

Women's ad-hoc Policy Group
Welfare Reform and Women
DSD Committee Tuesday 23rd October 2012

1. Introduction

Our evidence should be read alongside the paper we presented to the Committee on 28th June 2012 in which we outlined how welfare reform sacrifices women. This welfare reform reduces women's capacity to work, economic autonomy and equality and personal security. We observe that most MLAs share concerns about the impact of welfare reform on constituents and that parties have different views on how to proceed. We will make a number of critical comments about the process so far and want to make it absolutely clear that we do not support any party position. Our role is solely to use our expertise to represent the interests and concerns of women.

Yesterday the DSD Minister announced a little progress in three areas of negotiation on welfare reform: payment of housing costs, the person to whom the payment is paid and frequency of payment. These developments are already provided for in the current Bill. Disappointingly the Minister's announcement fell short of realising the full flexibility contained in the Bill and signalled an intention to limit flexibility.

We are disappointed at how little account has been taken of women's needs and circumstances. **We urge the DSD Committee to press for further progress on this and to make sure that the flexibility permitted in the legislation is not narrowed in regulations and guidelines or by an unresponsive IT system.**

2. Key Issues

1. The legislation and regulation process for welfare reform should be coherent and transparent.
2. The default position for payment of Universal Credit should be payment (i) to the second earner or carer in the household where the main earner is working; and (ii) as a split payment where neither in a couple is working.
3. N Ireland JSA rules for lone parents that stipulate the 'best interests of the child' as a condition for employment and work-related tasks should be continued under Universal Credit and extended to couple households.
4. The principle of 'the best interests of the child' should be the primary consideration in the application of sanctions.
5. For housing costs, (i) refugees should receive direct payment of housing costs; and (ii) consideration of the best interests of the child and of abused women should be required for decisions on shared rooms.
6. Payment periods should reflect the needs of claimants and be genuinely flexible whether weekly, fortnightly or monthly.
7. The UK IT system must be designed to provide for flexible implementation in N Ireland.

3. Process

The processes for adopting the legislation and regulations lack coherence and transparency. This may lead to failure to make fair and good arrangements.

1. Regulations are an essential part of welfare, yet the legislation is scheduled to go through the Assembly without either the regulations having been prepared or cast-iron agreement on exactly what will be permitted within their scope.
2. Legislating for social security is devolved but UK-rooted welfare payment means that social security in N Ireland must be compatible with other parts of the UK. It appears we will not frame our own regulations under agreed parameters but simply 'take the lead' on N Ireland within UK-framed regulations.¹ This reduces potential for flexible design for particular circumstances in N Ireland.
3. While the legislation is permissive in some key areas statements of intent on how flexibility will be applied are inadequate where they exist.
4. Decisions on regulations are to be made by confirmatory resolution. Many regulations will be drafted after the legislation has been passed and Members are not able to amend regulations, even where their intent is only clear later.
5. There are two types of regulation in the legislation: (i) "regulations are to provide" (a requirement) and (ii) "regulations may provide" (a discretion). There should be clarity and certainty on whether both are restricted by 'confirmatory resolution'.

In our view, it is essential to obtain acceptable cast-iron commitments/ statements of intent on the application of the law and regulations in certain areas before agreeing to pass the Bill.

4. Payment of Joint Claims: Clauses 2-5 & Clauses 97 & 99

Clauses 2-5 provide that couples must make a joint claim for Universal Credit and both claimants must meet the basic conditions and jointly meet the financial conditions. Regulations may provide for exceptions to the basic conditions (Clause 4) but there is no exception provided for financial conditions (Clause 5). A question arises as to what happens on relationship breakdown, before that breakdown is formalised or recognised when, presumably, single claims might be made. What evidence is required to split payments, especially when it may not be possible in the current economic climate or housing market for one person to leave the marital home? Does the legislation provide for this?

Clause 97 (Subsection (4)) amends Section 5(1)(g) of the Administration Act to allow for joint claims by enabling one person to make a joint claim on behalf of another. This 'main applicant' is most likely to be male, and he is likely to receive the single Universal Credit payment, unless there is intervention to regulate otherwise. If this is allowed to become normal practice it is a backward step to the old male Head of Household model, which will have consequences as we know from past experience. Women in couples will lose all direct financial support and economic independence, and there are additional implications for children and abused women.

