

## **WELFARE REFORM BILL: Concerns on the impact on Victims/Survivors of the NI “Troubles.”**

### **Welfare Reform Bill**

#### **Chapter 2: Employment Support Allowance S.50-53**

- Duration of Contribution based ESA for those placed in the ‘Work Related Activity Group’s time limited to 365 days. (1 year).
- Those placed in the Support group will not have their benefit time limited.

#### **Background**

In order to consider the S.50-53 of the Bill is important to find out who is receiving Contribution based ESA; why have they been placed into the Work Related Activity Group and who will be affected by this proposal contained in the Welfare Reform Bill?

Although ESA was introduced in 2008, the criteria to qualify for this benefit became extremely stringent in March 2011, 2 months after the government began migrating thousands of people from Incapacity benefit to ESA. The criteria is such that those with serious sensory impairment (deaf or blind) will not automatically be awarded the 15 points required to pass the work capability assessment for ESA (unlike pre-March 2011 tests). If a blind person can walk in an unfamiliar place using a guide dog or other aid, without requiring assistance from another person they will fail the test.

The descriptor ‘walking’ has been changed to ‘mobilising’ so for the first time wheelchair users are assessed as to how far they can push themselves in a manual wheelchair. This is the case despite the fact that it is not an equal playing field for people with serious disability to find employment. The exemptions from the test have also been drastically curtailed. Therefore those who do satisfy the test usually have serious disabling conditions or chronic ill health. In fact DWP evidence has revealed that between January and August 2011, a total of 1,100 claimants died in the work-related activity group (WRAG). Why then are so many people many of whom must have serious ill health conditions placed in the WRAG?

The criteria for the ‘Support Group’ is so limited and stringent that it is difficult for many chronically sick and disabled people to satisfy it (appendix 1). Consequently many people are placed in the WRAG without any real prospect of obtaining work or holding down a job due to ill health. Unlike those in the Support group, those in the WRAG have to attend a series of interviews at their local Job Centre to discuss work related activity and their ability to get back to work. Within our client group we have had many clients report that when they are called for an interview in the Job Centre, advisers are informing them that they won’t be expected to undertake any activity and won’t be called back for many months. It would appear that job centre staff can clearly see that those in the WRAG are not fit for work.

Contribution based ESA is paid to those who have worked before they claimed and paid sufficient national insurance contributions to qualify for benefit. Many of those claiming will have worked for many years, contributing tax and national insurance. However under the proposal in the Welfare Reform Bill thousands will find that their contribution based ESA will only be paid for 12 months and this will apply retrospectively. Claimants of contribution based ESA feel that it is unjust that they worked and paid many years of National Insurance contributions, and now find that their ESA stops after 12 months, not because their health has improved but because of a sudden change in government policy.

### **Why is contribution-based Employment Support Allowance being time limited?**

The government's reasoning is three-fold:

*ESA for people in the Work Related Activity Group was never intended to be a benefit for the long term, but an interim measure for those who are expected to move into work. The Government expects people on benefit to take up the help and support available through Jobcentre Plus or the Work Programme to move off benefit and into work (1).*

In terms of comparisons with the rest of the UK, Northern Ireland has almost double the number of Incapacity Benefit recipients per head of working age population than the UK average (4.8% vs. 2.8%). This is not surprising in view of over 40 years of conflict, and so the impact of this change and the reassessment of IB claimants will have a particularly greater impact in Northern Ireland (2). Advice NI estimate that as many as 20,000 Incapacity benefit Claimants in Northern Ireland will transfer to the Work related Activity Group and will be affected by the time limit proposed (2).

However there are major flaws in the government's policy. The first is that the idea behind ESA is to get sick people back to work as soon as possible, "a quick turn around." The underpinning assumption is that for those in the Work Related Activity Group (WRAG), ESA should only be a temporary benefit pending the claimants return to work as soon as possible. This policy may be effective for some new ESA claimants freshly out of the labour market – who with some assistance may be more able to re-habilitate and get back into some form of work if at all possible with their disability or illness. However many diseases and long term disabilities will not fit into this box. This major flaw is very relevant to those who are migrating over from Incapacity benefit with long term disabilities and chronic medical conditions. It would include those with serious physical and psychological injuries as a result of the NI Troubles. Long term Incapacity Claimants have been out to the labour market or markedly longer periods, with long term or often fluctuating health problems. The majority of these claimants are over 50 years old and high numbers also have mental health issues (2). These claimants will lack up to date skills and often with age their medical conditions become more complex. It will not be an equal playing field for these long term claimants to rehabilitate quickly before their benefit is cut. The extremely narrow criteria for the Support Group means that many people with very serious health concerns are being placed in the WRAG,

and will therefore have their money cut, despite satisfying the WCA.

