



Cynulliad Cenedlaethol Cymru The National Assembly for Wales

Y Pwyllgor Iechyd a Gofal Cymdeithasol The Health and Social Care Committee

**Dydd Mercher, 21 Ionawr 2014
Wednesday, 21 January 2014**

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Motion under Standing Order 17.42(vi) to Resolve to Exclude the Public from the Remainder of the Meeting

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Alun Davies	Llafur Labour
Janet Finch-Saunders	Ceidwadwyr Cymreig Welsh Conservatives
John Griffiths	Llafur Labour
Elin Jones	Plaid Cymru The Party of Wales
Darren Millar	Ceidwadwyr Cymreig Welsh Conservatives
Gwyn R. Price	Llafur Labour
David Rees	Llafur (Cadeirydd y Pwyllgor) Labour (Committee Chair)
Lindsay Whittle	Plaid Cymru The Party of Wales
Kirsty Williams	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats

Eraill yn bresennol
Others in attendance

Alistair Davey	Dirprwy Gyfarwyddwr, Gwasanaethau Cymdeithasol ac Integreiddio, Llywodraeth Cymru Deputy Director, Social Services and Integration, Welsh Government
Stephen Gulliford	Rheolwr Polisi Codi Tâl, Yr Is-adran Cyflawni Polisiau ar gyfer Plant ac Oedolion, Llywodraeth Cymru Charging Policy Manager, Delivering Policy for Children and Adults Division, Welsh Government

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Amy Clifton	Ymchwilydd Researcher
Helen Finlayson	Ail Glerc Second Clerk
Sian Giddins	Dirprwy Glerc Deputy Clerk
Llinos Madeley	Clerc Clerk

Dechreuodd y cyfarfod am 09:18.
The meeting began at 09:18.

Cyflwyniad, Ymddiheuriadau a Dirprwyon Introductions, Apologies and Substitutions

[1] **David Rees:** Good morning, and can I welcome Members to this morning's session of the Health and Social Care Committee? Can I remind Members, please, to turn your mobile phones off, or any other electronic equipment, which may interfere with the broadcasting equipment? There is no scheduled fire alarm today, so, if one does go off, please follow the directions of the ushers. There is simultaneous translation available on channel 1, from Welsh to English, and for amplification on channel 2. No need to touch the microphones—the microphones will come on automatically. We have received apologies from Lynne Neagle this morning, and there is no substitute being indicated.

09:19

Ymgynghoriad Ynghylch Trefniadau Gofal a Chymorth yn y Dyfodol i'r rhai sy'n cael Arian gan y Gronfa Byw'n Annibynnol: Briff Ffeithiol Consultation on Future Care and Support Arrangements for Independent Living Fund Recipients: Factual Briefing

[2] **David Rees:** We'll go on to item 2 on the agenda. This is a briefing from officials on the consultation that's been undertaken on the transfer of the independent living fund to the Welsh Government. Can I welcome Stephen Gulliford and Alistair Davey? Would you like to introduce yourselves, and your titles, for the record, please?

[3] **Mr Davey:** I am Alistair Davey, deputy director within social services and integration, and my responsibility is delivering policy for children and adults.

[4] **Mr Gulliford:** Good morning. I'm Steve Gulliford. I'm policy charging officer for residential and non-residential care within the same directorate.

[5] **David Rees:** Thank you very much. Could I remind Members that this is a factual briefing and consultation on the consultation that has been undertaken on the future care and support arrangements for the ILF? Obviously, there are four outlines that were discussed, and we can, perhaps, explore those a little bit more—how the consultation responses have been analysed and, perhaps, the emerging themes that are coming through that consultation process. Would you like to give any short introduction at the start of the session?

[6] **Mr Davey:** Yes. I believe you wish for an overview of the ILF scheme itself.

[7] **David Rees:** That would be very helpful.

[8] **Mr Davey:** Certainly. The independent living fund was set up in 1988 as an executive—excuse me—non-departmental public body of the Department for Work and Pensions. It was established to provide financial support to disabled people in the UK who required a higher level of support to live independently. It was funded by the UK Government and it's operated by the independent living fund. The ILF makes direct cash payments to disabled people with very significant care needs. These payments they can then use to pay for care and support they require or to employ their own personal assistant. This financial support enables disabled people with significant care needs to live independent lives in their home and community. Payments can be used for a range of things, including assistance with eating and drinking, cooking and preparing food and drink; assistance with dressing; and assistance with personal hygiene, laundry, other domestic duties, personal care and even shopping.

[9] In calculating the amount of a payment that the ILF will make, it will take into

account the amount the individual can pay towards the cost of the care and support, based on their weekly income and their living costs. Consequently, it will reduce the level of that payment and take into account welfare benefits, for example, disability living allowance, company or occupational pensions, incapacity benefit, war pensions, widow or widower's pensions and income from capital investments or savings.

