities said that it was a *"severe blow to individual people with disabilities who will be left in limbo for five months until the new system comes into operation"* (*"Swift closure of living fund causes outrage"*, Community Care, 3.12.92).

One particular issue which has been raised in relation to the sudden closure of the fund is that of the delays in processing claims for the new Disability Living Allowance (DLA). Receipt of the higher rate of this benefit is one of the qualifying conditions for obtaining assistance from the Independent Living Fund. Thus it is argued that people in need were denied the opportunity to apply for assistance before the Fund closed. The Government have argued that the trustees have discretion to treat a person waiting for their claim to be processed as if they were in already receipt of Disability Living Allowance. The Opposition have argued that because of the pressure on the Fund, in practice this could not happen. Opposition social security spokesperson Keith Bradley made this point during Social Security Questions:

Mr Bradley: When the Minister considers future arrangements, will he look again at the chaos governing relations between the disability living allowance and applications to the independent living fund? Although he said in an answer to me that the trustees have discretion to take applications from people who have applied for DLA, in practice that discretion has been taken away by the trustees due to lack of funds and they are taking applications only from people in receipt of the old attendance allowance. That is a double blow to people waiting in desperation for their DLA to come through. They are doubly disadvantaged because they will not now be allowed to apply to the ILF. Surely the Government have some responsibility for this chaos and for ensuring that people are not doubly disadvantaged, first by having to wait for the DLA, and then by losing out in terms of money from the ILF. Will the right hon. Gentleman look into future arrangements and ensure that people are

compensated for the chaos that the Government have created?

[HC Deb 15.2.93 cc 8-9]

Social Security Minister Nicholas Scott replied as follows:

Mr. Scott: No, I do not believe that that is so. I can only repeat that it would have been open to the trustees of the independent living fund to use their discretion to deem people to be in a position in which they would qualify for a payment from the ILF. We are, in any case, only about six weeks away from the beginning of the next financial year and the launch of the new independent living fund.

[ibid, c9]

Consultation with the Old ILF Trustees

There has been criticism that the Trustees were not consulted about the changes. In an article in Social Work Today, ("ILF changes chaotic warns charity", 4.2.93) the acting deputy director of the fund is cited as saying that she did not know what arrangements had been put in place at that point. The Vice Chairman of the Trustees Pauline Thompson said that she was stunned that their expertise had not been used (Source: information from Pauline Thompson, Disablement Income Group). The question of consultation was raised in a supplementary to a Lords PQ:

Baroness Hollis of Heigham: My Lords, will the Minister please amplify yesterday's press statement which indicates that the ILF continues until April 1993; a second and successive fund takes over existing ILF claims from April 1993; and a third fund, in partnership with local authorities, cares for new clients after 1st April 1993? Will the Minister confirm that neither local authorities nor the ILF have been consulted about that new partnership? Finally, how much money do the Government expect to save by those arrangements? If it is very little, why do they not continue with the ILF, as clients and local authorities wish? If it is rather a lot, is it not coming from the most disabled members of our community?

Lord Henley: My Lords, as regards funding, I have already answered that question in my Answer to the noble Lord, Lord Ashley. Further announcements will be made. As regards the two successor funds coming in next year, they are not a matter for the ILF but obviously my right honourable friend the Minister for disabled people will wish to hear its views and the views of all other disabled people and those representing them as we develop our ideas on the two successor funds. As I said, the new funds will be working with the local authorities and local authorities will be expected to make a contribution by way of services equal to what would have been spent on either residential or nursing care. The new successor fund will

provide cash in addition.

