



A FUTURE WITHOUT THE ILF

The case for asset based citizenship

A Discussion Paper in association with the Campaign for a Fair Society

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SUMMARY

The Independent Living Fund will close on 30th June 2015. This will occur despite the recent appeal in the High Court in London to halt the closure of the Independent Living Fund (ILF). Five disabled people had argued that the Government had not followed their duties to assess the impact this would have on the quality and equality of disabled people's social and civic life under the Equality Act of 2010.

In Scotland there is still an opportunity to protect the provisions of the ILF. This paper argues that the Scottish Government should build on the success of the ILF to create a Trust which works strategically to promote the interests of not just those people with the most significant disabilities, but also those with lower levels of disability.

The ILF offers an example of how the welfare state can be reformed to advance Asset Based Citizenship - it shifts resources to individuals which they can control to enhance their lives and their wider community participation. It is a model for fairness and reform.

1. INTRODUCTION

Five disabled people recently won an appeal in the High Court in London to halt the closure of the Independent Living Fund (ILF). They argued that the Government had not followed their duties to assess the impact this would have on the quality and equality of disabled people's social and civic life under the Equality Act of 2012.

In his judgement Lord Justice McCombe noted that the need to remove or minimise the disadvantages faced by disabled people and the need to encourage their participation in public life were requirements which were not optional in times of austerity.

McCombe emphasised it was clearly:

'... the Intention of Parliament that these considerations of equality of opportunity are now to be placed at the centre of formulation of policy by all public authorities, side by side with all other pressing circumstances of whatever magnitude.'

In conjunction with some 'blue sky' thinking, called for by the Scottish Government in their consultation around what should be done when the Fund closes, these comments reminded me of the 18th century philosopher Thomas Paine. He argued in his book *Agrarian Justice* that the state should promote citizenship by providing everyone with the basic assets so to do. Such thinking is now being reconsidered in political philosophy under the guise of 'asset based citizenship' whereby citizens are, for example, provided with a basic income, not just to live (as is said to be provided by the present welfare system) but to participate in the economic, social and civic life of society.

2. BACKGROUND

But first, some background: the ILF is an executive body of the Department of Work and Pensions (DWP). It operates under the management of independent trustees. Since it was created in 1988 it has helped many thousands of disabled people to move or stay out of institutional care and live independent lives. Through the provision of money, rather than direct care, the disabled person chooses who, how and when their support should be delivered. That support could entail contracting with an agency, or directly employing a personal assistant.

The ILF provides a ring-fenced budget specifically for the independent living needs of the most severely disabled people in the UK, enabling them to live in the community, to work, and to play an active part in their community as full citizens. It enables disabled people to control the way they use the funds and it currently provides support to some 19,000 people at a total cost of £330m.

The ILF system was set up in recognition of the fact that people with high support needs are at high risk of social exclusion and face particular barriers to maintaining independent living and working. In this regard their needs were not adequately addressed by council provision with its primary focus on meeting basic needs.

To be eligible, people must already receive a substantial care package from local authority social services, but ILF funding provides a top-up for those with high support needs, which many in receipt of such money report can mean the difference between basic survival and having a real life. The system provides national consistency and is 'portable' between different areas should users need to move, in theory ensuring that they are protected from variations in council care provision based on local funding considerations and competing priorities. However, the minimum of £340 per week of the care still has to be negotiated with the new local authority.

In 2010 ILF Trustees were forced to close, temporarily, the Fund to new applicants because the DWP had reduced the amount of funding provided. The DWP subsequently announced that it intended to keep the Fund permanently closed to new applicants, and on 18 December 2012 announced its decision to close the Fund completely in 2015, leaving all those who would previously have been eligible to rely solely on local authority adult care services. This was at a time when the funding for councils was being dramatically reduced and many authorities were cutting services for disabled people. It was this decision-making process that was the subject of the legal challenge.

Prior to the December 2012 decision the DWP carried out a consultation on the closure proposal. It did not consult on any other options. The consultation ran from July to October 2012. The consultation paper proposed that ILF funding responsibilities would be ‘devolved’ to local authorities after 2015 so that the people currently receiving ILF support would, in future, be assessed and supported by social work services departments and only receive funding for care from them. However, it did not say how much funding would be ‘devolved’ or if the funding would be ring-fenced, to ensure that it was spent on supporting those people whom the ILF was set up to protect, or even on care provision at all. The DWP said that it could not assess the impact on disabled people until after the consultation had ended.

