STATES OF JERSEY

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DISABILITY BENEFIT SYSTEM: REFORM

Lodged au Greffe on 25th November 2003
by the Employment and Social Security Committee

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion −

to refer to their Act dated 2nd May 2000 in which they charged the Employment and Social Security Committee to identify the likely effects of a new low income support scheme and to their Act dated 9th September 2003 in which they agreed that the scheme should be established by 2006, and –

(i) to re-affirm their support for persons with disabilities and agree that the new income support system should contain a 'disability component' for the extra cost of disability to replace all the existing non-contributory disability benefits, as set out in the report of the Employment and Social Security Committee dated 25th November 2003;

(ii) to charge the Employment and Social Security Committee to continue the consultation process with all interested parties in developing the "disability component" and to report back to the States on the resource requirements as part of the income support system.

EMPLOYMENT AND SOCIAL SECURITY COMMITTEE

REPORT

1. Introduction

During the prioritisation process at the 2004 Fundamental Spending Review, there was much discussion on the targeting of Disability Transport Allowance (DTA). In the end, the conference effectively decided to limit expenditure on DTA by excluding those in residential homes.

Having considered all the options, the Employment and Social Security Committee has reached the view that this approach would be inappropriate for 2004. Ideally, the Committee needs time to reform the whole disability benefit system as part of the new Income Support scheme which should begin to come into effect in 2006. However, as DTA is cash limited to £6 million in 2004, the Committee has no option but to take action which will ensure that expenditure is kept within the cash limit but meets basic policy objectives. In doing so, the Committee wants to make it clear that, in the interests of good governance, action to reduce or take away any benefit paid to such a vulnerable group is not one that the States should take lightly.

The following report sets the context, describing the current range of non-contributory disability benefits, proposals for a "disability component" in the new Income Support system and main options for curtailing expenditure in the interim. It concludes that the only feasible options for 2004 are: freezing the allowance at current rates; and, reducing the income bar.

2. Range of non-contributory disability benefits

A number of non-contributory disability benefits have been introduced over the years to meet additional costs arising as a result of severe disabilities. These benefits are described at the attached Annex and are targeted to specific groups for different reasons. All have a common income bar of £47,306 which is high but recognises that the day to day living costs of someone with a severe disability can be very high. This 'disability' income bar is historical (the income bar for other benefits such as Milk and the Dental Scheme is currently £34,656).

The total expenditure on all non-contributory disability benefits in 2002 was £11.182 million, of which DTA accounts for around £6 million. The Committee believes that the sum of just over £11 million is not an unreasonable amount to help such a vulnerable group with high living costs associated with some disabilities. However, its preferred policy option would be to restructure the current system as described below and redistribute the budget in a more appropriate way, meeting the needs of a wider group of people with disabilities.

3. Reform of the disability benefit system

The States has approved, in principle, a Report and Proposition on the reform of the existing system of low income support – welfare, housing and non-contributory benefit systems (Minimising Material and Social Deprivation: Low Income Support – P.44/2000). The new income support system is to be based on a common means test with a series of components which reflect the different elements of individual or family expenditure. It is envisaged that there will be a graduated scale with the level of "top up" reducing for those up to the tax threshold level. Development is continuing and is ready to move to the next stage now that the Income Distribution Survey has been completed.

The present range of non-contributory disability benefits: Attendance Allowance, Adult Disablement Allowance, Child Disablement Allowance and Disability Transport Allowance, are virtually "universal" as a result of the high income bar of £47,306 a year. Under the current system, the policy has been to help level the playing field for people with high living costs as a result of a disability, excluding the well-off who can absorb these costs. Even so, there are some families who may have income over this limit but have children who are so severely disabled that the additional costs bring their disposable income down to a level that they would not describe as relatively high.

Another complication is that at the current income bar level, the person, or family, may be paying income tax. It means that there can be instances where benefits are paid with one hand by the States and money taken back with the other through income tax. Linking the tax and benefit systems is a key feature of both the Fiscal Review and the new Income Support system but essentially the policy of "universality" is being replaced by a means-tested system. Non-contributory benefits, of right to those below the income bar will be replaced by a system targeting need to the lowest income groups.