Advice NI report that in terms of the profile of the 51,000 Incapacity Benefit recipients in Northern Ireland, Incapacity Benefit recipients have been in receipt of this contribution based benefit for many years. 31,000 (over 60%) are aged 50 or over (2). The majority of victims/survivors of the troubles claiming ESA/IB are now in their 50's and 60's; and their ability and chances of re-employment is minimal. The age of our client group with disabilities and many years out of the labour market make them particularly vulnerable, at a time when they will have to wait longer (particularly women) to qualify for state pension. All too often employers prefer healthy young well qualified workers with recent work experience. Incapacity claimants tend to fail on just about all these counts. (6) Many that are over 50 previously worked in mainly manual jobs and a higher proportion have no formal qualifications at all. They are extremely unlikely to be an employer's first choice. The government's policy ignores this important fact.

In most cases, when someone loses a job because of illness, they will have difficulty gaining new employment unless they can convince an employer that they are 'cured.' "A combination of anti-discrimination legislation and promotion of more positive attitudes amongst employers may well create more employment opportunities for people with reasonable health but have a static impairment, but where employers are faced with someone whose condition is associated with ill health and frequent times when they cannot work, such policies are unlikely to be successful (4) This is exacerbated if there is no demand for labour – we are currently in one of the deepest recessions of the century. The idea therefore that "work pays" and that "work is the way out of poverty" can be realistically obtained, if people are fit for work; have up to date skills, and are attractive to employers. The vast majority of victims and survivors of the Troubles fail on all three. Our client group have long term ill health and disabilities not only affecting them physically but also psychologically. Many struggle to cope on a day to day basis. The government's policy underplays the impact of physical and mental ill health.

*The government states that those with limited or no means of supporting themselves and those who are most severely affected by their medical conditions (i.e. those in the support group) will continue to receive Employment and Support Allowance even after 365 days. If claimants are affected by the introduction of a time-limit they may be able to receive income-related Employment and Support Allowance.*

DWP's own impact assessment (5), based on detailed modelling of household income is that when entitlement to non-means tested benefit comes to an end after 12 months, 40% of claimants in the Work related activity group will fail to qualify for means-tested ESA. The average rate of Incapacity benefit paid at £98.39 per week (2) those affected could lose nearly £400 per month into their households. This could send many households into spiralling financial hardship, debt, and mortgage/ rent arrears. Many individuals and families are finding it difficult to cope with rising

food, utility, and fuel costs. Disabled and chronically sick people have higher heating bills than those who are able bodied as their mobility and circulation is often restricted. Some households have to support older teenagers in higher education; have shortfalls in endowment policies to pay off mortgages. To lose such a large portion of income all of a sudden will have a huge impact on low income families. In view of the fact that many victims and survivors with a disability are over 50yrs, their ability to change their situation is limited. Moreover, the 'safety net' of income based ESA will not prevent many claimant's to be substantially worse off if they have other forms of income which would be deductible from income based ESA (see case study 1 below).

Although some people who lose their contribution based benefit, will be able to transfer onto "income based" ESA which is means tested and not time limited, many more will be unable to. As it is means tested, it will only be open to those who have little or no other form of income. Many others will not be eligible to claim this benefit, because e.g. their partner works over 24 hours per week; or they may have other forms of income such as an occupational/private pension or Industrial Injuries benefit which pushes them over the threshold of eligibility for Income-based ESA. Many in their 50's who are paying the latter term of a mortgage which includes only capital, may not qualify for assistance with mortgage payments under income based ESA. Indeed to live on means tested benefit is to live just above the poverty line. Is it right that the sick and disabled in our society should be denied ESA when they paid their national insurance stamps before they became ill or were injured? Should they be relegated to a poverty led existence or financial hardship particularly when their ability to change their circumstances is limited? Is this the way we want to treat disabled victims and survivors in Northern Ireland?

The financial impact of the losing ESA payments must be considered against other welfare reform. The long term sick will already face financial cuts just by simply migrating over to ESA in the first place. Although they will initially be paid at the same rate of money they were receiving under IB, this protected figure will not increase year on year unlike ESA for new claimants. This is to ensure it matches the level of ESA by 2020. It could be said that this is a cut in benefit for the sick and disabled through the back door, over a long time frame, while prices and inflation continues to rise. Moreover the change to up rating benefits from the Retail Price Index to the Consumer Price Index means that in very real terms the value of welfare benefits are already decreasing year on year. Institute for Fiscal Studies (IFS) analysis found that only 23% of claimants will be protected by this change, the rest will be paying for things not covered by CPI so there will be a real loss of income over time. If, for example, the RPI exceeds the CPI by 1% point a year, after ten years the value of a payment up rated by the CPI would be around 91% of what it would have been under RPI up rating; after 20 years, it would 83% and after 30 years 75%.

The proposal to time limit ESA will affect many people suddenly without the ability or resources to make provision. Those who have to undergo a long and stressful fight for entitlement to ESA at appeal may find that despite succeeding, their benefit may only be paid for a matter of months

before payments cease, even though they have been found to satisfy the stringent new criteria for ESA. This is because the 1 year time limit will apply retrospectively. All contribution based ESA claimants and Incapacity claimants who have been migrated over to contribution based ESA, and placed in the WRAG in the past year will lose their benefit. This will therefore affect many victims/survivors of the NI troubles who have migrated over to ESA from Incapacity Benefit.