Under the Equality Act 2010 public bodies, including government departments, must have “due regard” to certain equality principles when they make decisions and develop policies. This is the “public sector equality duty” and it applies when decisions and policies are likely to affect a group of people with a protected characteristic. Disability is a protected characteristic. The public sector equality duty in the Equality Act builds on and develops previous anti-discrimination legislation including the Disability Discrimination Act. Under this duty, public bodies must have due regard to the need to eliminate discrimination and advance equality of opportunity for disabled people.

The Equality Act goes on to specify three distinct elements involved in having due regard to the need to advance equality of opportunity:

- the need to remove or minimize disadvantages suffered by disabled people,
- the need to take steps to meet the needs arising from their disabilities, and
- the need to encourage disabled people to participate in public life and other activities where their participation is disproportionately low

The Act makes clear that public bodies must give due regard to each of these factors in all that they do. The DWP needed to take steps to find out how the proposal would affect ILF recipients and other disabled people, in order to be in a position to give such due regard to the relevant considerations. Consultation can be one part of the process of gathering information but is not necessarily enough on its own. Due to the importance the ILF has been to the lives of so many severely disabled adults, the claimants argued that there was a very strong duty on the DWP to find out full information about the likely impact, including asking the right questions and keeping an open mind. The DWP also needed to gather information to enable it to

consider whether the purpose of the proposal justified the likely impact, and to consider whether there were alternatives that could avoid or mitigate the adverse impact.

The claimants' case was that the DWP had acted unlawfully in failing to gather the right information for the Minister to consider, and also in the way that the decision was ultimately made in light of the information that was available from the consultation and other sources.

The claimants also argued that as part of her task in considering the factors required by the public sector equality duty, the Minister failed to take account of provisions within the UN Convention on the Rights of Persons with Disabilities (UNCRPD). This was ratified by the UK in June 2009 and includes a number of important provisions which must be taken into account in all Government decision-making that has a particular impact on disabled people.

For example, includes Article 19 which contains the right for disabled people:

"... to live in the community with choices equal to others ... [and] to choose their place of residence ... on an equal basis with others and ... not [to be] obliged to live in a particular living arrangement."

In announcing the closure decision in December 2012, the Government made clear that whatever funding may be 'devolved' to local authorities it would not be ring-fenced.¹

The Equalities and Human Rights Commission intervened in the case to advise the court on how the public sector equality duty should have been discharged by the DWP. Their submissions also explained how this should have been informed by Article 19 and other provisions of the UNCRPD, in order for the Government to meet its international obligations under the Convention.

The matter came before the High Court in March 2013 and was considered by Mr Justice Blake, who upheld the Government's decision, accepting its arguments that it had carried out a lawful consultation and applied the equality duties properly in making the decision.

The claimants sought and obtained permission to appeal and the case was considered at a hearing in October 2013 before three Court of Appeal judges, Lords Justice Elias, McCombe and Kitchin. The court heard argument for one and a half days and decided that Mr Justice Blake had been wrong to conclude that the Minister had complied with the public sector equality duty: they held that the decision was therefore unlawful, quashed it and allowed the appeal.

The Appeal Court found that the Minister was not properly briefed on the nature of the public sector equality duty in relation to disabled people and there was no evidence that she had applied it consciously, in substance, with rigour and with an open mind as the law requires. It did not accept that the consultation process was so flawed as to be unlawful in itself, but found the Minister had not read the full responses and the summary given to her by officials:-

“...did not give to her an adequate flavour of the responses received indicating that independent living might well be put seriously in peril for a large number of people.”

(leading judgment of Lord Justice McCombe)

The Appeal Court emphasised the very specific requirements of the duty that the Minister had failed to properly consider: the focus on the need to advance equality of opportunity, the need to minimise disadvantage and the need to encourage independent living and participation in public life and other activities.

The judgment made clear that, irrespective of austerity or “other pressing circumstances of whatever magnitude”, Parliament intended each of these considerations to be “... placed at the centre of formulation of policy by all public authorities ... an integral part of the mechanisms of government.”

Other than a recommendation by an official in a briefing note that the Minister should read the Equality Impact Assessment and Impact Assessment documents in order to “...comply with our public sector equality duty” and “...ensure we do not increase the likelihood of a successful claim”, Lord Justice McCombe held that:

“...there is nothing to identify a focus upon the precise provisions of the Act that seemed to the Minister and her officials to be engaged, what precise impact was envisaged to persons potentially affected and what conclusion was reached in the light of those matters... this was not enough”.

The Appeal Court also agreed that there was no evidence that the Minister had in any way considered the Government’s obligations under Article 19 and other provisions the UNCRPD as they informed the public sector equality duty.