[10] There are, primarily, two groups of ILF recipients, known as group 1 and group 2. Group 1—and there are about, I think, 171 in group 1 within Wales—are recipients who started to receive funding between 1988 and February 1993, when the ILF eligibility criteria were changed. They are not required to have local authority support, although some do receive it. Group 2 are recipients who started to receive ILF from 1993. The new criteria required local authorities to contribute a minimum of £200 a week to the individual support package. The threshold has been raised over the years, and it's now £340. The majority, I think—1,515 recipients in Wales—fall into group 2. As of 30 July 2014, there were £1,686 ILF recipients in Wales who, on average, receive about £335 a week to meet their needs.

[11] Obviously, you are aware that the UK Government—and I won't go into the history, unless you wish me to do so—decided to close the scheme, and it will close from 30 June. It will be a transfer of £20.4 million; however, that does not include anything to actually run the scheme itself. That has to be taken out of in-year savings. Obviously, we established a stakeholder group to establish a number of options—there were four in the end—and the consultation ran from 3 October to 23 December. I think Steve is just going to give you a quick overview of the four options.

[12] **Mr Gulliford:** These were developed throughout last year with the stakeholder group, which originally had started developing the options when the UK Government announced that ILF was going to close from 31 March this year, before all the legal challenges. So, we re-examined whether those options that had been developed to that point were still sustainable, and then the fourth option, which became option 2, emanated out of discussions with the stakeholder group, particularly the third sector.

[13] So, there are four options. Option 1 is to set up an independent living fund, very similar to the current scheme. Option 2 is to create an independent body to administer it on behalf of ILF. Option 3 is to transfer the £20.4 million into the revenue support grant for local authorities. And option 4 is to create a special grant, purely for ILF, but administered through local authorities. So, they were the four options that we went out to consultation on.

[14] **David Rees:** Okay.

[15] **Mr Gulliford:** I don't know if you want me to expand on them.

[16] **David Rees:** I'm sure Members might want to ask if they want some clarity on those things. Okay, well, thank you for that. Just for clarity and confirmation, the allocation of funding being transferred over is purely based upon the payments, and there is no funding allocated for any administrative aspects of any of the options, in that sense.

[17] **Mr Gulliford:** No. It's purely estimated on the number of ILF recipients in Wales at 30 June this year, and, as Alistair said, there are in-year savings, through suspensions, where ILF recipients may be in hospital or having a temporary stay in residential care. But, from what we understand, you wouldn't know the level of that until the end of that financial year. Obviously, ILF has run since its inception, so they've anticipated a certain level. We can't anticipate that and we'll have to calculate at the end of the year.

[18] **Mr Davey:** Obviously, the £20 million is a part payment, which obviously starts from 1 July. It's a part-year payment.

[19] **David Rees:** Okay. Thank you. Gwyn, did you want to—

[20] **Gwyn R. Price:** Yes. I am just wondering; are there any emerging themes that have come to light so far in the responses to date?

[21] **Mr Gulliford:** There are two sort of—. The analysis is still going on, but there are two sort of distinct themes going on. We had just over 280 responses. The vast majority we've called formal responses, in as much as they completed the consultation response forms. Some were not complete, but most were, and standalones, which were literally one line e-mails saying 'I want to keep the ILF' without any support or disregard for the other three options. But, essentially, options 1 and 2 have got the support of service users, who either want ILF, understandably, to carry on as far as possible as it is now, and the independent third sector. I don't know if I'm allowed to say this, but opinions were stressed that they didn't really trust that the local authorities, if they were given the responsibility, would continue to have the same level of support they receive under ILF currently, although some service users did go for option 4, where a specific grant would be purely for ILF to carry on in the current form, at least with the same level of payment. Options 3 and 4 obviously found more support through local authorities and local authority organisations, because the vast majority, as Alistair has referred to, of ILF recipients receive some form of care and support through the local authority, through the non-residential side. So, the infrastructure's there; they know of the people and, therefore, it also brings all the funding into one stream instead of having this one group of people getting ILF and other people who could possibly qualify for ILF, if that was still open, not having access to the ILF funding.

[22] **Gwyn R. Price:** So, there is a definite split, with the users saying option 1 and 2 and the local authorities saying 3 and 4, really.

[23] **Mr Gulliford:** Yes. If I could just add to that, during the consultation, a number of people rang me asking for hard copies of the consultation, either because they weren't conversant with computers or they didn't have a computer, and the vast majority did say that, if you saw the difference ILF had made to their wife, son, daughter—whoever they cared for—that's why they wanted it kept more or less intact. Because the flexibility or the quality of life that they had then, with the choice of either employing their own carers or employing agency staff, made a big difference compared with the somewhat regimented support of a local authority.