¹ DSD Evidence to DSD Committee 10th October 2012

Under Clause 99 payments can be regulated differently. In amending Section 5 of the Administration Act, Clause 99 provides the Department of Social Development, in the case of a benefit awarded to persons jointly, with the power to:

“determine to which of them all or any part of a payment should be made and in particular for the Department –

- (a) to determine that payment should be made to whichever of those persons they themselves nominate, or
- (b) to determine that payment should be made to one of them irrespective of any nomination by them.”

Despite these powers, the Minister announced there would be a single household payment for the majority of claimants with flexibility for split payment only when necessary in a limited set of circumstance laid down in guidelines. He declared “[i]f we can avoid split payment, so much the better”. This denies the extent of the Department’s powers under Clause 99 and narrows the possibilities in the legislation. An approach that leaves it to “partners to look at [split payment] and come forward to present a case if there is a need to do so” does not appreciate women’s reduced access to income including vulnerable women suffering financial and other domestic abuse.

There should be a cast-iron commitment/statement of intent before passage of the Bill that the default position will be to pay Universal Credit

- (i) to the second earner or carer in the household where the main earner is working; and**
- (ii) as a split payment where neither person in a couple is working.**

We have reasoned arguments for proposing this. When praising the new taper for benefit levels at the Committee earlier this month DSD officials neglected to inform Members of the gendered differences in Universal Credit. Universal Credit is designed to reward the primary earner in couples, normally the man; the UK Government acknowledged it has reduced rewards for the second earner and weakened women’s incentive to work. The fact is that women are more likely to have no earned income of their own; where they work their income will normally be less than their partner’s; and they will not receive the single Universal Credit payment unless there is intervention to redirect this income to them.

We urge the Committee to press the Minister to implement our proposal on who to pay Universal Credit to. Our approach will resolve several problems:

1. It will provide the right economic arrangements in which the interests of the child are safeguarded best.
2. It will not transfer all financial resources from the purse to the wallet, leaving women unequal and vulnerable without any independent means of support.
3. If sanctions are applied to the ‘main applicant’ (likely to be male) there will be less likelihood of a gap in payment affecting all of the family.
4. It will assist in overcoming the financial abuse of women that is part of domestic violence/abuse.
5. In cases of relationship breakdown and domestic violence, it will avoid women and children becoming homeless and unable to secure alternative accommodation due to the housing debt accumulated by a male ‘main applicant’.

Women's organisations have been asked for advice on how to identify those who are vulnerable to domestic abuse. Although it has not been made explicit, presumably this is to form an exception group for single payment. This is to fundamentally misunderstand domestic violence. Domestic violence is rooted in inequality and power. Financial control and abuse is one component of domestic violence. Secrecy, including among those affected, is a factor. The safe and effective way to provide for abused women is to provide access to income for all women.

5. Frequency of Payment: Clause 7

Clause 7 gives the Department discretionary powers over assessment and payment periods. The Minister confirmed yesterday that, where necessary, bi-monthly payments would be made in place of a single monthly payment. Officials told the DSD Committee two weeks ago that while flexibility is built in, departure from the normal practice of monthly payment will only be made in exceptional circumstances.² We welcome the proposed consultation on payment periods. **The consultation should not focus on defining 'exceptional circumstances' but develop an effective approach to meeting claimants concerns and needs in relation to payment frequency.**

We are aware that the Committee was advised by DSD officials on the number of people in work who are paid weekly, fortnightly and monthly as a basis for assessing capacity to manage on monthly payments. This is not a sufficient assessment. We would like to add that women have reported the importance of weekly child tax credits, which "saved" them in lean weeks between fortnightly wages or benefits. Flexibility should not be restricted to a few. **We ask the Committee to obtain the Minister's commitment to inclusivity in flexible payments regulations/ guidance.**

6. Housing: Clause 11

We note the Minister's commitment to automatic payment of the Universal Credit housing element to landlords unless the claimant opts out. Refugees rely on direct payment of housing benefit to support victims of domestic violence and we appreciate that the arrangement announced by the Minister will assist refugees to sustain their service. This decision on automatic housing payments demonstrates that policy variations and operational flexibility can be accommodated within a shared welfare system.

