

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

12th June, 2019

Proposition P.2019/37

AMENDMENT

Proposed by: Deputy H J R Soulsby

Seconded by: Deputy M K Le Clerc

POLICY & RESOURCES COMMITTEE

REFORM OF HEALTH CARE FUNDING

To renumber Proposition 20 as Proposition 22 and to insert, after Proposition 19, the following Propositions:

- "20. To agree that the funding of disability-related equipment, aids and adaptations, under section 10 of the Income Support (Guernsey) Law, 1971 ('**section 10**'), is an area requiring transformation in order to be more structured, fair and effective, consistent with the principles of the Partnership of Purpose and of the UN Convention on the Rights of Persons with Disabilities; and
21. To direct the Committee *for* Employment & Social Security and the Committee *for* Health & Social Care, in consultation with relevant States Committees and other stakeholders, to review this area, and any associated services or schemes for the provision or funding of equipment, aids and adaptations which they may consider relevant, and to return to the States, no later than the end of July, 2022, with recommendations, which shall include a proposal to transfer the powers conferred by section 10 (or any proposed replacement scheme), and an associated general revenue budget, from the Committee *for* Employment & Social Security to the Committee *for* Health & Social Care."

EXPLANATORY NOTE

This amendment will lead to a review of the way that disability-related equipment, aids and adaptations are funded and provided – at the moment, this is a complicated area, with most of the available funding being discretionary (through section 10 of the Income Support Law)

or charitable. Once completed, we anticipate that funding for equipment, like the other health- and care-related services covered in this policy letter, will transfer from ESS to HSC.

There are no immediate cost implications to this amendment, as it is expected that ESS and HSC could carry it out in-house (depending, of course, on the priority given to it by next term's Committees). A more detailed explanation of the proposal in this amendment is set out in the short supporting report on the following pages.

AMENDMENT to P.2019/37 – REFORM OF HEALTH CARE FUNDING

SUPPORTING REPORT

1. This report is submitted in accordance with Rule 24(1) – "A supporting report may be attached to the secondary proposition at the time of submission." It explains:
 - What is section 10?
 - What is the problem with the current situation?
 - How does this fit with the States' objectives?
 - What kind of changes might be needed as a result of this review?
 - Why should we do this now?
 - How much will it cost?
 - When could it be completed?
2. It includes, for reference, an excerpt of the relevant section of the Income Support (Guernsey) Law, 1971. This amendment and the attached report is submitted by the Presidents of the Committees *for* Employment & Social Security and Health & Social Care and is endorsed by both full Committees.

What is section 10?

3. Section 10 of the Income Support (Guernsey) Law, 1971 (referred to throughout as '**section 10**') is a provision which allows the Committee *for* Employment & Social Security to make funding available to individuals or families who need to access disability-related equipment or aids, or to adapt their homes.
4. Although section 10 is part of the Income Support Law (which relates to welfare benefits for people who lack the basic income necessary for a decent quality of life), it isn't restricted to people who are in receipt of benefit. This is because the costs of some aids – and especially home or vehicle adaptations – are so expensive as to be unmanageable for many people, and would be unachievable without some form of government support.
5. Under section 10, the Committee *for* Employment & Social Security has the power to consider applications from anyone who needs assistance with the costs of disability-related equipment, aids and adaptations, and to decide whether to provide some financial support – which might be for the full cost, or part of the cost, of the equipment; and which might be provided as a grant, or a loan, or a mixture of both.

What is the problem with the current situation?

6. Section 10 is a completely discretionary power. This means that the Committee *for* Employment & Social Security can make whatever decision it sees fit, within reason, as to whether or not to fund the equipment or adaptations someone is requesting.

There are no rules to guide its decision-making and, therefore, there is no basis for anyone to appeal the decisions of the Committee.