[24] **Gwyn R. Price:** So, what they're really saying is that they're set up, they're happy where they are—'Leave me alone'.

[25] **Mr Gulliford:** Yeah.

[26] **Mr Davey:** Obviously they're really concerned about local government setting of eligibility thresholds and all manner of things, and obviously, that's what we expected them to be concerned about—the protection of that payment—and quite rightly so.

[27] **Gwyn R. Price:** Thank you.

[28] **David Rees:** Okay. Lindsay and then Alun.

[29] **Lindsay Whittle:** Thank you, Chair. Good morning. I can understand the concern of the recipients about the local authorities administrating the new fund, whoever administers it. If we had an independent Wales fund, do you have any idea on the cost? We're talking of £20 million; how much would it cost, do you think, to administer that centrally?

[30] **Mr Davey:** Our belief at present, in terms of the administration and, sort of, like, taking a read across, is that we'd be talking about between £300,000 and £500,000, which is, at present, about the offset that comes from in-year savings anyway. But, obviously, if you're setting up bodies, we would have to look at an initial set-up cost as well as part of that calculation and, obviously, we're not in a position to actually do that at present.

[31] **Lindsay Whittle:** So, it's administered from London at the moment.

[32] **Mr Gulliford:** Nottingham.

[33] **Lindsay Whittle:** Sorry?

[34] **Mr Gulliford:** Nottingham.

[35] **Lindsay Whittle:** From Nottingham. From England, sorry. Would any funding come with the transfer for administration?

[36] **Mr Gulliford:** Not for the administration. As Alistair says, the £20.4 million is basically the ILF payments that approximately 1,600 ILF people in Wales would get at the end of June. And in-year savings seem to pay for the administration of the scheme.

[37] **Mr Davey:** That would be, for example, if someone came off the scheme, or if they went into hospital for a period. Generally, that's anticipated to average over the years at about £300,000 to £500,000. That, generally, is then used as part of how the scheme is administered. Obviously, then, it's recalculated at the end of each financial year. Obviously, we are also aware that it is a declining number that is actually on the scheme at present.

09:30

[38] **Lindsay Whittle:** Could we not use that similar savings scheme?

[39] **Mr Davey:** That's exactly what we would be using within Wales to actually fund the administration, yes.

[40] **Lindsay Whittle:** Okay; alright, thank you.

[41] **David Rees:** Alun.

[42] **Alun Davies:** I'd like to start by asking you about the legal basis for this. I presume that responsibility is being transferred from Government to Government via a transfer of functions Order.

[43] **Mr Davey:** I believe that that is in hand, isn't it, Steve?

[44] **Mr Gulliford:** Yeah.

[45] **Alun Davies:** So, do you know—? Has there been any transfer of legislative authority to the National Assembly?

[46] **Mr Davey:** I'm not sure; I'm going to have to get back to you on that.

[47] **David Rees:** That would be helpful.

[48] **Alun Davies:** So, in terms of the options available to Ministers, options 3 and 4 that you've discussed would be a relatively straightforward grant process. The other two, if

Ministers were minded to set up a new body for Wales—ILF Cymru, or whatever—then I would assume that they would have to legislate to do that. Is that your assumption?

[49] **Mr Davey:** That would be my assumption—that we would have to legislate.

[50] **Alun Davies:** That would require primary legislation. So, a scheme within Government could be administered by the Government via the civil service.

[51] **Mr Davey:** Yes.

[52] **Alun Davies:** That could be done without, necessarily, creating any need for primary legislation.

[53] **Mr Davey:** Yes.

[54] **Alun Davies:** But that would require secondary legislation, surely, to set out the structures within which it would operate and the basis upon which it would operate.

[55] **Mr Davey:** I think that would normally be the case, yes.

[56] **Alun Davies:** Would you have an indicative timescale for that?

[57] **Mr Davey:** Not at present, no. Obviously, we're about to set up a project group now to look forward, once we've decided which option to take forward, to scope the relevant timetable and arrangements we would have to put in place.

[58] **Alun Davies:** Right; well, that sounds to me like that could take some time.

[59] **Mr Davey:** Well, our view is that we've already—. Obviously, we're aware of what the four options are, and we're already starting to scope out how we would take those forward. So, it's not as though it's a standing-still position.

[60] **Alun Davies:** No, but it's not going to happen before 30 June, either.

[61] **Mr Davey:** It is unlikely. You know, at present, obviously, we're looking at—. Depending on which option the Minister decides to take, that will have an impact on the overall timetable, and that will form part of the advice that we would put up. It could be that, if one of the options requires us to have an extended timetable, we'd have to put in place some form of interim arrangement, in terms of ensuring that those payments were still made to the recipients.

