



Committee for Social Development

OFFICIAL REPORT (Hansard)

Disability Living Allowance/Personal
Independence Payment: Reform
Consultation

24 May 2012

NORTHERN IRELAND ASSEMBLY

Committee for Social Development

Disability Living Allowance/Personal Independence Payment: Reform Consultation

24 May 2012

Members present for all or part of the proceedings:

Mr Mickey Brady (Deputy Chairperson)

Ms Paula Bradley

Ms Pam Brown

Mr Michael Copeland

Mr Mark Durkan

Mr Alex Easton

Mr David McClarty

Witnesses:

Ms Elizabeth Brisbane

Disability Action

Ms Karen Hall

Disability Action

The Deputy Chairperson: I welcome Karen Hall and Elizabeth Brisbane from Disability Action. Thank you for attending this morning's meeting. Please proceed, and we will ask you questions afterwards.

Ms Karen Hall (Disability Action): Do you want us to take you through the main areas of concern.

The Deputy Chairperson: Yes, please.

Ms Hall: We pulled out the key elements in the current consultation document. This is a massive, significant change for everybody involved, and our first concern relates to the way in which it is going to be communicated and rolled out. The big concern relates to the reassessment process, how that is going to work and the requirements related to the reassessment. From various discussions we have been having with the Department, we know that it is going to look at reassessing up to 1,000 people a week.

The Deputy Chairperson: I am sorry to interrupt you, but how can the Department do that? Will a super system be introduced to facilitate that?

Ms Hall: How that process is going to be managed is one of our big concerns — how that number of people can be fairly and justly reassessed in the process and how that is going to work. We think it is very high. When we look at what has happened with ESA and that process, we are very concerned about that level and that number. In GB, the numbers are even higher, but one of our big concerns is about how it actually rolls out. We think that that needs to be considered as part of the process.

In respect of the information requirements and how people will be reassessed under the managed reassessment process, we think that four weeks is too short a time frame from someone receiving a letter to say that they are going to be reassessed for a personal independence payment (PIP). They might need information, support or advice from organisations such as ourselves, but we have a four-week to six-week waiting list for helping people to fill in forms, etc. In the first part of the process, people will be asked to submit a claim. Once they have done that, they will then get a form. There is no time frame in the regulations for returning the form. We understand that it may be four weeks, but, again, we think that is far too short. Somebody may need support to fill in that form; therefore, we think that the time frame should at least be extended to six weeks and should be in the regulations so that it cannot get moved around.

We are also concerned that the consultation document states that where a questionnaire is not received, anybody requiring additional support will automatically be given a face-to-face consultation. Essentially, what we understand by that is that the claimant will not have access to the first part of the process, which is the form. They will go straight to the face-to-face process with whoever gets the contract. Essentially, it means that somebody will miss out on a big part of providing evidence. There should be support to help people to fill in the form, rather than just going straight to the face-to-face assessment.

No indication has been given as to how much advance notice there will be for the face-to-face consultation. We think that it needs to be included. People need as much notice as possible, especially if they have to go to a place that they have never been before. They might have to arrange for someone to go with them. Therefore, there needs to be a time frame for this, so that people are reassured that it might be four weeks or six weeks. Currently, it is not there.

The next key issue is when payment of DLA will stop and PIP will commence. The time frame for that is not in the document. If you are receiving disability living allowance and your claim for PIP is unsuccessful, for how long will you retain your DLA payment? Obviously, people will need time to adjust to a decrease in their overall income. Therefore, we think that a time period should be put into the regulations.

The other main issue concerns the payability of benefit for certain groups. There is not enough detail in the document about how hospital and care home residents will be affected, and we would like to see more detail on that. As regards existing transitional protection arrangements; in this regulation, it states that if somebody is in hospital for a year, they will lose the low-rate mobility component, which is part of DLA at the minute. If somebody is in hospital for a year, or in long-term rehab, that does not mean that they do not leave the place and go out into the community. People need to be enabled to do that.

There is a big concern about how the reform will work for Motability customers. Under the new regulations, it states that a 28-day period will apply. However, the management of that period has not been clarified. If somebody has an existing lease and is in hospital for more than 28 days, we are still not sure what the process will be. It states in the document that they have been in discussions with Motability, but we need more clarification on what that process will be.

With regard to award duration and reviews, we welcome that there may be awards of five and 10 years, but it states that another document will be produced in respect of how the process is going to be managed. It says it is "keen" to involve disabled people, but that the process will involve appropriate experts. We believe that discussions with disabled people must be included in how that works. Disabled people are the experts in how their lives are and need to be part of that process.

