



NIPSA RESPONSE TO THE

WELFARE REFORM BILL

19th October 2012

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1. INTRODUCTION

- 1.1 NIPSA as the largest public sector trade union in Northern Ireland with over 46,000 members welcomes the opportunity to respond to the NI Welfare Reform Bill.
- 1.2 NIPSA is in the unique position of having a significant interest in the social policy aspects of the Bill which will impact on society and on many NIPSA members who are currently in receipt of a number of existing benefits such as Child Tax Credits, Working Tax Credits and Housing Benefit. In addition the proposed changes also affect those who are unable to find employment or who are unable to work for a wide range of reasons including disability, unavailability of appropriate affordable childcare and unavailability of work.
- 1.3 In addition NIPSA represents the staff in the Social Security Agency and the NI Housing Executive, who currently deliver the majority of the benefits impacted upon by the Welfare Reform Bill. The Outline Business Case which has been produced by the Department of Social Development and accepted by the Department of Finance & Personnel indicates that by 2017 there will be significant job losses brought about by the introduction of Universal Credit and other benefits impacted upon by the Welfare Reforms. It is estimated 1,630 jobs (35% of the current workforce) will be lost across the SSA, NIHE and HMRC. For this amongst other reasons NIPSA are opposed to these welfare cuts. At a time of high unemployment, with NI at 8.2%, being the highest of all 12 regions with the staggering figure of 23.4% youth unemployment being well above the UK average of 19.3%. The promise of further public sector job losses will have a further negative impact on the economy and is not acceptable. NIPSA is calling on the NI Assembly to address this important issue and ensure there are no job losses as a result of any change to the social welfare system in Northern Ireland. NIPSA believes that at the current time

there are neither the jobs nor employment opportunities available to address the objectives of the proposals contained in the NI Welfare Reform Bill and we are seriously concerned that the safety net of the Welfare State will be removed at a time when it is needed more than ever. We are of the view that just to remove the drastic aspects of this Bill is not enough as the remainder will impact negatively on thousands of citizens in NI and that is not acceptable. We are not alone in our views on this and other major organisations among the Voluntary and Community Sector and the Churches share one voice in our opposition to a Bill that is predicated on cuts. We are therefore responding on the basis that we are opposed to this Bill and our comments are an attempt to lessen the impacts of these proposals by removing and/or amending clauses. We attempt to provide clarity and information on the negative ramifications in order to aid the Committee's scrutiny of the Bill using the experience and expertise of our Trade Union Sides in the impacted organisations. This is in order that when the Committee are aware of the huge damage that these welfare cuts will mean for our society in Northern Ireland that you will refuse to implement them.

- 1.4 NIPSA are aware that the Department of Social Development are using the Family and Resource Survey figures for 2009/10 which in our view does not reflect the current economic circumstances and therefore will give a flawed picture of who and how many families will be affected by the changes which will come about if the Bill is enacted. NIPSA would insist that updated and relevant figures from the 2010/11 FRS data are used to test the negative impact, as this will best reflect the downward shift in the economy.

2.0 CONSULTATION ARRANGEMENTS

- 2.1 NIPSA is deeply concerned at the arrangements for consultation by the Social Development Committee whereby the draft Welfare Reform Bill was tabled in the NI Assembly on 1st October 2012 and the Social Development Committee are seeking comments on the draft Bill by 19th October 2012. Given the significance of elements of this Bill to NI society and the negative impact on the NI Economy, with approximately £500m being removed from the economy it is

inappropriate for the Committee to give interested organisations and stakeholders less than 3 weeks to compile detailed and comprehensive responses. NIPSA would therefore formally request that the Committee extend the period by which evidence to the Committee can be submitted and heard.

2.2 This response is therefore prepared within the unacceptable constraints imposed by the Social Development Committee as our initial response. NIPSA reserves the right to raise further issues and evidence with the Committee beyond 19th October 2012.

3.0 UNIVERSAL CREDIT – PART 1 [CLAUSES 1 – 44]

3.1 **Clause 1** – While NIPSA is supportive of the simplification of the benefit system, NIPSA do not believe that Universal Credit will deliver a more simple and straightforward application process for claimants. Any new or revised benefit will require significant support from well informed and highly trained staff who can explain the process to applicants. Given it is envisaged that this benefit will primarily be delivered on-line NIPSA has serious reservations that those who are less IT literate, who don't have ready access to IT and those with physical and mental health issues will be severely disadvantaged. Indeed we have not seen any proposals by DSD to address these issues and we are aware of a previous PricewaterhouseCooper (PWC) report commissioned by the SSA, in relation to the Strategic Business Review that concluded that claimant's preferred face to face contact as opposed to Web based contact. This could be due to age; complexity of personal circumstances etc and claimants need to be able to have face to face interaction with the Benefit office.

3.2 **Clause 2** - NIPSA has grave reservations regarding this clause. In the main the award of a payment to a "couple" will be paid to the male. There are significant issues with this proposal such as domestic violence, alcoholism, gambling etc. There is a significant body of evidence which shows that in the majority of cases the main responsibility for child care is predominantly carried out by the mother. Therefore if the claim is paid to the household, assuming that this is the male in the household, then it is of concern that both the mother

and the children in the family may suffer. It is readily accepted that the mother generally takes responsibility currently for the payment of household bills and food. This clause is potentially discriminatory to women and children. NIPSA believes this clause should be subject to further scrutiny under Section 75 of the NI Act. NIPSA understands that this facility may be achieved through the IT systems.

