



**Social Policy Briefing Paper  
Welfare Reform Bill - ESA Proposals  
September 2011**

## Advice NI Briefing Paper September 2011

### 'Welfare Reform Bill 2011: 12 month time limit for contribution based Employment & Support Allowance

#### Executive Summary

Major changes to contribution based Employment and Support Allowance (ESA) time limits proposed in the Welfare Reform Bill 2011<sup>1</sup> will limit to 1 year any award in respect of (1) new claimants of contribution based ESA (in the work related activity group); (2) existing contribution based ESA claimants (in the work related activity group); **and most significantly** (3) Incapacity Benefit claimants who transfer to contribution based ESA (in the work related activity group) following the Incapacity Benefit reassessment process.

The proposals are contained within Part 2, Chapter 2 Employment & Support Allowance, Clause 51 'Period of entitlement to contributory allowance':

*(1) The period for which a person is entitled to a contributory allowance shall not exceed, in the aggregate, 365 days in any period for which his entitlement is established by reference (under the second condition set out in Part 1 of Schedule 1) to the same two tax years.*

...

*(3) The reference to days in subsection (1)—*

*(a) includes days occurring before, as well as after, the coming into force of this section;*

*(b) does not include days in a period in which a person is a member of the support group."*

There are approximately 7,000 contribution based Employment & Support Allowance recipients (in the work related activity group) in Northern Ireland. In terms of the current

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<sup>1</sup> [http://www.publications.parliament.uk/pa/bills/lbill/2010-2012/0075/lbill\\_2010-20120075\\_en\\_1.htm](http://www.publications.parliament.uk/pa/bills/lbill/2010-2012/0075/lbill_2010-20120075_en_1.htm)

allocations within Employment & Support Allowance: approximately 10% of ESA claimants are placed in the support group & 90% are placed in the work related activity group, therefore most contribution based ESA claimants are likely to be affected by the proposal to introduce a 12 month time limit.

There are approximately 51,000 Incapacity Benefit recipients in Northern Ireland. In terms of comparisons with the rest of the UK, Northern Ireland has almost double the number of Incapacity Benefit recipients per head of working age population than the UK average (4.8% vs 2.8%)<sup>2</sup>. It is envisaged that as many as 20,000 of these IB recipients may find themselves in the work related activity group of Employment and Support Allowance following IB reassessment. This being the case these claimants will see their benefit axed under the proposals contained within the Welfare Reform Bill.

## **Background**

Advice NI is a membership organisation that exists to provide leadership, representation and support for independent advice organisations to facilitate the delivery of high quality, sustainable advice services. Advice NI exists to provide its members with the capacity and tools to ensure effective advice services delivery. This includes: advice and information management systems, funding and planning, quality assurance support, NVQs in advice and guidance, social policy co-ordination and ICT development.

Membership of Advice NI is normally for organisations that provide significant advice and information services to the public. Advice NI has over 65 member organisations operating throughout Northern Ireland and providing information and advocacy services to over 117,000 people each year dealing with almost 250,000 enquiries on an extensive range of matters including: social security, housing, debt, consumer and employment issues. For further information, please visit [www.adviceni.net](http://www.adviceni.net).

## **What is being proposed?**

The proposal within the Welfare Reform Bill is that people receiving contribution-based Employment and Support Allowance in the work related activity group will have the time they can receive this benefit limited to 12 months.

People who have already received contribution-based Employment and Support Allowance for 12 months or more in the work related activity group will have their benefit stopped as soon as the change is introduced.

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<sup>2</sup> [http://www.dsdni.gov.uk/index/publications/incapacity\\_benefit.htm](http://www.dsdni.gov.uk/index/publications/incapacity_benefit.htm)

