



9 February 2011

Mrs Maria Miller,
Minister for Disabled People,
DLA Reform Team,
1st Floor,
Caxton House,
Tothill Street,
London SW1H 9NA

Dec'd
14/2/11

Individual Response to the DLA Consultation document Cm 7984

Dear Mrs Miller,

I am writing with some observations on the consultation document issued by your department. Although I have not been active in this field for some while, I was heavily involved in the development of disability benefits, including precursors of the DLA 35 years ago.

Specifically, I was one of the drafting team of four who produced the key policy document of the Disablement Income Group (DIG), the organisation that can justly claim the credit for obtaining all-party agreement on the need for the Non-Contributory Invalidity Benefit. (The other members included [redacted] later [redacted] whose contribution to legislation for disabled people was legendary).

I must start by saying that I am very sympathetic to the necessity of reducing expenditure on the welfare budget. It is clear that expenditure on the DLA has spiralled out of control – largely, I believe, as a result of the system of self-assessment. From the point of view of disabled people, the resources need to be focused more narrowly on those who can justly claim to be significantly disabled. I can also see why your consultation document glosses over the fact that this will inevitably mean many fewer people qualifying for the PIP and/or a significant reduction in the rates of benefit.

But I am afraid I found the arguments in the document rather less than coherent and – given that you are at present consulting “on general principles only” (§6.3) – I offer the following comments in the hope that they may help to clarify thinking:

- 1). **General Expenses Allowance:** The need for a general cash allowance to offset the expenses of being disabled was always a major goal of DIG, but it was the one thing we never achieved. Looking back, I think this is not

surprising. The great complexity of the range of very different disabling conditions would inevitably make the assessment of general needs enormously difficult. DIG's proposal was for a broad-brush allowance, not itemizing individual needs, but using physical criteria of disability. In §§2.1-15 you seem to be advancing a general approach to needs, which contradicts somewhat the assertion (§2.16) that there will be (just) two components of PIP, for mobility and attendance – as with the current DLA. These cover reasonably well defined areas of activity that can in principle be assessed objectively, yet you claim that the PIP (with its so-far undefined elements of need) will be more objective. This seems to me to be most unlikely.

- 2) **Elements within the two main components:** §2.16 also hints that mobility needs will be assessed by reference to innovative criteria other than the ability to walk. One wonders what is behind this idea. Two possibilities spring to mind. First, one could perhaps compensate people for their inability to enjoy other forms of transport – for example, through fear of flying. I believe there would be very little support for this in the disability community. Secondly, there is a suggestion that the impact on mobility would be more important than the disability itself. Could we, for example, envisage discrimination between a wheelchair user on a kneeling bus route and one who is not? Or between a wheelchair user living near Cambridge (which is flat) and one living in Durham (which is not)? Again, this kind of distinction would hardly be popular but – more to the point – it would be extremely difficult to administer fairly.
- 3) **The number of levels of benefit:** The supposed complexity that you allude to in §1.11 results from regarding the two existing components as one, whereas in practice they employ quite different criteria; to talk about the complexity of eleven levels of benefit is therefore misleading. By this calculation, even twice two levels of benefit results in eight combinations – only three fewer. By reducing the number of levels, moreover, you would make it more difficult to recognise the big differences between those with serious disabilities with heavy expenses and those with substantially lesser disabilities who are nevertheless deserving of some assistance. Moreover, it is far from clear how your reduced number of benefit levels would relate to the general expenses of disability – other than mobility and attendance – that you aspire to provide for.
- 4) **The social model of disability:** Although there is much truth in the view that handicap results from the barriers society puts in place, this does not help much with the business of assisting disabled people *individually*, for the simple reason that the barriers apply universally and provide no ready basis for distinguishing between one person's need and another's. On the other hand, the disability of the individual – his or her limitations of movement, for example – does indeed bear a very direct relation to that individual's need.
- 5) **Automatic entitlement:** The proposal to move away from automatic entitlements (§2.19) needs re-thinking. It would be pointless to require a complete paraplegic, for example, to attend an assessment session (let alone to await the PIP for six months): there is no prospect of improvement and the handicapping implications of the condition are well-known. It seems to me that it is necessary to divide disabling conditions into three groups: first, those that are serious, permanent and homogeneous with regard to their impact (for whom qualification should be automatic based on medical evidence); secondly, those with conditions that can be identified and verified clinically

but have varying impacts which may therefore justify an element of individual assessment (the example of renal dialysis might well come into this category); and thirdly those for which no definitive clinical evidence can be presented but where there is a claim of restricted mobility on account of pain, for example (for whom more detailed assessment should be required).

- 6) **Benefit assessment:** It seems likely that the present system of self-assessment invites a degree of exaggeration, which either leads to unjustified benefits or ends in a tribunal making difficult judgements on clients who appeal. It seems to me fair that there should be an onus on the claimant to make the case and to provide the evidence of need through medical certification or otherwise. Although this might bring protests in some quarters, it seems to me that medical monitoring equipment could fairly be used to measure people's mobility in the course of their daily lives and the technology for such equipment almost certainly exists.
- 7) **Payment in care:** The proposal to withdraw the mobility component as well as the attendance component for people in care is presumably one of the consequences of regarding them as two facets of a unified benefit system. Probably no measure so far proposed for the DLA has been more unpopular in disability circles. It is not hard to see why: a disabled person who goes into residential care may do so because of nursing requirements that do not affect his or her life-style at all. Such a person may well be a lot younger than other residents and may have an active life outside the home. It is entirely reasonable for the attendance component to cease, since this would represent a duplication of benefit, but the problem of mobility remains and the withdrawal of the mobility component is virtually equivalent to supposing that such a person should be regarded as incarcerated.

I hope you find these remarks are of some value. Needless to say, I should be happy to discuss any point you may wish to take up.

Yours sincerely,