In developing new approaches to the disability benefit system, the previous Employment and Social Security Committee asked the Centre for Research in Social Policy (CRSP) at Loughborough University to extend its research into household budgetary requirements in Jersey to cover disability costs. CRSP concluded that a minimum budget for people with disabilities could be assessed under different categories – moderate, severe and very severe impairments as well as hearing, sight and learning impairments.

The Committee noted that existing benefits were largely targeted at people with very severe disabilities and that others in the moderate to severe category received little help under the current system. The view was reached that the "disability component" in the new Income Support system should provide support for additional living costs (including, where appropriate transport costs) and be assessed under the categories identified by CRSP.

These policy shifts, and planning for them, have been affected by prioritisation in the 2004 Fundamental Spending Review where a great deal of discussion and focus has centred on the perception that one of the benefits, Disability Transport Allowance, is open to abuse rather than concentrating on the needs of people with disabilities.

4. Disability Transport Allowance

Since its introduction in 1997, Disability Transport Allowance has proved to be the most contentious of all the disability benefits. The original intention of the then Social Security Committee was to introduce a modest allowance which gave 2 levels of support for additional transport costs specifically incurred by those people of working age who were unable or virtually unable to walk. The policy intent was to help make work pay for people either born with a disability or acquired during their working life by making it easier for them to get "out and about".

Following amendments from the then Deputy Stuart Syvret, the States approved a much broader scheme which also included all people over the age of 65 and those in residential homes as well as introducing just one level of allowance for all. As a result, the projected cost went from £350,000 per annum to around £6 million this year. During the debate, it was made clear that members supported the argument that people should be free to use the allowance on any form of transport including taxis, aeroplanes and ferries, as well as paying people such as relatives and friends for transport, buying and running adapted cars and even saving it up to have a holiday. In effect, this precluded the use of a voucher system which might have been feasible had the money been limited to, for example, local taxis and has made it very difficult to ensure compliance with the original policy intent.

After the scheme had been running for about 3 years, a full review was undertaken and the report published. The general conclusion was that whilst, for some, DTA had been of great value and improved their quality of life, for others, it was not enough to meet the additional cost, particularly, but not exclusively, in terms of buying and running adapted cars. It was also clear that the allowance was not being wholly used on transport costs by certain groups of people, mainly the very elderly, some (but not all) in residential care homes.

Basically, the effect of extending this scheme to people above the age of 65 meant that the benefit had largely become one paid to people who fulfilled the criteria through ill-health and infirmity in old age. It was not surprising, therefore, that this group of people are probably more likely to want to use the money for other additional day to day living expenditure such as higher heating costs and those associated with requiring more care and support.

This mirrored the position in the U.K. some years ago when research was undertaken on a similar benefit resulting in a change of policy, the new benefit being restricted to people with disabilities under 65 and comprising 2 components, one for additional living costs and the other for transport. The U.K. "Disability Living Allowance" is targeted at people who would be considered disabled in the conventional sense and, as a result, they are allowed to retain the benefit over the age of 65.

The experience in the U.K. and Jersey is not unique. Recently published international research concludes that there is a very fine dividing line between disability and chronic ill health or infirmity through old age. The general experience of other countries has been that "disability" and "incapacity" tend to remain indivisible until specific benefit provision has been made because the effect of such provision is to invite people to identify themselves as being in those circumstances. So, for example, by identifying a group of people for DTA purposes who are regarded as having a very severe disability, i.e. virtually unable to walk, then a group of elderly can very well identify themselves as being in those circumstances. Introducing a general disability benefit which is not age-specific attracts a group of elderly people who see themselves as being eligible for such a benefit even though their priorities may be very different from someone of working age. It is hardly surprising, given the evidence collected by CRSP, that many may choose to use the money to help with higher living costs.

Other than establishing that some recipients prioritised their spending in different ways, there was no evidence of widespread abuse. As can be seen from the attached Annex, the criteria around the level of disability are quite stringent and are clinically assessed, independently by the Department's doctors, as part of the claim process.

Finally, there has also been criticism that some elderly people's health has deteriorated to the extent that they are unable to get out and about, even with transport. The anecdotal evidence is that they are still claiming DTA and simply accumulating the money or handing it over to relatives. In carrying out the survey, no one admitted this to be the case.

