

AN OVERVIEW OF THE WELFARE REFORM BILL

1. To assist the Committee for Social Development in its deliberation of the Welfare Reform Bill this briefing note provides:
 - A brief account of the policy context behind the Welfare Reform Bill;
 - An outline of the main provisions of the Bill relating to social security, people with disabilities, and child maintenance; and
 - An overview of the reaction of some key stakeholders to the proposals.

BACKGROUND: THE WELFARE REFORM BILL

2. The [Welfare Reform Bill](#)¹ was introduced in the House of Commons by James Purnell, the Secretary of State for Work and Pensions, on 14 January 2009. The Bill had its second reading on 27 January 2009 and was subsequently appointed to a Public Bill Committee whose proceedings were to conclude no later than the 3 March 2009. There were nine sittings of the Committee between 10 February and 3 March, with oral evidence taken from a range of stakeholders during the first three sittings (e.g. Department for Work and Pensions, Barnardos, Gingerbread, Child Poverty Action Group, DrugScope). The Bill is currently progressing through the House of Lords with its first reading on 18 March 2009.
3. It is reported that the purpose of the Bill is to²: simplify the benefits system by abolishing Income Support and moving all customers onto either Jobseekers' Allowance if they are well or Employment and Support Allowance if they are sick; align contribution conditions between Employment and Support Allowance and Jobseekers' Allowance; ensure a greater sense of rights and responsibilities by applying a regime of benefit sanctions for non-attendance at Jobcentres; require job search by partners of benefit claimants to help everyone who can find work find work; abolish Adult Dependency Increases in Carer's Allowance and in Maternity Allowance; facilitate work-focussed interviews for over 60s; require work-related activity in return for receipt of Employment and Support Allowance; and new arrangements for joint birth registration.
4. According the Bill's 'Explanatory Notes', most provisions contained within the Bill extend to England, Wales and Scotland, but not to Northern Ireland. Although the provisions in the Bill are transferred matters under the Northern Ireland Act 1998 and Northern Ireland has its own social security legislation, the 'Explanatory

¹ A copy of the Bill and links to its key stages are available at <http://services.parliament.uk/bills/2008-09/welfarereform.html>

² Prime Minister's Office News Release. 'Queens Speech – Welfare Reform Bill'. 2 December 2008. www.number10.gov.uk/Page17671

Notes' highlight that there is a long standing policy of parity in matters relating to social security³.

THE POLICY CONTEXT

5. The Welfare Reform Bill constitutes the final phase of the Government's three phases of welfare reform. The Secretary of State for Work and Pensions, James Purnell identified these three phases as follows:

"First, we **deepened the obligation to work**, by introducing the New Deal and creating Job Centre Plus out of the merger of the Benefits Agency and the Employment Service. These reforms meant that people signed up for work when they signed on for benefits.... We matched those obligations with higher support, including making work pay through the National Minimum Wage and the Working Tax Credit.

Second, we **widened the obligation to work**. We piloted the New Deal for Disabled People and Pathways to Work, the first employment programmes to help people on incapacity benefits get to a stage where they can find work. The New Deal for Lone Parents as introduced on a voluntary basis. That support worked, but we wanted more people to benefit. So we are now replacing incapacity benefits with Employment and Support Allowance....From this November, we are requiring lone parents to look for work from when their youngest child reaches 12 years old, moving down to seven years old from 2010.

This white paper implements the third phase of this reform programme. It is based on a simple idea: that **no one should be left behind**, that virtually everyone should be required to take up the support that we know helps people overcome barriers to work...."

6. In July 2008 the Government published a consultation paper on proposals for the third phase of welfare reform entitled '[No one written off: reforming welfare to reward responsibility](#)'⁴. The paper set out '*plans for improving support and work incentives to create a system that rewards responsibility and delivers greater choice and control over the support that is provided*'.⁵ Proposals set out in the paper included:

- New powers to require long term unemployed people to engage in a programme of full-time, community based work experience to improve employability skills and build work habits;
- Toughening the Jobseekers' Allowance (JSA) sanctions regime by introducing automatic benefit sanctions for those failing to attend mandatory interviews without good cause;
- Expecting problem drug users on benefits to take appropriate steps, such as drug treatment or employment provision, that support a return to work;
- For lone parents, consulting on whether to require a skills health check and participation in relevant training when their youngest child is five; and