It remains to be seen whether the Government will seek to revisit the idea of closing the ILF; however it confirmed in the course of proceedings that any preparatory steps were at an early stage and could be reversed if necessary. Any fresh decision would require the Government to go back to

the drawing board, properly assess the impact the decision will have on the lives of ILF recipients with regard to the factors in the equality duty, and consider whether it is justified or a less damaging alternative is possible

As the judgement stated, the duty does not prevent the Government from taking difficult decisions like this but it does mean that they have to confront the consequences of such a decision and the:

“...inevitable and considerable adverse effect which the closure of the Fund will have, particularly on those who will as a consequence lose the ability to live independently.”

This judgment is of major importance for all disabled people and will force the Government to think again about how it funds care for severely disabled people so they can maintain their independence throughout their lives. However, there is no doubt that the UK coalition government is determined to follow its original intention, irrespective of any consultation or equality duty, to close the ILF and devolve the money to local authorities. No-one knows for how long such devolved money will go to local authorities and whether such money will be ring-fenced, or left to local authorities to spend on other things, such as road works, or festivals. Ultimately, it is clear, the UK coalition government wants to let already hard pressed local authorities pick up the bill.

3. THE SCOTTISH SCENE

In Scotland, the Scottish Government has just concluded a consultation on what to do with its share of the money, if the Fund were to be devolved. Scottish Ministers and CoSLA leaders have already announced that they have set independent living as a priority for co-ordination of action across the public sector, and against which they will be required to report on progress.

The Vision for Independent Living in Scotland, co-signed by the Scottish Government, the disabled people's Independent Living Movement, CoSLA and NHS Scotland states:

*"...based on the core principles of choice, control, freedom and dignity, disabled people across Scotland will have equality of opportunity at home and work, in education and in the social and civic life of the community."*²

They have then gone on to define independent living as:

"... disabled people of all ages having the same freedom, choice, dignity and control as other citizens at home, at work, and in the community. It does not mean living by yourself or fending for yourself; it means having the rights to practical assistance and support to participate and live an ordinary life."

The Independent Living Fund is one example of the support that has contributed to some disabled people being able to live independent lives. It has made a significant contribution to individuals being able to be active citizens, equal to all other citizens.

Scottish Disabled People's Organisations (DPOs) have called for any new fund to be open to new recipients. The decision by the UK Government to close the ILF to new recipients did create a massive amount of unmet need; and the complete closure will further exacerbate inequalities between disabled and non-disabled people in the future. These inequalities are not helped by local authorities only providing support packages with basic cover;³ or by the UK Government's targeting of disabled people in the welfare cuts, creating even further poverty.⁴

And as an existing recipient of ILF, I do agree that any new use of existing money should not come from the funding of existing support packages, by top slicing or reducing existing disabled people's support packages.

These funded packages should not only be secured, but under-written by guarantees that additional resources will be available for any additional increases in costs of meeting the increasing personal need, providers' fees, or employers' responsibilities of existing clients. Such increases in personal budgets should come either from the attrition within the existing budget or from other Scottish Government budgets.

I do not say this for selfish reasons, but for ethical ones. It has been argued that society has a duty of beneficence and non-maleficence, as well as care and justice, especially to those who are not as strong and resilient as others.⁵

Despite it happening within several local authorities, today, it is also morally wrong to take from Peter to give to Paul, especially if both are within a protected group as designated within equality legislation; and both are seen as being 'in need' within current community care legislation. It is not ethically comfortable to think that the state redistributes resources to the disabled people from disabled people, when they have a duty to equate their status and opportunities with non-disabled people.

I am truly grateful to the Scottish Government for accepting this principled stance, from the onset; but would urge it to resist any pressure from any quarter to change from it.

4. NEED FOR SOME 'BLUE SKY THINKING'

However, I should like to take this opportunity, as an individual to do some 'blue sky' thinking on the issue of what to do with the attrition within any 'new' independent living budget when it does eventually come to Scotland, or indeed, if there were any additional monies forthcoming.

I do realise that such thinking may be impossible to realise, given the current political thinking which dominates society's attitude and actions in the light of 'austerity Britain'. It may also necessitate some kind of enquiry or commission into the present state of neoliberal managerial social work, which places budgets and organisational systems before social work ethics and social justice. My main contention is, however, that such an enquiry could also investigate possible ways social work services could promote and support a system which values proactive participative citizenship, as suggested by Thomas Paine.

There is the obvious disadvantage that such an enquiry may push the issue into the 'long-grass'. Nevertheless, I strongly believe there would be a more vibrant and inclusive society if it transferred its concern from the cost of social care to its value, not just to the recipients and their families, but to society as a whole. In addition, I do hope that I will drop some seeds for thought, which might gestate over a period of time and eventually flower as time goes by. I am personally convinced that the transfer of the ILF budget to Scotland could accelerate that process.