[HL Deb 25.11.92 c952]

The Adequacy of Funding

The adequacy of the funding of the Extension Fund for existing cases has been a matter of concern for organisations representing disabled people. One particular issue which has been raised is that of the position of existing claimants who ask for reviews of their current awards either to cope with inflation or because their condition has deteriorated. This point was raised by Alf Morris in the Adjournment Debate:

Another very important question is whether the £117 million available for existing claimants will be enough to ensure that anyone whose condition deteriorates, or whose costs increase, will receive increased help; or will they have to wait for other claimants to die to secure help with their higher costs? That would be a major scandal, yet the fact is that £117 million looks certain to be significantly less than will be needed.

[HC Deb 25.2.93 c 120]

It should be noted that the £117 million has since been increased to £20 million (see page 7 above).

Nicholas Scott gave the following reply to this point:

I believe that a reasonable level has been set. If it is necessary for extra help to be provided by the successor body, it will be open to the social worker who assesses the needs of disabled people to say, "We can provide services up to this level but we believe that a further level of care is necessary," and then to turn to the independent living fund. A joint assessment can then be made by the local authority social worker and the new ILF to ensure that the appropriate services can be assessed and delivered. The payment from the ILF will continue to be in cash. The local authority will, as under present arrangements, deliver its part of the bargain in the form of services. Cash help has been an important part of the ILF concept.

The right hon. Gentleman referred to the 22,000 cases that will be handed over to what we shall call the independent living extension fund in April. Those people will continue to be paid in cash. I am confident that the cash limit provided for the extension fund in the coming years will be sufficient to enable the fund's trustees to ensure that precisely the same arrangements exist. That means that if someone, sadly, finds that he needs extra help to maintain his independence within the community, it will be open to the trustees to increase the level of support, as they are able to do now. That should give real reassurance to the thousands of people who are presently

recipients of help from the ILF.

[ibid, c1125]

The Criteria for the 1993 Fund

The Disablement Income Group has particular concerns about the fact that the local authority must meet the first £200 before help can be given. DIG is concerned that local authorities may not be able to provide this help. If they do not, then no application to the 1993 Fund can be made. Under the old ILF rules, clients had the right to go directly to the ILF for help.

The Disablement Income Group also has concerns about the fact that the criteria for the 1993 Fund specify that help will only be available to people who would otherwise have gone into residential care. They point out that the old ILF was able to provide funding so that an additional carer could be temporarily employed to enable a partner or relative to have time off from caring. The problem would lie in the reluctance of a partner or relative to admit to a social worker that without this help they would have to cease caring altogether and allow the disabled person to go into residential accommodation. Thus, in practice, the criteria might result in help being denied and the usual caring relationship breaking down (Source: information from Pauline Thompson, DIG).

The Upper Age Limit for the 1993 Fund

People over the age of 65 will not be able to apply to the 1993 Fund for help. This is of course a more stringent restriction than the temporary age limit of 74 imposed by the old Fund's trustees between April 1990 and March 1991. In a letter to Nicholas Scott dated 15.12.93, Age Concern made the following points about the limit:

The Independent Living Fund's annual report for 1991-92 shows that 37% of clients were 60 years old or over. In the absence of any entitlement to specific financial help to cover the costs of care not met by other benefits or services, older disabled people receiving payments from the Fund have found its help invaluable.

For example a woman who contacted Age Concern had cared for her husband for 15 years after a series of strokes. In the last three years of his life he was bedridden and required 24 hour care. The dearest wish of the couple was for the husband to remain at home and he was able to do this with the help of payments from the Independent Living Fund to assist with care at night. The couple were in their seventies so if the need had arisen after April 1993 and the local authority been unable to arrange appropriate care within their financial resources, institutional care would have been the only option.

Nicholas Scott has explained the policy in the following terms:

I referred briefly to the 1993 fund and set out the arrangements that are being made. As the right hon. Gentleman rightly said, the new fund will be restricted to those of working age. The elderly—those who are beyond working age—will not be within the purview of the fund. I have crossed swords with the right hon. Gentleman on this issue before. Limited resources are available to the Government—if there were unlimited resources, we would take a different view—and we have to determine priorities.