- 3.3 NIPSA would wish to ensure that full consultation takes place on any Regulations in which a member of a couple may make a claim as a single person. The example in the explanatory memorandum which accompanied the Bill is very narrow eg “*where one member of a couple does not have a right to reside in Northern Ireland*”. This is not acceptable and there will need to be many other “circumstances” when this would be applicable. NIPSA would strongly advocate that the default should be a single claim with the option of a household claim.
- 3.4 **Clause 4** – NIPSA has concerns that to be eligible for Universal Credit an individual “*is at least 18 years old*”. NIPSA believes there are a range of circumstances where this threshold needs to be lower to ensure that a young person, who is not currently living in a family unit, has access to Universal Credit. This could be where a young person is coming out of the care system or is estranged from their parents for a variety of reasons.
- 3.5 **Clause 4** – NIPSA also have reservations regarding the claimant commitment which is commented on later in this submission [See 4.2].
- 3.6 **Clause 5** – NIPSA welcomes the introduction of a proposed taper which means that an individual who finds employment is able to retain more of their earned income before their universal credit award begins to reduce. NIPSA however believes this should be set at the highest level possible and reserves our position on this matter pending the publication of the corresponding regulations.
- 3.7 **Clause 6** – NIPSA reserves its position in respect of this clause until the Regulations are available.

- 3.8 **Clause 7** – NIPSA is opposed to monthly payments of Universal Credit and believes that this should be the choice of the claimant. For those who have recently become unemployed and who had been used to monthly budgeting the payment of Universal Credit on a monthly basis may be appropriate. For others who have been used to weekly payment of wages or who have been in the benefit system for a period of time the transition to monthly payment is likely to cause serious financial hardship. NIPSA would therefore wish to ensure that there should be choice at the commencement of each period of new claim for an option to be exercised by each claimant for either fortnightly or monthly payment. In a recent survey 67% of those in employment are paid monthly; 4% paid fortnightly and 29% weekly. NIPSA would suggest that those in lower paid and potentially less secure employment are currently paid weekly and a move to monthly payment of benefits would cause financial hardship should they become unemployed. It is imperative therefore that the IT system is flexible enough to ensure that choice is given to those claiming and in receipt of Universal Credit. NIPSA would argue that choice is the default position. NIPSA understands that DWP have agreed to the amendments to the IT facility to allow for fortnightly payments.
- 3.9 **Clause 8** - NIPSA is concerned that a household will have a cap applied irrespective of the circumstances within the household ie the number of children within that household. Northern Ireland has a greater number of larger families than the rest of the UK and therefore as child benefit is to be incorporated into the cap along with a range of other benefits then the cap [which has been published elsewhere as £26,000] will disadvantage those with larger families. Therefore the impact on children of larger families in relation to educational outcomes, health and wellbeing etc will be diminished. NIPSA believes this element therefore needs to be subject to the rigors of equality legislation as it has the potential to be discriminatory towards children.
- 3.10 **Clause 9 – Standard Allowance** - See earlier comments at para 3.2 (Clause 2) regarding the treatment of joint claimants.
- 3.11 **Clause 10 – Responsibility for Children and Young Persons** – Research has highlighted that there is a higher cost of living for disabled persons and on

that basis the text in clause 10 (2) states that regulations may make provision for the inclusion of an additional amount if such a child or qualifying young person is disabled. It is difficult to judge without the detail of the regulations if this means that the Benefit Cap would be extended to allow for additional elements for children and young persons and if that were the case we would welcome that, indeed the same applies for Para (4) that may provide for exceptions.

3.12 **Clause 11 – Housing Costs** – NIPSA has serious reservations about this clause. It appears that those families living in the social rented sector are to be seriously disadvantaged. Currently the housing waiting lists are 40,080 with 22,156 in housing stress. Therefore it is difficult to understand how families who will be impacted upon by the “under occupancy” proposals are to be dealt with. One example could be where a young person is away from the family home for a period of time and is likely to return. This could be because the young person(s) are attending university or away from home to obtain work. In those circumstances NIPSA believes parents, or those with parental responsibility, should not be disadvantaged by the “under-occupancy” proposals. This proposal specifies that social tenants who under occupy a home by 2 or more bedrooms are to face a reduction in Housing Benefit by 25%. Those who under occupy by 1 bedroom are to face a 14% reduction in Housing Benefit. Clearly this will have a significant impact on these households and may force tenants to seek to move to a home with a lesser number of bedrooms which are currently unavailable.

In the NI context the housing stock is not available to realise the proposed legislation. Furthermore 90% of the social housing stock in Northern Ireland is segregated. Therefore NIPSA would suggest that as a different housing structure is in place in Northern Ireland then a different solution must be found for Northern Ireland which recognises the fact that we are coming out of over 30 years of conflict which has lead to this segregation. While it is recognised that the NIHE is doing excellent work to address this and introduce new “mixed housing” this represents only 10% of the social housing stock.

It is also unclear how this clause will be applied and interpreted when it comes to families who do not live in the same household. Will a parent who has access to a child for a number of days or nights per week be penalised by the under-occupancy rules. In addition there are serious child protection issues whereby a child may be expected to sleep in the same bedroom as a male parent. Thereby this clause has the potential not to address the requirements of the Children's Order which put the rights of the child at the centre. NIPSA supports the rights of the child in relation to the Children's Order but also has serious reservations that the implications of Clause 11 could lead to the further breakup of families and access of parents to children because of under occupancy rules. Again NIPSA are concerned that there appears not to be any work carried out on how many, where and whom exactly this will impact upon. Without that this clause needs to be removed as in the NI context it will simply not work.

