

 <p>Brent</p>	<p align="center">Cabinet 16 January 2017</p> <p align="center">Report from the Strategic Director of Community Wellbeing</p>
<p align="right">Wards affected: ALL</p>	
<p>Independent Living Fund</p>	

1. Summary

- 1.1 The Independent Living Fund (ILF) was a national scheme set up in 1988 which funded care packages separately from Local Authorities. The ILF stopped taking new applicants in 2010, and closed for existing users on 30th June 2015 which resulted in Local Authorities becoming solely responsible for meeting the eligible needs of all those people under the Care Act 2014 as part of its core statutory duty.
- 1.2 In April 2015 Brent Council made a decision that whilst there was Central Government funding there would be no immediate reduction in support. However given the funding was not provided in perpetuity, the Council decided it would need to review all packages and determine the social care eligible level of need which may mean a reduction in funding for some individuals at some point.
- 1.3 The long term funding settlement for ILF is now clear with the Government reducing the ILF grant provided to Brent Council every year until it completely ceases in 2020. This report sets out the options and recommendations regarding the future of funding for ILF users.

2 Recommendation(s)

Cabinet is asked to:

- 2.1 Note the national funding changes and the impact they have in Brent.

Agree to implement Option 1 as the most equitable and financially sustainable option.

3 Background

3.1 Brent Council and Adult Social Care took over responsibility for the support ILF users received after 30th June 2015 as part of the wider Care Act 2014 responsibilities. The eligibility criteria and client contribution level for ILF is different to the Care Act 2014 criteria. The transfer of ILF funds process required all ILF users to have an assessment or review of their eligible social care needs and their support plans updated, as well as having a review of their financial contributions; each individual was written to informing them of what level of support Adult Social Care would fund if ILF monies were no longer available. The letter also assured people that support would be offered to enable any transition, and we would update them further when the long term funding position became clear.

3.2 The review of packages highlighted that two-thirds (42 out of 63) of ILF users' needs would be met if using the Care Act 2014 criteria. However, the review also found that 21 ILF users were receiving packages of support and care that were above what they would have been likely to have received had they been assessed under the Care Act 2014 by the local authority. These reviews also highlighted that some of these packages were not promoting independence and best use of existing resources in the same way as would have been done had they been arranged by the Council as part of its core adult social care duties.

3.3 The Council is clear that any changes to ILF funding would impact only on the 21 users currently identified as receiving funding over and above what would have been allocated had they been assessed under the Care Act 2014. The Council is equally clear that any changes to funding for this group of 21 people will need to be carefully managed and communicated, that any changes to care and support plans will need to promote and maximise independence for individuals and that in some cases short term transition funding may be required.

3.4 ILF recipients are understandably anxious about any changes to funding that they have been receiving for many years. As was agreed by cabinet after the initial transfer of funds, the Council is committed to supporting these people to minimise the impact of any funding changes. This includes allocating some transitional funding to support users with the impact of any changes to their packages as necessary.

3.5 Initially, the Local Authority received a Section 31 grant from Department of Communities for 63 ILF users for their ILF support of £1.012m (net) until 31st March 2016 and later received confirmation on 10th February 2016 that this funding would continue at a decreasing rate per year until 31st March 2020 when funding would cease entirely.

3.6 Brent Council accepted on transfer that the difference in funding of packages was through no fault of the ILF users and made the decision to continue funding ILF users at their existing levels with the right to review that level of funding in the future. However, the Council also accepted that this was inequitable and that users who had been assessed and supported through ILF were receiving higher levels of packages than users assessed and funded through Adult Social Care with similar levels of need.

3.7 The Council has done extensive work to analyse the packages of the 21 people affected, and to identify how any changes to their funding could be minimised. The impact of the proposed recommendation on the 21 ILF users likely to be affected is set out below:

- a. Five of the affected ILF service users receive more than £100 per week over and above their assessed and eligible needs. The impact of removing this additional funding will vary, however we believe we can provide a similar level of support in a more cost effective and creative way for all of these users. For example, a user who currently receives waking night support at the cost of £900 per week (cost of total package is £2009 per week) could be supported through telecare during the night or he could be supported in independent living at the cost of £1400 per week, which would likely be a less restrictive option than the current package.
- b. At the time of the ILF grant transfer, out of the 5 people who have been identified as having high cost packages, only one person was deemed eligible for Continuing Health Care funding. The Council would look to reassess the other 4 high funded packages to ensure that we maximise funding from other sources.
- c. The Council is confident that the wellbeing of all 21 service users affected can and will be maintained, and that they will continue to be able to access the community as well as receive all of the personal care and support they require. However, the service users and their families have attuned their lives around the current level of support arrangements and there is likely to be an understandable degree of opposition to any proposed reduction in packages.
- d. None of the ILF service users' access to employment and training opportunities will be affected. There are 2 ILF users within the affected group who currently access employment (one person in paid employment, one accessing voluntary work). However the Council believe we can support them to continue to access their employment within their revised budget.
- e. It is anticipated that families may present with increased carer needs, as we may expect families or carers to provide a higher level of support than they have previously been used to. It is worth noting that this is the expectation for anyone receiving support from Adult Social Care. Therefore the Council will be writing to and working with any carer likely to be impacted through proposed changes to encourage them to take up the offer of a carers assessment and to support carers to receive support in their own right as necessary.
- f. There are 4 ILF users in the affected group who are known to directly employ their personal assistants. It is possible that reducing the level of funding for these users would result in a reduction in hours for the personal assistants. However, we are advised by Penderells (direct payment support agency) that there are a number of service users who wish to recruit personal assistants

