

Tuesday 13<sup>th</sup> of November 2012

This is the second issue of the Advice NI newsletter on the Welfare Reform Bill. The newsletter will be compiled on a fortnightly basis to keep our members up to date with the progress of the Bill as it moves through the Assembly. Any comments or suggestions for content can be emailed to Jenny McCurry – [jmccurry02@qub.ac.uk](mailto:jmccurry02@qub.ac.uk)

## Recent Assembly Business

Minutes of Evidence available at:  
<http://www.niassembly.gov.uk/Assembly-Business/Committees/Social-Development/Minutes-of-Evidence/>

Friday 9<sup>th</sup> of November

### Written Answers Booklet

Welfare Reform Bill: Request to publish the written communication from Lord Freud on the commitments to flexibility in the Bill for NI; impact of the single room rate on people in East Belfast; delay in implementation of Universal Credit until April 2014 and how this fits with the parity principle.

<http://www.niassembly.gov.uk/Documents/Answer-Book/2012/121109.pdf>

Thursday 8<sup>th</sup> of November

### Welfare Reform Bill: Standing Order 35

Standing Order 35 provides for the setting up of an Ad Hoc Committee to ensure that the Bill conforms with equality requirements. Following a vote on Standing Order 35 a few weeks ago, the Committee was divided. This time the vote passed with 5 ayes and 4 noes. The Assembly is expected to consider the motion by the 19<sup>th</sup> of November at the earliest. If passed by the Assembly, the DSD Committee will have to stop its work on the scrutiny of the Bill

The Committee has finished taking briefings from stakeholders and is now continuing its scrutiny of the Bill.

while the Ad Hoc committee assesses its compatibility with equality and human rights standards. It is possible that the work of the Committee will already have been completed by this time.

### Welfare Reform Bill: Consideration of Stakeholder Comments, Proposed Amendments and Departmental Responses

Thursday 8<sup>th</sup> of November

Clarification on matters relating to clauses on fraud and error (106-115) and the social fund (clauses 70-73). The Committee acknowledged that stakeholders have asked for a right to statutory advice to be included in the Bill, and that advice services estimate a 30% increase in workload. The department currently provides 5 million pounds in support for advice services. It will reply in writing with a firm position on the issue.

Tuesday 6<sup>th</sup> of November

A lengthy discussion to clarify the current state of the clauses of the Bill. The Social Security Agency has a communications plan in place, including more meetings with stakeholders and meetings specifically aimed at employers. Concern acknowledged among members that much of the

detail of the Bill will be in the regulations, which will not be published until December.

- Flexibilities secured by Minister McCausland: legislation as drafted allows for split payments or more frequent payments only in exceptional circumstances. 'Exceptional circumstances' will be defined in the regulations on the basis of consultation with stakeholder groups, beginning with the stakeholder event on the 15<sup>th</sup> of November in the Long Gallery.
- The default position on rent payments: will go directly to a landlord unless tenants opt out.
- Current legislative position on couples and claimant agreements: both members of a couple must sign. Following a 'cooling-off' period, if agreement is not reached, neither individual receives a claim.
- Suggestion that homeless people who may not have the correct documentation to make a claim could be allowed to rely on third party verification. Department to consult with fraud policy unit to see if this can be accommodated, but 'unlikely'.
- Committee due to report by 27<sup>th</sup> of November but Lord Freud not due to appear in front of the Committee until 27<sup>th</sup> or 28<sup>th</sup> of November.
- DWP has committed to undertaking a review of the disability rates in 2015, when there will be enough evidence to show whether the action has achieved the intended aim (department to confirm this).
- Compliance and Sanctions: A stronger regime to be introduced, to be applied 'only where people persistently and repeatedly do not comply with the requirements of their claimant commitment'.
- People who have been sanctioned will be able to apply for a hardship payment. Hardship payments are intended to be recovered from people later, in instalments. Only their personal allowance will be affected by sanctions, not the rest of the award.
- Concern expressed by committee members about Atos and the recent debate in Westminster regarding work-related assessments.
- Results to be available soon from pilot schemes in GB (no such schemes envisaged in NI).

