

Employing a relative living in the same household. – TF10

Owner: ILF Scotland

Subject: Employing a relative living in the same household.

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1. Introduction

ILF Scotland is committed to supporting independent living for recipients. ILF Transition Fund grant recipients may use some or all of their grant to employ a Personal Assistant (PA) in order to achieve their specified outcomes. As a general rule ILF Scotland expects that any PAs employed using a grant are not relatives of, or living in the same household as the fund recipient.

2. Policy

This policy applies when an applicant requests that ILF Scotland monies are to be used to employ a PA who lives in the same household as the applicant.

Employing a PA who lives in the same household is by exception, and will only be agreed to under two circumstances:

- a. it is evident that it will increase the independence of the recipient, and;
- b. it is the only satisfactory means of having the support needed to meet the recipient's outcomes.

If it is the only means of meeting the recipient's outcomes, all other alternatives should have been proved to be ineffective (or unsatisfactory), and have been exhausted. It should be seen as the last resort only.

Where the recipient feels that there are reasons why only a particular individual in their household can provide the necessary support to achieve their specified outcomes they may request ILF Scotland to consider this request. Permission must be gained in advance.

Where this request is unsuccessful the recipient may appeal in line with Policy TF11 - Decision Review.

Each individual situation will be considered on its own merits and, although the factors in this guidance will be taken into account, these factors should not be considered as a checklist of reasons for agreement. An ILF Scotland Assessor visit will be arranged, during which the specific circumstances will be considered in line with the procedure outlined below (Section 5).

3. Definition of relative

ILF Scotland defines members of a household as:

- a. a person's partner
- b. any of a person's: parent, child, grandchild, grandparent, aunt, uncle, niece, nephew or sibling;
- c. any of a person's: step-relations or his or her partner's relations within the degrees of relationship set out in (b) above, and whether arising through marriage or civil partnership;
- d. the partner of any person falling within (b) or (c) above.
- e. any person not covered in (a),(b),(c) and (d), but who lives in the same household as the recipient (see section 4). This does not apply to:
 - i. an individual who is recruited and employed by an agency as a live-in support worker.
 - ii. a PA who spends a proportion of their week in the household but who has their main residence elsewhere.

4. Definition of house

Where a recipient lives in an annex to the main house in which their relatives reside, and wants to employ one of these relatives to provide their care and support, there needs to be evidence that the recipient's house is regarded as a separate dwelling.

Different factors can lead to a decision on whether there are separate dwellings, and, these can include:

- a. each house having exclusive occupation and access;
- b. separate postal addresses;
- c. separate council tax billing;
- d. separate utilities;
- e. the two houses to be able to be sold separately from each other; and
- f. no conditional restrictions on occupancy.

Where the test for living in a separate dwelling is met, the procedure set out below (section 5) will not apply.

5. Procedure

ILF Scotland will allow a request to employ a Personal Assistant who lives in the same house, in exceptional circumstances only.

The recipient will need to demonstrate that employing their Personal Assistant will improve their independence and is the only option available, having tried all available alternatives.

An assessor's visit will be necessary to review the exceptional circumstances of the case and make a referral to ILF Scotland for a decision. ILF Scotland should request, where possible, that the recipient is seen separately from the Personal Assistant who is proposed to be employed.

The Assessor has no discretion to make a decision. The purpose of their visit is to collect information and offer a professional opinion to ILF Scotland. ILF Scotland will consider the information gathered by the Assessor, along with their professional opinion, before making a decision and informing the applicant.

6. Cross References

1 Policy TF08 on Agency Care

Annex: Guidance for referrals

Employing a relative living in the same household

Procedure:

An ILF Scotland Assessor will be asked to undertake a visit to discuss with the recipient their reasons behind wishing to employ a relative who lives in the same house. The Assessor will not be able to make the decision. They can merely discuss the reasons the recipient feels there is exceptionality, and offer their professional opinion to ILF Scotland on support needs. Where possible the recipient needs to be seen without the relative who is proposed to be employed.

Overarching Principle:

Employing a relative who lives in the same house will only be agreed in exceptional circumstances where it is evident that this will increase the independence of the recipient and is the only satisfactory means of having the support needed to meet the recipient's outcomes.

If it is the only means of meeting the recipient's outcomes, all other alternatives should have been proved to be ineffective, (or unsatisfactory), and have been exhausted. It should be seen as the last resort only.

Key Factors in considering a request:

- a. The recipient's independence will be improved;
- b. All other care avenues have been exhausted;
- c. Residential care is the only alternative;
- d. The applicants health will significantly deteriorate if an exception is not made;
- e. Previous abuse or a traumatic event has led to extreme lack of trust;
- f. Specific cultural issues;
- g. Religion or faith issues;
- h. Geographical isolation;
- i. Key care tasks can only be carried out by the relative;

- j. Professional evidence of a need for the relative to be the PA e.g. from a health professional.
- k. The recipient is unable to communicate with anyone other than the relative – Please ensure this is considered fully as it is rare that an individual cannot communicate with anyone outside their immediate family.

Senior Management Team Decision

When considering these factors the ILF Scotland Senior Management Team might want to consider:

- a. Has the recipient exercised choice and control?
- b. Have they had the opportunity to receive advocacy support?
- c. Should an exception be time limited?
- d. Should an exception be reviewed within a certain time frame?
- e. If an exception is made, will the relative themselves be put at risk?
- f. If an exception is made, are there any conditions that should be placed on the exception?
- g. Should the recipient be reminded of their responsibilities as an employer?
- h. Should the recipient be reminded that use of a payroll service is available and recommended?