



Independent
Living Fund

Equinox House
Island Business Quarter
City Link
Nottingham NG2 4LA

Phone: 0845 601 8815
or 0115 945 0700

www.dwp.gov.uk/ilf

Policy Circular

Document No 16/07

Owner: Corporate Affairs Team

Subject: Residence and Presence

Version: 3 of 3

Last Amended: July 2013

Date Reviewed: July 2013

1.0 Background

In the First Schedule Part II of the ILF 2006 Deed are the Common Eligibility Criteria which apply to all groups of ILF users.

The third criterion states:

“A person must satisfy the following residence and presence requirements:

- (a) he or she is ordinarily resident in the UK;
- (b) he or she is not a person subject to immigration control within the meaning of section 115(9) of the Immigration and Asylum Act 1999;
- (c) he or she is present in the UK; and
- (d) he or she has been present in the UK for a period of not less than 26 of the preceding 52 weeks.

Provided that the Trustees shall have discretion to dispense with requirements (c) and/or (d) if in the reasonable opinion of the Trustees, it is established that a person's absence from the UK is and when it began was, for a temporary purpose and has not lasted for a continuous period exceeding 26 weeks; or it is established that a person's absence from the UK

Textphone: 0845 601 8816

Fax: 0115 945 0945

Email: funds@ilf.gsi.gov.uk

Committed2Equality®



INVESTORS
IN PEOPLE

CUSTOMER
SERVICE
EXCELLENCE



is temporary and for the specific purpose of being treated for incapacity or for a disabling condition which commenced before he or she left the UK.”

2.0 Policy

All ILF users must satisfy the residence and presence test as outlined above.

Where a user does not meet paragraph (c) of the test, but can demonstrate that they are not present only because they are temporarily abroad and the absence does/will not last for a continuous period exceeding 26 weeks, then current payments can continue.

Where a user does not meet paragraph(s) (c) and/or (d) because they have been absent from the UK for 26 or more of the previous 52 weeks, then the ILF may agree to the continuation of funding if the absence was for treatment or care for their existing “incapacity or disabling condition”.

3.0 Procedure

Assessor reports should be checked to ensure ongoing eligibility. Where the residence and presence question is answered negatively, case holders should check whether or not payments may be able to continue on the basis of the second part of the test being met. If the absence is temporary or to receive treatment, the case should be referred to the Complaints and Decision Review Team for consideration.

Where the case holder notices that the user is abroad for a continuous period lasting more than 26 weeks in a 52 week period (e.g. because of replacement holiday awards or suspensions), a letter should be sent to the user to establish the reasons for the absence. If enquiries show that the user has not satisfied the residence and presence test, the user is no longer eligible for payments and the award should be suspended.

A user should be informed that if they do not regain eligibility within 3 months of the date of suspension, the file will normally be closed unless they can demonstrate that within a further 3 months eligibility will be restored, in which case the file will remain suspended for a further 3 months. If after this 6 month period the user still has not regained eligibility, the file would normally be closed.

Where a user informs us that they will not meet the residence and presence test and they anticipate this to be a permanent arrangement, e.g. they are moving to live outside the UK, payments should cease and the file should be closed on the day after they lose eligibility.

4.0 Source

ILF 2006 Deed

Trustees' Meetings 12 September 2007 & 9 June 2010

Trustees meeting 18 September 2013

5.0 History Date Reviewed

17 December 2007

10 June 2010

July 2013