³ Welfare Reform Bill, Explanatory Notes. <http://services.parliament.uk/bills/2008-09/welfarereform.html>

⁴ Department for Work and Pensions (2008) No one written off: reforming welfare to reward responsibility. Public Consultation. www.dwp.gov.uk/welfarereform/noonewrittenoff/

⁵ Department for Work and Pensions, welfare reform webpages - www.dwp.gov.uk/welfarereform/noonewrittenoff/

- Providing adults with disabilities greater control and choice over the combined budget which Government spends on their support⁶.
7. In December 2008, an independent report by Professor Paul Gregg entitled '[Realising Potential: A Vision for Personalised Conditionality and Support](#)'⁷ was published. Conditionality is defined in the report as *'the principle that entitlement to benefits should be dependent upon satisfying certain conditions'*. The review set out a *'radical and ambitious vision'* for a single personalised conditionality regime whereby virtually everyone claiming benefits but not in work should:
- Be required to engage in activity that will help them move towards and then into employment;
 - Have an adviser with whom they will be able to plan and agree a route back to work;
 - Be obliged to act on the steps that they agree will help them; and
 - Be able to access a wider range of personalised support on the basis of need and not what benefit they are on.
8. The review also recommended that the Government should set out a vision for a personalised conditionality and support regime with three broad groups:
- A **'Work-Ready' Group** for people who are immediately job ready akin to the Jobseekers' Allowance regime;
 - A **'Progression to Work' Group** aimed at those where an immediate return to work is not appropriate but is a genuine possibility with time; and
 - A **'No Conditionality' Group** which would involve no conditionality requirements whatsoever. This group would consist of the current Employment and Support Allowance (ESA) support group, lone parents and partners with a youngest child under the age of one, and certain carers.
9. In December 2008, the Government published its White Paper, '[Raising expectations and increasing support: reforming welfare for the future](#)'⁸ based on the findings of the 'No one written off' consultation and the Gregg Review. The Welfare Reform Bill gives effect to those proposals contained within the White Paper which require primary legislation.

AN OVERVIEW OF THE PROVISIONS OF THE WELFARE REFORM BILL

10. The Welfare Reform Bill is comprised of five main parts:

Part 1: Social Security;
 Part 2: Disabled People: right to control provisions of services;
 Part 3: Child Maintenance;
 Part 4: Birth Registration;
 Part 5: Miscellaneous and Supplementary.

⁶ Department for Work and Pensions (2008) No one written off: reforming welfare to reward responsibility. Quick Read Version. www.dwp.gov.uk/welfarereform/noonewrittenoff/

⁷ Gregg, P. (2008) Realising Potential: A Vision for Personalised Conditionality and Support. An independent report to the Department for Work and Pensions. www.dwp.gov.uk/welfarereform/realisingpotential.asp

⁸ Department for Work and Pensions (2008) Raising expectations and increasing support: reforming welfare for the future. www.dwp.gov.uk/welfarereform/raisingexpectations/

11. The purpose of this paper is to provide the Committee with a broad overview of the provisions of the Bill and the reaction of some key stakeholders. It concentrates on Parts 1 to 3 of the Bill. The paper does not go into the detail of the bill on a clause by clause basis. For further detailed information the Committee may wish to refer to three comprehensive research papers on the Welfare Reform Bill recently published by the House of Commons Library:

Part 1 of the Bill

- House of Commons Library, Research Paper 09/08, '[Welfare Reform Bill: social security provisions](#)' (23 January 2009)

Parts 2 to 4 of the Bill

- House of Commons Library, Research Paper 09/09, '[Welfare Reform Bill: disabled people, child maintenance and birth registration](#)' (23 January 2009)

Committee Stage

- House of Commons Library, Research Paper 09/23, '[Welfare Reform Bill: Committee Stage Report](#)' (13 March 2009)

12. The main provisions of the Bill are outlined below. For ease of reference a summary of the responses of some key stakeholders to the provisions is provided. This summary has been largely drawn from two of the House of Commons Library research papers mentioned above. On the 23 October 2008 the Committee for Social Development received a briefing from the Law Centre (NI) on the Welfare Reform Green Paper 'No one written off'. A number of the main issues raised by the Law Centre (NI) are also incorporated.

