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Welfare Reform Bill – Committee for Social Development call for evidence

Mencap in Northern Ireland's submission

1.0 About Mencap in Northern Ireland

- 1.1 Mencap is the voice of learning disability. Everything we do is about valuing and supporting people with a learning disability, and their families and carers across Northern Ireland, England and Wales.
- 1.2 Mencap has over 60 year's experience of working alongside and representing the views and interests of people with a learning disability and their families. In Northern Ireland we deliver a range of service, support a membership network of local groups and clubs and campaign for equal opportunities and chances for people with a learning disability.
- 1.3 Through our employment and training services we provide help to young people and adults with a learning disability to prepare for, find and keep job. We help individuals with a learning disability to explore their options, provide skills training in the workplace and work to remove the barriers to work for each person.
- 1.4 We also provide independent advice and information through our helpline and community based advisor services, ensuring that people with a learning disability and families have the information about their rights and entitlements and can access the services they need.

2.0 About Learning Disability

- 2.1 A learning disability is a reduced intellectual ability and difficulty with everyday activities - for example household tasks, socialising or managing money - which affects someone for their whole life.
- 2.2 People with a learning disability tend to take longer to learn and may need support to understand complex information, develop new skills, and interact with other people. The level of support someone needs depends on individual factors, including the severity of their learning disability.

3.0 Welfare Reform Bill – Introduction

- 3.1 The particular set of circumstances in Northern Ireland in relation to welfare reform, we believe, needs to be considered when implementing any change to the benefits system. This includes the higher levels of poverty and disability, the requirements on public bodies outlined in Section 75 and the limited availability of community based services to support independent living.
- 3.2 Mencap draws attention to the proportion of the population claiming DLA, with double the amount of DLA claimants in Northern Ireland compared to the rest of the UK: over 180,000 claimants in 2010.¹ A report by The Institute of Fiscal Studies estimated that Northern Ireland, because it has a large population of households with children and higher levels of disabilities, will lose more income than any other region in the UK outside of London. Northern Ireland is likely to be disproportionately affected from the new restricted test for Personal Independence Payment than the announced budget in June 2010. We believe that this should be reflected in the EQIA and mitigating measures identified to minimise adverse impacts.
- 3.3 The completed Equality Impact Assessment (EQIA)² relating to the new Welfare Reform Bill was published by DSD in April 2012. The EQIA does not give sufficient information to adequately monitor the impact on disabled people and family carers. The report states that “the Analytical Services Unit will continue to work with DWP to develop a Policy Simulation Model which will better equip them to analyse the impact of policies across various section 75 groups”. This work is still to be published.

4.0 Claimant commitments and sanctions

- 4.1 Mencap believes that the Welfare Reform proposals must take account of the distinct impacts of learning disability on the individual concerned including significant difficulties with understanding, learning and communication. Many people with a learning disability do not have full control over their own lives and rely on others for assistance with everyday tasks.
- 4.2 Conditions placed on claimants should be reasonable and claimants with a learning disability will need extra support to help them understand and make decisions about the process they are involved in and what they have to do to meet any requirements.
- 4.3 Account should also be taken of the impact of learning disability on family carers who may wish to find and stay in employment but are

¹ The impact of tax and benefit reforms to be introduced between 2012-11 and 20014-15 in Northern Ireland, 2012, Institute of Fiscal Studies,

² http://www.dsdni.gov.uk/index/publications/other_reports/equality.htm

unable to do so because of the lack of alternative care or support for their loved one.

Amendment allowing for consideration of impact of learning disability on claimant commitments and sanctions

Safeguards to be put in place to protect people with a learning disability who do not understand what is being asked of them or have communication difficulties and who do not get the support they need.

5.0 Welfare Reform Bill – Part 1: Universal Credit

5.1 Mencap welcomes the stated principle behind the Universal Credit: to simplify the benefits system and make work pay. However, we are concerned about the potential loss of income for disabled people through the merger in Universal Credit of Tax Credits and disability premiums. In particular, there are two key areas of concern; the severe disability premium and children's additions.

5.2 Calculation of Awards: Part 1, Chapter 1, Section 8

Under Universal Credit, the support currently offered by tax credits will be achieved through disregards which will allow certain groups to earn higher sums of money before their benefit starts to be withdrawn, thus raising the household income of these groups in a similar manner to tax credits. Disregards are to be established in regulations, but currently no specific mention is made of disability.³

There needs to be more about couple entitlement to Universal Credit. Currently, couples in which both partners have an impairment can both qualify for the disability element of working tax credit. However, as Universal Credit is based on households not individuals, disabled couples will lose some of this additional support unless provision is made under the disability disregard for a further extension to the disregard for each additional disabled adult living within a household.