Moreover as outlined above, the criteria for the Support group is so stringent, many seriously ill people are placed in the WRAG, so it is not necessarily true to state that those “*most severely affected by their medical conditions (i.e. those in the support group) will continue to receive Employment and Support Allowance.*” Often those “*most severely affected by their medical conditions*” do not receive the help they need and deserve. Recently media in N Ireland highlighted the case of Mrs Celia Burns, a cancer patient who had been awarded no points, under the WCA, and who sadly died a few weeks after the decision was over turned.

Indeed there is a need for a wide and comprehensive response to the inadequacies of the ESA and how it is assessed. The WCA has been under tremendous criticism from dozens of charities representing disabled and chronically sick people. It has also been criticised by GP’s. In March 2012, The British Medical Association (BMA) reported that at the annual Scottish GP conference that month, doctors voted in favour of the following motion –

*‘That this conference, in respect of work capability assessments (WCA) as performed by ATOS Healthcare, believes that:*

**(i) the inadequate computer-based assessments that are used have little regard to the nature or complexity of the needs of long term sick and disabled persons;**

**(ii). the WCA should end with immediate effect and be replaced with a rigorous and safe system that does not cause avoidable harm to some of the weakest and most vulnerable in society.’**

Commenting on the successful motion, Chairman of the BMA’s Scottish General Practitioners Committee Dr Dean Marshall said -

*“We also support the need to provide more opportunities for those people who are able to work. However, **our patients are very concerned and confused with regards to these assessments. Many are in fear of how they will cope with the removal of, or cuts to, their benefits. Evidence appears***

**to suggest that people with serious health conditions are frequently declared fit for work.**

Jenny Morris of the Joseph Rowntree Foundation in “Rethinking Disability Policy” points out that the main problem with the new work capability assessment is the behavioural model on which it is based. “The combination of the ‘ bio-psycho’ model and a government target of reducing the

numbers eligible for ESA/IB by 1 million by 2015 are creating a punitive and stigmatising narrative about large numbers of people claiming they are too sick to work when in fact they are capable of working.” Morris points out that this view is based on two assumptions. Firstly that there is a high level of malingering even though all the evidence is that this is extremely rare (Department Work and Pensions 2010b). The second assumption is that most disabled people want to work and it is disabling barriers which have got in the way e.g. an aid or a prosthesis will be a “fix” to put them on an equal footing with an able bodied worker. However this assumes that disabled and chronically sick people do not experience any ill health associated with their impairment. Yet thousands of people in receipt of IB/ESA have chronic health conditions experiencing serious pain; fatigue, breathlessness on a daily basis due to their illness/disability.

Probably the most major flaw is the reality of disabled people’s employment opportunities - it’s the ‘elephant in the room.’ Richard Berthoud’s analysis shows that disabled people’s employment opportunities worsened from the 1980’s up until the end of the century, in that the extent to which a disabled person was less likely to have a job than a non-disabled person (the disability employment penalty) increased from 17% in 1987 to 28% in 2000, and has remained at this level. The majority of our claimants shot or injured in the troubles are now in their 50’s and 60’s. All too often employers prefer healthy young well qualified workers with recent work experience. Incapacity claimants tend to fail on just about all these counts. Many that are over 50 previously worked in manual jobs and a higher proportion have no formal qualifications at all. They are extremely unlikely to be an employer’s first choice. The government’s policy ignores this important fact.

In view of the above, how successful will the government’s policy be? Amongst those in the Work Related Activity Group, only 5% were helped into employment over the course of the year (Department for Works and Pensions 2011). The treatment and management of long term health conditions has certainly not figured much in the current government agenda on enabling people on IB/ESA to take up paid employment with the emphasis being on questioning whether they really are in such poor health that they cannot work. For those injured, traumatised and bereaved in the NI conflict, the passage of time doesn’t mean improvement. Many conditions deteriorate as people get older; their medical condition often becomes more complex with many people having multiple health conditions.

The governments over all welfare reforms are set to drastically increase recorded levels of unemployment (6). There are many areas with many areas of concentrated deprivation and unemployment within Northern Ireland. Without economic growth and job creation within these areas, the effects of welfare reform could push many households into poverty. It’s worth remembering that the WCA was initially conceived before the recession and that since the migration of those on Incapacity Benefit last year we have been in one of the worse recessions of this century. New findings released on 8th May 2012 by the Centre for Economics and Business Research (CEBR) show that

unemployment is set to continue rising in Northern Ireland:.

**“The regions expected to be worst affected by rising unemployment are those most dependent upon the public sector for employment and so are most exposed to government cutbacks. These include Northern Ireland, Wales, the North East of England and Scotland.....With almost three in ten workers employed by the public sector in Northern Ireland, the increase in unemployment is expected to be particularly pronounced. The unemployment rate is projected to rise from 8.8% in 2012 to 10.7% by 2016, weighing down heavily on consumer spending growth in the country.”**

The economic situation in N Ireland could be further exacerbated if the “Euro Crisis” widens and continues to slow down growth in Europe and the UK. In view of their age and disability; prolonged absence from the labour market and lack of academic qualifications, Victims/survivors placed in the work related activity group of ESA are therefore one of the most vulnerable groups affected by welfare reform, due to their age; disability and their capacity to improve their financial situation. The government’s policy expects them to compete for employment with thousands disallowed ESA and those in receipt of JSA. These changes run alongside reforms for lone parents who will also have to look for work and the thousands who are already unemployed or who have been made redundant in the current recession. Many small and medium sized businesses who are struggling to survive in the current economic climate may fear taking the risk employing someone with a disability or fluctuating health condition.