PART ONE: SOCIAL SECURITY PROVISIONS

13. Part One of the Bill includes provisions to: establish a 'work for your benefits scheme' for the long term unemployed; the eventual abolition of Income Support; new benefit requirements for certain claimants (e.g. lone parents, drug misusers); new provisions relating to the Social Fund; benefit sanctions; benefit fraud; and violence against Jobcentre staff. A synopsis of some of these provisions is set out below:

'Work for your benefits schemes'

14. The introduction of pilot 'work for your benefits schemes' aimed at long-term jobseekers who have received intensive support from Jobcentre Plus and specialist back-to-work providers. 'Work for your benefit schemes' will also be piloted for some jobseekers who likely to benefit from the scheme at an earlier stage of employment. The schemes will be mandatory and are reported to give jobseekers the opportunity to develop their work experience skills through undertaking full-time work experience, based in the community, for a period of up to six months.

Reaction of Stakeholders⁹:

Social Security Advisory Committee (response to Green Paper) - the Committee maintained that it had seen no evidence to suggest that any contemporary 'workfare models'

⁹ Summary points extracted from House of Commons Library Research Paper (09/08), 'Welfare Reform Bill: social security provisions', p22-23.
www.parliament.uk/parliamentary_publications_and_archives/research_papers/research_papers_2009.cfm

were likely to be effective in Great Britain. They also expressed concern about the nature of the activities envisaged, arguing that it should not replace jobs and should provide 'added value' for the participant by addressing education and skills needs as well as barriers to working. The SSAC were also concerned about how the claimant could combine 'work for benefits' with jobsearch activities.

Child Poverty Action Group (response to Green Paper) – argued the proposals amounted to 'workfare' and highlighted that recent Department for Work and Pensions' commissioned international comparative research¹⁰ suggested that there was little evidence that workfare programmes increase the likelihood of finding work. CPAG also stated that the workfare option would be '*unlikely to achieve more than stigmatising a small group*'. CPAG supported people engaging in community work on a voluntary basis but did not support forced full time work experience. They also maintained that, '*there is an important point of principle that work should be decently paid. The single rate of jobseeker's allowance is £60.50, which works out at £1.73 per hour on a 35 hour week, £4 less than the national minimum wage*'.

Law Centre (NI) (Submission to the Committee for Social Development)¹¹ – also maintained that the proposals amounted to a form of workfare and that the DWP's own commissioned research questions the effectiveness of 'work for benefits' in reducing claimants numbers, improving employability outcomes or helping claimants with multiple problems back to work. Law Centre (NI) further states that '*in an economic climate which is likely to become more difficult in the immediate future there is a potential for 'work for benefit' to displace real employment while stigmatising the long term unemployed*'.

Lone Parents and Personalised Conditionality

15. From November 2008 most lone parents with a youngest child aged 12 or over are no longer eligible for Income Support and must instead claim Jobseekers' Allowance (JSA) which means that they will be required to be available for and actively seeking work. This is the first step in a series of planned changes which will mean that by 2010 most lone parents with a child aged seven or over must claim JSA rather than Income Support, or Employment and Support Allowance if they have a disability or health condition and cannot work.

16. The July 2008 Green Paper 'No one written off' also proposed mandatory 'skills health checks' for lone parents when their youngest child reaches five and attendance at relevant skills training if skills gaps are identified.

17. The Bill's Explanatory Note states that the proposed powers in the Bill will underpin Professor Gregg's recommendation that in the long-term parents with younger children should generally be part of a 'Progression to Work' group, for whom an immediate return to work is not appropriate but is a genuine possibility within time.

Reaction of Stakeholders¹²:

Child Poverty Action Group (response to White Paper) – sought a reinforcement of the commitment that lone parents would not be forced to apply for specific jobs, attend job interviews, take any particular form of employment or place a pre-school child into inappropriate childcare against the will of the parent.