[62] **Alun Davies:** I would assume that, if we're looking at primary legislation, that's not going to happen in this Assembly, so, the earliest that could begin is the summer of 2016; it would be, possibly, law by the spring of 2017, and start in the financial year in 2018. Is that an unreasonable—

[63] **Mr Davey:** That is not unreasonable, no.

[64] **Alun Davies:** —timetable? So, option 1 is quite difficult, in terms of actual delivery.

[65] **Mr Davey:** That is the case. Options 1 and 2 are more difficult, and will be more time consuming and, possibly, more expensive to administer and take forward.

[66] **Alun Davies:** Okay.

[67] **David Rees:** Okay. Janet.

[68] **Janet Finch-Saunders:** Good morning. I suppose, for me, you know, around all this, I see the inequality of the fact that this scheme is closed to new recipients since 2010. Clearly, in Wales, we have, you know, an ageing population. I see the numbers are diminishing, and the sums involved—. You know, it does mean that there are the haves and the have-nots. Now, in option 2, setting up a national independent living scheme as an alternative, it goes on to say that the local authorities, then, would be able to assess a person, and then it goes on further to say that the NILS would not just be available for those who currently receive ILF—it would be available to local authorities for all individuals, obviously, meeting that criteria. Surely, there's far more equality in that, to actually go for option 2.

[69] **Mr Davey:** I think that presumption could be made, but, obviously, we're looking at, in a consultation process—

[70] **Janet Finch-Saunders:** I was going to ask you again whether you could just remind me of the figures on the consultation, because local authorities and health boards are best suited, if you like, to do the assessments. What kind of response have you had against—? You've mentioned that some are concerned about local authorities handling it.

[71] **Mr Gulliford:** Most of the support for option 2 has been from individual service users.

[72] **Janet Finch-Saunders:** Does that not say it all?

[73] **Mr Gulliford:** Well, it was a stakeholder group of representatives who actually created this second option, feeling—yes—that it's more equal. The downside of that is, obviously, some people getting ILF now, if this was the option that we pursued, would get less.

[74] **Janet Finch-Saunders:** Well, yeah, you'd have more people getting less, but more people would feel—. Yeah, okay. Thank you.

[75] **David Rees:** In relation to option 4 that we've talked about, obviously, option 4 is a ring-fenced grant, with an expiry date at some point, which may be transferred into the RSG. Have you any indication of an expected period of time in which it would be ring-fenced? If people are answering to that consultation, and being asked what their preferred option is, and they think that is going to secure the ILF for them, then, clearly, were they aware that this would expire, and that this would expire at a particular point, where it goes back into the local authority? In other words, it goes back to option 3 in one sense.

[76] **Mr Gulliford:** It'd be wrong for me to say 'yes' without any qualification, because, again, this was developed in conjunction with the stakeholders, who cascaded it out. But, you're quite right—they may think it's another form of protecting the ILF in perpetuity. But, it was made clear that this would be, if you like, a transient grant, obviously time-limited, before ultimately it went into the RSG.

[77] **Mr Davey:** [*Inaudible.*]—effectively, you would have a declining scheme, declining numbers as well, and you're going to get to a point where those numbers are going to drop to such a level that it would be appropriate to put it into the RSG.

[78] **David Rees:** Okay. Lindsay, do you want to come back?

[79] **Lindsay Whittle:** Sorry, Chair, so, the London Government has decided that the ILF will close on 30 June 2015. Under the new Social Services and Well-being (Wales) Act 2014,

ILF recipients wouldn't transfer directly onto the new arrangements possibly until 2016, if the Welsh Government decides to take up the cudgels, of course, because they haven't decided that yet, have they?

[80] **Mr Gulliford:** No.

[81] **Lindsay Whittle:** So, what we're deciding is how will we administer this fund, as from when?

[82] **Mr Davey:** As from 1 July.

[83] **Lindsay Whittle:** 1 July—

[84] **Mr Davey:** This year.

[85] **Lindsay Whittle:** This year. But it's all going to stop in 2015 anyway.

[86] **Mr Gulliford:** No, it's going to stop being paid from the one office in Nottingham, and then devolved to the devolved administration—

[87] **Lindsay Whittle:** The money will come with it?

[88] **Mr Davey:** Yes, the £20 million. Sorry if we weren't clear on that—the money will come over with that.

[89] **Lindsay Whittle:** Right, okay; I'm more clear now. Thank you, Chair.

[90] **David Rees:** Darren?

[91] **Darren Millar:** Just on the question about the money situation, you suggested earlier on, Mr Gulliford, that because a snapshot was taken as at 30 June two thousand and—when did you say the date was? Because a snapshot was taken, effectively, there would have been some people who were in-patients in hospital and there would have potentially been some people who were in residential care, but wouldn't that always be the case with this particularly vulnerable group? You're always going to have a cohort that may be in hospital.