## **Wednesday 31<sup>st</sup> of October** **Housing Groups Briefing**

- Support for flexibilities secured by Minister McCausland regarding operation of Universal Credit in NI. Little information in the Bill about housing costs: keen to see regulations and give input on details. Concern that landlords will have to subsume some of the implementation costs of Universal Credit falling outside DWP and DSD budgets.
- A provision should be written into the Bill to ensure the continuation of extended payments in NI. Extended payments allow housing benefit to continue for 4 weeks after a claimant finds work to accommodate transition from benefits to wages: Universal Credit regulations currently being drafted in Westminster plan to abolish this.
- Rates relief: Ensure that help with rates remains outside of Universal Credit whilst mirroring the amount of benefit that would be received if it was contained within Universal Credit.
- Clause 69 (under-occupancy penalty or 'bedroom tax): Bill should be amended to exempt foster carers and disabled people. There is a strong case to delay the introduction of this penalty for 6 months in keeping with the 6 month delay on the introduction of Universal Credit in NI.
- Homeless people living in temporary accommodation: issues with computer access/IT skills hindering claims for universal credit; Payment directly into bank accounts; Problems with providing the necessary evidence to claim universal credit; importance of discretionary housing payment for homeless people, for example, in order to furnish a house.
- Homeowners: major concern about the waiting period before entitled to support for mortgage interest. Currently, homeowners have to wait up to 13 weeks for assistance. There have been indications that DWP will extend that to around 39 weeks.

- Concern about cuts to entitlements: homeowners on Universal Credit may lose support for housing costs, even if they take up temporary work.

### **Disability Action and Mencap Briefing**

- Concern about the financial impact on disabled people, but also on levels of stress, mental illness and general well-being: transition from DLA to PIP and the stress of having to undergo an assessment.
- Measures in the Bill are focused on individual responsibility and do not sufficiently consider societal barriers and disadvantages that people with disabilities face in finding employment and living independently.
- Concerned about the removal of the severe disability premium which supports people to live independently.
- The impact on children with disabilities: those currently receiving a lower-middle rate care component of DLA will receive the new disability addition, which will be worth £27 rather than £54.
- One-year time limit on contributory employment and support allowance (ESA) for those in the work-related activity group: 53% of people will be affected by that, they will not be able to move to income-related ESA and will face a significant decrease in income.
- Housing Criteria: accommodation for people with disabilities may need to go further than an additional room for an overnight carer, also need to consider space for treatment or bulky equipment kept at home.
- Problems with work capability assessments (WCAs): need to ensure that disabled people are actively involved in the process of resolving these issues at the policy level.
- Recommend an amendment to remove time limit for receiving ESA, or increase the 365 days to 730 days for those in the work-related activity group (WRAG) of ESA.
- Concern about removal of the youth condition in contributory ESA.

### **NICEM briefing (Northern Ireland Council for Ethnic Minorities)**

- Raised concerns about the compatibility of the Bill with EU law. NICEM requested that the Bill be referred for a full human rights and EU law impact assessment before continuing.
  - Recommended that the provision for the differential treatment of EU migrant workers (Schedule 1 Paragraph 7) be deleted from the Bill as it goes against the core principle of equal treatment.
  - Recommended deletion of clauses 61 to 63 as they may discriminate against migrant workers who experience a change in their immigration status.
  - Concerns about the regulations in light of those currently being drafted in GB, which suggest that EU migrants may be paid benefits at lower rates. This would constitute direct discrimination.
  - The DWP has indicated that a new residence test will be introduced for personal independence payments (PIPs): a worker must have been in the UK for two of the past three years. NICEM advised that 'such a test has previously been held to be in breach of EU law and, in addition, the Council of Europe's 'European Code of Social Security' prevents the state from setting a minimum time period to determine residency'. This could potentially lead to infringement proceedings by the European Commission against the UK.
  - Concern about adverse impact of the online claiming system and assessments for DLA/PIP on the BME community's access to benefits.
- Housing: Amendment should be considered to exclude DLA or PIP claimants from new size criteria.
  - Concern about removal of lifetime awards: many conditions and learning disabilities will not change through a person's lifetime.