Mencap would ask the committee to consider amendments which would ensure that disabled couples do not lose out on additional support.

Amendment allowing for a disability disregard

Part 1, Chapter 1, Clause 8, line 23, insert:

'(5) Regulations made under this paragraph must specify that a particular amount of income be disregarded when calculating entitlement to universal credit, including in the following circumstances: a) where the claimant is disabled; b) where the claimant is a lone parent c) where the claimant is the second earner in the couple.'

³ Disability

'(6) Where the claimant's eligibility for an amount of income to be disregarded, in accordance with subsection (6), is based on two or more sets of circumstances, the amount specified for each of these sets of circumstances shall be added together to calculate the total

5.3 Other particular needs or circumstances: Part 1, Chapter 1, Section 12

5.31 Children's Additions

Currently, disabled children receiving any rate of DLA are entitled to the disability element of child tax credit, worth around £54 a week. Those children on high rate DLA also receive the severe disability element of child tax credit in addition. This is worth an additional £22.

Under Universal Credit these disability elements will be replaced with a disability 'addition' and 'higher addition' within the Universal Credit. Children who are in receipt of high rate DLA will continue to get a similar level of benefit. However, those children who were receiving the disability element (i.e. those on low or middle rate care) will now receive the disability addition which will be worth £27 instead of the current £54.

Mencap would ask the committee to consider amendments that would retain the current level of children's addition for those receiving low or middle rate care component of DLA. We have suggested an amendment below.

Amendment to maintain current level of children's additions

Part 1, Chapter 1, Clause 10, line 36, insert:

"Such additional amount to be paid at either a higher rate, or a lower rate, which shall be no less than two-thirds of the higher rate as may be prescribed"

5.32 The Severe Disability Premium (SDP)

Currently, disabled people on means tested benefits can receive premiums which help meet some of the extra costs they face. Of particular importance is the Severe Disability Premium. This is

currently worth £53.65 a week for a single person and aims to meet the extra costs experienced by a disabled person living alone.

Under the Welfare Reform Bill, there is no intention to continue this payment under Universal Credit. Instead, under Universal Credit, extra support for disabled adults (or 'additions') will be based on disregards and eligibility for the Employment and Support allowance (ESA). In some instances this will lead to some people being less well off under the Universal Credit.

Mencap would ask the committee to consider amendments which would retain the current level of severe disability premium. We have suggested an amendment below.

Amendment aiming to replicate existing premiums

Part 1, Chapter 1, Clause 12, line 41, insert:

'(d) The fact that a claimant is a disabled or severely disabled person.'

6.0 Welfare Reform Bill – Part 2: Working Age Benefits

- 6.1 Employment and Support Allowance (ESA) was introduced in 2008 to replace Incapacity Benefits, Income Support (because of a disability) and Severe Disability Allowance. Those eligible for ESA are put into either the ESA work-related-activity group (for those who need support to prepare to move towards work - WRAG) or the ESA support group (for those whose disability prevents them from working).
- 6.2 The Bill proposes a time limit for contributory Employment and Support Allowance (ESA) to a maximum period of 365 days for those in the work-related activity group. Contributory ESA applies to those people who have paid sufficient tax and National Insurance and are deemed to be able to carry out some work related activity to move towards work.
- 6.3 We believe that it is unfair and unjustified to time-limit benefits for people with a learning disability who have paid into the system, and who have a right to expect that they will be supported as they move towards work. Ultimately, we would ask the committee to remove time limits from the bill. We are suggesting, however, an amendment to the legislation should time limits be introduced.

Amendment to remove provisions for time limiting contributory ESA

Part 2, Chapter 2, Clause 52, line 10, leave out '365' and insert:

'a prescribed number of days, which must be at least 730,'

- 6.4 The time limiting of Contributory ESA for those in the Work Related Activity Group will have significant impact, particularly because the time limiting is effective straight away. So if you are in this group and have already received this benefit for 365 days then you will lose this benefit and will have to apply for other benefits. There is little evidence to show what support has been given to those on the WRAG group in the time period, the reasonable adjustments made due to a person's disability and how effective support has been in people gaining and retaining employment. Evidence needs to be provided to demonstrate that effective support will be available for those people in the WRAG group.

Mencap would ask the committee to consider an amendment to ensure that the 365 days of the time limit for the WRAG group is continuous. We have suggested an amendment below.

Amendment to ensure that the days are continuous

Part 2, Chapter 2, Clause 52, Line 24 leave out 'to be counted' and insert 'not to be counted'

- 6.5 The Bill also provides for a time limit for contributory ESA for those with a youth entitlement and further abolishes the youth condition in contributory ESA completely. The youth entitlement allows claimants under the age of 20 (or 25 in some circumstances) to qualify for contributory ESA without having met the usual national insurance contribution conditions – for example those people who have been unable to pay contributions from childhood. This supports those people with severe and lifelong disabilities, such as those remaining in education beyond 16 years.