Another main area of concern is claims for young people at age 16. I am sure that you are all aware of the difficulties in the transition from childhood to adulthood. It is a big time for children and young people; they are managing a lot and are perhaps moving from school to college or to other parts of the community. Under PIP, young people who are coming up the age of 16 will have to be reassessed into PIP. That even includes those who have been given a lifetime award of DLA as a child. We feel that there needs to be really good, strong communication on that, especially with parents and young people. We would also like to see some type of independent advocacy for children and young people as they approach that transition, so that they are able to manage that process.

The final main area of concern is the passporting arrangements. There is a lack of clarity in the document about how those arrangements will work from a Northern Ireland perspective. For example, the document refers to a consultation by the Department for Transport in GB on blue badges, but we do not know how that will work in Northern Ireland. Currently, DLA is one of the things that passports

people to a blue badge, but it also covers a wide range of areas such as motability, SmartPasses, door-to-door transport, legal aid, fishing licences and charitable grants. We feel that a lot more work needs to be done to make sure that everything that connects to that passporting process is realigned under PIP.

Those are the main areas of concern that we have with the document. As I said, we will prepare a full response and circulate that to the Committee.

The Deputy Chairperson: Thanks very much. Elizabeth, do you have anything to add?

Ms Elizabeth Brisbane (Disability Action): My role here is as a practitioner. I deal directly with the people that welfare reform will affect, and I have great concerns about how we in the voluntary sector will cope with the timelines.

The Deputy Chairperson: Thanks very much. I have a few questions before I bring other members in. You mentioned that the Department will have to reassess 1,000 applicants per week, and I would have thought that the logistics of that would make it impossible. I am unsure where that figure came from, but I have concerns — I am sure the Committee shares those — about how that will be managed and where that figure came from. If that were the case, you would have to assume that a percentage of those cases would eventually go to appeal, and that would be a huge number if even 20% did so. The logistics of that and the inability of the Department to cope would burden the voluntary sector.

Ms Brisbane: Yes. The appeals service is currently stretched with the number of employment and support allowance claims.

Ms Hall: As the process develops, there is ongoing engagement between the Department and the community and voluntary sector. That is where that figure came from. We have massive concerns about that. There are also very short timescales, and we are concerned about how we can ensure that staff members are fully trained and that the IT systems work. It is a massive piece of work.

The Deputy Chairperson: As you said, if someone goes through you, it might take six weeks even to complete a form.

Ms Hall: Yes. It currently takes us between four and six weeks. We obviously try to accommodate people when there is urgency, but we are also dealing with ESA claims. As you will be aware from your own communities, many of the advice agencies are stretched, and that four to six-week period seems to be the average across the sector.

The Deputy Chairperson: In an ideal world, what sort of additional resources would you want?

Ms Hall: In an ideal world, there would be more resources across the advice sector; it is not just us. We always say that whatever resources we have, there will always be a demand on what we can deal with. Another information and advice officer in every area would be great, but all those advice agencies across the voluntary and community sectors are going to be under the same pressures as we are.

The Deputy Chairperson: I know the consultation is for England, Scotland and Wales, but the Department for Work and Pensions (DWP) has invited submissions from yourselves. I am not pre-empting anything, but I assume that you would consider that there are particular issues that are prevalent here that need to be looked at differently to those in England, Scotland and Wales, particularly because we have higher rates of disability and particular types of conditions.

Ms Hall: That has been consistent across all our responses, even at the initial stages when this was all being brought forward. We have higher incidence of disability here, and we have a higher incidence of people with mental health conditions to be included in the process as well. This is going to be an extremely stressful process for everybody involved, so it is about getting these bits right. We have what we have, and it is getting these bits right that will hopefully help reduce some of that stress. One thing that can be done is to look at these processes and try and make them as clear as possible to people so that they will be less stressful. No matter what happens, it is still stressful when you get that letter on your doorstep.

The Deputy Chairperson: The assessment for PIP will be carried out in a similar way to the work capability assessment. At a conference in Liverpool yesterday, the British Medical Association called for the end of that. I have to assume that this assessment would be problematic as well.

Ms Hall: Yes. We responded to the last consultation and we can certainly share that response, which shows the descriptors in that process that we are significantly concerned about. There is that opportunity as part of the consultation process. However, the consultation is closed, and we are now awaiting the outcome to see how much will be listened to and whether our concerns will be addressed.

Mr Brady: Having worked in the voluntary sector, I commend the work that you do. Disability Action had an office in Ballybot House where I worked, so I am well aware of the good work that you do.

Ms Hall: Thank you.

Ms Brisbane: Thank you very much.

Mr Brady: Long may it continue — with additional resources, of course.