## **Citizens Advice Briefing**

- Self-employment: System should ideally be constructed on actual earnings rather than on assumed or deemed income.
- Amendment to clause 23: when interviews are being scheduled there should be 'a statutory obligation on the Department to make at least a reasonable effort to have regard to the circumstances of the claimant, his or her caring, work or other arrangements'.
- Proposed two amendments to Clause 24 which are related to hate crime. The current Bill provides for a 13-week suspension of requirements that are imposed on people if they are victims of domestic violence. This should be extended to people if they have been victims of hate crime, particularly cases where it has significantly disrupted their family life and they have to relocate.
- Very concerned about proposed time-limiting of contribution-based ESA. DWP estimates that in GB, 48% of those who will be negatively affected by this proposal are over 50. Many people affected will have paid into the system for a long period and are in a position where it will be very difficult for them to find work.
- Online claiming system is going to create considerable difficulties for many people and contribute to the increase in demand for advice services. The time-limits for returning forms could be extended or something could be done to ensure that people have access to advice as a statutory entitlement.

### **Tuesday 30<sup>th</sup> of October**

#### **Equality Commission Briefing**

- Universal Credit payments should be made to the primary carer or second earner rather than the main earner in order to facilitate more equal access to funds in the household, with the option for splitting as necessary.
- Existing passported benefits: details not yet clear. Concerned that those who are already being

assessed for PIP would have to take a further work capability assessment for some income-related benefits that are already passported under disability living allowance (DLA).

- Barriers to Online Access: In a recent UK survey, 47% of those who were Disability Discrimination Act (DDA) disabled said that they had ever used the internet, compared to 80% of non-DDA disabled.
- Clarification should be made on how clause 14 is intended to operate for couples. Both members of a couple should not be sanctioned when only one of them fails to sign up or comply with the commitment.
- Pension credit (Clause 38). Clarification required on how that will work and its intended effect where one part of the couple has reached the age for pension credit but the other has not. Clarification of how universal credit sanctions and conditions will be applied in that situation is also required.
- Provisions for pilot schemes are contained in clause 42. Encourage clarification on what, if anything, might be intended for Northern Ireland.
- Concerns about the Atos assessments and the fact that a third of them are being appealed against successfully.

#### **NI Human Rights Commission Briefing**

- Stressed a lack of evidence that the Committee has undertaken the required human rights scrutiny of the Bill.
- Highlighted obligation to analyse the Bill against all relevant human rights standards in the treaty obligations of the Council of Europe and the United Nations systems, not only against the European Convention obligations
- The regulations should be subject to affirmative resolution or confirmatory procedure to ensure scrutiny against human rights standards.
- Commission welcomes the announcement that Universal Credit payments may be made to both members of a couple, but will want to analyse the detail of proposed arrangements on that as they become available.

- The UK has ratified the UN Convention on the Rights of Persons with Disabilities. Thus, the NI Executive is required to protect the right of disabled people to live as independently as possible. Commission advises the NI Executive that the Convention requires it to adopt the social model of disability, and this needs to be reflected in the assessment criteria for PIPs.
- Concern that sanctions will be unduly harsh, causing people to become destitute. Such potential cases could engage Article 3 of the ECHR, the positive obligation of the NI Executive to prevent 'inhuman or degrading treatment'.
- Private contracted providers should be obligated to provide their staff with adequate training, including relevant aspects of human rights law and, specifically, the rights of disabled people.

### Recent Research Reports

- *Implementing Universal Credit: will the reforms improve the service for users?* (30<sup>th</sup> of October 2012) The Centre for Social Inclusion, supported by the Joseph Rowntree Foundation. The report has identified risks which need to be addressed if universal credit is to be implemented for the benefit of all service users.  
<http://www.cesi.org.uk/publications/implementing-universal-credit-will-reforms-improve-service-users>
- *Living Wage Research for KPMG: Current trends in Household Finances and Structural Analysis of Hourly Wages* (October 2012)  
<http://www.kpmg.com/uk/en/issuesandinsights/articlespublications/newsreleases/pages/one-in-five-uk-workers-paid-less-than-the-living-wage.aspx>

