

HOUSING LIN POLICY BRIEFING

Disabled Persons (Independent Living) Bill

Background

The bill has been prepared by Lord Ashley of Stoke with assistance from the Disability Rights Commission. The bill was introduced to the House of Lords on Thursday 8th June and will have a second reading on 14th July.

Definition

The bill defines independent living as ensuring that disabled people have the same freedom, choice, dignity and control as others and includes rights to practical assistance and support to participate in society and live an ordinary life. The definition includes people with a range of physical and mental impairments.

Existing Regulatory Framework

Existing rights and entitlements to social services are subject to financial restrictions and means testing – 70% of local authorities only offer services to people whose needs are assessed as critical or substantial using the national framework – Fair Access to Care Services (FACS). Current legislations focuses on personal care not on leisure, work and relationships. In addition there are no positive rights to enable people to choose where they live, resulting in many older and disabled people living in institutions because there are very few alternatives. The Department of Communities and Local Government estimate that 1.4 million disabled people in England require adaptations to their homes and 320,00 of these are living in unsuitable housing. Current systems are based on assessments of dependency and risk rather than the positive elements contained in this bill.

What will this Bill do?

Part 1 of the bill sets out a set of principles to underpin the delivery of local authority and NHS services, these are:

- Enabling freedom, choice, control and participation
- Disabled people's right to self determination and support in expressing their requirements and managing their lives
- Positive action to address discrimination and disadvantage for older disabled people and disabled people from black and minority ethnic groups
- Protection of dignity and respect for family life
- Safeguarding the health and well-being of carers and avoiding undue dependency

Part 2 of the bill places a duty on local authorities and the NHS to cooperate and work with partner agencies to promote independent living and improve outcomes.

This is similar to the duty on Directors of Adult Social Care to co-ordinate agencies such as health, housing and transport to promote social inclusion, set out in the recent Department of Health White Paper. This Bill requires partner agencies to pool funds to avoid multiple assessments and fragmentation. The Bill also requires local authorities to build capacity and support the voluntary sector and user led organisations.

The Bill reforms the definition of disabled people set out in the 1948 National Assistance Act, replacing it with a more inclusive definition.

Based around a right to self determination all disabled people will have a right to an assessment of their requirements for practical assistance and support, for some this will be self assessment, whilst others will need help, but everyone should only have one assessment. The result of this will be an agreed level of resources from the local authority, NHS and other partners, which they can take as:

- A cash payment (individual budget)
- A delegated budget (where someone is nominated to manage the money on their behalf)
- Services arranged by the local authority and partners
- A combination of cash and services

Disabled people will have the right to advocacy and support (similar to care navigators in the Department of Health Green Paper *Independence, well-being and choice* published in 2005).

To eliminate post-code lotteries and variations in service where a person moves across local authority boundaries the Bill sets out minimum outcomes such as living with dignity at home, participating in work, education and family life. This supports the prevention and early interventions approach in the Department of Health White Paper: *our health, our care our say*. In addition the Bill provides rights to portable support – moving from one area to another an individual will retain their assessed resources for a transitional period.

An important element for many people, particularly older people is the right to determine where they live and who with. No-one should be obliged to move into and institution against their will. It will be unlawful to make arrangements for institutional care against a disabled person's wishes and on grounds of financial expediency. There is also provision for people currently living in institutions to return to the community.

Part 3 of the Bill sets out rights for disabled people living in residential care, with providers required to show how they meet individual's requirements for choice, freedom, control and dignity.

On charging the bill sets out the following framework:

- Draws the line against any further extension of means testing
- Puts disability benefits outside of any financial assessment
- Enables regulations to exclude earned income and occupational assessments
- National charging regulations must include a disability equality impact assessment

Part 4 of the Bill considers accessible and affordable housing and includes:

- A duty on local housing authorities to set up a disability housing register to enable people to choose houses which match their needs
- Stronger duties on local housing authorities to allocate suitable housing in the community and to plan to meet the needs of disabled people in their localities
- Making the Lifetime Homes standard mandatory by incorporating them into Building Regulations and making them a requirement for all new homes

What is the impact of this Bill?

1.7 million people currently receive social care support and of this number 1.25 million are over 65, so the major group of beneficiaries will be older people. The Bill will also benefit people who have low level needs who fall outside of current arrangements and assessment processes.

The Bill would change current policy and practice and encourage local authorities and their partners to intervene earlier and to provide services beyond basic personal care and in particular giving people rights to remain in the community rather than being moved to residential care. This Bill will go a long way towards delivering the policy shift set out in the Department of Health White Paper and *Improving the Life Chances of Disabled People* published by the Prime Minister's Strategy Unit in January 2005 as well as other recent policy documents, amongst them the cross government publication *Opportunity Age: a Strategy for an ageing society 2005* and the Social Exclusion Report *A sure start to later life 2006*.

Further information

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Web information www.drc-gb.org/your_rights/independent_living_bill.aspx

The Housing Learning and Improvement Network (LIN) will shortly published a briefing paper on the new Disability Equality Duty.