I do agree with the DPO submission to the Scottish Government's consultation that given the vagaries of what James Madison, 4th President of the USA, termed 'the tyranny of the majority', the most secure option cited by the consultation paper is a "New Partnership and/or Trust" (Option 4). Giving the budget to local authorities would not guarantee that it would be spent on community care. And given the caprices of local government, it could end up filling pot-holes, or paying for some feast-day.

Even if it were added to local authority community care provision, it would only provide more fuel to the furnace of the neoliberal managerialism of present day social work, and continue the post code lottery of provision, along with the exclusion of the voice/influence of the end user, who constitutes the minority in local authority elective decision-making, but 100% of the recipients of its service provision.

A new Partnership/Trust would give more security to existing recipients and tick the advantages described within the consultation document. If it also worked in co-production with disabled people, it would overcome the issues discussed in the previous paragraph.⁶

It would also safe-guard the current aspects of the ILF which are important for the future of any funding, namely:

- The money remains ring fenced to provide care and support and that the current level of 97p of every £1 spent reaches the end user.
- It is delivered on a national eligibility criteria focussed on supporting and delivering independent living.
- It is portable and flexible. The national consistency of the application of ILF moneys means that the provision is not subject to a post code lottery and it offers portability of support. This is crucial for disabled people to enjoy their freedom of movement around the country for their employment prospects, or to be near family, etc, without having to re-negotiate their funding.
- It is provided after a co-produced assessment with the end user.
- It is provided after a regular review to ensure needs are met appropriately.
- It is provided as a Direct Payment. The ILF has shown a pioneering history and wealth of experience in delivering Direct Payments since the 1980s. This method of support has supported choice, control, freedom and dignity in the lives of disabled people in a way that more traditional care and support have been unable to offer.
- It is monitored in a way that supports accountability whilst being flexible and non-intrusive.

I also agree with my DPO colleagues, that the following principles be used to develop any successor system for the ILF in Scotland:

- **Overarching principles of independent living, equality and human rights:** The principles of independent living, equality and human rights should steer what happens – this includes promoting, protecting and supporting the full participation for all disabled people as equal engaged citizens.
- **Freedom:** users of community care are free to live their life in the way that they choose, without barriers to such freedom created by care and support systems, which are inflexible and operate to their own convenience.
- **Choice:** users of community care can choose how to live their life, what they do with it and who they involve in it.
- **Dignity:** everyone is entitled to dignity in their own life and others respect this dignity – from the point of accessing support to the delivery of it.

- **Control:** people can and should control their own lives, including what they do, with whom, and when they do it.
- **Participation:** disabled people have a right to participate in society and decisions which affect their human rights.
- **Accountability:** those responsible for the promotion and delivery of respect, protection and fulfilment of human rights are accountable to those who hold such rights.
- **Non-discrimination and equality:** community care is crucial for the equality and human rights of disabled people. Without it, many disabled people: cannot live free from discrimination and harassment – as the Equality Act 2010 promotes; enjoy the human rights to which they are entitled on an equal basis to others – as set out in the Human Rights Act and the European Convention of Human Rights, nor contribute to a wealthier and fairer, smarter and healthier, safer and stronger, Scotland.⁷
- **Empowerment:** disabled people know their rights and how to claim them. They are supported to play an equal, engaging part in society and lead an ordinary life.
- **Legality:** decision makers must make an explicit link with human rights legal standards in all processes and outcome measurements.
- **Stability:** disabled people do not live in fear of losing their support or about the perception of others of the cost of such being not worthwhile. This includes; decisions and practice around funding levels, assessment, eligibility and review processes; as well as decisions around the continuation of ‘buying’ a consistently high service – either as ‘good employers’ or to retain a preferred agency/provider.
- **Better outcomes for individuals:** rules and processes, including assessments and eligibility criteria, work to the benefit of the individual and their best interests. The outcomes for disabled people and other users of community care, in terms of better health and wellbeing, should be at the centre of both the legislation and the way that it is implemented.
- **Portability:** disabled people and other users of community care have clear entitlements to it, regardless of where they live. Disabled people know that they can move freely, for whatever reason, across Scotland and that their support package can come with them.

Nevertheless, I am concerned that a new Trust would continue the bifurcation of social care. The recipients of the new Trust will be on one branch of social care (and a pretty precarious one at that) where they will have the empowering resources managed within the principles mentioned above. However, the majority of social care recipients will remain on another

branch. They will continue to be under the control of the present-day neoliberal managerial policies and practices, including notions of budget driven services, single-assessments, markets, competition, productivity, resource allocation systems, etc; all of which limit positive outcomes, and are merely available to those few who meet the highly restrictive 'life and limb' criteria of the assessment process.