4. CHAPTER 2

Conditionality and Sanctions [Clauses 13 – 30] Claimant Responsibilities

- 4.1 **General:** NIPSA has significant concern over the clauses set out in Part 2 on the basis of the current economic climate in Northern Ireland. Currently there are over 63,000 on the unemployment register with another 50,000 deemed as economically inactive but who are willing to work if there were suitable employment opportunities. This means that there are approximately 113,000 people looking for jobs but only 3,000 vacancies (July 2012 DETI report).

As the Committee will be aware with unemployment in NI rising (currently at 8.2%) which is different from the rest of the UK then we argue strongly that it is inappropriate to put in place higher level conditionality which individuals will not be able to meet because of either the lack of jobs or lack of affordable childcare. Unlike the rest of the UK, Northern Ireland has no childcare strategy and on that basis, along with high unemployment and low vacancies rates, we strongly believe that the punitive measures contained within these

clauses cannot work and to implement them without available jobs is reckless and the clauses should be removed.

NIPSA also has concerns that individuals may find it difficult to take up employment even if it is available depending on whether it is accessible from a transport perspective. Outside of the central Belfast area there is a lack of public transport which would allow someone to take up work as there may not be suitable transport links to ensure they could get to and from work within a reasonable period of time.

- 4.2 **Clause 14 - Claimant Commitment** - What happens in the circumstances whereby only one of a couple signs up to a claimant commitment? Does the sanction apply to the “couple/household”? This could therefore impact on one of the “couple” and children. NIPSA would propose that this clause needs to ensure that in this set of circumstances there is no detrimental impact on the second adult in the couple or the children in the family unit.

In addition NIPSA has concerns regarding the claimant commitment and the work preparation, work search and work availability requirements in the current climate of high unemployment.

- 4.3 **Clause 15 – Work Focused Interview** – NIPSA reserves our position until we see the details of the regulations.

- 4.4 **Clause 16 – Work Preparation Requirement** - In the current economic climate it is unrealistic for individuals to be expected to obtain work at a higher rate of pay, additional hours etc. It is also of concern that the work preparation requirement may include taking part in a health-related assessment to be carried out by a health professional. It would appear this is aimed at those who are unable to work because they have a disability. This pigeon holes these individuals and focuses the individual on what they cannot do, not what they can do. This goes against all that those charged with responsibility for assisting disabled people have worked hard on. I.e that the person focuses on the positive rather than negative.

- 4.5 **Clause 17 – Work Search Requirement** - NIPSA believes that while it is realistic to ask someone to look for work while they are unemployed it is unrealistic to ask them to spend all of their time in seeking a job when there are severely limited job opportunities. For those who are unemployed for a longer period of time they can only fill in application forms, register with employment agencies, seek references etc for as long as it reasonably takes. NIPSA believes that rather than stipulate that the person must look for work on a full time basis that it should stipulate they are expected to take all reasonable steps to find work.
- 4.6 **Clause 18 – Work-Availability Requirement** – Similarly NIPSA believes in the current economic climate the ability of individuals to take up paid work, increase the number of hours they work or get paid work is severely restricted and therefore would recommend that this clause is not implemented until the economic situation significantly improves.
- 4.7 **Clause 19 – Claimants subject to no work-related requirement** - Para (1) states that the Department may not impose any work related requirement on a claimant falling within this section i.e. a claimant with limited capability for work-related activity. More people failing the Work Capability Assessment means that more people with health conditions have to claim Job Seekers Allowance and so will be subjected to an inappropriate requirement of work-related activity if the Department did not decide to exempt them. Similarly for a claimant with responsibility for a child under the age of one, support for childcare costs must ensure that work pays for a parent on minimum wage with childcare costs. But this is not addressed and there is no childcare strategy. If the system cannot guarantee that it can make work pay in these circumstances then the associated conditionality regime cannot be applied. We reserve our position to further comment when the detail in the regulations is known.
- 4.8 **The above also refers to clauses 20 and 21.**

4.9 Clause 22 – Claimants subject to all work –related requirements

As far as we can understand where a claimant is able to take up full time work at 36 hours then these numbers of hours are to be used to find a job? It is not clear from the Bill if this is the case but we have gleaned this information from Hansard records of evidence provided by the Department. If this is the case we find it unrealistic. Particularly in the current circumstances of high unemployment this work related requirements that cannot be met may attract an unreasonable sanction which we will deal with under paragraph 26.

4.10 Clauses 23, 24 and 25 - Connected requirements, Imposition of requirements, Compliance with requirements

There are many barriers to participation in the workplace for different categories of society. People over the age of 50 could find it harder to find work due to discriminatory practices yet there is no recognition of barriers but rather requirements and compliance which is deeply worrying given that Universal Credit is predicated on conditionality and sanctions.

4.11 Clause 26 - Higher Level Sanctions

NIPSA have already made the point about the barriers that exists that prevent claimants from taking up work - lack of jobs, lack of affordable childcare and health issues. Taking that into account we are alarmed that Universal Credit aims to penalise people who are victims of unemployment. A reduction of a claimant's award in the event of certain failures (barriers) could last up to 3 years. This will lead to hardship and in reality destitution. Whilst we find it reasonable to expect a job seeker to look for work this clause states that if a claimant fails to comply with a requirement imposed under a work search requirement to apply for a particular vacancy for paid work or by not taking up an offer of paid work then a sanction will apply. There could be issues with regard to the location of the job which may render it unsuitable due to no available public transport, but this clause could deem that as failure to comply and thus attract a sanction. There will also be sanctions applied to those claimants who by reason of misconduct or voluntarily and for no good reason ceased paid work or lose pay. It is NIPSA's experience that there are some

rogue employers who by nature of their behaviour cause people to be ill and those people are eventually sacked for dubious reasons and NIPSA are concerned that they will fall into the category of being blamed for leaving work and a sanction being applied and NIPSA deem that unfair.