One Parent Families/Gingerbread (response to White Paper) – stated that giving further

¹⁰ Richard Crisp and Del Roy Fletcher (2008) A comparative review of workfare programmes in the United States, Canada and Australia. DWP Research Report No 533.

www.dwp.gov.uk/asd/asd5/rports2007-2008/rrep533.pdf

¹¹ Law Centre (NI) Briefing for the Social Development Committee of the Assembly. October 2008.

www.lawcentreni.org/Policy/Briefing%20papers/Welfare%20to%20Reward.htm

¹² House of Commons Library Research Paper (09/08), Op cit, p35-36.

sanctioning powers to jobcentre officials would not create the partnership approach that single parents needed from advisers.

Citizens Advice Bureau (response to White Paper) – stressed the need for affordable high quality childcare and for employers to have in place the flexible working arrangements which lone parents would require. CAB also highlighted that the changes would require *‘major investment in ensuring Jobcentre Plus is equipped to provide this support at a time when accelerating job losses are placing increasing demands on already overstretched staff and services. As things stand it is doubtful that Jobcentre Plus staff will have the necessary skills, training, time and support they need to do the job’*.

Law Centre (NI) (Submission to the Committee for Social Development)¹³ – stressed that an approach which seeks to engage partners of claimants in looking for work and undergoing training on a voluntary basis would be welcome. However, it maintains that making this compulsory would particularly affect partners of claimants aged 50 and over, who as grandparents, play a pivotal role in childcare. The Law Centre (NI) further maintains that the provision of affordable childcare in Northern Ireland is patchy and that *‘the whole question of available and affordable childcare needs to be addressed in Northern Ireland before such proposals are implemented’*.

The Law Centre (NI) further highlights that Northern Ireland, unlike England and Wales, does not have ‘wrap around childcare’ nor is there a statutory duty to provide sufficient childcare for working parents. The Law Centre (NI) therefore proposes that *‘Until a childcare strategy with a lead Department is in place and the recommendations in the recent OFMDFM committees report is implemented we think it is inappropriate for such arrangements to be introduced in Northern Ireland’*.

Simplification of the Benefits System and the Abolition of Income Support

18. The December 2008 White Paper ‘Raising expectations and increasing support’ outlined that the Government was still attracted to the idea of a single working age benefit. As a step towards the simplification of the benefits system it proposed to abolish Income Support and establish a system of working age benefits based around Jobseekers’ Allowance and Employment and Support Allowance. Clause seven of the Bill provides for the abolition of Income Support if there are no longer any groups of people that require Income Support.

Reaction of Stakeholders¹⁴:

Disability Alliance – questioned the capacity of Jobcentre Plus, given budgetary constraints, to administer a single benefit with multiple levels of conditionality depending on the individual circumstances of the claimant.

Citizens Advice – expressed concern with regard to the abolition of Income Support and the plans to move lone parents and carers to a modified form of JSA. Citizen’s Advice that this would undermine the basic principle of JSA (i.e. a benefit intended for people who are immediately available for work or actively seeking a job).

Law Centre (NI) (Submission to the Committee for Social Development)¹⁵: expressed doubts about the movement of carers from Income Support to a modified JSA regime. Law Centre (NI) welcome a voluntary approach to engaging with carers who wished to look for work or take up training, however, it noted that in effect many carers were already in full time work in their role as carer.

¹³ Law Centre (NI) (2008), op. cit.

¹⁴ House of Commons Library Research Paper (09/08), Op cit, p38-40.

¹⁵ Law Centre (NI) (2008), op. cit.

New Rules for Claimants Dependent on Drugs

19. Clause 9 and Schedule 3 of the Bill make provision to impose certain requirements on persons claiming JSA who have a propensity to use drugs. This includes requiring them to answer questions about their use of drugs, their treatment and whether it affects their chances of finding work. The Bill also includes a regulation-making power which may require someone to undertake a substance-related assessment or a drug test for those who refuse to take part in a substance-related assessment.
20. Paragraph six provides powers to require compliance with a rehabilitation plan if a person is dependent upon or has a propensity to use drugs and it is affecting their ability to find work. There are also sanctions contained within the Bill for those who, without good cause, fail to comply with requirements and the Bill contains provisions to permit the Secretary of State to make regulations extending the provisions to those who misuse alcohol.