Whilst the Committee cannot condone using benefits for a purpose other than for which they are intended, in practice, as mentioned earlier, it is very difficult to enforce compliance. As with any form of income, people will make choices on their own priorities. The only approach which is likely to limit this in any way is to exclude those over 65 years. However, this would penalise people who do use it to get out and about and for whom it gives independence and dignity, not having to rely, for example, on a residential home for transport on a "grace and favour" basis.

5. The cost of Disability Transport Allowance

The Committee's 2004 benefit budget allocation for DTA is £6 million and it is predicted that this will leave a shortfall if no corrective action is taken.

Actual expenditure on DTA in 2002 was £5.823 million, the current estimate for 2003 is about £6 million and for 2004, around £6.15 million.

The growth since 2002 is purely in numbers claiming as the rate of benefit has not been increased during that period.

6. The options for reducing DTA costs

As the intention is to reform the existing system of non-contributory disability benefits in the next few years, the Committee would prefer to make changes which would be in line with the proposed new Income Support system. However, in practice, this is difficult without extensive changes to various pieces of legislation. The Committee does not believe this should be done prior to the introduction of a new disability component in the Income Support system when existing laws will be repealed and new legislation put in place.

Given the amount of work and consultation that will be needed to develop the Income Support system, including the disability component, over the next year, the Committee believes that the options for reducing expenditure are very limited.

It has, therefore, decided to –

- *Maintain the current rate of allowance*

If the benefit is not increased in line with inflation and earnings, the growth will be restricted. This measure has been used before (in October 2002 and October 2003) and it is estimated these 2 decisions will have saved £1,100,000 by the end of 2004.

The Committee is proposing to continue to maintain DTA at current levels in order to minimise growth in expenditure until the new Income Support system has been developed. Although it may represent a cut in real terms across the board if general transport costs increase (depending on how the money is spent) it does at least minimise the need for benefit cuts or removal of DTA from those currently in receipt.

- *Freeze or Lower the income bar*

A reduction in the income bar to exclude 75 claimants from entitlement to DTA would save **£150,000** at current levels of benefit.

Freezing the income bar whilst reform is underway is unlikely to achieve the required level of savings for 2004 (a further saving may be needed in addition to maintaining the current rate of allowance).

As previously agreed, the Income Support proposals will effectively move the whole system to a means tested scheme, matched against need. Broadly, it will top up the incomes of those below the tax threshold.

Given the general move towards a system which will support those below the tax threshold, the Committee could reduce the income bar to around £35,000, in line with some of the other benefits, and at the upper end of the tax threshold for families. The savings here are unlikely to be substantial as there are not believed to be many claimants above this level.

The Department will be analysing the Income Distribution survey in more detail and the Committee may have to bring forward regulations to reduce the income bar in order to keep within the 2004 cash limits.

Other main options

The following options were considered by the Committee and set aside for the reasons described below –

- *Reduce current rate of allowance*

Each incremental £10 reduction in the level of the allowance would save **£384,000** in 2005, assuming recent trends of increasing demand continue.

The Committee does not believe it is right to take away or reduce a benefit once appropriately awarded, particularly to those in the very low income category. It may well create a degree of hardship for people who have come to rely on it as a source of income and such a cut would have a harsh impact on people with severe disabilities.

- *Exclude people not in own home (e.g. hospital, nursing and residential care homes), or reduce their allowance*

Such an exclusion would reduce the 2005 estimate by **£1,480,000.** An alternative is to reduce the level of payment to those in residential homes. Each incremental £10 reduction in the level of the allowance would save **£88,000** in 2005, assuming recent trends of increasing demand continue.

One extreme view often quoted is that everyone in a residential home is bed-bound and cannot, or does not, want to get out and about. Their allowance then accrues in a bank account. Whilst this may be the position for some, on the evidence gathered, it is not the majority. In fact, some homes have arrangements whereby residents combine their allowances to purchase transport collectively. Some individuals appear to use the allowance to fund their care and if removed would add to both the Parish welfare grant burden and the pressure on Health and Social Services budget.