NIPSA would state that as it has been accepted that NI has unprecedented unemployment that where there is a precarious job situation with high levels of casual and part time employment then a sanction for not finding work or increasing hours or pay cannot apply and as such these clauses need to be removed. This is an operational issue and, in our view, does not breach parity arrangements on the rates of benefit and failure to have in place a safety net has the potential to remove people from the system altogether.

- 4.12 **Clause 30 – Delegation and contracting out** - NIPSA has severe concerns that these reforms and the parallel clauses are the platform which will lead to the privatisation of both front-line and back office functions. Which will lead to a system run for profit which forgets about those that it is there to provide for, we would point out the issues surrounding the ATOS contract. NIPSA are committed to a fully functioning social security provision that should be carried out by public servants.

5. PART 2 – WORKING-AGE BENEFITS – CHAPTER 1 – JOBSEEKER’S ALLOWANCE – *Claimant responsibilities for interim period*

- 5.1 **Clause 45 - Claimant commitment for jobseeker’s allowance** - NIPSA is strongly opposed to the use of the phrase “*other person*” in line 11-14 of clause 45 where it states the commitment may be drawn up by “*or other person as may be designated by the Department*”. NIPSA would contend that this is clearly a role for the Department of Social Development or the Department for Employment and Learning and is totally opposed to any other third party carrying out functions currently undertaken by members in the NICS departments.

- **5.2 Clause 46 – Interviews** - NIPSA would ask for further clarification on what is meant by “*conducting interviews remotely*” as referred to on Section 220 of page 35 in the Explanatory and Financial Memorandum and page 25,

line 4 of Clause 46 of the Bill where it states “*participate in an interview in such manner, time and place*” as the Department or Department for Employment and Learning see fit. NIPSA would require further clarification on the implications of this point and await the outcome of a proposed pilot by the Department for Employment and Learning currently being undertaken in the Employment Service.

5.3 Clause 47 –Sanctions - NIPSA would require more clarity on the detail of Higher Sanctions with regards to Misconduct as referred to in Clause 47, line 11, 2 (a) “*through misconduct loses employment as an employed earner;*” and in the Explanatory and Financial Memorandum section 230, page 37 “*a sanction will not be applied if the claimant can demonstrate good reason for the failure (except in cases where the claimant loses a place on a training scheme or employment programme through misconduct)*”- does this include disputed cases of dismissal via misconduct and cases where the claimant was dismissed but has a tribunal or other legal measures pending with regards to their dismissal?

NIPSA is further opposed to the Imposition of Sanctions on non work required benefit claimants who may voluntarily leave employment as outlined in Clause 26, Other Sanctions, lines 39-42 which allow for these claimants to be treated the same as full work group for the purposes of sanction if they cease employment. NIPSA is opposed to the mandatory work requirement for disabled people and therefore opposed to the sanctioning of benefits for disabled people who are already in work based, on their decision to voluntarily leave that work.

NIPSA would also be seeking further clarity around the role of the imposition of sanctions and who imposes the sanction on the benefit of the client.

NIPSA would also seek further clarity on the duration of sanctions as referred to in section 223 of the Explanatory and Financial Memorandum which states “*a claimant’s award of jobseeker’s allowance or joint-claim jobseeker’s allowance to be reduced for up to three years in respect of any one failure where they have failed to meet the most important requirements placed upon them*”.

6.. **PART 2 - CHAPTER 2 - EMPLOYMENT AND SUPPORT ALLOWANCE**

6.1 **Clause 51 – Dual Entitlement** - The dual entitlement arrangements could see a person not sanctioned under ESA but sanctioned under Universal Credit if they had dual entitlement.

6.2 **Clause 52 - Period of entitlement to contributory allowance** - “Time Limiting” of the Period of entitlement: This concerns the period for which a customer who qualifies for ESA under contributory rules is being reduced to 365 for those customers who have ‘Limited Capability for Work’.

This will mean that thousands of customers who have been assessed by a Health Care Professional (HCP) as having significant disability or reduction in function and therefore have limited capability for work will lose their benefit after only one year. This would disproportionately affect older people who have made some savings provision for their retirement and this in effect may remove their only source of income despite them being too unwell to work or indeed look for work. It would also impact on people medically retired from employment where a “Lump Sum” was paid to them.

Clause 52 also limits the amount of time a person currently claiming ESA “Y” (Youth) can receive ESA. This also is limited to one year if they are assessed to have a significant disablement. Customers on Contributory Incapacity Benefit (“C” IB) who are assessed only as having limited capability to work would not receive any ESA after conversion.

In all cases ESA “C” will stop after a year unless the customer is assessed as having a “severe” disablement or reduction in function and limits ESA to 365 days if not in the Support Group including claimants on IB.

These proposals are a fundamentally flawed concept punishing people who have been paying their contributions all their working life. The implications on family members who have to support them when benefit runs out are extremely serious. The proposals will also have the unwanted effect of removing the independence of sick/disabled people.