[92] **Mr Gulliford:** That's right. It's—

[93] **Darren Millar:** So, taking a snapshot on any date is going to be a picture that should be typical of the costs of the scheme—ongoing in any case, yes?

[94] **Mr Gulliford:** Yes.

[95] **Darren Millar:** And in terms of the age profile of the individuals in receipt of cash under the existing arrangement, what's the average age? No doubt, some of these individuals may well have passed away.

[96] **Mr Gulliford:** That's true but, actually, within the consultation document—

[97] **Darren Millar:** Because the size of the cohort is shrinking, there may be a bit more cash to go around—that's the point I'm making.

[98] **Mr Gulliford:** Perversely, with social care, if my memory serves, the vast majority are under 65.

[99] **Darren Millar:** Is that right?

[100] **Mr Davey:** Yes, the vast majority of the 1,550 are aged below 65, whereas 487 are aged between 16 and 35 years of age.

[101] **Darren Millar:** Is that right? Okay, so it's quite a different picture from other social care—

[102] **Mr Gulliford:** It is. There's a lot of—obviously, by their qualification, they're severely disabled. But, again, speaking to a number of respondents who'd asked for the hard copies, a number of them have learning difficulties—learning disabilities, sorry—quite a significant number brain-damaged through immunisation, and relatively young. So, again, it's only a projection, but the chances are they will need that high level of care for a significant period of time.

[103] **Darren Millar:** Yes. Tell me, if there were no ILF scheme—and, of course there are people at the moment out there who have no access to a scheme at all—what sort of support is available for those sorts of individuals now, in terms of a package of support that might be built around them?

[104] **Mr Gulliford:** Following an assessment of their care needs by a local authority, they could either have direct service provision or direct payments. I mean, if they had direct service provision, not necessarily by the local authority, but commissioned by the local authority, that could include a number of carers coming into the house, or attending a day centre if it was assessed that the quality of life would be enhanced by attending a day centre, the maximum they would pay at the moment is £55 a week, which is going up to £60 a week this April, or they could have direct payment, which is similar to ILF, because they become an employer, and have the care, as agreed, when it suits them throughout the day.

[105] **Darren Millar:** So, what's the big advantage to this cohort of people who are paid under ILF versus individuals who might be receiving care and support in different ways outside of the ILF scheme?

[106] **Mr Davey:** There shouldn't actually be—

[107] **Darren Millar:** There shouldn't be a disadvantage.

[108] **Mr Davey:** A difference.

[109] **Mr Gulliford:** I'm not speaking from a position of knowledge here, but I think ILF, when it was first conceived, was only meant to be a short form of funding, but, obviously, when they looked at it they suddenly found there were far more subscribers than they'd anticipated.

[110] **Mr Davey:** In a way, it's a financial pot. We didn't go for a do-nothing option, and I believe they did in Northern Ireland.

[111] **Mr Gulliford:** In Northern Ireland, one of their options was to do nothing—just let the ILF finish in June, and that was it.

[112] **Mr Davey:** Obviously, we're going to get to a point in Wales as well where the number of people in the ILF will eventually be none.

[113] **Mr Gulliford:** Could I just explain the process slightly? Somebody getting a personal allowance, as I said, of £340 a week of care from the local authority—that is the trigger point.

They then have to be reassessed by ILF. Now, to get ILF you've got to be on the higher rate of disability living allowance, day and night care, or the enhanced daily living component of the personal independent payment, which is gradually replacing DLA. So, they reassess them. I think the big difference is, with ILF—sorry, with DLA or PIP—you get the money as a recognition of the impact your disability or your illness has on your daily living. You can spend that any way you want. With ILF, you either have to employ a personal carer or employ a care agency, and then, very similar to direct payments, you become an employer, you've got to keep time sheets, NI contributions, holiday pay, maternity pay. So, it's much more rigid, but it enhances the level of care that they would otherwise get, I suppose.

[114] **Darren Millar:** Or you purchase a package of care from a provider who deals with all that.

[115] **Mr Gulliford:** Yes, but it's all accountable. You have to have a separate bank account. So, I suppose, if it's not the wrong terminology, it's a top-up on what you could get through your local authority by virtue of the fact of the benefit you're getting, which recognises the disability you have, which gives you that additional level of care, possibly.

[116] **Darren Millar:** But, from what you said earlier—from what both of you said earlier—even under the existing arrangements, people who can't access ILF because of the cut-off date are still able, and eligible, to receive packages of support that meet their needs, and there'll be more uniformity in that as a result of the new social services and well-being Act, when all parts of it are enacted.

[117] **Mr Davey:** From April this year, yes.

[118] **Mr Gulliford:** That's true, but the difference is the people who get ILF get that additional money on top of—people getting their services through the local authority who also currently get higher rate DLA, or the enhanced daily rate of PIP.