Mr Copeland: Thank you for your presentation. The legacy of the past 40 years can be seen in practically every aspect of life in Northern Ireland, particularly in the incidence of mental illness arising from the Troubles. There are, in my constituency, because of its demographics, a substantial number of people who have been involved with the security forces, many of whom witnessed the most horrible and horrific scenes, which have left an indelible impression on them.

I am not sure whether you have seen this document, but our packs contain a paper from DWP dated March 2012.

Ms Hall: Yes.

Mr Copeland: It makes several references to the military covenant, whereby there is an obligation in respect of a certain section of people who have been involved in the military, as opposed to the police or the full-time reserve element of the regular force in the police. It strikes me that, here, we have the most patent need, not only because of the 40 years of the Troubles, but because of the very high proportion of young men who, due to the lack of industry, now find themselves in Iraq, Afghanistan, Belize and all over the world with the Royal Irish Regiment and indeed other sections of the Territorial and regular Army. It strikes me that, here, in this part of the United Kingdom, where there is the most patent need for this provision, it does not exist because of another set of conflicting requirements that are equally legitimate. Do you have a view as to how that particular challenge that is presented to us can be addressed or overcome?

Ms Hall: When people with disabilities come to us, we are not aware of their background or situation. That has never been part of our —

Mr Copeland: I understand that. My point is that those who benefit from the provisions of the military covenant in the rest of the United Kingdom do not here. Should some consideration be given to at least looking at the issue, given that there may be a likelihood that we need that proportionately more in a much smaller space?

Ms Hall: There are bits about the covenant in the document.

Mr Copeland: That is why I raised it.

Ms Hall: We have not had a chance to give a full response because it has only been out for two or three weeks. However, we will certainly respond to each of the elements, and we can circulate that to the Committee.

Mr Copeland: I am very keen to see it.

Ms Hall: I am happy to speak to you about it as well.

Ms P Bradley: Thank you for your presentation. I agree with everything that the Chair said, especially that, at the moment, we are getting calls to our constituency offices about incapacity benefit and the fact that voluntary agencies do not have the capacity to help complete the forms. I dread to think what will happen in the future. I worked for a citizens advice bureau (CAB) many moons ago, and this has changed a lot since then. As a member of the Health Committee, I come at the issue with that hat on as well. Your paper says:

"Any such future regulations must be specific to Northern Ireland and reflect our different system of health and social care provision."

What do you mean by that?

Ms Hall: The review of adult social care is also happening, and that is looking at how care is paid for. It is all about engagement at the minute, and the Health Department is talking to people. However, part of that may be looking at how it interacts with our system, because if you are in receipt of, for example, the higher rate of DLA, it gives you a passport to the independent living fund, which is due to end in 2015. A small number of people get that funding, but it has a significant impact on their lives. We have not had the conversation yet about the independent living fund, and the higher rate care component of DLA brings you through to that. If the independent living fund is to go in 2015 — there are discussions in GB about how that will come down to a council model — how will that apply in our health and social care system? That needs to be part of the whole debate.

When we talk about the review of adult social care, we cannot do so without the context of welfare reform, because if consideration is to be given to how people pay for their care and to the differences between people in a care home and those who receive care at home, we have to have that conversation as a whole, and welfare reform has to be part of that.

Ms P Bradley: There are many arguments on this, especially about people in hospital and people in care homes who receive care that is paid for by the state and receive benefit. There are arguments for and against it, and I am kind of sitting on the fence at the moment: I am not saying that it should or should not happen. I know about the benefit system in hospital, the situation with the four weeks and that you must be out of hospital for so long for a continuation award. What is the exact difference now compared with previously?

Ms Hall: We are still not clear; that is the problem. There is a case in GB about DLA and attendance allowance, and we need to give more consideration to how that applies here. We need to look at it in more detail to see how it will impact. However, the document that the consultation refers to is the English model. It does not refer to the Northern Ireland model of health and social care, and we need to make sure that that is part of the document.

Ms P Bradley: OK, so we just do not know all the fine details yet?

Ms Hall: Yes.

Ms P Bradley: You mentioned the four-week period earlier. I tend to agree on that as well. I know from filling in the forms and working in social work and in a CAB that that will be a bit of a difficulty. It will be a difficulty for us as well, in our constituency offices, because if people cannot get their appointments with all those other agencies, including yours, they will come to us and say that they need help. It will pose quite a few problems for MLAs. There will be lots of discussion in this room about that.

The Deputy Chairperson: We are doing our best to persuade Paula to get off that fence. [Laughter.]

Ms P Bradley: I can understand that there are people who will ask why people are getting that payment while they are in hospital, or abroad.