Such limited numbers of disabled recipients of social care provision will also continue to be confined to dependency, segregation (even within their own home) and denial of their full and equal participative citizenship, as the needs which such a system assess are confined mainly to what are termed as 'bed and breakfast' services. Sometimes, such needs are met by undignified and unseemly provision, such as providing adults with incontinence pads at night. I daresay that some within social work services will claim this is a misrepresentation of social care practice, today, but such has been well documented in the literature.⁸

On the other hand if the new fund meets the criteria which are detailed in the points above, there would be another system of social care which enables its recipients to fulfil more ably their familial, cultural, social, civic and economic lifestyles. This system could be more directly inclusive of the recipient in its policies, practices and assessments; and sees the recipient as an equal, participating and engaged citizen. And if such a service were founded, I contend it would be a beacon which could influence the dismantling of the present day neoliberal managerial system of social care.

Therefore, I would suggest that any new Partnership/Trust be set up on a long-term, but changing, basis; primarily to secure the continuation of support to existing recipients, but also to stimulate change within mainstream services. Any attrition, along with any additional money (possibly from the new combined budgets of health and social care) would be used to set up pilot schemes within local authorities to carry out similar packages of support, based on the same criteria and management systems, and the principles and actions of which have been outlined above. However, they would be directed more pronouncedly at supporting participative citizenship.

It has been shown that such active participation within society at large, supported by social work services, can reduce higher dependency on health and social care later on in life.⁹ Therefore, the expectation is that these projects would work like immunisation programmes within health, changing the metabolism not just within the body of the individual, but the culture and systems of the organisation itself. Unlike health, there is little money spent on preventative exercises within social care.

The Scottish NHS, in this fiscal year, has spent £17m in flu immunisation alone. This is above that spent on its child immunisation programmes. Politically, it is generally accepted that such preventative measures save greater harm to the individual and greater expenditure to the health service when large scale epidemics arise. If such preventive measures were applied to social care budgets, the consequences of ‘unmet need’, and the additional expenditure to meet them, would be less, when they are finally acknowledged as severe ‘life and limb’ cases.

It is generally agreed that there is a widening gap within social care, not only in Scotland, but around Europe, between rising need and falling expenditure.¹⁰ If falling expenditure continues merely to meet the ‘life and limb’ need of a diminishing number of people, that gap will never narrow. As said previously, health and wellbeing has been found to be greater among those who are empowered to participate in the lives of their community and within relationships.¹¹ It has been found, for example, that overcoming the isolation of being housebound, leads to improved health and wellbeing outcomes. Starting up small scale projects to maximise social and civic intercourse would help in such preventative measures.

Adopting this ‘improvement model’ i.e. starting small pilot projects and building on their learning, will facilitate the closure of this gap.¹² The theory and practice of the improvement model, is well known to the Scottish Government and has been widely used in the organisation of infection control within the health service.¹³ It is also being used with some relative success by local authorities within the roll out of their Change Fund for older people.

As the Scottish Government has an Independent Living Partnership Board, this could be used to oversee and facilitate such a programme of improvement pilots, facilitating solutions to any initial problems and ensuring the pilots meet and sustain their initial objectives; criteria which the present Change Fund has not always been able to maintain. As these pilots grow in number and geographic spread, they should influence mainstream local attitudes and practices within social care, presently dominated by neoliberal managerialism.

It should also be noted the Scottish Government’s Christie Report on the future delivery of public services identified 4 key principles that should underpin future reform:¹⁴

- 1.** Reforms must aim to empower individuals and communities receiving public services by involving them in the design and delivery of the services they use.

2. Public service providers must be required to work much more closely in partnership, to integrate service provision and thus improve the outcomes they achieve.
3. We must prioritise expenditure on public services which prevent negative outcomes from arising.
4. And our whole system of public services - public, third and private sectors – must become more efficient by reducing duplication and sharing services wherever possible.

5. ASSET BASED CITIZENSHIP

The pursuit of asset based citizenship and welfare would, I believe meet these fundamental principles.

As stated above, ‘independent living’ is a human right for disabled people, under Article 19 of the United Nations Convention of the Rights of People with Disabilities. The exercise of rights and responsibilities are part of an engaged citizenship. If social services were designed around promoting and sustaining such exercise, rather than ‘needs’ as acknowledged and assessed by gate-keeping professionals, there would be much more dynamic participation by disabled people within the community, leading to a much more progressive, inclusive and engaged society.