[119] **Darren Millar:** Okay. Just explain: what's the average additional money in addition to the support?

[120] **Mr Gulliford:** It's £355 a week.

[121] **Darren Millar:** So, they get an extra £355 a week on top of the cost of their care.

[122] **Mr Gulliford:** Well, they get two funding streams—they get the DLA or the PIP, and then that triggers getting ILF. That can be, I think, up to—

[123] **Darren Millar:** But the ILF funding is ring-fenced to pay for care and support that they would otherwise be receiving from the local authority under the other arrangements, yes?

[124] **Mr Gulliford:** Yes.

[125] **Darren Millar:** Okay. So it's just replacing stuff with stuff that's already available.

[126] **Mr Gulliford:** I would say it's in addition.

[127] **Darren Millar:** Well, how is it in addition? So, are you suggesting that people on ILF get a better quality and range and breadth of support for their care needs than people under the usual local authority arrangements?

[128] **Mr Gulliford:** They have the finance to secure more.

[129] **David Rees:** I think the difference, if I am right, is that, as you put it, they have the finance to purchase their package, whereas others will get the package from the local authority.

[130] **Darren Millar:** Or they'll get direct payments from the local authority and be able to purchase the package in the same way as ILF.

[131] **Kirsty Williams:** I just wanted to clarify that in my own mind—that you would not have a situation where you would have a recipient of the independent living fund who would also then have a package of care supplied by the local authority?

[132] **Mr Gulliford:** No, that triggers it. They've got to have at least £340-worth of care from the local authority to trigger, if you like, applying for ILF.

09:45

[133] **Kirsty Williams:** Okay. So, that would not be what you've just said then, Chair.

[134] **David Rees:** I think what it says—.

[135] **Alun Davies:** This would be in addition to that.

[136] **Mr Gulliford:** Yes.

[137] **Kirsty Williams:** Yes. What I'm trying to understand is the impact for this particular group of people, because I think, ultimately, that's what we're all concerned about—that we have a cohort of people who are in receipt of this, for whom, from this summer, we're not quite sure what their support is going to look like. So, I'm trying to understand this in my own head. So, would a constituent, who was being cared for or having services provided by the local authority, either commissioned by them or was in receipt of a direct payment, have ILF on top of that?

[138] **Mr Gulliford:** If they were receiving the higher rate care level of DLA, or an enhanced daily component of PIP.

[139] **David Rees:** Can I clarify the point? I think what Kirsty's trying to get to, if I'm right—correct me if I'm wrong—is if a new individual came along now, post-ILF, and identified the fact that their needs are greater than that trigger, those needs, if they were new, would still be funded by the local authority.

[140] **Mr Gulliford:** Yes.

[141] **David Rees:** So, in a sense, someone who has previously been assessed and someone who was newly assessed would actually end up having the same type of package, but one would have an ILF package to pay for care and one would have, through the local authority, direct payments or local authority support, if they were newly—. So, if someone's demands were, let's say, £400, for argument's sake, which is above the trigger point, that £400 would still be paid.

[142] **Mr Gulliford:** Yes.

[143] **David Rees:** So, in a sense, they shouldn't be treated any differently.

[144] **Mr Gulliford:** I don't know if this helps, but the maximum ILF funding for group 1 is £815 per week, and for group 2 it's £475. So, you can see why a lot of local authorities then

suggest the service user applies for ILF, on top of the normal welfare benefits they receive, if they are getting those particular rates of benefit from DLA or PIP.

[145] **David Rees:** Of the four options, which ones are geared towards conformity and, basically, merging, so that, at some point in the future, everybody's on the same scheme?

[146] **Mr Gulliford:** I would say 2, 3 and 4.

[147] **David Rees:** Okay. John.

[148] **John Griffiths:** It's become a bit murky, really, Chair, hasn't it, in terms of what the advantage is to people who are currently receiving ILF of receiving ILF, set against what they would receive otherwise from the local authority? Is there a difference? I think you were quite clear at one stage, Stephen, in saying that there isn't a difference, because the package that would be put in place by the local authority would be equal to what people receive under ILF—

[149] **Mr Gulliford:** It would, but, obviously, ILF provides additional funding to possibly have a bigger care package than what the local authority recommended.

[150] **Darren Millar:** And is that because the eligibility criteria allow them to be eligible for additional care and support that is not available from local authorities?

[151] **Mr Gulliford:** Yes. The eligibility criteria of the ILF were set up by a deed trust, as to how it operates, and whilst I don't know the full details of the full eligibility, it's always been acknowledged that it's tougher than the eligibility to receive local authority non-residential care.

[152] **Mr Davey:** It might be worth us sending out some examples to the committee—

[153] **David Rees:** I think it would be very helpful if you could do that.

[154] **Mr Davey:** —because this is very complicated offset situation.