The speed at which these changes will take effect is real cause for concern. The government’s reform is set to reduce the number of incapacity claimants by just less than 1 million across the UK; but the Coalition government is planning to do this in a third of the time set by the previous labour government. This would be equivalent in scale to cutting the number of unemployed on Jobseekers by two thirds in just 3 years (6). In the current recession; with minimal economic growth there is little hope that the labour market can absorb such a large influx of potential new workers over such a short period.

Without work, reduced benefits will only lead to poverty which in turn can lead to poor health. Indeed this very issue was a concern and identified by the Chairman of the BMA’s Scottish General Practitioners Committee Dr Dean Marshall, **“...we must keep an eye on the wider implications of these reforms. A reduction in income may lead to poorer quality of health for individuals and increased health inequalities for our nation as a whole.”**

Advice NI point out, the Leonard Cheshire Disability report, ‘Disability Poverty in the UK’, shows that disabled people are twice as likely to live in poverty as non-disabled people and that disabled people’s day-to-day living costs – for basics like mobility aids, care and transport - are a quarter (25 per cent) higher than those of non-disabled people. The Report paints a picture of how poverty can impact on many areas of a disabled person’s life. For example:

- Continuing low levels of employment for disabled people mean that many are trapped in inescapable poverty. For people not expected to work, benefit levels frequently fail to cover basic costs of living, leaving them with no real route out of poverty.
- Half (49 per cent) of disabled people surveyed by Leonard Cheshire Disability had no savings. The majority revealed this was because their incomes were way below the national average.
- Disabled people face major discrimination in the education system. For example, disabled people are more than twice as likely to have no qualifications as nondisabled people. \*\*

The governments thrust of welfare reform regarding disability benefits will involve more regular retesting; regular medical assessments with unfamiliar doctors and health professionals. Many victims/survivors find this difficult: having to relive/retell their experience and how it has impacted on their health; they find it frustrating that they will have to repeatedly justify why they receive sickness benefits; they dislike having to recount traumatic events and many have reported that they find attending medicals, tribunals, and appeals stressful and degrading. For many the perpetrators who e.g. shot them were not brought to justice, there will be no HET enquiries into who shot or injured them and those who were convicted, most were released under the Good Friday agreement and this was understandably difficult for victims/survivors. Financial assistance from the Northern Ireland memorial Fund has been piece meal, and often unpredictable. It could be said that it is irrelevant which services are put into place effect for victims and survivors if they cannot pay for basic necessities, such as food, utilities, heat and housing costs. This is why welfare reform and its effects on victims/survivors is so important. It is therefore understandable that many feel an increasing sense of injustice that their very finances are being threatened as they struggle in their later years to make ends meet.

Many victims/survivors in receipt of contribution based-Incapacity benefit/ESA feel victims of moving goal posts. For many years they have attended medicals and passed and fulfilled all conditions to meet the criteria for benefit. Now when their chances of obtaining jobs 5, 10 or 15 years before retirement, with long standing and often fluctuating health problems in the current economic climate is minimal, many will lose their income through either failing the stringent WCA for ESA or through the proposed time limiting of ESA for those placed in the WRAG under the Welfare Reform Bill.

Works pays and work as the ticket out of poverty only works if (A) there is work and if (B) you are attractive to employers in what is now a highly competitive and saturated labour market. Victims and Survivors of the conflict due to age and disability, lack of skills and qualifications fail on this hurdle. Many are unfit to work nor able to secure employment. Many people feel that it is the vulnerable that are paying the cost of the banking crisis. The government's strategy is unlikely to succeed for this group and this must be addressed by our politicians. Many of those injured physically and psychologically feel their suffering paid the price of the peace enjoyed by N Ireland



following the Good Friday Agreement, and now fear that because of welfare reform are also paying the price for the banking crisis that has caused the current recession.

### **Which victims/survivors will be affected the most to time limit ESA?**

Due to rules around occupational and personal pensions, some disabled people will not be affected by a loss of ESA due to receipt of large pensions. This may include many ex-police officers or ex-UDR whose pension entitlement exceeded the means testing rules around pensions for ESA/Incapacity benefit. For police officers who do still receive some entitlement to Incapacity/ESA (e.g. pre 6.04.01 claimants - before means testing for occupational pension was introduced), the financial loss of ESA under the new harsher test or through the 12 month time limit, may be 'made up' or compensated for by the way their pensions are calculated. If their occupational pension gives a minimum income guarantee, any loss contributory ESA would be made up by the pension provider. This would certainly be a buffer against the financial loss felt by loss of these benefits.

