



## Equality Impact Assessment (EIA)

### Title of policy/process under consideration

**Employer support policies**

### Lead department

**Corporate Affairs**

Is this policy/process? (Please tick)

New ☐ Existing ☐ Revised ☒

Is this a full EIA? (Please tick)

Yes ☐ No ☒

### Please state the reasons for the above decision.

This policy information sheet brings together a number of policies that were previously detailed separately. A revision to the ILF policy regarding contributions towards redundancy and related costs has been proposed, the revision does not have any detrimental impact upon users and is intended to simplify procedures for ILF staff and ease limitations that are not set out in the trust deed.

The overall impact of these policies are positive as they allow the ILF to make payments towards specific on-costs associated with employing PA's.

It is noted that many ILF users receive assistance from family members and other unpaid carers to manage their care and support needs.

## What are the policy/process objectives and aims?

The ILF makes payments to users so that they may employ personal care and support to enable them to live independently. In many cases (61%) the user employs a personal assistant rather than an agency to provide them with this support.

The ILF Trust Deed states that the ILF can make payments only in respect of qualifying support and services and sets out the terms under which payments can be made. Given this remit the intention of these policies is to define where the ILF will provide support to users when they are employing a personal assistant.

As a public body the ILF wishes to encourage users to manage their support safely and effectively as well as to meet any statutory obligations. At the same time, the ILF has a duty to manage public funds efficiently, and to target support in meeting the purposes intended, so is unable to meet all requests.

### Note on ILF Maximum Sum

All payments from the ILF are subject to the relevant annual maximum sum as stated in the ILF 2006 trust deed. Payments from the ILF can not exceed the relevant sum in any given year. This limitation on ILF funding may have an impact on users at or near the limit, as the ILF is not able to fund additional support. As the ILF wishes to ensure that our users are able to meet statutory obligations, changes to these may have an impact on the level of support that the ILF can fund.

### Statutory costs

The ILF has broadly agreed to meet statutory costs where these are not recoverable. Where these costs are recoverable such as maternity pay, then the ILF expects the user to recover the associated expense from the inland revenue. This ensures that the ILF supports users to manage their legal requirements.

### Holiday pay

The Working Time Regulations (1998) was instigated so that workers would take annual holiday in the interests of their health and welfare. Where an individual directly employs a personal assistant the ILF will automatically pay an additional sum equivalent to 5.6 weeks pay per year so that the user is able to employ alternative care and continue to pay their personal assistant(s) over 5.6 weeks holiday. This benefits all users equally by ensuring that they are aware of and meet their legal obligations and

ensuring that their PA's can benefit from their legal rights.

#### Sick pay

Through paying any shortfall in statutory sick pay the ILF support all users equally.

#### Maternity leave, Paternity leave and Adoption leave

The ILF makes no payments towards these costs. Because these costs are recoverable this policy has no impact on users.

#### Contributions towards redundancy and related costs

Users have a legal obligation to give notice to employees that are to be made redundant or to make to give them statutory notice, or a payment in lieu of notice (PILON) and redundancy pay. The ILF policy is to support users to meet statutory redundancy costs within the limitations set by the trust deed. The trust deed limitations are as follows

The trust deed sets a maximum average weekly award that is payable to users, this means that in some circumstances where a user is at or near the maximum the ILF will not be able to directly contribute towards all (or any) costs associated with redundancy. Whilst in some of these situations a redundancy payment can be accommodated if the user agrees to a temporary reduction in their support this is not always the case and the user may need to fund provision from an alternative source.

Secondly where a former group 1 or group 2 user has ceased to be eligible for ILF funding. The trust deed allows someone who has ceased to be eligible for funding to receive a one off payment for up to 12 weeks' worth of their previous groups maximum sum (see above). The limitation to 12 weeks means that in some circumstances payments may not meet all the costs of redundancy.

In many circumstances this ensures that users can meet their legal obligations as employers. The exceptions to the above are the limitation within the trust deed. The limitation within the trust deed applies to all users and ensures that ILF commitments remain within budget. Any impact would not be based upon protected characteristics but would be dependent upon the particular employer/employee relationship.

#### Tax and National insurance

The ILF will meet all Employers Tax and National Insurance costs requested by a user, and automatically incorporate an estimated cost towards these where the user has not specified an amount.

#### Employers Liability Insurance

The ILF meets the cost of Employers Liability insurance where an individual makes a request. This benefits all users equally though it may be expected

that where a user is receiving direct payments from their local authority the cost of this insurance may be factored into this support.

#### Non Statutory Support Costs

##### Payroll Costs

In order to ensure that users are supported to manage their financial responsibilities the ILF can pay towards payroll costs, this benefits all protected groups but may have a particular relevance to those users who have difficulties managing care arrangements because of their disability or age. In addition to payroll costs the ILF can pay towards financial management – see policy.