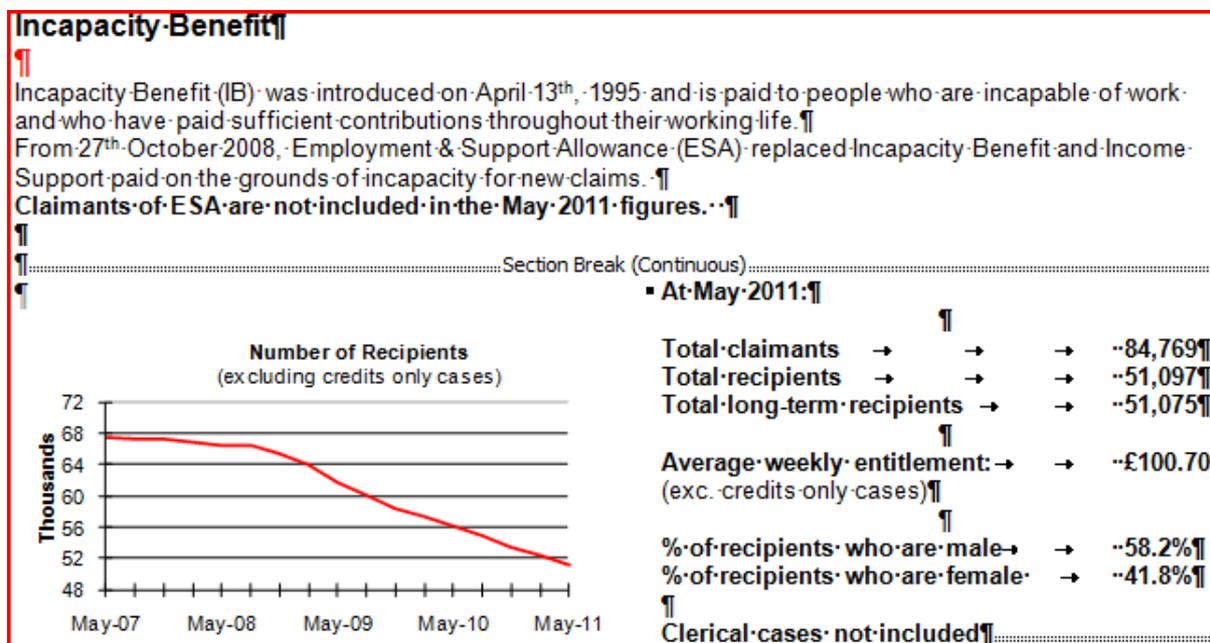
Should the change happen, the 12 months will begin from the first day the claimant was paid contribution-based Employment and Support Allowance in the work related activity group, the 12 month time-limit does not include any time spent in the support group and any gaps in their award.

If a person moved from Incapacity Benefit or Severe Disablement Allowance the start date will be calculated from the date they moved from their old benefit to contribution-based Employment and Support Allowance and were placed in the work related activity group.

If a person has already been receiving contribution-based Employment and Support Allowance in the work related activity group for 12 months, and should this change come into effect, they will immediately lose entitlement.

### How many people are likely to be affected?

In terms of Incapacity Benefit, Advice NI anticipate that as many as 20,000 Incapacity Benefit claimants in Northern will transfer to ESA (in the work related activity group) and so be affected by the time limit proposed within the Welfare Reform Bill. The following data published in the Department for Social Development's latest 'NI Social Security Statistics Bulletin'<sup>3</sup> highlights that:



The average Incapacity Benefit payment is £100.70 per week

<sup>3</sup> [http://www.dsdni.gov.uk/index/stats\\_and\\_research/stats-publications/stats-benefit-publications/summary\\_statistics\\_bulletin.htm](http://www.dsdni.gov.uk/index/stats_and_research/stats-publications/stats-benefit-publications/summary_statistics_bulletin.htm)

In terms of comparisons with the rest of the UK, Northern Ireland has almost double the number of Incapacity Benefit recipients per head of working age population than the UK average (4.8% vs 2.8%) and so the impact of the reassessment of IB claimants will have a particularly greater impact in Northern Ireland.

In terms of Incapacity Benefit claimants involved in the reassessment process, estimates based on pilots conducted in Aberdeen and Burnley suggest that:

- 30% were taken off IB (moving on to another benefit like Jobseeker's Allowance or moving off benefit completely);
- 40% were placed in the work related activity group of Employment and Support Allowance; &
- 30% were placed in the support group of Employment and Support Allowance.

If we apply this rationale to the 51,000 Incapacity Benefit recipients in Northern Ireland, then approximately 20,000 IB recipients may find themselves placed in the ESA work related activity group and subject to the proposed 12 month time limit.

In Northern Ireland, the Incapacity Benefit reassessment process began in February 2011 (and will complete by March 2014) which will impact upon all Incapacity Benefit claimants:

- Every claimant who goes through reassessment will be subject to the Work Capability Assessment (WCA) process. The WCA determines whether someone is entitled to Employment & Support Allowance. Only those who are due to reach State Pension Age during the reassessment timeframe and terminally ill claimants will not undergo reassessment.
- Decision Makers will determine based on medical advice on the claimant's eligibility for Employment & Support Allowance.
- Based on the outcome of the WCA Process, Incapacity Benefit claimants will:
  - Transfer to ESA in the work related activity group
  - Transfer to ESA in the support group
  - Be found fit for work and be invited to claim JSA, claim Income Support under other conditions of entitlement (i.e. Carers, Lone Parents) or move off benefit

In terms of current contribution based Employment and Support Allowance claimants in Northern Ireland, Advice NI understand that there are approximately 7,000 claimants

currently in receipt of contribution based ESA (in the work related activity group) who will potentially be affected by the time limit proposed within the Welfare Reform Bill.