Reaction of Stakeholders¹⁶:

Social Security Advisory Committee (response to Green Paper) – stated that *‘It is our understanding that all the evidence points to drug rehabilitation programmes being most effective when the client actively wishes to engage in treatment. Taken together, coercion and the removing of income have the potential to make a bad situation worse’*. The SSAC also maintained that the Green Paper had failed to consider the knock-on effects of the proposals in relation to child poverty or child welfare. The SSAC instead supported a voluntary approach to treatment.

DrugScope: welcomed closer links between Jobcentres and drug treatment providers, however, it also expressed concern over the proposals – *“Genuine support and encouragement to help drug users into employment is welcome, but compulsion and threats of benefit sanctions could do more harm than good, risking further marginalisation. The stigma faced by people in drug treatment and the concerns of prospective employers need to be addressed, as do associated problems of homelessness, debt and poor physical and mental health.”*

Law Centre (NI) (Submission to the Committee for Social Development)¹⁷ – believe that *‘the proposals to sanction drug addicted claimants who do not attend a treatment programme is wrong in principle and will not work in practice’* and highlight that research suggests that voluntary engagement with people with drug dependency problems is more successful than compulsory treatment.

Adult Dependency Increases with Maternity Allowance and Carer’s Allowance

21. The Bill contains provisions for the removal of Adult Dependency Increases (ADIs) from Maternity Allowance and Carer’s Allowance. The clause will abolish the payment of ADIs for all new claims to maternity allowance and carer’s allowance at the same time as they cease to be available on new claims to state pensions in 2010.

The Social Fund

22. The Bill also includes measures to reform the Social Fund. In November 2008 the Government published the consultation document [‘The Social Fund: A new approach’](#)¹⁸ which invited views on the merits of allowing some credit unions and similar third sector organisations to take over the provision of credit to social fund

¹⁶ House of Commons Library Research Paper (09/08), Op cit, p51-55.

¹⁷ Law Centre (NI) (2008), op. cit.

¹⁸ Department for Work and Pensions (2008) The Social Fund: a new approach.
www.dwp.gov.uk/consultations/2008/social-fund-new-approach.asp

customers in their areas, under contract from the Department for Work and Pensions. The Bill implements this proposal and clauses are included to allow for the provision of 'external provider social loans'.

Reaction of Stakeholders¹⁹:

Some of the organisations responding to the DWP consultation 'The Social Fund: a new approach' have expressed reservations with regard to the consultation process. **Citizen's Advice**, for example, stated '*While we understand the imperative to make at least enabling provision for social fund reform in the forthcoming welfare reform bill, we are extremely disappointed in the consultation process. The three week consultation period is not only at odds with Government guidelines on consultations, but is completely out of proportion with the significant changes being suggested.*'

Concerns expressed by **Citizen's Advice**, **Carers UK** and **Disability Alliance** include:

- The danger that it could lead to inconsistent and patchy service across the country (i.e. a postcode lottery);
- Possible conflict of interest when a single body is awarding loans, providing financial advice and providing other financial services;
- Issues around decisions and appeals; and
- Issues around how contractors would be monitored.

Benefit Sanctions

23. Part One of the Bill includes amendments to allow for the loss of benefit following one or more conviction, penalty or caution for benefit fraud. Clause 20 introduces a new sanction provision for those in receipt of JSA who have been convicted or cautioned for violence against Jobcentre staff or anyone exercising functions under the Jobseekers Act 1995.

24. Clause 24 of the Bill provides for escalated sanctions for failure to attend JSA interviews. Under the Jobseekers Act 1995 entitlement to JSA ceases for between one and five days if the claimant fails to attend mandatory interviews without evidence of good cause. Under the new provisions contained within the Welfare Reform Bill entitlement to JSA will continue but will not be payable for a fixed period of at least one week and not more than two weeks for failure to attend an interview. If a person fails to attend a second or subsequent time, a fixed sanction of two weeks will be applied.