For the reasons of 'good governance' described above, the Committee does not believe this is a reasonable approach pending reform which will also include support for those in residential care.

- *Target people with disabilities under 65*

If new entrants over 65 were excluded, in 2005 there would be a saving of **£800,000**, rising to **£1,444,000** in 2006 and **£1,967,000** in 2007, until the full annual saving of £4,000,000 was achieved around 2030. If all over 65s were excluded from the beginning of 2005, annual costs would reduce by about £4 million.

In essence, this is the method of targeting used in the U.K. However, the Committee would wish to recommend different approaches and components under the Income Support proposals for people who would be regarded as having a disability in the conventional sense and the elderly, where chronic sickness or infirmity may create mobility problems in later life. It is very likely that there will have to be different components in the Income Support system to reflect both needs. At present these needs are covered by the Disabled Transport Allowance, Child Disablement Allowance, Adult Disablement Allowance, Attendance Allowance and Parish Welfare systems for those between 4 and 65 years and DTA, Attendance Allowance and Parish Welfare systems for those 65 and over.

- *Tighten the criteria*

The extent of this saving would be dependent on the groups excluded.

It can be seen from the Annex that DTA is already targeted to those who cannot walk in the normal way as a result of a very severe disability. The Committee does not believe that there is any scope to tighten the criteria further without discriminating against certain groups.

- *Restrict choice of transport / voucher system*

The Committee could limit use of the money to certain types of transport, for example, taxis and use a voucher system instead of a cash benefit as has been suggested by some. The Committee does not believe it is right to limit choice in this way nor would it recommend extensive use of vouchers which would create a large administrative burden and scope for avoidance by trading vouchers.

Another view put to the Committee is to divert funds to an Island-wide transport system. Clearly this would again limit choice and such transport would have to be able to cope with the special needs of people with severe disabilities. The Committee has not dismissed this idea but would prefer to consult and develop proposals for a disability component that reflects the real position of the cost of living with such disabilities, rather than just the transport aspect.

6. Conclusion

The Committee is not in a position to reconfigure disability benefits, including DTA, at this stage. However, it has to reduce expenditure on DTA as a result of the last Fundamental Spending Review. Whilst the allowance can be frozen and the income bar reduced in the interim, the Committee is concerned that large cuts might be made to this budget before the introduction of the new Income Support system thus making it difficult to find sufficient money to transform it into a "Disability Component" which truly reflects the needs of people trying to live with a disability within the community.

In essence, the Committee would wish to redistribute the money to a wider group of people with disabilities as described in this report and also to ensure appropriate support for the elderly low income groups in poor health.

Until the Income Support Scheme is more fully developed, the amount needed to cover these requirements is unknown but it is thought likely that the current overall budget allocation for various disability benefits will need to be maintained, at the very least. It is for this reason that the Committee asks the States to reaffirm their commitment to people with disabilities and to protect current levels of funding as far as possible so that the whole system of income support can be reformed over a period of time in accordance with principles of good governance.

ANNEX

SUMMARY OF NON-CONTRIBUTORY DISABILITY BENEFITS

The Benefit	What is it?	Rate (per calendar month) as at October 2003 £	ANNUAL Expenditure (published 2002 accounts) £	Beneficiaries in receipt
Child Disablement	For children under 16 with a mental or physical disability who require significant additional help or supervision (but not as much as would entitle that person to Attendance Allowance).	207.97	269,000	114
Adult Disablement Allowance	For adults who have been unable to work for some time because of a disability who do not qualify for Incapacity or Accident Benefit because they have been unable to contribute to the Social Security Insurance system.	312.07	618,140	170
Attendance Allowance	For children over 4 years and adults with very severe physical or mental disabilities who need a lot of looking after day or night. Note: The "carer" can also apply for Invalid Care Allowance.	379.83 609.84	3,094,000 1,377,490	693 128
Disability Transport Allowance	For children over 4 years and adults with a very severe disability who cannot safely leave home without help, i.e. unable, or virtually unable to walk, at risk from doing so or needing help because of a severe hearing, sight or learning disability.	167.56	5,823,000	2,866
TOTALS			11,181,720	3,071