A similar situation would arise for some ex civil servants and prison officers under the CSIBS. Injury benefit allowances, under the CSIBS, are based on a "guaranteed minimum income." Eligible benefits must be claimed, and amounts paid for ESA/Incapacity Benefit and Industrial Injuries Disablement Benefit are factored into the calculation of pension to ensure a "Guaranteed Minimum Income". If recipients cease to be eligible to receive any of these benefits, their pension would be increased to maintain the overall 'Minimum Income Guarantee.' This formula of calculating pensions would provide protection against ESA reform.

Many seriously injured ex-UDR or army veterans receive Unemployability Supplement from the Veterans Agency. This is an equivalent of Incapacity benefit or ESA for veterans, so they would also not be affected by Incapacity reform. However ex-UDR and other ex-service men and women who do not qualify for Unemployability Supplement or whose pensions do not operate along the above schemes may depend on ESA.

It would therefore appear that many victims and survivors who were prison officers, civil servants e.g. customs officers, and police officers will be somewhat protected from feeling the full effects of the proposal concerning time limiting contribution based ESA for those in the WRAG. It could be said that the potential financial loss would be made up by a different government department. In a sense this provides a kind of buffer to the impact of the potential changes. The main effects of the changes will therefore be felt most by civilians or a small group of ex-servicemen/women who receive ESA and who will be subject to the full effects of the government's welfare reform even though their health has not improved and in many cases has deteriorated.

#### **Case Study 1**

Client was shot multiple times in a sectarian shooting while working as a on a building site; no-one

was ever convicted. He was never offered any counselling after the incident, and developed PTSD; Depression and Anxiety with a fear of going out in addition to his physical injuries. His condition affected his relationships and his marriage broke down. He has no savings, having used his compensation to purchase his home, but receives Incapacity Benefit of £110.85 per week and Industrial Injuries Benefit of £43 p/w giving a total income of £153.85 p/w. If he passes the test for ESA, and is placed in the 'Work related activity group' his ESA will stop after 12 months if the Welfare Reform Bill becomes law. Although he can make a claim for "income based" ESA which is means tested, this would only be £56.15 per week because it will take into account his Industrial Injuries benefit, giving a total income of £99.15 p/w. Therefore the 12 month limit on contribution based ESA would mean he is £54.70 p/w worse off, losing over 1/3 of his income.

### **Case Study 2**

Client is 58 years old and suffers from physical and mental health problems. He accepted redundancy due to his deteriorating health stemming from injuries sustained in a bomb many years before. It has been difficult for him to adjust to the loss of his wages. He has a young teenage daughter at school, but also has to support an older daughter at University and another who is a vocational apprentice. His wife works 20 hours per week earning around £600 per month but her employer is unable to increase her hours. Earlier this year the family lost working tax credit as under welfare reform, assistance was withdrawn if neither member of a couple worked less than 24 hours per week. Client has a small Occupational Pension of £320 per month and the couple receive Child benefit and child tax credit for their youngest daughter. Outgoings include their mortgage of £300 per month, rates of £80 per month, school dinner money and increasing food, electric, heating costs and run a car. Their income is just over the threshold for income based ESA. Last year, client was migrated over from Incapacity benefit to ESA and was placed in the Work Related Activity Group. Time limiting his ESA to 12 months would mean a loss of over £380 per month. He is still paying a mortgage which is over £300 per month. This is part endowment but there will be a big shortfall when his endowment matures. Client would be unable to pay his outstanding mortgage and maintain living costs if his ESA payments cease. He is worried that there will be a serious risk of losing his home in the 8 years before he reaches retirement.

### **Case Study 3**

Client developed a serious condition affecting his hips. He also suffers from Depression and Anxiety following multiple traumas when he worked. His wife works earning £839 per month, and they receive CTC for their dependent child. They pay rates of £80 per month, and a mortgage but there will be an £8-9000 shortfall at the end of their mortgage next year as their endowment has underperformed. They have no savings, and are also repaying a car loan. Due to his restricted mobility the family would have high heating costs. Client has been disallowed ESA even though he

is awaiting further surgery. He is appealing this decision. Even if he wins his appeal, if the proposal to time limit payment of ESA to 12 months, for those in the WRAG he will lose around £400 per month. He receives high mobility DLA and middle rate care but these will also come under review and could be lost when PIP replaces DLA. This could leave this household struggling financially.

#### **Case study 4**

Client was shot multiple times at a sectarian shooting at his family home, sustaining long term injuries. Another family member was murdered during the attack. He recently migrated over to ESA, was disallowed but won his case on appeal. Despite this, he will lose his contribution based ESA as soon as the proposal in the Welfare Reform Bill becomes law. His wife works as a Care Assistant but is only contracted for 2 and ½ days per week but welcomes the chance work extra hours when possible but this is unpredictable. They receive CTC for their daughter and child benefit. Client receives DLA high mobility and low rate care component due to his injuries and contribution based ESA. Despite this if his ESA was stopped he states that he does not think he could stay in his current home but would have to move.

