



DEPARTMENT OF HEALTH AND SOCIAL SECURITY
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From the Minister of State for Social Security and the Disabled

The Rt Hon the Viscount Whitelaw CH MC
 Lord President of the Council
 Privy Council Office
 68 Whitehall
 LONDON
 SW1A 2AT

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9 July 1986

Jim Willie,

COMMUNITY CARE ADDITION

You will wish to know how we are proposing to handle the amendment added to the Social Security Bill at Lords Committee Stage to introduce a community care addition to income support.

The point at issue is the treatment of a relatively small number of severely disabled people who are now receiving large sums by way of additional requirements, particularly from the domestic assistance addition, which enable them to maintain independent lives in the community. Introducing his amendment, Lord Henderson said, "the number of these people is of the order of 2,000 or 3,000. It may be more - I do not think it is less - but it will not be significantly more". The argument is that the level of disability premium that we have illustrated in the Technical Annex to the White Paper could lead to severely disabled people having to return to institutional care.

Baroness Trumpington's commitments on transitional protection for existing cases and the intention to seek new arrangements for after 1988 were insufficient to dissuade Lord Henderson from pressing the amendment. Doing so, he commented, "I think it would concentrate the minds of the Government and enable them to come up with an amendment to the Bill if my amendment were carried".

While this last statement gives us some room for manoeuvre, I think we are agreed there is little prospect of the Lords simply accepting the deletion of the amendment or changes to it unless we can show some significant movement towards the objectives underlying its stated purpose. Equally, we should not

underestimate the all party strength of those speaking on behalf of the disabled in the Commons. Only the guillotine prevented a more difficult time at Commons' Report Stage on a similar amendment to that passed in the Lords. We therefore have to accept the fact that the amendment has been passed and come up with some alternative proposals which are both operable and affordable yet still providing an acceptable response to the concern expressed.

I attach a more detailed note on the amendment that was passed and on the present arrangements for extra help by way of the domestic assistance addition. It is clear to us that the amendment as drafted is unacceptable.

It is extremely wide in its potential coverage, unworkable, and would mean considerable overlap and confusion between social security and local authority responsibilities. As drafted it would also have significant expenditure implications.

Technically, there is no need to amend the Bill to enable an extra payment to be made for severely disabled people. The power in Clause 21(1) to prescribe applicable amounts already enables premiums for disabled people to be paid, including the payment of more than one such supplement to the basic rate of benefit. The actual details of the premiums will be covered in regulations as is the practice in supplementary benefit now. Our conclusion, however, is that we will need to write some statement of intent on how we propose to meet the problem on the face of the Bill.

What we envisage doing is to provide for a higher disability premium, paid on top of that already announced in the White Paper. Its main elements would be as follows:

- a. coverage - payments would be made to claimants receiving the higher rate of attendance allowance - an objective definition of the most severely disabled;
- b. independence - payments would only be made where someone was living on their own without someone else able to provide care. Such people could themselves claim invalid care allowance in respect of the severely disabled person;
- c. rate of payment - we would propose linking the rate of payment to that of the invalid care allowance now (£23 a week). In effect we would be giving an amount to the claimant direct which was equivalent to the sum that could be given to a third party by way of ICA if there was someone else providing the care.

Our estimates are that up to 10,000 claimants could qualify for this at a cost of up to about £12 million. Technically, we would add an amendment to the Bill requiring us to prescribe a specific applicable amount of severely disabled people. The details of this would be in regulations.

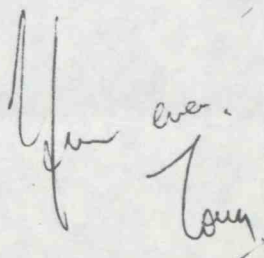
The main advantages of this proposal are that it would provide a higher disability premium, paid as of right through the income support scheme to those most likely to need extra care in the community who were without a friend or relative able to provide the care direct. It would be operable, working on objective criteria, at a relatively containable cost (certainly far less than implied by the amendment inserted in the Bill - we would need to consider how the cost might be met in the general recosting of our proposals we will need to do before final rates can be set). In summary it would be a guarantee of significant extra help to the most severely disabled. It would mean total state support including the attendance allowance of getting on

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for £100 compared with the £30 or so for a fit adult claimant in income support. It would go to considerably more than now receive extensive amounts by way of the domestic assistance addition and at a cost appreciably above present total help. We will also be providing help in a way consistent with other disability benefits, thereby avoiding prejudicing the outcome of the disability survey itself.

The main drawback is that the sum we have in mind is only about half of the maximum amount that people can now get by way of the domestic assistance addition, although in practice few do. We do not, however, see how we can go beyond the ICA level without leading to considerable pressure to increase the level of that allowance. Further, there is a limit to how far the social security scheme can be expected to help for what are essentially care needs, otherwise normally the responsibility of local authority social services departments. It does mean that we would need to continue to offer special transitional protection for existing cases, although the new proposal would replace the previous commitment to seek new arrangements beyond 1988.

If we are to amend the Bill at Report Stage we need to lay our amendment not later than Thursday. I will be grateful if you and those to whom I am copying the letter could let me know urgently if you see difficulties with what is proposed. I am copying the letter to the Prime Minister, John Wakeham, John MacGregor and Sir Robert Armstrong.