In the time that I have held my responsibilities, I have deliberately sought not to exclude the elderly from help and support, but to tilt the balance towards the younger disabled, the people who had not the opportunity, because their disability was present from birth or early in their working lives, to build up the savings, pension entitlement and the other things that people with a full working life can provide for themselves in their old age. Therefore, within the resources available to me in the independent living fund 1993, it is right to make that judgment.

The fund will be able to organise in essence a discussion with those of working age who are eligible, so that there may be a tripartite settlement, as it were, between the customer, the local authority social worker and the social worker for the independent living fund. The local authority will be able to provide the first £200-worth of services to the individual concerned, and the fund will be able to provide a balance of up to a maximum of £500 in total.

I do not believe that, in those circumstances, there is anything offensive in our setting an upper limit beyond which it is not unreasonable that people who need help should have to look to other sources to maintain their independence in the community, or to decide, sometimes reluctantly, that the time has come for them to go into residential care. Obviously, at all times I have to balance the responsibility of providing resources for those who need help and the interests of the taxpayer, so I believe that to set an upper limit is acceptable.

[HC Deb 25.2.93 c1126]

The costs of extending the 1993 Fund to people over retirement age was estimated by the Government to be an additional £2 million in 1993/94 rising to £9 million in 1995/96 (HC Deb 15.12.92 c 153w). The Disability Alliance has said that "...in the context of overall Government expenditure, it is difficult to accept that such a relatively small amount of money could justify the exclusion of the age group from access to the new Fund" (Disability Alliance, Bulletin, Spring 1993). DIG and RADAR also oppose the age limit (Source: information from DIG and RADAR).

The £500 Limit for the 1993 Fund

Alf Morris in his Adjournment Debate called the £500 limit "totally unrealistic" [see HC Deb 25.2.93 c 1120, cited above].

RADAR and DIG also object to the £500 limit, as the implication is that if the costs of providing care in the home exceed that people will go into residential care (Source: information from RADAR and DIG). In an article in Social Work Today ("ILF changes chaotic warn charity", 4.2.93) a DSS spokesperson is cited as pointing out that of the ILFs current clients only less than 1% claimed more than £500 so "the numbers above the ceiling would be very small".

It should be noted that the figures for amounts awarded by the old ILF did not include the value of assistance from social services.

The Composition of the Trustees

RADAR, the Royal Association for Disability and Rehabilitation, argue that half the Trustees of the new Fund should be drawn from disability organisations, as was the case with the old Independent Living Fund (Source: information from RADAR).

The question of the Trustees and staff of the new organisation was raised by the Opposition spokesman on disabled people, Alf Morris MP during an Adjournment Debate on the Independent Living Fund:

Will the successor body be run by the same staff who now manage the ILF? The answer to that question appears to be no. The current director is to be replaced; so too may some other senior staff. Existing DIG-nominated ILF trustees have not been approached about future service. They have both wide experience and expertise, but is it going to be, used?

[HC Deb 25.2.93 c1121]

Nicholas Scott did not address this point specifically in his reply although in general terms he did praise the flexibility of a discretionary system administered by trustees (ibid cc 1124-5, cited above).

MOTABILITY

Motability is a charitable organisation which was set up by a Government initiative in 1977. It helps disabled people to use their mobility allowance or War Pensioners' mobility supplement to achieve greater value for money when purchasing cars.

The Government has funded Motability for many years under provisions in Section 64 of the Health Services and Public Health Act 1968. However, it has now been recognised that the power in this section is probably insufficiently wide. Therefore the Government are taking new powers under the Bill.

Past payments to Motability have been authorised under the terms of the relevant Appropriation Act until the Bill comes into effect.

The main Government funding to Motability is divided between the administration grant, which in 1992/93 was £1.8 million, and the Mobility Equipment Fund (MEF) which was £1 million in the same year. For 1992/93, the MEF grant will be £2 million, and the administration grant will be just over £2 million (source: DSS).