and we are confident that we can support them to find other caring roles if they wish to do so.

- g. 16 ILF users receive less than £100 per week over and above their assessed eligible social needs. It is anticipated that the impact would be minimal on this group as these ILF users already access 5 days a week day care and therefore do not need any additional funding to meet their assessed needs.
- h. The Council will review all of the affected users prior to implementing any reduction in packages, and an allocated worker will work with each user and family or carer to redefine their care and support plan. This will mean that each person's personal circumstances are fully understood and that the person and their caring network are fully involved in devising a support plan that meets their eligible needs. Where necessary, transition funding will be used to minimise the impact of any proposed funding reductions.

4 Options

4.1 Cabinet are asked to consider at what level to fund ILF users' social care support. This decision is required at this time, as the Council has now been notified what funding is available from central government, and that this will be decreasing year on year until 31 March 2020, when it will end.

4.2 It is noted that some local authorities took the decision to align the personal budget for ILF users with their assessed eligible care needs from the date of the grant transfer of ILF in 2015, as this was felt to be the most equitable option. Information gained via Freedom of Information requests by Inclusion London (Supporting London's Deaf and Disabled Peoples organisations) a year after ILF closed indicates that 19 London local authorities reduced care packages by less than 10%, 8 London local authorities reduced between 10-50%, and 5 London local authorities reduced by over 50%.

4.3 A series of options are set out below, with relative risks and issues associated with each.

There are 3 proposed options:

4.4 **Option 1:** ILF users who receive levels of funding over and above the level that is likely to have been allocated by the Council had they been assessed using Care Act 2014 eligibility criteria are reassessed immediately and are given a personal budget for their care and support needs on the basis of their assessed eligible care needs.

This is likely to mean that 21 out of the 63 people who receive ILF funding will have their total funding reduced. The level of funding reduction, and therefore the level of impact on the existing care package will vary depending on the personal circumstances of the user. However, the Council is confident that these users can be supported to maintain access to the community and have all of the eligible personal care needs met through better use of more creative and innovative solutions (such as telecare) and better use of existing community resources.

This option would mean that the Council would have a seeming surplus in the total grant as Central Government funding is being reduced on a percentage basis up to 2020/21. However, in reality there is no surplus because the grant was received net of client contributions and the amount that the Council charges in client contribution under our Fairer Charging policy is significant less than the ILF was able to charge. The difference between client contributions charged by the ILF and those charged by the Council is currently being met from core ASC funding along with the higher rate of funding that was awarded through the ILF for 21 users. Additionally, the Council is committed to providing short term transitional funding to those ILF users that need it.

Risk: A reduction in funding may impact on the hours of employed personal assistants where they are being used. However, there is a waiting list of people who are seeking to employ personal assistant, and the Council will work with Penderells Trust to ensure that opportunities for other employment are identified wherever possible.

Risk: It is possible that ILF users whom receive support over and above their eligible social care threshold may experience difficulties negotiating transition arrangements when their personal budgets are reduced to reflect their eligible care needs. However, detailed reassessments will be undertaken to identify alternative ways of supporting the affected users to continue to access the community, employment and personal care support and transitional funding will be available for up to 6 months for those people who need it.

4.5 Option 2: Reduce the personal budgets of ILF users by the same percentage as the ILF grant is reduced year on year until 2020/21 when any central government funding for the grant will cease. This option will affect 21 ILF recipients who are currently receiving a personal budget over and above their assessed eligible care needs. However, this option would still leave the Council with a shortfall in funding because the ILF grant was received net of client contribution, and the ILF used a different charging structure, meaning the total amount the Council pays for each of the 21 users impacted is higher than the ILF would have paid.

Risk: Whilst this option enables a gradual reduction of funding, this option maintains a two tier funding level for social care customers, which is inequitable.

Risk: A percentage reduction as per the central government grant reduction would not address the difference between net and gross funding levels and therefore a shortfall would still exist. As previously stated, this is due to the difference between how the ILF applied client contribution charges and how the Council assesses client contributions.