A handwritten signature in dark ink, appearing to read 'Tony Newton', with a stylized flourish above the name.

TONY NEWTON

THE AMENDMENT IN THE BILL

1. The movers of the amendment and its supporters made clear that the purpose was to cover a small group of severely disabled requiring extra financial help to enable them to continue to live independently in the community.

2. The amendment as drafted is in fact far wider in scope and its technical defects would create major difficulties in administration, as well as an overlap with LA responsibilities. In particular:

- the amendment is drawn in terms of payments for groups including "chronically sick or disabled" or "elderly" people, not further delivered. There are currently some 1.7 million supplementary pensioners;
- the amendment does not provide for regulations to specify the amount to be paid, as is normal with the income related benefits. the decision is left to the officer (Adjudication Officer) deciding the claim;
- he is expected to do so by reference to a person's "proper welfare" and "need for care and attention". The former is so wide as to be meaningless. The latter raises question of overlap with local authority service responsibilities;
- the officer is also expected to consider the extent to which other benefits - income support, family credit and housing benefit fail to meet the need. No basis is given on how that would be judged;
- payments are to be paid in addition to the disability provision in a way that, technically, removes this payment from the normal comparison of total needs against resources taken into account.

The amendment as it stands, therefore, is extremely wide in coverage, unworkable, and technically defective. Indeed, technically there is no need to provide a specific reference in the Bill. The power in Clause 21(1) to prescribe applicable amounts, already enables premiums for disabled people to be paid, including the payment of more than one such supplement to the personal allowance.

IMPLICATIONS FOR SERVICE PROVISION

The amendment is drafted in terms more normally used in legislation for provision of services by local authorities. For example, Section 29 of the National Assistance Act refers to arrangements to promote the "welfare" of disabled people. Section 2 of the Chronically Sick and Disabled Persons Act places a duty on local authorities, where they are satisfied there is a need to provide "practical assistance for that person in his home". There is an overlap between service responsibilities in such legislation and the criteria in the community care addition. The amendment could therefore confuse responsibilities for support, with the risk of both gaps and overlaps in support.

THE PRESENT DOMESTIC ADDITION/GOVERNMENT STATEMENT

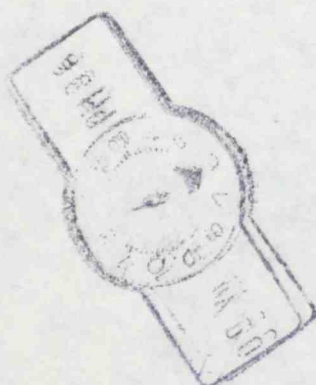
The current supplementary benefit scheme enables payments to be made for domestic assistance in the home for people who are unable to carry out normal domestic tasks, for example because of age or disability. But there are two basic conditions

- there must be no one else in the household who could undertake the tasks;
- no payment can be made for a service provided by a local authority or by a close relative incurring only minimal expense.

In 1983, about 2,400 people received the assistance with an average payment of £3.59. Provisional figures for December 1984 show about 3,150 came with an average payment still below £4. Of these the great majority - 3,000 - received less than £10 a week. High sums in payment - there is a maximum payment of £47.20 for live in help - do exist but are rare.

For severely disabled people receiving expensive support by way of the domestic assistance addition, Baroness Trumpington made two commitments in the Lords on 23 June - to:

- improve transitional protection for existing cases. The amount would continue to be paid separately to and on top of any other transitional protection needed. The separate amount would be increased at future upratings, if the need continued, to maintain its value
- seek new arrangements to continue support for similar new cases after 1988. Consultations would be held with interested groups on how this might be achieved.



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Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Norman Fowler MP
 Secretary of State
 Department of Health and Social Security
 Alexander Fleming House
 Elephant and Castle
 London
 SE1 6BY

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10 July 1986

Dear Secretary of State,

SOCIAL SECURITY BILL: COMMUNITY CARE ADDITIONS

I have seen your letter of 9 July to Willie Whitelaw. *WILL REQUEST IF REQUIRED*

I have no objection in principle to what you propose, but I am far from clear how you intend to finance this concession. Your letter quotes the cost as £12 million and suggests that this can probably be accommodated within the recosting of the package of review measures. But when you wrote to me on 6 June setting out your bids for the Survey, you said you thought that additional provision of £11 million in 1987-88 and £50 million in 1988-89 and 1989-90 might be needed for improvements to the package of review measures, including something to meet the concern that had been expressed about these severely disabled claimants.

Since you have not approached me to agree the £12 million as an addition to your programme, I assume that you are undertaking to absorb it. But I hope you will understand that I find it difficult to accept such an undertaking while the bid is still on the table. I can only agree to your proposal, therefore, if you are prepared to withdraw the bid. Otherwise you will have to delay action until the Bill returns to the Commons to give us time to resolve the financial position.

I am copying this letter to the Prime Minister, Willie Whitelaw, and John Wakeham.

Yours sincerely,

A handwritten signature, likely of John MacGregor, written in dark ink.

pp JOHN MacGREGOR

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(Approved by the Chief Secretary and
 Signed in his absence)