**Part 2 – Client commitments for those in receipt of ESA:** we are also concerned about how this aspect of the Bill will be put into practice and administered. The government’s policy appears to treat those on ESA as job seekers without taking into account why they are claiming ESA in the first place and not JSA. Everyday difficulties like, breathlessness, pain, stiffness, fatigue; symptoms of depression which may manifest in a variety of ways may make it difficult for claimants to attend interviews, keep claimant commitments etc. We would hope that a common sense and fair approach is adopted taking into account the unique circumstances of each client, and ensuring that their health does not suffer.

#### **Part Four of the Welfare Reform Bill introduces Personal Independence Payments to replace the current Disability Living Allowance.**

From 2013/1014 the government intends to replace DLA with Personal Independence Payments for those aged 16-64 years old. While the Department for Work and Pensions aims to make the test for PIP more objective and consistent than the assessment for DLA, proposals are underpinned with the intention to make financial savings of 20%. This is reflected in the tough nature of the new test and the fact that there will be more regular reassessment. Draft regulations offer the first glimpse of the new test for PIP and there appears to be a move towards a point based system like ESA.

A new paper published by the Joseph Rowntree Foundation argues that the assessment framework for the new personal independence payment (PIP) is a “blatant corruption’ of the social model of disability. In *“Rethinking disability policy,”* Jenny Morris, a former member of the Prime Minister’s

Strategy Unit and the Office for Disability Issues, points out that the government has interpreted the 'social model of disability' in such a way that the assessment for PIP "should take into account the impact of 'medical treatments and aids and adaptations' on people's ability to participate in everyday life.", with the impression being that the new eligibility criteria may exclude those with substantial impairment who use aids and adaptations. *"Whereas disabled people have seen DLA as contributing towards a level playing field, by enabling them to meet additional costs associated with impairment and/or disabling barriers, the assessment for PIP will mean that where an individual 'successfully' uses 'aids and adaptations', this may well disqualify them for the new benefit."* This, the paper highlights is at least in part based on the assumption that using aids and adaptations 'successfully' makes people 'independent' and therefore not eligible for support from the state. Yet speak to anyone with a long term disability, e.g. an amputee and ask them if they face a level playing field in work; or in undertaking everyday tasks simply because they use aids and adaptations. This policy incorporates a simplistic and naive view of equality for the disabled. Society needs to make resources available to encourage participation on view of the reality of living with disability and the ignores the increased financial costs faced by disabled people. It also assumes that barriers faced everyday by disabled people are limited to the 'list' in the test for PIP. Consequently many disabled people could find that much needed help is removed, and they are penalised for striving to live independently. Moreover qualifying for DLA/PIP can passport one to other benefits. There could be detrimental domino effect on the disabled and chronically ill. Removing this assistance is to remove a wider recognition by society that opportunities for the disabled and chronically ill are more limited, and although we aspire to equality in real terms, removing financial assistance flies in the face of what true equality should be about. A fair society should provide help and encouragement to disabled people who want to work but also agree to support those who cannot.

In view of the fact that N Ireland has endured over 40 years of conflict and the fact that rates of DLA are higher here than in UK mainland, the introduction of PIP and the government's policy behind it could also have a huge impact on those physically or psychologically injured by the NI conflict. The change in the test is causing a lot of apprehension among our client group. For many DLA is an important part of their income in view of their disability/injuries. A recent survey by the Papworth Trust in England shows that 77% of DLA claimants think that the government is penalising disabled people unfairly. Papworth Chief Executive Adrian Bagg said *"The people who participated in the survey have many concerns about the proposed changes but they are particularly anxious that the new PIP assessment will be unfair. We urge the government to learn the lessons of the work capability assessment and ensure that if they make this change, the assessment will be fair and the implications clearly explained."*

Many of our client group are extremely concerned that the stringent changes in criteria for ESA and PIP could cut their income many times over, not because their health has in any way improved but because the tests for assistance from the state has become so stringent. These changes coupled with other forms of welfare cuts, such as that to housing benefit and the way in which benefits are uprated, could mean that over time, disabled people are reduced to severe hardship. This in turn could lead to despair and affect mental and emotional health.

At Wave Trauma centre we have seen first-hand how migration over to ESA has affected our client's mental and physical health, with increased anxiety and stress. In one case a client experienced a severe flare up of

colitis due to the stress and worry of passing the Work Capability Assessment. Another flaw is that the governments thrust of welfare reform regarding disability benefits (ESA and PIP, which will replace DLA in 2013) will involve more regular retesting; regular medical assessments with unfamiliar doctors and health professionals. This will compound the anxiety of those who are sick and disabled. Many victims/survivors find this difficult: having to relive/retell their experience and how it has impacted on their health. Many find it frustrating that they will have to repeatedly justify why they receive sickness benefits when it was hardly their choice to be injured. They dislike having to recount traumatic events and find attending medicals, tribunals, and appeals stressful and degrading. For many the perpetrators who e.g. shot them were not brought to justice, and for many of the injured there will be no inquiry or re-examination into any police investigations into the event in which they sustained their injuries. Welfare reform will therefore heighten a sense of injustice for many victims and survivors of the "Troubles." The concentration on ATOS medicals for ESA and PIP instead of evidence from a patient's own GP/Consultant is therefore flawed. If an able bodied person loses their income they can invest their energies into job search and achievable ideas. Many disabled and chronically sick people cannot, if they lose their benefits, what are the alternatives? That is why the government's cull on the benefit system makes this an extremely worrying time for disabled and chronically ill victims/survivors of the troubles.