Mencap would ask the committee to consider an amendment which would continue Youth entitlement to ESA. We have suggested an amendment below.

Amendment(s) to continue Youth entitlement to ESA

Part 2, Chapter 2, Clause 52, line 24, after "2007" insert ", and subject to section 52,"

Part2, Chapter 2, clause 54, line 15, leave out clause 54 and insert the following new clause:

"Condition relating to youth

In paragraph 4 of Schedule 1 to the Welfare Reform Act 2007 (condition relating to youth), after sub-paragraph (1)(d) insert-

"(e) After the assessment phase has ended, the claimant has limited capacity for work-related activity."

7.0 Welfare Reform Bill – Part 3: Other Benefit Changes

7.1 New Size criteria

- 7.11 The proposed new size criteria in the social housing sector will apply local housing allowance rules for the private rented sector to social housing. In effect, this, in many cases, will reduce the number of bedrooms that an individual is entitled to. As a result, some tenants will receive a reduced amount of Housing Benefit or be forced to move accommodation.
- 7.12 The reasoning behind this policy is to contain growing housing benefit expenditure and make better use of available social housing. There is a shortage in suitably sized properties available to people who would, under the new rules, be deemed to be under-occupying their home. In addition, many homes may have been adapted to meet individual need, meaning that – should the individual have to move – new adaptations would have to be paid for. Additionally, there are issues for people with a learning disability who may access their package of support or have built up support networks within the area in which they live which could not be maintained if they were forced to move out of the area.
- 7.13 The proposals do not take into account other factors relating to learning disability or the importance of living in a particular area, for example, being close to family or friends that provide support, accessing community services, transport and being a part of the community. The limited provision of accessible housing options may already significantly reduce the choice a person with a learning disability has over where to live. By implementing the housing criteria as it currently stands people with a learning disability may not have the opportunity to live independently in their own community.
- 7.14 Mencap would ask the committee to consider an amendment to exclude DLA/PIP claimants from the new size criteria. We would also ask the committee to consider amendments which ensure that in the case of someone with a disability or families with a child with a disability where an adaptation is in place, additional space is needed for treatment or equipment or services are only available in a specific area that they will not be required to move and will not have their benefit reduced (clauses 11 and 69).

8.0 Welfare Reform Bill – Part 4: Personal Independence Payment

- 8.1 The Bill provides for the introduction of a new Personal Independence Payment (PIP) to replace Disability Living Allowance. PIP will continue to be a non-means tested, extra costs benefit but everyone receiving it

will have to undergo a new assessment (including people currently receiving DLA).

- 8.2 When reform was first announced the ambition was a 20% saving of the DLA expenditure with a commitment to focus resources on “those with the greatest need”. In Northern Ireland this would mean that 24,000 people could potentially lose this benefit under PIP. We believe that the UK Government has not fully considered the huge and detrimental impact that the proposed changes will have on the lives of the UK’s most vulnerable individuals and their families.
- 8.3 Mencap conducted a survey entitled ‘DLA: why it matters’ in 2010 to explore the usage of DLA by people with a learning Disability. The key findings are as follows:
- 66% of respondents were in receipt of social services in addition to their DLA.
 - 84% of people with a learning disability said that they spent their DLA on paying for care and support, including help around the home and support with leisure activities and transport needs. One respondent said, “I use my DLA to pay for taxis. I do not like using buses. I have been teased on buses.”
 - 61% of respondents commented that they spent more money on ‘everyday’ things as a result of their learning disability.
 - 71% of respondents commented that DLA made a difference to their lives. One respondent said, ‘Without DLA allowance my daughter would become very isolated she would lose a lot of her independence.’
- 8.4 The survey’s findings highlight the central role DLA plays in the lives of people with a learning disability, helping them to afford the support they need to live an independent and fulfilling life. Mencap believes access to all rates of DLA must be protected otherwise people with a learning disability will be left socially and financially vulnerable and isolated.
- 8.5 It will introduce face-to-face assessment for most PIP claimants, stricter criteria and a shorter timeframe for the claiming process. The changes proposed to the assessment process will put people with a learning disability and their families under considerable stress and increase their reliance on independent advice providers and organisations that provide support.
- 8.6 The new process will also require disabled people to provide independent medical evidence. The majority of this evidence will come via a medical professional. With GP appointments estimated to cost the NHS up to £60 per visit⁴, therefore based on this, the PIP reassessment process of the current 188,600 DLA claimants could cost the health service in NI up to £11 million.