But what is meant by ‘participative citizenship’? The meaning and purpose of ‘citizenship’ has been discussed and debated by philosophers and sociologists, ever since Aristotle and beyond. However, more modern theories were first proposed by T H Marshall in 1950.

He proposed that:

“Citizenship is a status bestowed on those who are full members of a community. All who possess the status are equal with respect to the rights and duties with which the status is endowed.”¹⁵

According to Marshall, there were three types of rights: civil, political and social – and the development of citizenship in democracies involved 3 phases marked by the establishment of these 3 rights:

1. **Civil rights** are those necessary for individual freedom – “liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice.”
2. **Political rights** are “the right to participate in the exercise of political power” either as a member of a political authority or an elector.
3. **Social rights** are “the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society.”

In 2005, Jenny Morris wrote a paper for the then Disability Rights Commission.¹⁶ In it, she looked at what citizenship meant for disabled people. She took three concepts which their movement had been (and still are) promoting and suggested that there was a very close relationship to Marshall's three concepts of citizenship rights.

The three concepts which Morris referred to were:

- 1. Self-determination:** this has been an important concept for both the independent living and self-advocacy movements. Within the wider citizenship debates, there is an assumption that individuals have capacity for free choice and, particularly within the liberal tradition full citizenship involves the exercise of autonomy.
- 2. Participation:** this concept is often used by disabled people when engaging with the debate on social exclusion. In terms of wider citizenship debates, the concept includes the civic republican concept of political participation but also encompasses the broader concept of community participation.
- 3. Contribution:** disabled people have emphasised the value of our contribution to economic and social life when we make the case for both anti-discrimination legislation and the resources required for a reasonable quality of life. Such arguments dovetail with the communitarian emphasis on responsibilities and reciprocity, and with debates on the limits to social rights.

One of the major benefits of the present ILF has been the enabling of disabled people to fulfil the pluralistic aspects of their citizenship. Equal participative citizenship is the key objective of disabled people's independent living movement.

The development of the disabled people's movement and its relationship to the various models of citizenship has been outlined in several works.¹⁷ However, I just want to mention one – that of a stakeholding citizenry – for it would take a specific type of welfare state and social work service; one which supported the rights and responsibilities of an engaged citizenship, to underpin a society of stakeholding citizens. Giving disabled people a direct payment is a concrete example of developing an asset based stakeholding citizenry. If such suggested pilot schemes as above were to be based on such concepts, this would revolutionize social care in Scotland, and overcome a large structural barrier to disabled people's independent living opportunities.

As far back as the 18th century the idea of giving citizens assets (money) to develop their active participation as equal responsible citizens in the government and wellbeing of society has entertained much debate. The

idea is to build on the assets each and every individual has by giving them money and opportunities; and for them to decide how to use it to assist their contribution to, or engagement with, society, not just to participate in its labour market, but its social, cultural and civic environs. Such stakeholding assets could be used to buy tools for a job, or pay for a course to improve their education, or take up some cultural pursuits, etc, etc. Such money, it has been argued, would be recouped through inheritance tax.¹⁸

Two competing arguments are made in this discussion. First is the libertarian argument that if people ‘stake-blew’, i.e. frizzled the money away, they were free to do so. The republican argument is that such assets should only be used to promote the engagement of the individual with society; and to ensure such engagement took place, there should be a light handed monitoring of such assets, for detailed policing of such would be impossible.¹⁹

These arguments around the use and misuse of such money have been going on ever since Thomas Paine first suggested asset based citizenship in 1795; and have also dominated the field of direct payments, now ‘self-directed support’, since its inception.

The republican argument is based on a set of principles of democracy, very similar to communitarian thinking and that advocated by the independent living movement in Scotland.²⁰

These are:

- The common good
- Independence
- Inclusion
- Deliberative decision-making
- Participation and
- Economic egalitarianism.

If we are to develop a stakeholding society supported by social services and the welfare state, then these principles must be intrinsic to their policy and practice. The independent living movement has been in the vanguard of promoting similar principles. In particular, the idea of a direct payment to pay for support can be seen as an asset provision to enable participation in, and engagement with, society. The independent living movement also encourages inclusion, participation and deliberative decision-making. It has also advanced the concept of ‘co-production’ and published a ‘Toolkit for co-production’ which explains in plain language how disabled people can participate in policy and practice decision-making at both local and national level.²¹

Asset based welfare to promote engaged citizenship has been discussed in both America and Europe.²² This should not be confused with “workfare” programmes devised in America and presently being replicated within the current Con-Lib welfare reforms, for ‘engagement’ means more than just participating in the paid labour market.