In a speech to the TUC conference on 30 May 2012, TUC General Secretary Brendan Barber said -

*'No group of people is more affected by the government's savage, ideological austerity than disabled workers. It's no exaggeration to say that when it comes to disability, there is a fundamental dishonesty about government policy.'*

*'The coalition is keen to promote the language of fairness and is keen to stress the opportunities available to disabled people, but the truth could not be more different. Nowhere is the dichotomy between rhetoric and reality starker than when it comes to benefits - a lifeline for so many disabled people...'*

*'The government's welfare reforms are causing immense damage. Think about the Work Programme, which is replacing welfare with workfare and allowing private firms to rake it in. Think about the conversion of disability living allowance into personal independence payments (PIP). This is a measure that is designed solely to save a billion pounds, and the only way that can be achieved is by reducing the numbers eligible for PIP. And think finally about work capability assessments. The number of wrong decisions and successful appeals is indicative of a system that is frankly rotten to the core.'*

From 2013, a more stringent PIP will begin to replace DLA. The loss of this benefit will impact on the payment of premiums on other benefits; there will also be cuts caused through the calculation of benefit for Universal Credit. We are concerned that the way UC may be calculated less favourably than current benefits. This seems all the more likely with the government's announcement on 8<sup>th</sup> October 2012 that they are set to cut an additional £10 billion from the welfare budget. There appears to be testing times ahead. Moreover the plans to pay Universal

Credit monthly and to one nominated person may cause problems in households where someone has an addiction; monthly budgeting may be difficult for those who have learning disability, or mental health issues. There should therefore be an element of choice in the frequency of payments.

**Restriction of Housing Benefit for social housing tenants whose accommodation is larger than needed.**

We are concerned about this restriction due to the lack of smaller sized homes within the social housing sector. It has the potential to cause hardship for many people whose children have grown up and left the family home, but who are settled and supported in their communities with friends and neighbours. Although this restriction is active in the private rented sector, there is often more choice for tenants in that sector to choose accommodation. Moreover some tenants in the social rented sector may have made adaptations to their home; have strong reasons on grounds of health to stay in their accommodation. We submit that there should therefore be a policy drawn up with specific exemption to the HB restriction, e.g. on grounds of health, or where the tenant is willing to move but there is no alternative social housing available in their area. It must also be noted that there is no parallel provision of restricting mortgage interest if a home is bigger than a family would require.

**Conclusion:**

The sweeping welfare reform changes introduced by the government to date and the introduction of the Welfare Reform Bill before the NI Assembly, are going to have huge long term effects on the welfare system. There are increased levels of apprehension and worry among our members who fear losing their income with no resources or reserves to turn to. It is very apparent that over the next 3 years many people will be caught in the trap of too ill to work but not ill enough to receive financial assistance from the State or who are caught by the proposed new 12 month time limit on payment of ESA. The government policy behind welfare reform, particularly behind ESA and DLA/PIP underestimates the problems the disabled and chronically sick face on a daily basis, and appears to dismiss that a disabled person has any health problems should they be able to use aids or adaptations. This is a sinister distortion on what disability policy should be about: creating a realistic playing field and options for the long term sick and disabled rather than punitive treatment of the vulnerable.

Reduced benefits will mean that the ability to cover a shortfall in housing costs to plug the gap between housing benefit and actual rent costs or mortgage interest shortfalls will become increasingly difficult. House repossessions in Northern Ireland are already on the rise. These changes are occurring at a time of increased heating costs, increased utility bills, high inflation and high unemployment. The changes will therefore have a domino effect on our client's circumstances and will undoubtedly lead to financial hardship for many people with increased stress and mental health problems; strain on relationships; and debt. The Institute of Fiscal Studies has stated that the impact of current welfare changes will increase child poverty.

A blind spot in the government's policy of "getting people back to work" is that the ESA test is too harsh. Many genuine and vulnerable ill and disabled people are finding it difficult to satisfy the new criteria. Even the majority of those that do and who are placed in the Work related Activity Group will have their benefit cut within 12 months if government proposals are passed. Another major blind spot is the fact that we are in a deep recession, the worst economic crisis in Europe for decades and jobs are not plentiful. The problems are exacerbated for our client group, mostly in their 50's and 60's with long term physical and mental health problems. If employers (many of whom are just about continuing to trade in the current recession) are selecting new employees in a saturated labour market, who are they are going to employ, those just made redundant or the long term sick and disabled? Many of our members sustained their injuries in the 70's and 80's long before there was any legislation against disability discrimination, long before there were ramps on footpaths, or the disability adaptations we find today. Now many years after compensation has been spent, a lot of injured victims and survivors rely on welfare benefits.