##### Training (Health and Safety and Task training)

The ILF policy recognises that where users have complex needs there may be a requirement for staff training, which ensures that the user is able to provide a safe working environment. This benefits all users that employ a PA but may have a particular impact where support needs are complex. For instance where there is a requirement for manual handling or there are other specific personal or medical requirements.

##### Legal costs

The ILF has the discretion to meet legal costs, this ensures that where an employer requires legal advice on employment related issues they have the option of requesting costs are reimbursed by the ILF. This equally benefits all users that employ personal assistants.

##### DBS Checks (formally entitled CRB checks)

In paying for DBS checks (or equivalent disclosure checks in Scotland and NI) the ILF recognises the risks associated with employing personal assistants. This benefits all users that employ personal assistants but may be particularly relevant for those classified as vulnerable adults.

##### Advertising costs

The ILF can meet advertising costs where these are incurred; this benefits all users equally and allows individuals with specific cultural or individual requirements to advertise for employees in suitable media.

##### Pensions

The ILF does not pay towards an employer's contribution to pensions as these are not a legal requirement, this does not exclude employees contributing towards a pension. It is noted that changes to government legislation will result in large employers being asked to contribute towards pensions from 2012 – this may have an impact on the cost of care provided by some agencies, however the ILF generally meets the cost of agency care where a change in costs is essential to maintain a users independence (See Maintaining user awards guidance for further information).

Please state the reasons why the changes are taking place.

The policies were introduced to ensure that the ILF had a consistent approach in supporting our users when employing PA's. The emphasis of the policies is on ensuring that users are able to employ PA's without incurring unnecessary risk or expenditure. In particular the ILF also seeks to ensure that users can meet their legal obligations. This protects both the employers and employees from any adverse consequences.

This document brings together a number of policies agreed by the ILF trustees and is intended to improve access to information.

Key		
-2	Significant negative impact	+1 Mild/moderate positive impact
-1	Mild/moderate negative impact	+2 Significant positive impact
0	Neutral impact	
Protected Characteristic	Impact	Notes
Age	0	As these policies give general support to specific employee responsibilities in recruiting and retaining employees the impact is generally positive but is not specific to this protected group. However it may be the case that older users have longer established employment arrangements and as a result have employer responsibilities that may result in compensation and pay in lieu of notice payments exceeding 12 weeks
Disability	+1	The policies are likely to have a positive impact on this protected group. However the impact may vary depending upon the nature of someone's impairment. In particular support in managing payments may enable ILF users who lack capacity to continue to exercise choice and control over their care arrangements and to continue to live independently.
Gender	0	As these policies give general support to specific employee responsibilities in recruiting and retaining employees the impact is generally positive but is not specific to this protected group. Indirectly there may be a wider impact as more women provide care than men (65% of carers providing care outside their own home are women). The ILF by supporting users to meet their statutory obligations may also have a positive indirect impact upon this group.
Gender reassignment	0	As these policies give general support to specific employee responsibilities in recruiting and retaining employees the impact is generally positive but is not specific to this protected group.

Marriage and civil partnership	0	As these policies give general support to specific employee responsibilities in recruiting and retaining employees the impact is generally positive but is not specific to this protected group. For many ILF users family members provide support in managing their care, the impact of ILF policies may be greater for those who live alone and are not married or supported by a close relative as they enable the individual to obtain support that may otherwise be provided by a close relative.
Pregnancy and maternity	0	As these policies give general support to specific employee responsibilities in recruiting and retaining employees the impact is generally positive but is not specific to this protected group.
Race	0	As these policies give general support to specific employee responsibilities in recruiting and retaining employees the impact is generally positive but is not specific to this protected group. However we note that ILF support of payroll services may remove some of the barriers for users in directly employing care particularly where English is a second language.
Religion or belief	0	As these policies give general support to specific employee responsibilities in recruiting and retaining employees the impact is generally positive but is not specific to this protected group.
Sexual orientation	0	As these policies give general support to specific employee responsibilities in recruiting and retaining employees the impact is generally positive but is not specific to this protected group.

What alternative policy/process options have been considered to reduce or alleviate any identified impact?

The main constraints for ILF users are the cap that exists on the payments that the ILF can make in any given year. This maximum sum is set out in the ILF trust deed and, given the current financial situation is likely to remain fixed.

This cap reduces the flexibility that some users have if their awards are close to or at the relevant level. This is a concern for users particularly if statutory employment costs increase. The ILF work in partnership with local authorities and the expectation is that they will meet some of the costs incurred.

As noted previously there may also be limitations where the ILF is unable to make group 3 payments in excess of 12 weeks. The policy is being revised to ensure that users can meet their legal obligations as far as possible in line with the limitations contained within the trust deed.