- 6.3 **Clause 53 - Further entitlement after time-limiting** - Allows for a customer whose contributory ESA has stopped to restart if their condition has deteriorated to such an extent that it is now considered or deemed severe. There is no scope within this for money or claims to be backdated. Any award under this clause lasts only as long as they are given by a Decision Maker (DM)/HCP before another assessment, after which another determination will be made. These periods even in cases of severe disablement can be for as little as 3 months.
- 6.4 **Clause 54 - Condition relating to youth** - ESA “Y”: Clause 54 removed ESA “Y” as a benefit for any new claimants and therefore disabled young people will no longer be able to qualify for ESA. Removal of Employment and Support Allowance for young people will disadvantage this vulnerable section of society in getting a helping hand to independence. This must be scrutinised under NI equality legislation.
- 6.5 **Clause 55 Claimant commitment for employment and support allowance** - has completely rewritten what obligations the Department will be placing on customers who have a Limited Capability for Work. These obligations can include a work placement which is essentially unpaid labour.
- This clause also makes it clear that the customer obligations can be altered at the whim of the Department and that the customer **must** fulfil the requirements of the most recent update to their “obligation”. There is no similar obligation on the Department to find suitable and/or accessible placements that take into account issues such as mobility and accessible transport.
- This clause also makes it clear that if the customer does not fulfil their obligation or provide enough evidence to the Department then sanctions can be placed on their benefit.
- 6.6 **Clause 55(4)** “Thinks Fit” is very open to interpretation and also the level of seniority of the person making this judgement is not defined.
- 6.7 **Clause 56 - Work experience etc** - Clause 56 allows for work placements to be included as part of the “Customer obligation”.

6.8 **Clause 57 - Hardship payments** – This clause allows for more stringent qualifying conditions to be placed on these people deeply in need and requiring a hardship payment. It also allows for the period for which anyone can qualify for a hardship payment to be reduced. There is no specific detail as to how this would be done. It is vital that clear and robust Regulations are framed to help this group.

6.9 **Clause 58. - Claimant responsibilities for employment and support allowance** Details requirements “obligations” that a customer will have to fulfil in order to continue receiving ESA. It states that the Claimant commitment “Customer Obligation” would include attendance at work focused interviews and it elucidates on the Work Preparation Requirement. The Work Preparation Requirement can include taking part in an employment programme and under taking work experience or work placement. Again there appears to be no matching obligation on the Department’s side to arrange suitable and/or accessible placements.

It should be noted that the new regulations will compel a customer who has been assessed by a HCP as having a significant disablement or reduction in functions to undertake an unpaid work placement.

It also states that a person on ESA who also has a child younger than 3 (but older than 1) will also have to take part in the work focussed interviews and further details when sanctions may be applied for “failure” to comply with these obligations. These sanctions can include suspension or a reduction in or a termination of benefit. The size and extent of any reduction is not detailed in this Bill.

Clause 58 also details that sanctions can be applied if the customer fails to show good reason for failure to comply with the obligations but gives no indication of what such good reasons may be. Given that these sanctions could remove a person’s sole source of income for a period of up to 26 weeks it is essential that there are clear and robust regulations supporting such decisions and a similarly clear robust and independent appeals process against decisions made by the Department.

None of these sanctions will take into account issues such as mobility, transport or availability of suitable public transport. Similarly the suitability and/or availability of work placement/experience is not considered.

Clause 58 (11L) also enables the future privatisation of functions connected to work focused interviews and other parts of the administration of the Claimant Requirement (“Customer Obligation”). This has the potential to lead to job losses in the NICS and other ramifications for Service Delivery, Data Protection and the export of jobs overseas.

Clause 58 (11L(7)) also changes the concept of Good Cause to Good Reason. It is unclear whether this is a substantive change which will lead to less scope for a decision to be made in the customers favour or whether it is simply a cosmetic change in wording.

7. CHAPTER 3 - INCOME SUPPORT

7.1 **Clause 59 - Entitlement of lone parents to income support etc** - NIPSA is opposed to changing the age threshold for lone parents claiming Income support from 7 to 5 years old without the associated childcare strategy being in place which has previously prevented the changes from entering legislation. NIPSA would further question this change given the lack of available work for claimants subject to current mandatory work requirements currently on Jobseekers Allowance and without the support structure of adequate childcare provision and a Childcare Strategy being in place.

7.2 **Clause 60 - Claimant commitment for income support** - NIPSA is opposed to the contracted out directions about work-related activity for claimants of IS may be notified to a claimant in such manner as the Department thinks fit. As referred to in section 60, 2(g) lines 19-22.

NIPSA would ask for clarification on section 307 of the Explanatory and Financial Memorandum with regards to “*directions about work-related activity for claimants of IS may be notified to a claimant in such manner as the Department thinks fit.*” NIPSA asks for further clarification on what is meant by the Department thinks fit and again state its opposition to the contracting out

directions about work-related activity for claimants of IS may be notified to a claimant in such manner as the Department thinks fit.

7.3 PART 3 - OTHER BENEFIT CHANGES

Clause 68 - Industrial injuries benefit - This new clause is removing the ability and failsafe to have a declaration lodged at the time of the accident. It will therefore be more difficult for the accident to be proven and investigated at a later date – possibly many years later when the consequences of the accident affect their ability to work.

7.4 Clauses 70-73 – Social Fund

Ending of discretionary payments

Purposes of discretionary payments

Determination of amount or value of budgeting loan

Community care grants

These Clauses will result in the abolition of the current system of discretionary payments. In its place the apparent intention is to have a combination of new locally based provision that will replace Community Care Grants and Crisis Loans for general living expenses. Given that there were 360,000 applications and 267,000 payments worth close to £80million made in Northern Ireland in the last financial year it is therefore essential that a replacement is designed to provide assistance to most vulnerable individuals and families in distress in Northern Ireland. This scheme needs to be properly supported by legislation in the Welfare Reform Bill but whilst this legislation removes the discretionary elements of the Social Fund there is no consequent supporting legislation for a replacement scheme.