Reaction of Stakeholders²⁰:

Child Poverty Action Group (response to Green Paper) – suggested that there were risks in overemphasising the problem of fraud, maintaining the '*problem of fraud (and loss to the tax payer) is smaller than that of non-take up...yet the Green Paper has nothing to say about how those missing out on their entitlements can be helped claim.*'

Law Centre (NI) (Submission to the Committee for Social Development)²¹ – maintain that benefit sanctions do not work effectively. Law Centre (NI) quotes an occasional paper published by the Social Security Advisory Committee entitled 'Sanctions in the benefit system: Evidence review of JSA, IS and IB sanctions'. This paper noted that evidence including the Department's own research suggested that a significant proportion of claimants did not know they had been sanctioned until after their benefit had been stopped or reduced and that the impact of sanctions on behaviour was limited.

With regard to sanctions for violence against DWP staff:

Social Security Advisory Committee (response to Green Paper) – agreed that there should be a 'zero tolerance' approach to dealing with violence, or the threat of violence,

¹⁹ House of Commons Library Research Paper (09/08), Op cit, p65-73.

²⁰ Ibid, p78-87.

²¹ Law Centre (NI) (2008), op. cit.

towards staff. However, the Committee did not support the use of benefit sanctions and that the criminal and civil law process should be used.

Disability Alliance - expressed concerned that the imposition of financial sanctions due to a threat of violence could arise if an adviser were to misunderstand the effects of a person's mental health condition or learning disability. Disability Alliance suggest that frontline Jobcentre staff should be given training and guidance to recognise the symptoms and signs of mental distress and that staff should be adequately supported, trained and resourced.

The **Government's 2008 White Paper** - highlighted that 'in 2007-08 there were over 16,000 reported assaults on Jobcentre Plus staff, the overwhelming majority of which were 'verbal assaults'. It went on to state that it recognised the concerns of respondents in regards to the impact of the sanctions on vulnerable groups such as those with mental health problems. The White Paper states, '*We recognise these concerns, but we do not believe that they amount to a reason for weakening the structure of conditionality which necessarily underlines our aims for welfare reform. We will continue to ensure that each individual's circumstances are carefully considered before imposing a sanction*'.

With regard to escalating sanctions for failure to attend interviews:

Citizen's Advice (response to Green Paper) – suggest that there has been little research into why claimants fail to attend and maintain that it is often vulnerable clients (such as those with learning disabilities) who fail to attend. Citizen's Advice were concerned that '*without proper probing of claimant's failure to attend and without sufficient Disability Employment Advisers, there is a serious risk that vulnerable claimants will be unfairly and inappropriately sanctioned*'.

State Pension Credit Pilot Schemes

25. Clause 21 of the Bill makes provision to pilot, for a period of up to two years, ways in which Pension Credit entitlement may be calculated and paid in order to increase the numbers of eligible persons receiving benefit. The clause allows regulations to be made which would permit the payment of Pension Credit without a claim being made and with modified rules concerning how entitlement is determined.

Reaction of Stakeholders²²:

Age Concern - welcomed the proposed pilots but argued that a system of automatic payments was the only effective way of reaching many older people. This was a view also held by **Help the Aged**.

Contracting Out Employment Services

The Bill contains a general provision to allow the contract out of certain employment services to private and voluntary sector organisations. Central to this is the Flexible New Deal (FND), which will be introduced from October 2009 and will provide contracted-out services for those who remain on the programme for more than 12 months.

Reaction of Stakeholders:

Law Centre (NI) (Submission to the Committee for Social Development) – with regard to the proposed contracting out of certain employment services, Law Centre (NI) state that, '*In Northern Ireland, the extensive use of private and voluntary sector has not been proposed to date. In light of the changing economic conditions we have serious concerns around how a results driven contract culture will work when dealing with long term unemployed claimants who may be a long way from being readily available to resume work. As a result, we support the Department's current position*

²² House of Commons Library Research Paper (09/08), Op cit, p94-95.

on use of voluntary and private sector external providers’.

Focused Work Interviews for the over 60s

26. From April 2010 the process of equalising state pension at age 65 for both men and women will begin. The state pension age for women will gradually increase over a 10 year period until it reaches 65. To reflect these changes, the age at which a person will be required to take part in work-focused interviews will also increase.

Reaction of Stakeholders²³:

Citizen’s Advice welcomed the additional help to those over 60 who want to go back into employment, however, they do not feel it is necessary to make this support mandatory. **Age Concern** recommends that a strategy for increasing the employment opportunities for those seeking to remain or return to work is developed and implemented.