[155] **Darren Millar:** Yeah. So, a typical individual and the current care and support that they would receive under ILF and how that might differ from direct payments through local authority—

[156] **John Griffiths:** But isn't it right to say, in terms of the responses and the feedback that you've had, that a lot of the concern that people currently receiving ILF have is that were there to be a change that moved it to the local authority, for example, there might be these changes, as I think you've mentioned in eligibility criteria, that would, obviously, move the goalposts and potentially disadvantage them. Is that behind a lot of the concerns that exist?

[157] **Mr Gulliford:** It is, yes.

[158] **Mr Davey:** That's the uncertainty about what the threshold could be in the future about the protection of the ongoing funding, and views, you know, about whether the money would still come across from the UK Government. These are all the sort of uncertainties that are factoring into this.

[159] **Mr Gulliford:** Because they've had this static and well-processed system for a number of years and now they're concerned whether they'll still have that level of funding, because there's concern about whether they'd have to reduce the hours of care that their son or their daughter or their wife—whoever's being cared for—would receive overall because of

the funding. Would they have to make their carers redundant? Because they're an employer, they've got to give notification of redundancy. Obviously, it will depend which option we ultimately pursue, but it's questions like that they are very concerned about because, up until now, from what I gather, speaking to the officials in ILF, it's run along very smoothly in conjunction with the local authority. The ILF review everybody's case every two years to see if, obviously, there are changes in between, or there's a change of circumstance. It all works very smoothly. It's operated out of one office in Nottingham for all that time for all of Britain, so it works. And any sort of potential disruption, I suppose, given the sensitivity of the service users—they're over-concerned, if you know what I mean.

[160] **David Rees:** Kirsty.

[161] **Kirsty Williams:** As you said, my understanding is that, for those in receipt of ILF, it has worked. There have been no problems, it's been administered very well, there's been certainty and they've, you know, not had to worry about it. With regard to eligibility, would I be correct in saying that the people in receipt of ILF have a very high level of need?

[162] **Mr Gulliford:** Yes.

[163] **Kirsty Williams:** So, even if, under the new social services legislation, everybody's eligibility criteria shoots up—and I think we can all assume that that's exactly what will happen and it'll be harder to become eligible for a social services package of care—this particular client group really shouldn't be affected by that because we are talking about people with very high-end needs anyway. So, they shouldn't necessarily be caught out by any changes in eligibility criteria at a local government level.

[164] **Mr Davey:** No. I would agree. Because they are a higher level of need, I would agree that that is a good supposition.

[165] **Kirsty Williams:** Secondly then, the inference seems to be, 'Well, people don't need to worry because, if you don't have this, it could be administered similarly to a direct payment', but most local authorities have a cap on their hourly rate for direct payments, and there is some concern that the cap that the local authorities place on direct payments actually doesn't allow you to employ someone, because the levels of direct payments are quite low. Have you done any analysis of the comparison between a direct payment hourly rate and hourly rates that are paid under this scheme? So, I'm trying to think about whether, if this was to go, and somebody was to be moved onto a local government direct payments scheme, they would be receiving less money, and how much less money than what allows them to pay for their care. Most local authorities have a rate of—. It's £10 something or other in Powys, I think, and that causes some problems in terms of—. Because a domiciliary care agency would probably charge you £12, £13, £14 an hour. I'm trying to get a feel for the difference.

[166] **Mr Davey:** That is something that we are currently considering and taking forward.

[167] **Kirsty Williams:** Okay.

[168] **Mr Davey:** Obviously, you're correct, we have to look at what those thresholds and caps are.

[169] **Kirsty Williams:** Sure, great, thank you.

[170] **David Rees:** Are there any other Members with questions? Darren.

[171] **Darren Millar:** Can I just check—. I mean, I completely understand the line of questioning that Kirsty's just pursued, but, under the new Social Services and Well-being

(Wales) Act 2014, there will be national eligibility criteria, yes?

[172] **Mr Gulliford:** Uh-huh.

[173] **Darren Millar:** Will those national eligibility criteria extend to, you know, the rates that are payable for direct payments per hour of care or anything like that? They'll still be set locally, will they? So, if a local authority was to pay a different hourly care rate for an individual in its local authority area versus the local authority area next door, even though there are national eligibility criteria, there will not be a national price criterion, if you see what I mean.

[174] **David Rees:** I think you've just identified it. One's eligibility criteria and one's—.

[175] **Darren Millar:** Yeah. I mean, is that the situation?

[176] **Mr Gulliford:** Yes.

[177] **Lindsay Whittle:** [*Inaudible.*]—the Assembly Minister's decision. It says he'll be making a decision in early 2015. I appreciate that 21 days is quite early into 2015, but do we have any indication of when?