The welfare changes are occurring at a time when financial assistance for victims and survivors is being depleted; there may be little chance of reopening cases of poor compensation; and the government rejected proposed payments to victims/survivors by Eames Bradley. More recently victims are reading about proposals to pay huge redundancy payments for prison officers and more recently high compensation awards to some victims of violence in face of pitiful payments to many victims of the troubles decades before. This is against a background of disappointment at the outcome of many HET inquiries and quests for justice and truth, and in face of the large scale prisoner release scheme which was particularly and understandable difficult for many victims of violence and for those who had lost loved ones in the conflict.

The changes to ESA will impact Northern Ireland more than any other region in the UK as we have nearly twice as many long term Incapacity claimants compared to the UK mainland. This is not surprising after over 40 years of civil conflict. Among victims and survivors of the Northern Ireland conflict, the changes to our welfare system will have the biggest impact on civilians. To date the effects of welfare reform are just beginning to take hold, but there will be repeated waves of cuts felt quickly over the next 3 years. At the moment one the major difficulties among low income households is an inability to heat homes due to fuel poverty. However it appears likely that over the next few years, paying actual housing costs to keep the home will become an increasing problem. Many renting in the private and social sector will have to plug the gaps between what they receive in housing benefit and actually pay in rent. This will be made more difficult if disability benefits are decreased.

### **Recommendations:**

- Politicians in N Ireland work to obtain changes to the harsh ESA test to provide realistic help and assistance to disabled and chronically sick individuals, including those with fluctuating conditions and to review the mental health descriptors, to ensure in particular that the mental health conditions reflect the symptoms of Post-Traumatic Stress Disorder.
- Ministers need to monitor how successful the current government policy of getting those placed in the WRAG of ESA back into employment really is, particularly for those aged 50+ who have been long term sick.
- Ministers also need to monitor how effective the schemes provided by private firms to help rehabilitate the long term sick back into employment really are, particularly for those aged over 50 years who have a long term disability and whether there is value for money.
- Due to the high levels of appeals against ATOS decisions, the consequential cost to the tax payer and stress caused to disabled people, ATOS should be forced to obtain medical evidence from GP's/consultant's at the outset of a case to ensure all relevant medical information can be taken into account. This would save a huge amount of tax payers' money, and avoid enormous stress and anxiety for chronically sick and disabled people within our community. It would improve decision making and save thousands of pounds in appeal hearings.
- The criteria of the Support Group needs to be widened to ensure that only those with a realistic chances of rehabilitation in view of disability and age are placed in the WRAG of ESA.
- That ESA is time limited at the very least to 5 years to allow for realistic opportunity for those placed in the Work related activity group, who are chronically sick/disabled through injury to rehabilitate/retrain in something that is compatible with their disablement if at all possible.
- In view of the extent of welfare reform, consideration is given to the creation of a non-means tested pension for those injured by the troubles or who were widowed/orphaned within the early years of the troubles (when compensation payments were pitiful).
- Alternatives to cessation of contribution based ESA for those placed in the WRAG are seriously considered, for those who are long term sick and over 55 years old, in recognition of the very real fact that their chances of obtaining employment is unlikely, due to age, statistical evidence which shows that this age band has few qualifications; many lack up to date skills and experience and have multiple health problems. Alternatives could include e.g.



Voluntary work in the voluntary sector to continue to receive benefit. This could assist the voluntary sector in its work.

- Currently the rule is such that those who are 3 years from claiming state retirement pension can remain on Incapacity Benefit. Although the policy of parity applies to the NI Assembly to follow legislation from Westminster, could funding be raised in Northern Ireland to make an exception for those claiming Incapacity Benefit on grounds of injury or disablement caused by the NI conflict? Could money streamlined for victims be fed into this?
- Those with long standing chronic conditions as a result of the N Ireland Troubles should be exempt from the 12 month time limit on ESA, set to be introduced in 2012. At the very least this period should be extended to 5 years. This would afford more time for economic recovery and rehabilitation, albeit despite this as outlined in this report many people would still have difficulties returning to work but it would lessen the impact of the changes.
- Those injured in the Troubles should have their DLA protected and should be exempt from transferring over to Personal Independence Payments. Naturally they would continue to be medically assessed through the collation of medical evidence for DLA as under the current system.
- Welfare reform in Northern Ireland needs to retain discretion to prevent repetitive reassessment when it is not really necessary in a lot of cases of long term physical or psychological injury and there is evidence to suggest that there will be no expected improvement. The government's policy behind ESA and PIP which is set to replace DLA will introduce more frequent and regular medical assessments. However many of those injured physically and psychologically in the troubles, find it distressing degrading to have to undergo repeated medicals and find the experience stressful."
- It may be of interest to further compare the amount of money the government saved by the prisoner release scheme had all prisoners served their sentences, and the subsequent savings made following the closure of the Maze prison etc. when considering the bigger picture on the treatment of victims and survivors of the NI Troubles.

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