What research has been gathered/considered when making decisions regarding the Protected Characteristics?

Independent Living Fund 2006 Trust deed.  
Independent Living Fund 2006 Conditions of Grant Agreement.  
HMRC National Insurance rates  
Working Time Regulations 1998  
Working Time (Amendment) regulations 2003  
Employment Rights Act 1996 & 2008  
Directgov & HMRC websites  
ILF internal statistics and supplementary analysis June 2012  
Survey of carers in Households 2009  
The Employers' Liability (Compulsory Insurance) Act 1969



Are any future actions required for example monitoring or review?

The policy document is subject to regular reviews to ensure that changes in statutory requirements are considered.

EIAB comments/recommendations

The EIAB reviewed the EIA on 10 July 2012 and subject to minor amendments detailed in the minutes of the 10 July 2012 the board agreed to the EIA.

Date form completed 10/07/12

Signature of EIAB chair



Date 26 July 2012

## Subsequent amendments to policy/process

Date of amendment	September 2013
-------------------	----------------

### Details of amendment

The policy has been amended to clarify the actual ILF position as there are constraints on when the ILF can pay towards employment costs related to the maximum sum that the ILF can pay within the financial year. So where an individual is in receipt of, or near to the maximum sum the ILF may not be able to pay towards the full costs requested. This limitation is set out within the ILF trust deed and reflects the fact that the ILF is a cash limited discretionarily trust that provides assistance in conjunction with local authorities towards the costs of someones care needs. In addition terminology was updated regarding DBS checks.

### Reason why a new EIA is not required

There has been no change to the purpose or intention of the policy.

Date of amendment	6 February 2014
-------------------	-----------------

### Details of amendment

The policy relating to contributions towards redundancy and related costs has been amended in a number of areas that may impact on equality.

Firstly the changes simplify and speed up the administrative process for both users and staff. The simplification of the administrative processes should benefit all protected groups by reducing the amount of evidence required to be submitted and is in line with wider government policy on reducing red tape. In addition any reduction in administration should result in a more rapid resolution of the request for payments.

Secondly the changes delegate trustees power to service delivery staff. In practice this means that initial decisions are no longer restricted to making

payments of no more than 12 weeks for users that are in payment. Previously only where an individual had appealed to the trustees could it be agreed to extend this. Statistical evidence shows that all cases that had been referred to the trustees committee (User Personal Case Committee), between January 2012 and the January 2014 had their appeals accepted. Delegating the trustee's authority will simplify the process for users and staff, but above all it will result in greater equity and transparency of decision making.

Transparency is improved as it moves the decision to make a payment from an uncertain discretionary decision to a open and clear policy statement. Equality is improved both because it is no longer a discretionary decision and also, because where an individual is forced to appeal, there will inevitably be some people that 'drop out' because they are unaware of the process or discouraged by it.

From an equality point of view this is significant. Whilst the ILF does not collect data and would not have sufficient numbers of requests to provide a meaningful picture, it may be expected that certain groups find the appeals process more daunting than others. For instance people who are not proficient in English or who have mental health or learning difficulties, may be disadvantaged in having to appeal.

The delegation of trustees power is a therefore a positive move from an equalities perspective even given the consistency of the trustees decision making.

The third amendment to the policy, concerns the removal of the restriction of £330 per week, this restriction was in the previous policy as when it had been drafted that was the national cap on the weekly amount that had to be paid when someone was made redundant. This national cap has been uplifted periodically by parliament to keep it in line with inflationary increases in wages. The ILF cap had therefore become an arbitrary figure and not based on a legal position.

The benefit of this change will be particularly advantageous to users who have high support packages such as those who require 24 hour support. It is likely that a large proportion of ILF users that require higher care packages are people who have severe learning difficulties or other conditions that require full time supervision. However the change proposed is beneficial to all ILF users and may therefore be considered as a positive change with regard to all the

protected characteristics.

The final amendment to the policy is to introduce an expectation that users check that their insurance prior to submitting a request to the ILF regarding redundancy payments. Whilst this is an additional requirement on users, it both protects the public purse and ensures that additional resources are fully utilised. It is expected that the amendment will benefit some users where the ILF are unable to meet the full costs due to trust deed restrictions.

Legally all users employing PA's should be covered by employers liability insurance, though in practice it is uncertain how many are and what proportion of these have cover that includes a payment towards redundancy costs. It is therefore uncertain what the net impact of this change is however on balance it is likely to be beneficial.

In conclusion the amendments as proposed will have a positive impact on users and may result in improved service, equality and transparency.

#### Reason why a new EIA is not required

Given the above amendments are broadly beneficial to all users no new EIA is considered necessary.