

PRIME MINISTER

COMMUNITY CARE: PRESERVED INCOME SUPPORT ARRANGEMENTS

Last week you saw the latest papers on the detailed community care package. You were concerned that there should be no limits on future access to income support for people currently in residential care homes, whether or not they are currently claiming income support.

Nicholas Scott has now sent round a further letter (flag A) commenting on this and other aspects. I think you can leave most of the other points raised to be sorted out with the Treasury. But you will want to consider what is said in paragraph 2 of the letter about preserved income support together with the attached redraft of the relevant section of the White Paper.

Richard Wilson's note at flag B provides advice on the preserved rights issue. Rather than my seeking to summarise the issues, I suggest you read through his minute. The issues are:

- are you content that there should be a reference in the White Paper to a possible future review of the preserved entitlement for those people in residential care who are currently supporting themselves?
- content to urge that the drafting ambiguity identified in paragraph 6 of Richard Wilson's minute is resolved?

No - it will raise all kinds of fears.

This does not amount to there is no review.

pp. Di...

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PAUL GRAY

1 November 1989

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PM



cr. Scott

10 DOWNING STREET

apu

LONDON SW1A 2AA

From the Private Secretary

2 November 1989

Dear Ivan,

COMMUNITY CARE: BENEFIT ARRANGEMENTS AFTER APRIL 1991

The Prime Minister has seen your Minister's letter of 1 November to the Chief Secretary. She continues to have concerns about the proposed arrangements for preserved income support set out in paragraph 2 of his letter and the revised draft of chapter 9 of the White Paper. She thinks that any reference in the White Paper to a possible future review of the preserved entitlement for those people in residential care who are currently supporting themselves will give rise to all kinds of fears. She therefore thinks there should be an unequivocal commitment to preserved rights for all existing residents. This would seem to point to deleting the last two sentences of the revised version of paragraph 9.3 of the White Paper.

I am copying this letter to Steve Catling (Lord President's Office), Andy McKeon (Department of Health), Roger Bright (Department of the Environment), Jim Gallagher (Scottish Office), Stephen Williams (Welsh Office), Stephen Leach (Northern Ireland Office), Carys Evans (Chief Secretary's Office) and Trevor Woolley (Cabinet Office).

Yours,
Paul Gray

PAUL GRAY

Ivan Rogers, Esq.,
Office of the Minister for Social Security.

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The Rt Hon Norman Lamont MP
Chief Secretary
HM Treasury
Treasury Chambers
Parliament St
LONDON SW1

- 1 NOV 1989

Dear Chief Secretary

COMMUNITY CARE: BENEFIT ARRANGEMENTS AFTER APRIL 1991

Thank you for your letter of 30 October about proposals for the benefit arrangements after April 1991.

Preserved Income Support

2. You will have seen the letter from the Prime Minister's office of 27 October. We are not now proposing a time limit by which existing claimants or residents of homes will have to claim Income Support. Although existing claimants-in non-registered small homes in April 1991 will be covered by these arrangements, residents in those homes not claiming benefit at the time of the change will be excluded, as agreed. We will of course keep the scheme under review. This will be set out in the White Paper, and I attach the revised draft of the relevant paragraphs of Chapter 9.

Avoiding Hard Cases

3. Kenneth Clarke is considering, at our suggestion, a compromise on this and will be writing separately. The approach would involve him ensuring that the powers in his Bill would enable them to provide by regulations for the topping up of preserved cases should we decide in the light of experience of the new arrangements that this is needed to deal with any hard cases. Ken will want to make it clear publicly that there will be no topping-up at the outset of the new arrangements but that the situation will be kept under review. We would not mention this in the White Paper but we will need to cover the point in defensive briefing.