It is also essential that any replacement scheme is administered by the SSA in order to make use of the experience and expertise of Social Fund Officers and to protect jobs in the NI Civil Service. There must also be thought given to the consequences of the abolition of the Social Fund Commissioner **(Clause 70(2))** and supporting legislation to ensure that a transparent and

robust procedure for appealing decisions is given a legislative framework with supporting regulations.

Under **Clause 72(2)** there is no determination of the upper limit to such loans which again highlights the need for clear and robust regulations/guidance and the establishment of some route of independent appeal against Departmental decisions in light of the abolition of the Office of the Social Fund Commissioner.

This response also applies to **Schedule 8, Social Fund, Discretionary Payments and Schedule 12 (Part 7) Repeals.**

7.5 **Clause 74 - State pension credit: carers** - amends the State Pension Credit Act (NI) 2002 but instead of Invalid Care Allowance being the measure of entitlement it has changed to a definition of “regular and substantial caring responsibilities”. This has yet to be defined or prescribed.

7.6 **Clause 75 – State pension credit – capital limit:** “This capital does not exceed a prescribed amount” again this raises concerns as to whether this will be at the whim of the Department and with no further recourse to the legislature of Northern Ireland. Will these amounts be prescribed by DWP? Will a Minister of the NI Executive or Westminster legislature be involved in setting these limits? There may well be a case for a breach in parity given the different circumstances in Northern Ireland.

Under **Clauses 43 and 44** Assembly scrutiny of regulations is enshrined and consultation on these must also take place to ensure the robustness and clarity of such regulations.

8.0 PART 4 - PERSONAL INDEPENDENCE PAYMENT

8.1 **Clause 76 - Personal independence payment** - It is NIPSA’s opinion that the Habitual Resident Test is sufficient to provide the basis for ability to apply for Personal Independence Payment.

8.2 **Clause 78 Mobility component - Subsection (4)** Should be widened to include moving around indoors and the ability to use and cope with stairs.

The ability to plan and follow a journey should also pay regard to the time needed to do this. In many cases people with disabilities especially mental health difficulties would require far longer to plan and follow a journey and as such, some regard must be given to the length of time it would take a person to plan and follow a journey.

- 8.3 **Clause 79 - Ability to carry out daily living activities or mobility activities - Subsection (4)** - Allows regulations to specify which sources of information are appropriate. However, it is important that, the Decision Maker must have the power to decide where that information is sourced, and the power does **not** lie with the Independent Assessor. This would be in line with recommendations made by Professor Harrington in relation to Work Capability Assessments. It is essential that the Decision maker decides what evidence is appropriate eg GP report, Consultant report etc and a private supplier does not decide what information is appropriate. It should also be said at this point that GPs and Health Care professionals who are asked to provide evidence are paid appropriately for providing this evidence.

With regard to the assessments the regulations must state that the assessor is trained in the relevant area depending on the person's physical and/or mental conditions.

- 8.4 **Subsection (5)** - Regulations will provide for the consequences of failure without good reason to comply with a requirement imposed under subsection 4. It is important within this subsection that the person's condition especially in relation to mental health conditions is taken into account when 'good reason' is applied.
- 8.5 **Clause 80 – Required period condition – further provision** - This clause makes further provision about the making of regulations to determine whether a person meets the required period condition. The regulations need to state that during the previous 3 months and the subsequent 9 months the persons relevant ability had it been assessed at that time would have been limited or severely limited as the case may be. It is important that the **majority of the time** is included as this will ensure that persons with fluctuating conditions will not be denied Personal Independence Payment.

- 8.6 **Clause 81 (5) - Terminal illness** – Provides that where a claim is made on behalf of a terminally ill person, the terminally ill person is regarded as making the claim, notwithstanding that the claim is made without their knowledge or authority. A further amendment is required to ensure that when a claim is made by a person and subsequent investigations indicate that the person is terminally ill those cases can also be included under this clause.
- 8.7 **Clause 86 – Prisoners** - It is our determination that it is morally wrong to deny a person Personal Independence Payment if they are in detention and not been found guilty of any crime.
- 8.8 **Clause 88 - Report to the Assembly** - Given the concern from the public regarding the new assessments for Personal Independence payment it is important that the Department must lay before the Assembly an independent report on the operation of assessment under Section 79 **annually** and on a continual basis.
- 8.9 **Clause 91 - Power to make supplementary and consequential provision** - It is important under this heading that any changes made by the Department must be subject to the scrutiny of the Assembly and/or the Department for Social Development Assembly Committee.
- 8.10 **Clause 92 – Transitional** - As under the previous heading it is important that any provision the Department considers ‘necessary or expedient’ is subject to the scrutiny of the Assembly and/or the Department for Social Development Assembly Committee.

9 PART 5 - SOCIAL SECURITY: GENERAL

- 9.1 **Clause 95 – Benefit Cap** – See comments under Clause 8 (para 3.9)
- 9.2 **Clause 101 - Power to require consideration of revision before appeal**
- APPEALS: Compulsory Reconsideration
- 9.3 **Clause 101** will compel all customers to apply for a reconsideration of any decision before they will be allowed to appeal against the decision. It is already standard practice for an appeals officer to carry out a reconsideration

of a decision before writing an appeal submission. This is simply an additional level of red tape which will slow down the appeals process even further and could impact on a customer getting their benefit re-instated even though that benefit will no longer remain in payment whilst the appeals process takes its course.