7. In practice, this can allow the Committee to make sensitive, individualised decisions on complicated applications. But it also means that people don't know what help they can expect when they are facing significant costs; that two people in similar circumstances could be treated quite differently by the same Committee; and that different Committees, over time, could interpret this provision quite differently.
8. This is not in accordance with the States' commitment to fairness and transparency in the way that health and care services are provided, which is summed up in the guiding principles of the Partnership of Purpose¹, especially those relating to **Fair access to care**, a **Universal offering**, and **User-centred care**. Eligibility for services, including financial support from the States, should be based on clear and fair criteria, and those who are refused services should have a right of appeal.
9. Section 10 needs to be put into the context of the overall provision and funding of equipment, aids and adaptations in Guernsey, as follows:
10. Children and adults who need disability-related equipment, aids and adaptations will usually be assessed by an Occupational Therapist or other relevant professional working for the Committee *for* Health & Social Care. There is a specific Wheelchair Service for people who need wheelchairs. These services may assist people (and/or their families or carers) to order the equipment they need, and to navigate the various funding options available – but ultimately responsibility for this sits with the individual.
11. Those who can't afford the costs of necessary equipment or adaptations can either apply to the Committee *for* Employment & Social Security for assistance through section 10, or can seek assistance from local charities. The voluntary sector in Guernsey plays an important role in making equipment and adaptations affordable to individuals and families who can't cover the costs themselves. Some charities provide grants towards the cost of aids and adaptations, while others sell on (at low cost) or redistribute donated equipment.
12. Unlike prescriptions, which are subsidised by the States so that Islanders only have to pay a fixed £4 charge per item (a measure which makes the cost more manageable for most people, although people who require large numbers of prescriptions on a regular basis – mostly older adults, as well as younger people with long-term conditions – may still struggle with affordability), there is no form of regular, predictable public subsidy for disability-related equipment, aids and

¹ See P.2017/114 (Billet d'Etat XXIV of December 2017) – "A Partnership of Purpose: Transforming Health and Care", Resolution 1

adaptations. The costs of specialised items can run into hundreds or thousands of pounds.

13. The current system is challenging for families and individuals to navigate, and is especially hard on families of children with complex needs (who grow quickly and therefore regularly need new equipment that suits their size and stage of development) and for adults with rapid degenerative conditions, such as motor neurone disease, who may need several increasingly-specialised wheelchairs, for example, in a space of a few years or even months.

How does this fit with the States' objectives?

14. The current system is far from an ideal fit with the States' objectives. The concepts of fairness and inclusion run through everything we do, from the Partnership of Purpose to the Policy & Resource Plan, but current arrangements for the provision and funding of disability-related equipment, aids and adaptations would not strike many as fair, transparent, or designed to encourage the full social inclusion of disabled people in the life of our community.
15. The States has signalled its intent to sign up to the **UN Convention on the Rights of Persons with Disabilities**. Article 26 of the Convention states that governments must "take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life", through the provision of rehabilitation services and assistive devices and technologies.
16. If Guernsey wishes disabled citizens to enjoy as much independence as possible, to reach their potential, and to participate fully in all aspects of Island life, then the provision of disability-related equipment, aids and adaptations – in a way that is straightforward and affordable for disabled people and their families or carers – is an important stepping stone towards that goal.
17. The States has also recently debated the Scrutiny Management Committee's report on **In-Work Poverty**², and considered the issue sufficiently important to require the Policy & Resources Committee to report on it routinely in the P&R Plan. In the course of that debate, Deputy Hansmann-Rouxel reminded States Members of the way that in-work poverty disproportionately affects people with disabilities (Hansard, 1 February 2019) and how, on lower incomes and without government support, even things like extra-supported shoes or specially-tinted glasses, let alone a wheelchair or adaptations to your house, can become unaffordable 'luxuries'.

² See P.2018/140 (Billet d'Etat I of January 2019)

18. It is inconsistent with the aims of the In-Work Poverty report not to try and ensure that the way in which government provides and funds disability-related equipment, aids and adaptations is fair and affordable, and appropriately meets the needs of disabled people.

What kind of changes might be needed as a result of this review?

19. The Committees *for* Employment & Social Security and Health & Social Care consider that it's likely some change will be needed to the operation of section 10 to make sure that the States' approach to funding disability-related equipment and adaptations is fair, equitable and transparent.
20. As a minimum, such change might involve introducing rules or guidelines around the operation of section 10, establishing a set of disability-related and/or financial criteria for when assistance will be offered.
21. More ambitious changes could involve remodelling section 10 along the lines of the former Independent Living Fund in the UK, or developing a kind of 'equipment on prescription' scheme to mirror our approach for prescription drugs.
22. Although this amendment focuses on the way the States provides financial support for disability-related equipment, aids and adaptations through section 10, any significant remodelling of section 10 would have to consider how it fits with other equipment-related services and schemes (such as the Wheelchair Service, or the scheme run by the Committee *for* Education, Sport & Culture, which provides equipment to children with disabilities for use in educational settings), to make sure that the people who use our services are receiving coherent, joined-up and effective support. This is consistent with the States' commitment to Customer Service, which runs through the Partnership of Purpose as well as P&R's Public Sector Reform.
23. Finally, section 10 was outside the scope of the SWBIC reforms which led to the introduction of Income Support. It has therefore been carried forward from the old Supplementary Benefit regime with little review or evaluation of its effectiveness. Even if the States ultimately decides that it is satisfied with current arrangements, a review is overdue: it would therefore be in the interests of good governance to take this opportunity to reassess the purpose and value of this scheme for Islanders with disabilities.