The average contribution based Employment and Support Allowance 'main phase' payment is between £94.25 - £99.85 per week.

### **Who it is going to be mostly affected?**

In terms of the profile of the 51,000 Incapacity Benefit recipients in Northern Ireland, Incapacity Benefit recipients have been in receipt of this contribution based benefit for many years, for example approximately 10,000 are ex-Invalidity Benefit (IVB) recipients (IVB was replaced by Incapacity Benefit in 1995). Advice NI understand that 31,000 (over 60%) are aged 50 or over; approximately 9,000 live in Belfast City Council area; approximately 4,000 live in Derry City Council area and the third highest concentration is in Craigavon Borough Council area. Almost 50% of Incapacity Benefit claimants suffer from mental and behavioural disorders.<sup>4</sup>

The age profile of current Employment & Support Allowance claimants in the work related activity group will generally be younger and have been in receipt of benefit for a shorter period of time (as Employment & Support Allowance was introduced in October 2008).

### **Impact of the proposal to time limit contribution based Employment & Support Allowance?**

In the short term Advice NI estimates that as many as 20,000 Incapacity Benefit recipients who have been in receipt of contribution based benefit for many years due to their severe health problems may see their benefit axed 12 months after transferring to Employment & Support Allowance (in the work related activity group).

Current contribution based Employment & Support Allowance claimants in the work related activity group who have already received contribution-based Employment and Support Allowance for 12 months or more will have their benefit stopped as soon as the change is introduced.

People moved off contribution-based Employment and Support Allowance may be entitled to income-related Employment and Support Allowance – which will not be subject to the time limit. They will not have to make a new claim, but they will have to provide more information in relation to other income. Advice NI envisage that these proposals will put severe pressure on household budgets, for example where the contribution based ESA claimant who finds

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<sup>4</sup> [http://www.dsdni.gov.uk/index/publications/incapacity\\_benefit.htm](http://www.dsdni.gov.uk/index/publications/incapacity_benefit.htm)

their benefit axed has a partner who is working. In these circumstances income-related Employment and Support Allowance will not be payable and there may well be no alternative benefits available and so household budgets will be deprived of approximately £100 per week.

This will place households under considerable additional stress, particularly at a time when the cost of living, household bills, energy costs and fuel costs are continuing to escalate. It will undoubtedly impact upon the ability of households to meet their commitments in particular it will make it harder for families to stay in their homes in terms of servicing mortgages and other housing costs. Advice NI has a Debt Action Project, aimed at helping the most financially vulnerable in Northern Ireland. This project has provided debt advice to 3,257 clients and dealt with over £62 million pounds in debt for the period November 09-August 2011. From this figure 467 clients had over £21 million pounds in mortgage debt.

Further consequences could include:

- Further spiralling debts
- Detrimental effect on mental health and
- Cause relationship difficulties

Advice NI also notes research conducted by Papworth Trust<sup>5</sup> where respondents said that, if their disability benefit was reduced or stopped -

- 74 per cent would not have enough money for everything they need;
- 64 per cent would be less independent;
- 51 per cent would have to rely more on friends and family;.

Advice NI is concerned that the additional cost of disability will push people affected by the loss of benefit into greater hardship. Advice NI notes the Leonard Cheshire Disability report, 'Disability Poverty in the UK'<sup>6</sup>, which shows that disabled people are twice as likely to live in poverty as non-disabled people and that disabled people's day-to-day living costs – for basics like mobility aids, care and transport - are a quarter (25 per cent) higher than those of non-disabled people. The Report paints a picture of how poverty can impact on many areas of a disabled person's life. For example:

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<sup>5</sup> <http://www.papworth.org.uk/news-detail.php?aid=242>

<sup>6</sup> <http://www.lcdisability.org/?lid=6367>

- Continuing low levels of employment for disabled people mean that many are trapped in inescapable poverty. For people not expected to work, benefit levels frequently fail to cover basic costs of living, leaving them with no real route out of poverty.
- Half (49 per cent) of disabled people surveyed by Leonard Cheshire Disability had no savings. The majority revealed this was because their incomes were way below the national average.
- Disabled people face major discrimination in the education system. For example, disabled people are more than twice as likely to have no qualifications as non-disabled people.