The best interests of the child should be taken into account when implementing the shared room rate up to the age of 35 years. This is necessary to allow the non-custodial parent, normally the father, to have his children in a safe and comfortable environment for day visits and overnight stays. The interests of abused women must also be considered when implementing the shared room conditions; when they are not housed in refuges abused women must have conditions for privacy, safety and security. **We request the DSD Committee to secure a commitment/ statement of intent on these shared room matters from the Minister.**

² DSD Evidence to DSD Committee 10th October 2012

Woman and child/children are often forced to leave their house due to domestic abuse. We ask the DSD Committee to seek regulations capable of declaring the house to be under-occupied and moving the abuser out so the woman and child/children can return.

7. Work-related Requirements: Clauses 13 - 25

Best Interests of the Child: A claimant who is the responsible carer for a child faces work-related conditions set according to the age of the child, starting with no work conditions for a lone parent/nominated carer with a child up to one year. Those with a child up to three years (or five years according to DSD officials) are required to attend work-focused interviews. Yet, our childcare infrastructure is very poor, for younger and older children, and cuts have already reduced financial support for childcare for those on low incomes.

Conditionality and sanctions are extensive under Universal Credit. The conditionality threshold is set at the national minimum wage, except for those who are not expected to work full-time. A high proportion of those on benefit are working – benefit is subsidising low wages. The Minister and DSD officials are keen on ‘making work pay’ and might therefore be expected to enforce the national minimum wage and actively champion equal pay which would be welcomed by low paid women. However, where claimants are working fulltime but earning below the minimum officials made clear to this Committee that responsibility lies with claimants to find better-paid work or increase their hours. This approach will increase the pressure on women juggling work, childcare and domestic responsibilities.

The Welfare Reform Act (NI) 2010 stipulates that the best interests of the child must be taken into account when drawing up jobseeker agreements for lone parents. **We urge the Committee to (i) make sure the ‘best interests of the child’ principle is continued for lone parents under Universal Credit; and (ii) press the Minister to extend the same principle to child carers in couple households. The principle should be included in claimant commitments.**

In light of the 10% cut in the child tax credits that support working parents with childcare we repeat our June 2012 request to the DSD Committee to ask the Executive to:

- (i) Cost the option of restoring the 10% cut to child tax credit in N Ireland.
- (ii) Meet the costs of the 10% shortfall for lone parents and all low-income families.

We comment on the DSD officials’ evidence that much relies on personal advisors and relationships between personal advisors and claimants. Personal advisors should be trained and their training should include gender awareness and s75 responsibilities.

8. Sanctions: Clauses 26 & 27

Given the harsher sanctions attached to Universal Credit, we ask the DSD Committee to obtain assurances from the Minister that vulnerable people will be protected in the legislation or by regulation. To avoid unfair sanctions, conditionality for those with

responsibilities for children should take proper account of N Ireland's poor childcare infrastructure. The principle of 'the best interests of the child' should be the primary consideration in the application of sanctions. **We urge the Committee to ensure the legislation permits this and obtain a commitment/statement of intent from the Minister that he will include it in regulation of sanctions.**

Where sanctions are applied to the 'main applicant' (likely to be male) there should be no gap in payment to the woman and children in the family. Our earlier proposal for the Department to use powers under Clause 99 to pay Universal Credit to the second earner/carer or to split payments, according to their financial circumstances explained previously, would avoid this.

9. Conclusions

We urge the Committee to press for progress on women and children in the welfare reform legislation and regulations. We also urge you to ensure that the flexibility in the legislation is not narrowed in regulations and guidelines or by an unresponsive IT system.

Women must be treated fairly and have access to financial support. We call for a cast-iron commitment/statement of intent before passage of the Bill. This should commit to a default position to pay Universal Credit

- (i) to the second earner or carer in the household where the main earner is working; and**
- (ii) as a split payment where neither person in a couple is working.**

Where prior drafting of regulation is not possible, it is essential to obtain acceptable cast-iron commitments/statements of intent on the application of the law and regulations in the above areas before voting the Bill through.