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Independent living: victory for disabled people

The Court of Appeal today upheld a legal challenge by five disabled people against the Government's decision to close the Independent Living Fund (ILF) in March 2015. In a powerful, unanimous judgment handed down today, the court held that the Minister for Disabled People had breached equality duties when making the decision in December 2012 to close the ILF. The Court of Appeal has quashed the decision.

ILF is funded by the DWP and provides vital support to some 19,000 severely disabled people in the UK to enable them to live independent and fulfilling lives. The ILF system was set up in 1988 in recognition of the fact that severely disabled people are at high risk of social exclusion and face particular barriers to maintaining independent life and working, and that their needs in this regard were not adequately addressed by council provision. The claimants, represented by Deighton Pierce Glynn and Scott-Moncrieff & Associates, feared that the loss of their ILF support would threaten their right to live with dignity, and that they could be forced into residential care or lose their ability to work and participate in everyday activities on an equal footing with other people.

The public sector equality duty required the Minister to have due regard to the need to eliminate discrimination and advance equality of opportunity for disabled people. In particular, this includes the need to remove or minimise the disadvantages suffered by disabled people and the need to encourage their participation in public life. The court made clear that these requirements are not optional in times of austerity. In his judgment, Lord Justice McCombe emphasised that by including these duties in the Equality Act 2010, 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.'

He concluded that there was no evidence that the Minister had specifically considered these issues when deciding to close the ILF and that the Minister was not fully informed about the impact the decision would have on disabled people.

The judgment is of major importance not just for the claimants, but for all disabled people. As Paris L'Amour said: "This is an amazing breakthrough and an incredible outcome."



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It remains to be seen whether the Government will seek to revisit the idea of closing the Fund; however it confirmed in the course of the 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 and to take into account the wealth of concerns raised by disabled people and by local authorities about the proposal to close the fund. Any new decision must be taken with proper attention to the Government's legal obligations to take account of the impact on disabled people and to consider alternatives that would avoid that impact.

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Notes

1. The ILF is a body of the DWP and funded by it but under the management of independent trustees. Since it was created in 1988 it has helped many thousands of disabled people to move out of institutional care and live independent lives. The ILF system 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 play an active part in their community as full citizens. 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 particularly high support needs.
2. In 2010 ILF Trustees were forced to temporarily close the Fund to new applicants because the DWP had reduced the amount of funding provided. It was proposing to close the fund completely in 2015, leaving users to rely on local authority adult care services. This is at a time when the funding for councils is being dramatically reduced and many authorities are cutting services for disabled people.
3. The Claimants in the proceedings can be contacted via their solicitors for interview.



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4. Briefings and a transcript of the judgment will be available at <http://www.deightonpierceglynnc.co.uk/index.php> and <http://www.scomo.com/news.html>
5. Further information, including individuals' stories, on the campaign against the closure of ILF is available at the DPAC website: <http://www.dpac.uk.net/>.



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