Within Britain, the idea of giving assets to people to empower their reciprocal role as citizen has been trialled by the last Labour government in the development of its Child Trust Fund. Each child was to be given £250 at birth, followed by another £250 at age seven. This money was to be invested in a Trust which would attract interest and growth in the stock-market over time. Families were also allowed to contribute to their children’s Trust which would mature at age eighteen. The libertarian concept of the child being free to do whatever she wished was assumed, although politicians hoped the accrued money would go towards her further education.

It is true to say that within Britain, asset-based welfare has been discussed mainly around helping the poor to save money. But in America, Scandinavia and others parts of Europe, asset-based welfare has a wider remit in engaging mainly ‘the poor’ to be engaged in their citizenship development and favours the uptake of education and employment opportunities.²³

It would make sense therefore, if we are to change welfare and social services to be an asset creator for an engaged, participating citizenship to start with policies and practices around independent living.

A direct payment to enable a disabled person not just to get washed and dressed, but to become active in her family, cultural, economic and civic life, is truly an asset-based welfare provision. However, it should be remembered that, although realised programmes of ‘asset based citizenship’ mainly started within programmes for ‘the poor’, the original concept was that it would be a ‘universal’ provision. Nevertheless, it is considered that some may require more assets than other to achieve the same things.

For example, the Economics Nobel Prize Winning Professor Amartya Sen, with his PhD student Wiebwe Kuklys, found that when ‘conversion handicap’ (those assets which are needed by disabled people to achieve the same things as non-disabled people) was added to ‘income handicap’ (that which is the difference in income between disabled and non-disabled people) the difference in the poverty gap between the non-disabled poor and the disabled poor rises from five to thirty percentage points. Therefore, as disabled people need more assets (money) to achieve the same as non-disabled it may be sensible, as previously stated, to start asset based welfare with this group of people.²⁴

Referring to asset provision and ‘republican democracy’, the principles of which are stated above, White states:

“The vision is not of a utopia, of a society which fully realises the values of liberty, equality and ‘fraternity’, which have historically inspired progressive politics. But it is an ambitious vision nevertheless. It pictures an active state working to disperse property and increase the accountability of decision-makers throughout society. At the same time, as part of the process of dispersing power and enhancing accountability, the nature of the state itself is transformed by greater citizen participation in and around policy-making. We should not want a state that swallows up society, but nor should we reconcile ourselves to the neo-conservative vision of a market society (in which the market swallows up the society). The challenge is to put the state and the market in their place so as to build what we may call a citizen society.”²⁵

But social care is only one area of structural barriers to disabled people’s independent living: independent living is not just about personal support. Disabled people have identified 13 areas of living and support to which the policies and practices covered by the independent living paradigm can be applied.

These include:

- inclusive education and training
- equal opportunities for employment
- full access to our environment
- fully accessible public transport
- technical aids and equipment
- accessible and adapted housing
- an income including income from benefits
- accessible and readily available information
- advocacy and working towards self-advocacy
- counseling, including peer counseling
- accessible and inclusive healthcare provision
- communication and appropriate support for communication
- personal assistance

It can be seen how independent living touches on all aspects of life and much of government policy and expenditure. If the attrition of this new

budget were to be enhanced with a tiny sum (say 0.01%) from each of the relevant budget headings, then along with the growing attrition, an alternative, if not additional, use of the new budget could be to fund programmes or projects which tackled the structural barriers within each of the 13 areas covered by the independent living paradigm, as itemised above. Such funded projects would be based on the principles and practices of ‘co-production’ as detailed within the Scottish Independent Living Movement (comprised of DPOs in Scotland).²⁶

Once more, the Scottish Government’s Independent Living Partnership Board, which already works to the principles and practices of co-production, could oversee the implementation of such structural programmes, run on the Scottish Government’s improvement model established in the health service and now being applied to children and families services.

6. CONCLUSION

It is true to say ‘when one door closes, another opens’. Although it must be said that the five disabled people who won this ground beating legal judgement should be warmly congratulate, the question still remains over the future of the Independent Living Fund.

Over the last 30 odd years of the Fund’s existence, it has shown how disabled people can flourish as family members, employees (and employers) within the labour market; sports people; as well as actors in leisure and civic pursuits. It would be shameful (and wasteful) if such asset based provision of citizenship support were lost to feed the whims of local authorities and their gluttonous approach to neoliberal managerialism within social care.

It is true that the Fund, and its continuation, do allow for a bifurcated social care system. But if it, or its successor, could be used as a beacon for future mainstream services by building on its principles and practices to support equal proactive citizenship, then not only will disabled people prosper, but society at large; making Scotland a more healthier, wealthier and inclusive country.