Why should we do this now?

24. This policy letter ("Reform of Health Care Funding", P.2019/37) is concerned with transferring the governance and funding of health- and care-related services from the Committee *for* Employment & Social Security to the Committee *for* Health & Social Care.

25. Most of those services are funded through the Health Services Fund and governed by related legislation, and can be transferred more or less in bulk. The Travelling Allowance Grant [TAG] scheme (see Proposition 2 of the policy letter) is funded differently (through the Guernsey Insurance Fund), as is the Travel Expenses Allowance Scheme [TEAS], which is a general revenue-funded service. Both of these services, currently delivered by the Committee *for* Employment & Social Security, will also be transferred across to the Committee *for* Health & Social Care.
26. Section 10, like TEAS, is a general revenue-funded service. But, as discussed above, it doesn't have clear parameters (rules or guidelines for who is eligible for funding and why) and is therefore not so easy to 'drag and drop' from the mandate of one Committee to that of another. Both Committees consider that it would be appropriate to review and, if necessary, redesign the scheme prior to recommending to the States that it be transferred from ESS to HSC.
27. However, both Committees consider that it is a good fit with the other services covered by this policy letter (that is, a health- or care-related service which more properly sits within the mandate of HSC than that of ESS) and, therefore, that now is the time to ask the States to agree in principle that this work be done, leading up to a transfer of responsibilities in due course.

How much will it cost?

28. The Committee *for* Employment & Social Security spent £195,000 on grants made under section 10 in 2018. Expenditure can be driven by a small number of large claims, which vary from year to year. Given the lack of definition around section 10, it is difficult to assign a fixed budget to this area of expenditure for the time being.
29. If section 10 were to be transferred from ESS to HSC in something like its present form, the two Committees, with the involvement of the Policy & Resources Committee, would need to agree on a general revenue allocation (perhaps based on an average of the previous three or five years' expenditure) to be transferred with it from the budget of one Committee to the other, and to make recommendations to the States accordingly.
30. If the Committees, in the course of their review, felt that more substantial changes were needed to the operation of section 10, which could result in higher costs to the public purse, they would have to make the case to the States accordingly. It is impossible, at this stage, to guess what those costs might be; any figures and supporting data would have to be brought to the States in the joint Committees' policy letter in due course, for the States to determine whether or not such changes could be prioritised and resourced.

When could it be completed?

31. Both Committees, and the States as a whole, are balancing challenging workloads between here and the end of this States' term.
32. The Committees have therefore proposed a deadline of July, 2022. This is two years into the next States' term, giving our successor Committees a good eighteen months to develop this workstream and return to the States with recommendations. Of course, it will fall to our successors to decide whether to honour this timeframe, or whether to give the matter more or less urgency, during their own term.
33. The work envisaged in this amendment is a piece of policy research which could be carried out by one or more officers of the States of Guernsey, either employed by the Committees or seconded from the central policy team, depending on the priority given to the work. The Committees do not envisage that extra resource would need to be sought from outside the States, over and above existing budgets.
34. Finally, in reconsidering, and potentially redesigning, the way in which disability-related equipment, aids and adaptations are provided and funded, the Committees will need to consult with a broad range of stakeholders, including health and care professionals, charities and, above all, disabled islanders (together with their families and/or carers where appropriate) in order to ensure that any proposals are appropriate to the needs, and respect the dignity, of disabled people in Guernsey. This, too, is consistent with the States' ambitions in respect of the UN Convention on the Rights of Persons with Disabilities, and our desire for everyone to experience Guernsey as an inclusive and welcoming community.

Excerpt from the Income Support (Guernsey) Law, 1971

Section 10 of the Income Support (Guernsey) Law, 1971, reads:

Welfare arrangements for disabled persons

10. (1) The Committee [defined as the Committee *for* Employment & Social Security] shall have power to make such arrangements as it may deem necessary or expedient for promoting the welfare of disabled persons, and for that purpose it shall not be necessary that any such person shall be in receipt of income support.
- (2) Without prejudice to the generality of the provisions of the last foregoing subsection arrangements may, in particular, be made thereunder –
 - (a) for enabling disabled persons to receive instruction in their homes or elsewhere in methods of overcoming their disabilities,
 - (b) for finding suitable work for disabled persons,
 - (c) for providing disabled persons with equipment, aids and appliances as required.
- (3) The Committee may pay an inducement allowance of such amount and subject to such conditions as the Committee may determine to a disabled person or to his employer for the purpose of encouraging that person to train for, obtain and remain in, suitable employment.
- (4) The Committee may recover from persons availing themselves of any service provided under this section such charge (if any) as, having regard to the cost of the service, the Committee may determine, whether generally or in the circumstances of any particular case.