Ms Hall: It is about the definition of "in hospital". You could be in hospital for treatment for eight weeks, but you could be coming in and out of hospital during that eight weeks and going home. It is not always the case that "in hospital" applies to someone who is not coming in and out. You have to look at how it ties in with respite as well. Most respite periods are for about two weeks, but it is longer than that for rehab and certain conditions. It is about the individual; every individual case is different,

and that is the key thing. Sometimes, the processes do not allow for people to look at the individuals and make decisions based on their circumstances rather than a strict set of rules.

The Deputy Chairperson: Being abroad and being in hospital are two different issues. The trusts take the residential element into account. One part of the official government payment is saved in another pocket. That is slightly different. There is an argument about being abroad. The motability aspect is about getting people out of the residential environment, and that is an important issue because it stops people becoming totally institutionalised. There are all sorts of arguments around that, but maybe they are for another day.

Ms Hall: Different methods have been used in different areas across the UK. If there is clarity —

The Deputy Chairperson: There needs to be uniformity.

Ms P Bradley: The current DLA system does not work either. I believe that there cannot be a one-size-fits-all solution.

The Deputy Chairperson: I think you are right.

Ms Hall: We responded on the descriptors for the assessment process for this. One of our key concerns is that people are individuals, and that has to come through. The process has to allow for that to happen.

Mr Durkan: Thank you for your presentation. We certainly share your concerns, and I share the concerns that my Committee colleagues have aired. There is a great worry about the similarity between this process and the work capability assessment fiasco that we are seeing at the moment. I am afraid that it will not just be similar, but will be an exact carbon copy, because the same company could carry out these examinations; it is tendering for that contract.

We had a chat about people being in hospital or in care homes. How will that apply where someone is in a charity-run care home that is not fully funded by the state? I am thinking of the likes of the Foyle Hospice in Derry, which is not fully subsidised by government.

Ms Hall: OK. I am not sure how that will work.

Ms Brisbane: It always refers to a hospital or similar institution, so I imagine that a hospice inpatient would be treated the same as a hospital patient. We can come back to you on that if that is not right.

Mr Durkan: It receives a subsidy from government but not full funding.

Ms P Bradley: I am sorry to come in on this, but the client is not being asked to pay, whereas if you are in a private home and you are self-funding, you would be asked to pay. Therefore, if you did not already get attendance allowance, or whatever it may be, you would apply for it to put towards your funding.

Ms Hall: There are different models of paying for your care here. I can think of six different models of paying for your care, depending on whether you are in the community or in a nursing home, and, even if you are in a nursing home, there are different combinations within that.

Ms Brisbane: If you are not wholly self-funding, you will lose your benefit after 28 days. However, if you are out of hospital for any of those days, you will get PIP — you now get DLA for those days spent at home.

Mr Durkan: If you come out on day 15 and go back on day 16, do the 28 days start again?

Ms Brisbane: No. The day spent at home is not counted as a day in hospital.

Mr Durkan: You said that you had concerns around the four-week time frame for completing the form. That time frame is completely ridiculous, given the pressure that organisations such as yourselves are under to try to help people, and ourselves, I might add. I am particularly concerned about the advance notice on the face-to-face consultations and the repercussions if someone gets insufficient notice and

is unable to make that consultation. What sanctions will be brought against them? How many strikes before they are out?

Ms Hall: The time period for filling in the form is not specified in the regulations. It was only told to us at an engagement event. We think that it should be specified because it would give protection. We want six weeks at least, but it is not in there as specified, and it needs to be in there to make sure that people have that protection, so that at some time in the future, it is not reduced.

Mr Durkan: Around two weeks ago, the Committee had a presentation from the Minister on the Department's corporate plan, and I asked him about funding for advice services, particularly with the avalanche of cuts that is coming our way. I was assured that the level of funding will be maintained, but that is not what we wanted to hear. We would like to see it increased, and the Committee should be pushing for that.

Mr Easton: I also have concerns about the four-week period. It may be something that we might have a bit of operational power to tweak. I also worry about the 1,000 assessments a week. I can understand why the Department would want to get through as many assessments as quickly as it possibly can, but I would rather that it slowed down and did not make a hoo-ha and make people upset, whereas, if there were fewer assessments, we would probably get it right more. However, I would be a bit worried about how we can do 1,000 a week.

The Deputy Chairperson: OK. Thank you very much for your presentation. We wish you well in your endeavours. We are sympathetic. I still do welfare rights clinics, and we all deal with queries relating to this issue. However, when you are doing it on a full-time basis, as I used to, it becomes increasingly difficult if you do not have the funding or the resources, and this legislation is not going to help you.

Ms Hall: The key thing is that everybody is going to be reassessed — every single person. It is going to be stressful for people, and it is going to add to the stresses of everyday life of living with a disability.

The Deputy Chairperson: It is going to be stressful for advisers as well.

Ms Hall: The impact will be significant.

The Deputy Chairperson: Indeed. Thanks very much.