ENDNOTES

- ¹ In the UK Government's published response to the consultation it was stated that "in their response to the consultation, most local authorities said they would be strongly opposed to a ring fence around this funding" but this was completely untrue. Not one of the local authority responses obtained by the Claimants under the Freedom of Information Act expressed opposition to ring fencing; 33 out of 80 were in favour of ring-fencing or suggested it should be considered and several authorities expressing qualified support indicated that their position depended on whether the funding would be ring fenced. The rest made no comment about ring fencing.
- ² *Our Shared Vision for Independent Living in Scotland* co-signed by the Scottish Government, the Independent Living Movement, CoSLA and NHS Scotland, 5 March 2013.
- ³ <http://www.scope.org.uk/news/other-care-crisis> and <http://www.inclusionscotland.org/documents/FiveAsks.doc>
- ⁴ <http://www.inclusionscotland.org/news/story.asp?id=4181>
- ⁵ Darwall, S (ed.) (2003) *Deontology*. London, Blackwell Publishing.
- ⁶ <http://www.ilis.co.uk/get-active/publications/co-production-toolkit>
- ⁷ ILiS (2011) *ILiS Response to the JCHR Inquiry into the Implementation of Article 19 of the UNCRPD*. Glasgow, ILiS.
- ⁸ See, Harlow, E, Berg E, Barry J and Chandler, J (2013) *Neoliberalism, managerialism and the reconfiguration of social work in Sweden and the UK*. **Organisation**, Vol. 2, No. 4, pp 534-550; Ferguson, I and Woodward, R (2009) *Radical social work in practice: making a difference*. Bristol, Policy Press; Regowski, S (2013) *Critical social work with children and families: theory, context and practice*. Bristol, Policy Press.
- ⁹ See, for example, Curry, N (2006) *Preventative Social care: Is it cost-effective*. London, King's Fund.
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- ¹⁴ <http://www.scotland.gov.uk/About/Review/publicservicescommission>
- ¹⁵ Marshall, T.H. (1950) *Citizenship and Social Class*. Cambridge, Cambridge University Press.
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- ¹⁷ See, for example, Beckett, A E (2012) *Citizenship and vulnerability: disability and issues of social and political engagement*. Basingstoke, Palgrave MacMillan.
- ¹⁸ Prabhakar, R (2008) *Assets and citizenship* in White, S and Leighton, D (eds) (2008) *Building a citizen society: the emerging politics of republican democracy*. London, Lawrence and Wishart.
- ¹⁹ White, S (2008) *The emerging politics of republican democracy* in White, S and Leighton, D (eds) (2008) *Building a citizen society: the emerging politics of republican democracy*. London, Lawrence and Wishart.
- ²⁰ Elder-Woodward, J (2013) *Independent living: the frontier to communitarian welfare*. **Disability and Society**, Vol 28, Issue 2.
- ²¹ <http://www.ilis.co.uk/get-active/publications/co-production-toolkit>
- ²² Sherraden, M (1991) *Assets and the poor; a new American welfare policy*. M E Sharpe Inc.; Le Grand, Julian (2013) *Subsidiarity and individual responsibility: quasi-markets and asset-based welfare* in Brugnoli, A and Colombo, A (eds.) *Government, governance and welfare reform: structural changes and subsidiarity in Italy and Britain*. Cheltenham, Edward Elgar.
- ²³ Emerson, C and Wakefield M (2001) *The Saving Gateway and Child Trust Fund: is asset-based welfare, 'well fair'*. London, The Institute of Fiscal Studies.
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- ²⁶ <http://www.ilis.co.uk/get-active/publications/co-production-toolkit>

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Jim Elder-Woodward OBE was born with cerebral palsy and has had life-long experience of disability, not only as a health and social service user, but also as a service provider, planner and researcher.

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- Co-Chair of the Scottish Government's Independent Living Partnership Board
- Convenor of the Glasgow Centre for Inclusive Living
- Strategic Board member of the Institute for Research and Innovation in Social Services
- Board Trustee of Capability Scotland
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Jim has written a number of articles and papers on disability and independent living, including co-authoring a book for social care workers on the subject.

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The Campaign for a Fair Society is a diverse UK-wide alliance of organisations and individuals campaigning for a society that values, includes and supports all of its citizens. It is independent of all political parties. It represents the interests of disabled people and everyone who is disadvantaged by the laws, policies and systems in the UK.

The Campaign for a Fair Society is a federation with equal representation from England, Scotland and Northern Ireland.

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