Disability Benefits

4. I should first of all make clear that whatever we do in this area there is no real question of double provision. Any care benefits will in principle be available towards the fees charged by homes via the LA means test. I would also point out that the remit we were given at an earlier stage was to avoid making changes to the benefit system unless it was absolutely essential. This is the approach we have tried to adopt.
5. The new scheme will not allow for AA to be paid to people in independent homes because the higher levels of Income Support payable currently have AA offset. After April 1991, only basic Income Support (and Housing Benefit) will be payable to these residents and the costs of care will be met by local authorities. Our proposals do include withdrawal of AA for both war and industrial injuries pensioners where they would otherwise receive it. However, the special benefits paid to these pensioners remain in payment. At present Constant Attendance Allowance is taken into account in assessing Income Support for war and industrial injuries pensioners in homes but only up to the level of higher rate AA. They retain the amount by which their preferential CAA exceeds higher rate of AA. For consistency, and to avoid a great deal of political controversy, these preferences have to remain and to keep these benefits in payment in toto is the only rational way of achieving this. Local authorities could however use these additional sums payable when means testing such pensioners. This is primarily a matter for Ken Clarke. It would be very difficult politically to remove these preferences, particularly for war pensioners. I understand that officials are considering whether some sort of preference should be reflected in the new arrangements as of course they feature in Income Support and Housing Benefit. This does need further thought but is not a first order question for the White Paper.
6. As I have already mentioned, there will be no real double provision towards care costs if AA remains in payment to people in homes; there will therefore be no double provision in allowing AA to remain in payment to all new residents for their first four weeks. In principle, this will be taken into account by Local Authorities. However, I understand that DH are considering whether to allow an easement in the case of people going into homes for very short periods of respite care, because of the administrative difficulties. Again, this is not something that needs to be resolved immediately.
7. I cannot agree with your approach on Mobility Allowance. We are, in line with our remit, deliberately keeping benefit changes to a minimum. In any case this is a complex matter with wider ramifications and is not directly related to the new funding arrangements as of course Mob A is not offset against IS at

present. This is not therefore an issue we want to address in this White Paper. I will however be looking at this whole problem in the longer term - including the related question of payment to people in hospitals.

Independent Living Fund

8. I am also unable to agree to your suggestion on the ILF. Although the current PES provision for the ILF is on the basis you describe, the way ahead for the ILF in the light of community care and, indeed, the disability review is far from clear. Until we have resolved the way in which local authorities will implement and conduct their new role in community care it is not possible to be explicit about any handover of caseload from the ILF to the local authorities. And, as was made clear in the earlier papers on the disability review, it remains possible that there will be a small client group to whom assistance could most economically and effectively be targeted through discretionary payments. Until the position becomes clearer and there has been an opportunity for discussion with the ILF Trustees, I am unwilling to make any public commitment on the future of the ILF. I am however content to reinstate in a modified form the thought contained in an earlier draft of the White Paper:

There is clearly an overlap between the Independent Living Fund and the new responsibilities of Local Authorities which will need to be kept under review as experience is gained. Ministers will be consulting the Trustees should it appear that any changes are necessary.

Housing Benefit

9. We have already agreed that my officials would consult Treasury officials on the paper for consultation with the local authority associations.

10. I am copying this letter to the Prime Minister (in view of her interest in the preserved rights arrangements), to Geoffrey Howe, Kenneth Clarke, Chris Patten, Malcolm Rifkind, Peter Walker, Peter Brooke and to Sir Robin Butler.

Yours sincerely
Nicholas Scott

pp NICHOLAS SCOTT

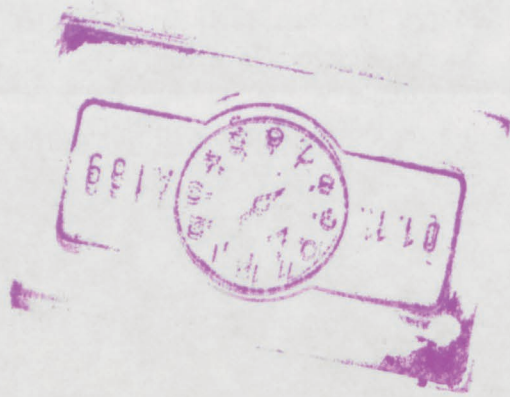
*(Approved by the
Minister and
signed in his absence.)*

CHAPTER NINE: HELP FROM SOCIAL SECURITY

- 9.1 Chapter 8 has outlined the main changes proposed to the way in which social security will be paid to people in independent residential care and nursing homes when the new funding structure is in place. This chapter sets out the Government's proposals for paying benefits to people who are already in homes when the new arrangements come into effect and describes the effects of the new structure on residents' entitlement to social security benefits other than Income Support.

