

Policy Circular

Document No 17/07

Owner: Strategy & Communications Directorate

Subject: Relatives Providing Care

Version: 2 of 2

Last Amended: 11 August 2010

Date Reviewed: 11 August 2010

Next Review: June 2012

Please note: From 17 June 2010 the ILF is closed to new applications.

1.0 Background

Under the terms of the 2006 Deed a relative who lives with the user cannot normally be paid to provide care. A relative is defined as:

2006 Deed clause 1(1)(o)

- i) "a person's partner; or
- ii) any of a person's parent, child, grandchild, grandparent, aunt, uncle, niece, nephew or sibling; or
- iii) any of a person's step-relations or his or her partner's relations within the degrees of relationship set out in (ii) above and whether arising through marriage or through civil partnership; or
- iv) the partner of any person falling within (ii) or (iii) above."

Independent Living Fund

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The Independent Living Fund is an Executive Non-Departmental Public Body of the Department for Work and Pensions

This definition is different to the definition of a 'close relative' which applied prior to 1 October 2007.

2.0 Policy

For any new applicant or existing user visited on or after 1 October 2007, a relative as defined by the 2006 Deed, living in the same household as a user will not normally be allowed to act as a paid carer using ILF funding.

Where the user feels that there are exceptional reasons why only that relative can provide the care that the user is assessed as needing, they may appeal to the Senior Management Panel (SMP). Where this appeal is unsuccessful the user may request that the case is considered by the Trustees' User Personal Cases Committee (UPCC). Guidance on what constitutes an exceptional case can be found at the annex to this policy.

2.1 Transitional arrangements

For existing users who employ a relative who was not defined as a 'close relative' prior to the 2006 Deed but who now falls within the new definition (eg a nephew), the arrangement will be allowed to continue for so long as the relative continues to provide paid care using ILF funding. In the event that the relative ceases to be a paid carer he or she will not be automatically allowed to resume as a paid carer. In these circumstances the request to resume will be considered on an exceptional basis by the SMP.

3.0 Source

Independent Living Fund 2006 Trust Deed

4.0 Cross References

Engaging Care Abroad Policy
Civil Partnership Policy

5.0 History Date Reviewed

10 June 2010

11 August 2010

Annex

Guidance for referrals

Close Relative Residing With ILF User & Providing Paid Care

The following principles and factors reflect the reasoning used in decisions that have previously been made by SMP and Trustees with regard to referrals made under this policy. These lists are not exhaustive.

Overarching Principle – applies to all cases of whatever nature:

- There must be a specific health or wellbeing NEED.

Key Factors – any one of the key factors may be sufficient grounds to grant an exception:

- The user's health will significantly deteriorate if an exception is not made.
- All other care avenues have been exhausted.
- Residential care is the only alternative.
- Previous abuse or a traumatic event has led to extreme lack of trust.

Significant Factors – the presence of just one of these factors is unlikely to be sufficient to grant an exception:

- Faith
- Geographical isolation
- Close relative has or is willing to give up paid employment to take on the caring role
- The local authority have themselves made an exceptional decision to pay the relative to provide care
- Key care tasks can only be carried out by the relative
- Professional evidence of a need for the relative to be the paid carer
- The user is unable to communicate with any one other than the relative – Please ensure this is interrogated fully as it is rare that an individual cannot communicate with anyone outside their immediate family

Contributory Factors – these factors add weight but a combination of contributory factors alone, is unlikely to be sufficient to grant an exception:

- Language
- Intimacy of care tasks
- ILFA recommendation
- Risk of gaps in care
- Turnover of carers

When considering these factors SMP/Trustees might want to ask:

- I. Has the user exercised choice and control? – Have they had the opportunity to receive advocacy support? (e.g. have they been referred to DP support services?)
- II. Should an exception be time limited?
- III. Should an exception be reviewed within a certain time frame?
- IV. If an exception is made, will the close relative themselves be put at risk?

STRATEGIC POLICY DIRECTORATE
October 2007 amended August 2010

Agreed by
USER PERSONAL CASES COMMITTEE
January 2008

Equality Impact Assessment

Screening Template

This preliminary impact assessment form is to help you screen your policy, project, function or new service. It should help you consider whether a full Equality Impact Assessment is required by looking at whether there is a potential negative or positive impact on any of the equality groups, if there is an opportunity to promote equality, and whether further data is needed.

Title of policy, project, function or service:

Relatives Providing Care

Short description of aims and objectives

This policy explains how to apply the provisions of the Trust Deed dealing with the employment of relatives

Thinking about each group below, does (or could) the policy, project, service or function have an impact on members of each equality group? If so, how?

Equality Group	Yes – negatively	Yes – positively	Unclear	No impact
Age	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Disability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Race	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Gender	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Transgender	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Religion or belief	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Socio-economic groups	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

What information or research has been considered in judging these impacts?

See below

You should consider a full Equality Impact Assessment (EIA) if:

- (a) you feel one or more equality groups will be negatively impacted by the policy, project or service, or
- (b) there is an opportunity to promote equality and eradicate discrimination.

You may also consider further research if it is unclear, at this stage, what the impact may be.

Based on your findings, is a full EIA required?

Yes

No

Please provide a short summary of your decision-making below:

The ILF Trust Deed stipulates that a relative who is living in the same house as the ILF candidate cannot normally be paid with ILF funding to provide care. Similar restrictions apply to direct payment made by Local Authorities. Guidance has been issued by the Department of Health to Local Authorities in England and Wales and separate guidance is also in place in Scotland

The general restriction is contained within the ILF deed and is therefore binding on Trustees. However the restriction is not mandatory and Trustees have discretion to make exceptional decisions. Each case is considered individually, though the policy contains guidance regarding the factors that will be taken into account when such decisions are being considered.

The overriding principle requires that there is a specific health or wellbeing need. Factors are considered according to weight and relevance, including faith and language. An exception is unlikely to be made on the grounds of faith alone, and language is a contributory factor to be taken into account but also would not of itself justify an exception.

The guidance annexed to the policy identifies faith and language as factors to be taken into account in determining whether there is a specific health or wellbeing weight to be attached to these factors will vary from case to case according to individual circumstances. We do not consider that the inclusion of faith and language within the factors to be taken into account will lead to the policy impacting adversely on people from particular racial or religious groups. Faith and language are likely to be advanced as reasons in support of requests for exceptional decisions and it is therefore appropriate for the guidance to deal with these issues.

Notes:

- ❑ The completed EIA Screening Template should be sent to Jon Duckworth, User Liaison Manager for approval by the Equality Impact Assessment Board (EIAB).
- ❑ We will contact you with any comments or queries about the completed form.

This form was completed by:

Michael Beacroft