10. **Clauses 113 – 115 Benefit Offences:** NIPSA does not condone fraudulent activity and would highlight the very low level of fraud in Northern Ireland. NIPSA are concerned that the clauses in the Bill seek to move directly to higher level penalty for even minor offences ie the removal of the “formal caution”. NIPSA reserves the right to comment further whenever the Regulations become available.

10 PART 6 - MISCELLANEOUS

- 10.1 **General** - Public Services and Commercial Services (PCS) and NIPSA continue in their campaign to protect, maintain and improve their member’s terms and conditions.

PCS and NIPSA also believe that they have a wider responsibility to society and has, for many years, campaigned for significantly increased benefits for the poor, vulnerable, elderly and those in need. In that respect a joint response was provided to the Green Paper on the future of Child Maintenance. Strengthening Families, - Promoting Parental Responsibility.

The Barnardo Report, It Doesn’t Happen Here- The Reality of Child Poverty in the UK highlights the disturbing statistics of child poverty in Northern Ireland . NIPSA believe the NI Assembly when endorsing the Welfare Reform Bill also has a wider responsibility to endorse a pledge made by the Government to end child poverty.

In March 1999 the Prime Minister made a historic and ambitious pledge to end child poverty within a generation, and in November 2006 the Northern Ireland Anti -Poverty and Social Inclusion Strategy – Life Time Opportunities, pledged the NI Assembly here to halving child poverty by 2010 and ending child poverty by 2020.

The NI assembly debated child poverty on 2 October 2012 so they are well aware of current child poverty statistics and their failure to implement a Child Poverty Action Strategy by the end of 2012 gives cause for serious concern. There are currently 122,000 children living in officially defined levels of poverty in communities across Northern Ireland. 122,000 children who will experience the lack of choice, lack of respect and dignity that poverty can too often bring. In Northern Ireland for many working families poverty is a reality – 47% of the children living in poverty live in a household with at least one parent working.

These are some of the most vulnerable children and children for whom the NI Assembly must make an extra effort to improve their life chances and lift them out of poverty.

10.2 **Clause 121 - Supporting maintenance agreements** - This clause allows the department to “take appropriate steps” to encourage parents to agree their own family based arrangements. NIPSA refer to the paragraph below, from our joint submission on the Green Paper-

“We agree with the concept of providing assistance to parents during and after relationships break down. We are however of the opinion that advice alone will not provide solutions to the problem of ensuring that children receive the financial support they need and have serious reservations about the Government’s willingness to provide adequate resources given that they allude to “investing stretched resources” “in these challenging times”

The concerns expressed above remain. NIPSA have serious reservations with regard to the priority given to child poverty and the amount of investment this government will be prepared to make to ensure that parents are fully aware of the consequences of accepting a less than favourable family based agreement. Where, for example, an agreement is not honoured by the Non Resident Parent (NRP), the parent With Care (PWC) may have no redress if payments are not made or are of lesser value. No arrears will accrue while the private arrangement is in place.

Many of our current PWC's rely heavily on maintenance and the higher than average incidence of child poverty that pertains in single parent families makes this an especially important part of the bill.

NIPSA would maintain that the government has a duty to ensure that children are provided for and that no child should experience deprivation. It is therefore vital that parents are fully aware of the consequences of making a less than robust private arrangement. Previous initiatives by the Agency aimed at encouraging Maintenance Direct (MD), have had only limited success with many parents returning to the statutory service. It is imperative that no barriers or penalties are placed on parents who wish to use the statutory system. NIPSA's submission to the Green Paper made the following observation, which we would contend is still unclear:

NIPSA would expect to see detailed analysis into the reasons why Maintenance Direct agreements have broken down in the past and what the contributory factors have been. This information will, we contend, be essential in providing the advice and guidance aspect of proposals.

- 10.3 **Clause 122 - Collection of child support maintenance** - Repeals some wording from Article 7(2) of the 1991 order and in addition, inserts a new paragraph, (2A). The combined effect of these changes may be to inhibit the collection of maintenance in some circumstances. Previously the Agency would have taken steps to ensure collection but now it is proposed that this will happen only where the NRP agrees or where the department is satisfied that the NRP is unlikely to pay. The net result may be children not benefiting.
- 10.4 **Clause 123 Indicative maintenance calculations** - The information necessary to make an estimate as to how much should be paid in child maintenance has been available for some time to anyone with access to a computer. Many parents have availed of this facility to check what is deemed a fair amount to pay or receive. It is hard to see how this amendment will increase the number of cases currently when an adequate arrangement is in place.

The volatile employment market that currently pertains in Northern Ireland and indeed across the UK has made the calculation of earnings appreciably more difficult. We pointed out in our Green Paper submission that there was evidence that huge numbers of people were coming off benefits and into employment, only to be back on benefits within a twelve month period. Each change will require a separate calculation since it will almost certainly mean a change of 25% or more. This will entail a large degree of trust between the parents who have opted for private arrangements. In many cases the nature of the break-up may mean this level of trust is simply not present.

10.5 **Clause 124 - Recovery of child support maintenance by deduction from benefit** - The most worrying aspect of this change is the possibility that fees may be deducted directly from benefits which in themselves may have been means tested. This aspect of the proposals could lead to a scenario whereby a privatised Child Maintenance service would have the right to make deductions from the benefits of an individual who may be receiving an amount that barely allows for subsistence. At present there is a flat rate £5 calculation for those whose sole income comes from benefits but arrears are not collected.