Preserved Rights for Existing Residents

- 9.2 The Government intends to preserve the present scheme of special Income Support limits for existing claimants who are in residential care and nursing homes when the new funding structure is introduced on 1 April 1991. The right to claim Income Support under the preserved scheme will also be safeguarded for residents supporting themselves at that date but who may have recourse subsequently to public financial support.
- 9.3 Access to the preserved scheme will be given if, on 31 March 1991 (the day before the change to the benefit arrangements), a resident or claimant is, or would normally be, living in a residential care or nursing home where the Income Support limits apply. Income Support will continue indefinitely for claimants, including existing residents who subsequently become claimants, whose entitlement in a home is not interrupted. Entitlement will not be affected by a claimant or resident moving home or, in most circumstances, leaving a home altogether for long periods: to go into hospital, for example. The Government will wish to keep under review the length of time for which the rule allowing existing residents to claim assistance under the preserved scheme should continue to operate. But no changes will be made without ensuring that adequate financial support is provided in some other way.
- 9.4 These rules will apply to the residents of all registered homes and to the residents of those homes which are not registerable but are specially catered for in the present Income Support scheme - such as homes run by the Abbeyfield Society or under Royal Charter. Income Support claimants in "small homes" - unregistered homes with fewer than four residents - who are claiming Income Support on 31 March 1991 as if resident in a registered home, will have access to preserved Income Support in exactly the same way as other claimants. However, other residents of small homes who are not claiming Income Support as if resident in a registered home will not have access to preserved Income Support.





MR GRAY

P 03569

COMMUNITY CARE: PRESERVED INCOME SUPPORT ARRANGEMENTS
AFTER APRIL 1991

You asked for advice on the revised proposals on income support in Nicholas Scott's letter of 1 November to the Chief Secretary.

Topping up

2. The point about local authorities topping up preserved income support has now been resolved by the Ministers concerned, as the Prime Minister asked.

Preserved rights

3. On the question of setting a time-limit to preserved rights there are two points which the Prime Minister may wish to note.

4. First, the penultimate sentence of the revised paragraph 9.3 for the White Paper, attached to Mr Scott's letter, envisages that the Government will keep under review the length of time for which people who are supporting themselves in residential care homes on 31 March 1991 but who subsequently need financial support should be able to look to the existing income support arrangements, not local authorities. The question is whether there should be any reference to a review. It may be helpful to summarise the history of this issue.

i. Ministers agreed initially that non-claimants in registered homes on 31 March 1991 who subsequently needed financial support should look to the existing income support arrangements, not to local authorities.

ii. In early October Mr Scott proposed that this preserved right to make new claims should be limited to a period of two years. Any new claims arising after 1 April 1993 would



have to be made to local authorities.

iii. After correspondence with other Ministers Mr Scott revised his proposal to provide an assurance that the preserved right would last for at least five years, although it might be subject to review after that period.

iv The Chief Secretary wrote on 30 October saying that he believed the five-year limit should be a maximum, after which the preserved entitlement to make new claims should be removed.

v. In your letter of 27 October to Mr Clarke's private secretary you recorded the Prime Minister's view that there should be full preserved rights for all those in residential homes on 1 April 1991.

5. Mr Scott's new letter and its attachment remove any mention of the five-year period. But the penultimate sentence of the revised paragraph 9.3 for the White Paper still refers to a review of the preserved entitlement, which may be taken to suggest that it will not be permanent. The Prime Minister will want to consider whether this is acceptable, or whether the reference to a review should be dropped altogether.

6. Second, if the Prime Minister is content with the reference to a review there is a drafting ambiguity, which we understand is unintended, in the wording which needs to be corrected. The penultimate sentence of paragraph 9.3 could be read as meaning that the preserved entitlements of existing claimants will also be subject to review. Our understanding is that the sentence is intended to refer only to residents who are not claimants on 31 March 1991. The Prime Minister will probably wish this to be clarified.

**Disability benefits**

7. Finally, Mr Scott refers to a number of issues which the Treasury have raised about disability benefits, in particular the independent living fund. I imagine the Prime Minister will want the Ministers concerned to seek to resolve these points, as I understand they are trying to do.

AW.

R T J WILSON
Cabinet Office
November 1, 1989