### Briefing by the Welfare Reform Group

- Flexibilities previously announced by Minister McCausland are welcome, but more needs to be done to protect those affected by changes and ensure that welfare reform is tailored to NI specific circumstances.
- £20 million is set aside by the NI Executive for a social protection fund. This could be used to widen the scope for exemptions to 'some of the more punitive measures' contained in the Bill.
- Concern that many of the regulations will proceed through the confirmatory process, with scrutiny happening only after they have been formulated. It is vital to subject these to full scrutiny.
- Clause 22: Job seekers faced with all 'work-related requirements': this is discriminatory and likely to be unlawful. Those who earn below a specific threshold will also be subject to all work-related requirements; unclear how this will work in practice.
- Clients who are sanctioned will be able to apply for a hardship payment which is recoverable at a later date. Group says this should not be recoverable.
- Increase in sanctions is too severe and disproportionate.
- More needs to be done to create decent, well-paid work and remove barriers to accessing that work, for example through creating adequate and affordable childcare provision.
- Impact on children should be fully considered. In support of NICCY's request, an expert group should be set up to look at the impact on child poverty and children with disabilities.
- Impact on poverty among older people, assessment of mixed-age couples and older people claiming DLA should be fully considered and clarification sought.
- A pilot scheme should be introduced in Northern Ireland to reflect 'unique circumstances' here. Failing that, experiences across the water should be taken into consideration and a Northern Ireland specific report produced in light of those experiences.

## Media Coverage

Monday 12<sup>th</sup> of November

### **Cutting Housing Benefit for Under 25s is unworkable and irresponsible**

Homeless charity *Crisis* warns that thousands risk becoming homeless as a result of new proposals.

<http://www.guardian.co.uk/society/2012/nov/12/housing-benefit-cut-under-25s>

Sunday 11<sup>th</sup> of November

### **Benefits Reform Under Threat After IT Glitch**

National launch of IT system in October 2013 will be kept to small regional projects, due to soaring costs, technical problems and loss of key personnel.

<http://www.independent.co.uk/news/uk/politics/benefits-reform-under-threat-after-it-glitch-8303835.html>

Saturday 10<sup>th</sup> of November

### **Stress puts people out of work and onto benefits**

Growing pressure at work has led to an increase in people leaving their jobs due to stress. Over 1 million 'cite mental or behavioural problems in support of claims for sickness benefits' – an increase of more than 200,000 in the last decade.

<http://www.independent.co.uk/news/uk/home-news/stress-puts-people-out-of-work-and-on-to-benefits-8301330.html?origin=internalSearch>

Friday 9<sup>th</sup> of November 2012

### **McCausland rules out call for six-month freeze on government's 'bedroom tax'**

Minister McCausland said that the changes would be in place from April 2013, despite calls from Housing Associations for a 6 month delay.

<http://www.bbc.co.uk/news/uk-northern-ireland-20267696>

Thursday 1<sup>st</sup> of November

### **Housing Benefit Changes: Warning over affordable housing shortfalls**

A spending watchdog has warned that almost half of councils in England face shortfalls in affordable housing as a result of welfare reforms.

<http://www.bbc.co.uk/news/uk-politics-20162617>

Wednesday 31<sup>st</sup> of October

### **Welfare Reform Bill legal challenge 'Highly likely'**

NI Council for Ethnic Minorities says that the Bill may infringe a number of EU laws.

<http://www.bbc.co.uk/news/uk-northern-ireland-20156728>

Tuesday 30<sup>th</sup> of October

### **Welfare Reform Work Assessment Concerns Raised at Stormont**

The NI Human Rights Commission raises concerns that an impact analysis of welfare reform was not made available to the DSD Committee.

<http://www.bbc.co.uk/news/uk-northern-ireland-20141074>

### **Welfare Reform Creating 'Absolute Fear' in NI, churches tell MLAs**

Representatives of the four main churches in NI gave evidence to the Committee.

<http://www.bbc.co.uk/news/uk-northern-ireland-20132024>

## Upcoming Business

The Social Development Committee will meet on Tuesday 13<sup>th</sup>, Wednesday 14<sup>th</sup> and Thursday 15<sup>th</sup> November to continue its deliberation of the Bill. The Committee is due to report on the 27<sup>th</sup> of November.