10.6 **Clause 125 Fees** This is perhaps the most worrying aspect of the proposals. The obvious potential for privatisation is clear. Without a revenue stream it would be difficult to see what attraction there would be for the private sector while any fees collected will be paid from monies that could be better used to tackle child poverty. Improvements to the existing IT system have had only limited success and a new system is now planned to deliver a quality service. We welcome this development wholeheartedly.

Huge strides have been made since 2006, towards providing an improved service and with the simplification of the calculation process we would expect those improvements to continue. We see the future of child maintenance as being best served as a part of the Welfare State and by extension here, as an integral part of the NICS. We have serious concerns that the service is being lined up for future privatisation with an inevitable loss of employment here.

A privatised service will charge fees that in reality will take badly needed funds from children and place this revenue in the hands of faceless investors who will be tempted to “cherry pick” the work that is most profitable. The effect of this will be to leave large numbers of families without support either because their case is viewed as “difficult” or too expensive to pursue.

NIPSA strongly recommend that no fees are charged to either the Parent with Care or Non Resident Parent.

10.7 **Clause 126 - Exclusion from individual voluntary arrangements (IVA) -**

The NRP who owes arrears of child support maintenance will not be able to reduce his liability by means of an IVA. Since any debt owed on a child support case is in fact owed to the children on that case, we are strongly in favour of this debt being protected and collected on their behalf.

10.7 **CONCLUSIONS**

Over the years the Agency has had critics and many valid complaints have been levelled at the old CSA. With the publication of the Henshaw Report in 2006 a number of areas came in for particular criticism. Among these the issues highlighted by Lord Hutton were the poor IT system, overly complicated maintenance calculations and poor management. Praise was reserved for the staff, who had to contend with these institutional failings and a highly stressful working environment.

NIPSA believe that the future of a child maintenance service is best served as a part of the public sector and fear that the charging element of the proposals presents a significant incentive to privatisation and it is clear that any element of charging fees will take money from the children either in the form of a levy on the NRP collections or as a deduction from the PWC payments. In either scenario it is the children who will inevitably lose.

Huge strides have been made in improving the collection and payment of child maintenance since 2006. In reforming child support, full and proper cognisance of the efforts of the staff, our members, needs to be made and their employment protected. The potential is there to deliver a top quality service which has the alleviation of child poverty as its principle aim. Too

many of the proposals in this Bill are aimed at reducing the cost to the tax payer at the expense of the children it should be there serve. We hope the lessons of the past are learned and that Civil Servants, here in Belfast, are given the opportunity to deliver that alleviation of child poverty.

NIPSA ask for further clarification on the points raised and hope the NI Assembly will have the foresight to revisit the proposals and take our concerns on board as well as other bodies who provide their comments such as Gingerbread, Women’s Support Network (WSN), Child Poverty Action Group etc.

NIPSA are of the firm opinion that the Child Support Agency plays a vital role in tackling child poverty and addressing inequality. What is required is clear and comprehensive legislation, an adequate IT system and sufficient highly skilled and motivated staff. The experienced staff are in place, we await the delivery of the rest.

Performance Indicators	Actual 09/10	Actual 10/11	Sep-11	Oct-11	Proposed Internal 11/12 Indicator	Proposed External 11/12 Indicator	RA G*
Children Benefiting Statutory Scheme (000s)	846	868	876	876	890	875	← →
Maintenance Outcomes %	77.1	77.6	77.8	77.8	80	78	← →
Collections & arrangements (12 month rolling) £m	1,141	1,150	1,169	1,174	1,175	1,160	↑
Arrears collected (12 month rolling) £m	147	125	122	122	125		← →
Accuracy (% within £1 or 2% – rolling last quarter) %	89	96	95	95	97		← →
Complaints Resolution Intake (rolling 12 months)	-	14,235	13,972	13,779			↓
Callbacks not made	n/a	n/a	12.4%	9.6%			↓

The Labour market statistics are relevant to this bill and indicate that it will not be easy to simplify the calculations facility in the current volatile economy. The rate of return to benefit has been increasing steadily during the recession.

NIPSA would ask for further clarification on the points we have raised and hope the NI Assembly will have the foresight to revisit the proposals and take our comments on board as well as other community and voluntary bodies who have a vested interest. NIPSA are of the firm opinion that there is still a vital role for the Child Support Agency to play in tackling child poverty and addressing inequality. What is required is clear and comprehensive legislation, an adequate IT system and sufficient highly skilled and motivated staff. The experienced staff are in place, we await the delivery of the rest.

Appendices

A) Child Support Agency National Statistics, December 2010.

<http://www.childmaintenance.org/en/publications/statistics.html>

B) Monthly Labour Market Report, September 2012.

www.statistics.detni.gov.uk

11. SUMMARY

11.1 It is clear that if the Assembly introduce the Welfare Reform Bill either in whole or part it will have a significant impact on the most vulnerable in society, but in work and out of work. It will remove £500m from the NI economy which will lead to further job losses and in turn a higher rate of unemployment. The spiral will maintain upwards and more and more individuals and families will rely on the benefit system which will be a very low safety net. It cannot be acceptable in any form and there are many, many things outlined above that this Committee and the Assembly can do to ensure those in our society who rely on the benefit system can be supported which does not put in jeopardy the issue of parity. However parity seems to be a moving object which Minister's and politicians turn off and on whenever the situation suits. This is

much to an important issue for politicians to play politics with. It is real people, with real lives and real children and young people who this Bill will impact on most severely if it is allowed to be implemented.