PART TWO: PEOPLE WITH DISABILITIES AND THE RIGHT TO CONTROL PROVISION OF SERVICES

27. According to the Bill’s Explanatory Notes, the purpose of this part of the Bill is to enable disabled people aged 18 and over to have greater choice and control over the way certain services are provided to or for them by defined public authorities. This part of the Bill contains a series of enabling powers which will allow the making of regulations which will confer a ‘right of control’ on people with disabilities.

28. The Bill extends the use of ‘individual budgets’ for social care and enable people with disabilities to have control over how resources are spent. The Bill includes regulations to allow for the development of temporary ‘trailblazer’ pilot schemes to be set up before regulations are brought into force. The Bill also includes provisions to enable the ‘right of control’ to be exercised by another individual were the person with a disability lacks the mental capacity to make decisions.

Reaction of Stakeholders:

Law Centre (NI) (Submission to the Committee for Social Development) – argue that the direct payments scheme in Northern Ireland has not developed in to a significant degree. Law Centre (NI) suggests that this is, at least in part, because there was a lack of initial planning and limited support for individuals wishing to take up this option. Law Centre (NI) welcomes the principle of providing people with a disability a meaningful choice of managing and buying services if they wish to do so. However, it maintains that this should be properly planned with the necessary back-up support available to disabled people if things do not go as planned.

PART THREE: CHILD MAINTENANCE

29. Currently the courts have the power to disqualify from driving or confer a prison sentence on non-resident parents who fail to pay child maintenance. The Child Maintenance and Other Payments Act 2008 (England and Wales) added to these powers by disqualifying an offending non-resident parent from holding or obtaining travel authorisation (e.g. passports).

30. Part Three of the Welfare Reform Bill makes provision to allow the Child Maintenance and Enforcement Commission (in England and Wales) to make the decision to disqualify a non-resident parent from holding or obtaining a driving

²³ Ibid, p104.

licence or travel authorisation. The Court would instead deal with appeals against the Commission's decision.

Reaction of Stakeholders:

A joint Memorandum to the Welfare Reform Public Bills Committee from Families Need Fathers, Resolution, The Centre for Separated Families, Jewish Unity for Multiple Parenting, Mothers Apart from their Children²⁴ expressed concern regarding the potential confiscation of driving licence and travel documents and raised a number of issues:

- CMEC may deprive individuals of their driving licences even when they are need for the person's livelihood;
- Provision depends on the Child Maintenance Enforcement Commission's (CMEC) ability to communicate effectively with the person whose license or documents they intend to confiscate (e.g. how will CMEC ensure that paperwork does not go to the wrong address or that the non-resident parent receives the paperwork); and
- That the provisions may be in breach of the European Convention on Human Rights (i.e. right to a fair trial) by denying a citizen's direct access to the courts.

Similar concerns were raised by a number of respondents to the Government's consultation on a 'New System of Child Maintenance' with a number of respondents questioning the human rights implications and seeking reassurances that staff would be sufficiently well trained and accredited to administer the proposed new approach²⁵.

CONCLUSIONS

31. The Law Centre (NI) in its submission to the Committee for Social Development on the Green Paper 'No one written off' suggested that there was an opportunity to develop proposals for Northern Ireland which would encourage claimants back to work but which would recognise local conditions, circumstances and social security administrative arrangements.
32. The Law Centre (NI) further suggests that there is sufficient flexibility to allow Northern Ireland to follow developments in Britain by adapting provisions that work but avoiding those arrangements that do not. The Law Centre (NI) was particularly concerned about the lack of available and affordable childcare in Northern Ireland and the practical implications of rolling out the proposals for lone parents. Law Centre (NI) maintains that its *'strong view is that proposals to get claimants back to work should focus on positive engagement and not compulsion backed by benefit sanctions'*²⁶.

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²⁴ Memorandum available at

www.publications.parliament.uk/pa/cm200809/cmpublic/welfare/memos/ucm302.htm

²⁵ Department for Work and Pensions (2007) A New System of Child Maintenance: Summary of responses to the consultation, p12. www.workandpensions.gov.uk/childmaintenance/pdfs/cm-response-summary.pdf

²⁶ Law Centre (NI) (2008), op. cit.