⁴ Royal College of Nursing based on 2009 NAO statistics, see http://www.rcn.org.uk/__data/assets/pdf_file/0008/317780/003598.pdf

- 8.7 The aim of the reforms is to ‘reduce dependency and promote work.’ It is estimated, however, that less than 10% of people with a learning disability are in paid employment due to the difficult barriers that they face when trying to find work. The proposed changes to welfare do not address any of these barriers and instead may lead to some disabled people in work being forced to give up their jobs because they can no longer afford support without DLA. In a survey by the Disability Alliance in 2011⁵, 56% of disabled people said they would have to stop or reduce work if they lost DLA. This could potentially result in 1200⁶ disabled people in Northern Ireland becoming unemployed which would lead to a loss of £6 million, based on the average NI salary⁷, in income tax and national insurance to the treasury.
- 8.8 Some of our other main concerns are that “Life-time” or “indefinite” awards will no longer be available, even for those with progressive or life-long conditions. Also, under PIP, families will lose the right to retain Motability vehicles if they spend 28 days or more as a hospital in-patient in any 365 day period. This fails to recognise just how families depend on these vehicles, often as the only vehicle in the family, and just how often many disabled people with complex needs have to stay in hospital. Losing their Motability vehicle could be devastating for families.
- 8.9 As the responsibility will be on the individual, once they receive correspondence from Social Security Agency, to make a claim to PIP there may be implications for people with learning and communication disabilities. If people cannot read or have difficulties in reading, or if they do not realise that they have been asked to apply for PIP they may not realise the impact of not engaging in the process. The level of support needed for people with a learning disability must be recognised and resourced by SSA.
- 8.10 One of our main concerns is the changes to entitlement for enhanced rate mobility component. Currently under DLA an individual can be awarded high rate of mobility component if they: have severe mental impairment, are in receipt of high care component or have significant challenging behaviour. Under PIP this criteria, for receiving high rate mobility component, will be removed. Several people with a learning disability, that Mencap supports, meet this criteria under DLA and are currently in receipt of high rate mobility. The removal of this award will have a huge financial impact for the individual, their family and carer. Having funding for a mobility car or to pay for transport is a life line and the removal of this will have a devastating effect on their lives.

⁵ http://www.disabilityalliance.org/r68.doc#_Toc285815634

⁶ Figure of 1200 based on calculating that if 24,000 DLA claimants do not receive PIP and using the government figure that 9% of claimants are in paid employment, this equals 2,178. Using the Disability Alliance figure of 56% potentially leaving employment this equals 1,219.

⁷ NI Annual Survey of hours and earnings 2011, DFP

- 8.11 There was no consideration given to the knock-on impact on family carers' finances or the likely increase in caring responsibilities in the existing impact assessments. Carers currently depend on the person they look after receiving DLA to be eligible for receipt of Carers Allowance. Therefore the loss of PIP/DLA will directly impact on carers' income.
- 8.12 The majority of changes to Personal Independence Payment will be in the regulations and we would like to use this opportunity to highlight possible measures to mitigate the negative impact of the changes on people with a learning disability:
- Ensure that the descriptors and thresholds are amended to reflect a true understanding of learning disability and the context in which people with a learning disability live. The list of daily activities must be located in the context and environmental (both physical and attitudinal) in which the individual with a learning disability lives.
 - The customer journey must be based on a rights based approach and ensure that people are given additional information and support that they require to complete the process including reasonable adjustment and where necessary advocacy and advice from externally organisations.
 - Retain the current time limit of 2 years for reclaiming that exists with DLA, rather than the suggested 1 year for PIP.
 - Remove the 28 day restriction in relation to hospital inpatient and Motability Scheme.
 - Review the effectiveness of face-to-face assessments when sufficient written evidence exists and the additional costs incurred when sourcing additional medical evidence.
 - Publish policy simulation modelling results and clearly state mitigating actions where the impact on people with a disability and carers is required.
- 8.13 Mencap would ask the committee to put in place protections for those people who may not meet the criteria for PIP and their carers in relation to poverty and social exclusion. We would also ask the committee to consider an amendment to ensure a review after the first year of PIP being introduced into Northern Ireland and a review every two years after that.

Amendment to ensure yearly review of PIP

Part 4, Clause 88, line 25, remove line 25 to 27, and insert:

“(a) Within the 1 year beginning with the date on which the first regulations under that section come into operation

(b) Every two years beginning with that date.”

9.0 Final comments:

9.1 We would like to thank the committee for the opportunity to present written evidence on the Welfare Reform Bill and would welcome an opportunity to discuss any of the points or suggested amendments in more detail.

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