[178] **Mr Davey:** My view is I want to do this very quickly. Obviously, we're planning through these, we're analysing. As I said, there are about 280 of them and I want to get something out within the next week or two, and then we really are going to work quickly on this, but part of it is making sure that, when we give the options to the Minister, we're looking at the feasibility, the complexity, the cost and anything else associated with this. I think, as you pointed out, there are some real complexities and issues that we have to dig into out there. Part of it is, you know, the huge range of options and things that could be taken forward. We've had to do a sort of general look at that and then really delve into the detail, once we know which option we're going to take forward.

[179] **Lindsay Whittle:** Okay, thank you.

[180] **David Rees:** And part of that preparation is actually talking about the arrangements that will be in place, post 1 July, irrespective of which option you're talking about, because, as identified, some will take longer.

[181] **Mr Davey:** For the Government, obviously, one thing that we have to be absolutely sure of is that, whatever happens from 1 July, even if it's an interim solution, that money will still continue to be paid or that there will be certainty around how we take that forward.

[182] **David Rees:** Okay. Just one point—. I will come to you in a minute. The funding, we know what it is for this coming year. Are we aware of whether that will be the same funding or is it going to be a sort of 4.3% reduction, as we are seeing on a regular basis, for the following year? What's the situation for 2016-17?

[183] **Mr Davey:** That's a good point. Obviously, my colleagues are in discussions with colleagues in Treasury around this and, obviously, at present, we have got no guarantee in terms of future funding.

[184] **David Rees:** Okay. Alun, do you want to make a point?

[185] **Alun Davies:** Yes, the decision you're going to be asking the Minister to take is a choice between those four options.

[186] **Mr Davey:** Yes.

[187] **Alun Davies:** And that will be a final decision to run into implementation?

[188] **Mr Davey:** Yes.

[189] **Alun Davies:** So, there will be no further consultation and no further conversation about this matter.

[190] **Mr Davey:** Unless the Minister wishes to do so, and I have no indication that he has.

[191] **Alun Davies:** Okay.

[192] **David Rees:** Okay. Anyone else? No. Can I, therefore, thank you very much for the briefing this morning? It's been very helpful; I think some of us have clarified—. You indicated that you will give us some case studies. Could that be done as quickly as possible, because, obviously, the timescales are short, and we want to be able to respond to the Minister to also help his consideration of the issues?

[193] **Mr Davey:** Certainly. We'll work on that today. Apologies about the complexity about some of this. It is a complex scheme, with a whole range of needs, and we will get some examples to you and sort of work them through, just to explain in a bit more detail.

[194] **David Rees:** That would be very helpful. Thank you very much.

[195] **Mr Gulliford:** One little issue, on the sort of informal agenda, you did want to know about our engagement with other administrations.

[196] **David Rees:** Yes, I did raise in questions, obviously, your engagement with other administrations, because you have already mentioned that you have been talking very much with the ILF in Nottingham, so I'm assuming you've been in discussions with the UK Government officials on the process of—

[197] **Mr Gulliford:** Yes, we've been in touch with the Scottish Government, because, obviously, they're pursuing an ILF scheme as is, and Northern Ireland have, roughly, the same situation that we have. They have recently finished their consultation; they are currently analysing their responses before they advise their Minister, hopefully, later this month. But Scotland held their consultation in 2013, and so they are sort of quite well advanced, but, going back to what the committee member mentioned about the problems of setting up a body, they are looking into that now, because they're considering setting up a company limited by guarantee.

[198] **David Rees:** Okay—

[199] **Mr Davey:** These are considerations that, you know, we would have to take legal advice on.

[200] **Mr Gulliford:** But we are liaising with those and we're updating the stakeholder group as things are evolving and developing.

[201] **David Rees:** Okay. Thank you very much for that. You will receive a copy of the transcript for any factual inaccuracies that you spot, and let us know if there are any, please. So, thank you very much for your attendance this morning.

[202] **Mr Davey:** Thank you.

09:58

**Cynnig o dan Reol Sefydlog 17.42(vi) i Benderfynu Gwahardd y Cyhoedd o
Weddill y Cyfarfod**
**Motion under Standing Order 17.42(vi) to Resolve to Exclude the Public from
the Remainder of the Meeting**

Cynnig:

bod y pwyllgor yn penderfynu gwahardd y cyhoedd o weddill y cyfarfod yn unol â Rheol Sefydlog 17.42(vi).

Motion:

that the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order 17.42(vi).

Cynigiwyd y cynnig.

Motion moved.

[203] **David Rees:** Well, in that case, I now propose, in accordance with Standing Order 17.42(vi) that we now resolve to meet in private for items 4 and 5 of this meeting. Is everyone, therefore, content? Okay, thank you very much.

Derbyniwyd y cynnig.

Motion agreed.

Daeth rhan gyhoeddus y cyfarfod i ben am 09:58.

The public part of the meeting ended at 09:58.