There will also be an economic impact felt across Northern Ireland with regards to these proposals. Household incomes will be reduced across Northern Ireland and as a consequence the spending power of households will also be reduced. Northern Ireland businesses will undoubtedly feel the impact of this reduction in purchasing power.

### **When will this change happen?**

It is envisaged that the earliest this proposed change can become law is April 2012 in Great Britain. The Welfare Reform Bill is currently progressing through parliament. Following Royal Assent, legislation for Northern Ireland will have to be brought forward through the NI Assembly.

### **Advice NI case studies**

Below are some illustrative examples of contribution based Employment & Support Allowance claimants in the work related activity group who could be affected by the proposed introduction of the time limits:

1. Client in receipt of contribution based Employment & Support Allowance in the work related activity group since Spring 2009. He will see his benefit axed immediately if/when this proposal is introduced in Northern Ireland.
2. Client in mid 40's had worked full time since leaving school, traumatic incident resulted in severe long term health conditions including chronic fatigue, chronic muscle pain, frequent dizziness and regular falls. Client in receipt of Incapacity Benefit for which she has underwent annual medical examinations. Partner works fulltime. Currently income and expenditure are equal with family just about 'breaking

even' every month, with expenditure including mortgage repayments and policies associated with their mortgage.

If the time limit proposal is introduced, client's benefit will stop 12 months after transferring to contribution based ESA (if she is placed in the work related activity group). In this case, income-related Employment and Support Allowance will not be applicable and so the household will see their income reduced 'pound for pound' by the amount of contribution based ESA lost.

3. Clients are a couple in their late 40s. Mr A was made redundant after 30 years in the same job. He was earning £420 per week. He suffered a mental breakdown as a result and is still suffering from severe depression. He claimed contribution based ESA in March and following a medical he was placed in the work related activity group. His wife works 28 hours per week and earns £167.00 per week. They live with their two sons who are both at university. They have a mortgage of £450 per month and their rates are £659 per year.

They have exhausted their savings meeting their mortgage payments, rates and other household expenses since Mr A was made redundant. If Mr A were to lose his contribution based ESA he would have no access to income based ESA due to his wife's income. This would mean they would be unable to meet their mortgage payments and would end up losing the home they have been paying off for the past 20 years. Mr A is receiving treatment for his depression but his Community Psychiatric Nurse feels the families financial difficulties are a barrier to his recovery.

## **Conclusion**

Advice NI is committed to proactively helping the most vulnerable people across Northern Ireland. Advice NI advisers are at the forefront in helping people at this most difficult time as households struggle to cope with the 'double whammy' of recession and welfare cuts. We have been heavily involved in the welfare reform debate over the past number of years; produced several welfare reform briefing papers; responded to several welfare reform consultations responses and are a member of the Northern Ireland Welfare Reform Group.

Advice NI would describe as too draconian the proposal contained within the Welfare Reform Bill 2011; Part 2, Chapter 2 Employment & Support Allowance, Clause 51 'Period of entitlement to contributory allowance':

*(1) The period for which a person is entitled to a contributory allowance shall not exceed, in the aggregate, 365 days in any period for which his entitlement is established by reference (under the second condition set out in Part 1 of Schedule 1) to the same two tax years.*

...

*(3) The reference to days in subsection (1)—*

*(a) includes days occurring before, as well as after, the coming into force of this section;*

*(b) does not include days in a period in which a person is a member of the support group.”*

In particular we are very concerned that the proposal is retrospective, will deprive households of income not because they fail to meet the medical criteria for benefit entitlement but because of an arbitrary imposition of a 12 month time limit.

Many claimants affected will have worked, paid National Insurance contributions and found themselves reliant upon the benefits system because of their health related problems. Some claimants will have been in receipt of contribution based benefits for many years because of the severity of their health problems.

Advice NI would call for the retrospective element of the proposal to be withdrawn. Advice NI would also call for the 12 month time limit to be increased to 5 years to enable those claimants with long term conditions to be able to have a more realistic chance of bringing about an improvement in their condition.

Advice NI would call upon anyone who is concerned about the potential impact of this proposal to get in touch with their political representatives and ask them to highlight the consequences of pressing ahead with this proposal. The following diagram represents the progress of the Welfare Reform Bill, with the Bill currently progressing through the House of Lords.



Advice NI will continue to highlight the potential impact and consequences of welfare reform. We would welcome the opportunity to explore and discuss the implications of welfare reform in further detail with any / all interested individuals, groups and organisations.

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