Risk: It is not possible to reduce packages on a percentage funding basis. This is because support is determined by need and not financial allocation, and packages would need to be reviewed in a holistic manner to ensure that people receive all the care and support they require.

4.6 Option 3: All ILF users will continue to receive funding at the current levels until 2020/21. Thereafter, all service users of Adult Social Care will receive services to reflect their assessed eligible care needs as set out in the Care Act 2014.

Risk: A high level of additional funding will be required up until 2020/21 if option 3 is pursued. Each subsequent financial year up until 2020/21, an increasing percentage would need to be identified to meet the gap between the grant allocated and identified funding for ILF users.

Risk: A financial gap in the Adult Social Care department will grow to £1.012m by 2020 meaning that additional savings will need to be found elsewhere.

4.7 It is recommended that option 1 is agreed as this is the most equitable and financially sustainable option.

4.8 Option 1 would mean that all ILF users would be reviewed again and be advised of their expected personal budget, which is aligned to their assessed and eligible care needs consistent with Care Act 2014, and that where existing ILF funding is above the level that would be allocated through assessment under the Care Act 2014, then these packages are reduced.

4.9 This option will affect 21 ILF recipients. The Council will communicate where a decrease in personal budget will be the case and provide them with advice and guidance around universal/alternative services to support how the reduction will be managed. The Council will ensure that all impacted ILF users and their carers are fully involved in creating a person centred care and support plan to promote independence and maximise the uses of available funding and community support options. Where necessary, transitional funding of up to 6 months may be allocated to minimise the impact of any changes.

4.10 It is recommended that the work with the 21 service users to reduce their overall care package be completed before the end of the current financial year, i.e. the review of care and support needs being completed and a decision around their personal budget being communicated to them, in order not to incur further financial pressure and to enable equity of provision for all social care users. It is anticipated that during this period, ILF users will be expected to inform their paid personal assistants of contractual changes to their care, which the Council will support them to do.

5 Financial Implications

5.1 It is important to note that the Independent Living Fund was administered by the Department of Work and Pensions and was always subject to a different financial assessment to core Adult Social Care support; under an ILF financial assessment the individual would pay more towards their care than an adult social care user would.

5.2 Therefore, the amount of funding received by the local authority from central government for the ILF transition has always been less than the cost of the packages that Brent Council has taken responsibility for. This is because the grant was transferred to local authorities net of client contributions. This means that ILF users have been subsidised above and beyond the grant received through the Adult Social Care budget since the funding was transferred.

5.3 This report updates Cabinet on the shortfall in Adult Social Care's (ASC) budget as a result of the difference between net and gross funding of the ILF grant, and what is required to meet the statutory responsibilities under the Care Act 2014. ASC currently faces financial budgetary pressures resulting from the decision to continue to fund at original ILF level. The deficit between the grant and the amount spent on ILF users was widened again this year as this is the first year that the ILF grant reduction has been applied, however, we have not reduced funding for ILF users correspondingly.

5.4 The ILF grant was delegated to the Local authority in 2015. The total grant received for 2015 was £1.012m, while the cost of the packages of care that this funded was £1.163m, leaving a deficit of £151k in 15/16.

5.5 In 2016 Central Government announced further reductions - the funding for ILF will reduce and create the following yearly pressures: £234k in 17/18, £263k in 18/19, and £290k in 19/20. The grant funding will end in 20/21.

5.6 In addition to this tranche of client and funding, there remains a cohort of clients that are unknown to Brent that continue to receive funding via the ILF. It is anticipated that the care and support duties for these client will transfer to Brent council in 20/21 when the remaining ILF scheme ends. The cost of these additional clients is estimated to be in the region of £0.2m p.a. from 2020/21, although of course there are considerable uncertainties over this figure.

5.7 If option 1 is agreed it is anticipated that the reassessments will result in a reduction in care packages for the identified clients, and this will result in the deficit being reduced to nil.

5.8 If option 2 is agreed the pressure will reduce but there will still be a pressure due to the discrepancy between net and gross funding. The cumulative pressure by 19/20 would be £500k.

5.9 If option 3 is agreed then the deficit will grow to a cumulative pressure of £1m by 20/21. The Council would need to consider this increase in council funding as part of the medium term financial plan.

5.10 In all options the Council will still need to consider how to meet the cost of the c. £0.2m pressure from 20/21 for the remaining ILF funded clients.

6.0 Legal Implications

6.1 There is a potential that previous ILF users may seek legal recourse if there is a national 'push' to do so.

7.0 Equality Implications

7.1 Continuing to provide ILF equivalent funding for the 21 individuals identified as receiving support above their assessed eligible social care needs means

they are receiving more support than the remainder of the social care population.

8.0 Staffing/Accommodation Implications (if appropriate)

8.1 None

Background Papers

None

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