

**Committee for Social Development**

# **Report on the Welfare Reform Bill (NIA Bill 13/11-15)**

**Together with the Minutes of Proceedings of the Committee  
relating to the Report, and the Minutes of Evidence**

**Ordered by The Committee for Social Development be printed on 14 February 2013  
Report: NIA 74/11-15 Committee for Social Development**



# Membership and Powers

The Committee for Social Development is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, Section 29 of the Northern Ireland Act 1998 and under Standing Order 48.

The Committee has power to:

- consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- consider relevant secondary legislation and take the Committee stage of primary legislation;
- call for persons and papers;
- initiate inquiries and make reports; and
- consider and advise on any matters brought to the Committee by the Minister for Social Development.

The Committee has 11 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The membership of the Committee since 23 May 2011 has been as follows:

Mr Alex Maskey (Chairperson)

Mr Mickey Brady (Deputy Chairperson)

Mr Sydney Anderson<sup>123</sup>

Ms Paula Bradley<sup>4</sup>

Ms Pam Brown

Mr Gregory Campbell<sup>5</sup>

Ms Judith Cochrane

Mr Michael Copeland

Mr Mark H Durkan

Mr Fra McCann

Mr David McClarty

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1 With effect from 26 March 2012 Mr Alastair Ross replaced Mr Sammy Douglas  
 2 With effect from 1 October 2012 Mr Sammy Douglas replaced Mr Alastair Ross  
 3 With effect from 11 February 2013 Mr Sydney Anderson replaced Mr Sammy Douglas  
 4 With effect from 20 February 2012 Ms Paula Bradley replaced Mr Gregory Campbell  
 5 With effect from 1 October 2012 Mr Gregory Campbell replaced Mr Alex Easton





# Table of Contents

**Report**

Executive Summary	1
Recommendations	6
Introduction	11
Consideration of the Bill	12
Clause by Clause	54

**Appendix 1**

Minutes of Proceedings Relating to the Report	65
---	----

**Appendix 2**

Minutes of Evidence	121
---------------------	-----

**Appendix 3**

Written Submissions	825
---------------------	-----

**Appendix 4**

Departmental Submissions	1257
--------------------------	------

**Appendix 5**

Other papers	1397
--------------	------

**Appendix 6**

List of benefits	1441
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**Appendix 7**

List of witnesses	1445
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## List of Abbreviations

CAB	Citizens Advice Bureau
CIH	Chartered Institute of Housing
CPI	Consumer Price Index
CTB	Council Tax Benefit
CTC	Child Tax Credit
DEL	Department of Employment and Learning
DLA	Disability Living Allowance
DSD	Department for Social Development
DWP	Department for Work and Pensions
ECHR	European Convention on Human Rights
ESA	Employment Support Allowance
EQIA	Equality Impact Assessment
EU	European Union
GB	Great Britain
HB	Housing Benefit
HCP	Health Care Professional
HMRC	Her Majesty's Revenue & Customs
HRS	Housing Rights Service
IB	Incapacity Benefit
ICTU	Irish Congress of Trade Unions
IS	Income Support
IT	Information Technology
JSA	Job Seeker's Allowance
LHA	Local Housing Allowance
NDCS	National Deaf Children's Society
NIACRO	Northern Ireland Association for the Care and Resettlement of Offenders
NIAMH	Northern Ireland Association for Mental Health
NICs	National Insurance Contributions
NICCY	Northern Ireland Commissioner for Children and Young People
NICEM	Northern Ireland Council for Ethnic Minorities
NIFHA	Northern Ireland Federation of Housing Associations
NIHE	Northern Ireland Housing Executive
NILGA	Northern Ireland Local Government Association
NIPSA	Northern Ireland Public Service Alliance
NRP	Non Resident Parent
NUS-USI	National Union of Students – Union of Students in Ireland
PAYE	Pay As You Earn

PCS	Public and Commercial Services Union
PIP	Personal Independence Payment
PTSD	Post-Traumatic Stress Disorder
RNIB	Royal National Institute of the Blind
ROI	Republic of Ireland
RPI	Retail Price Index
SDP	Severe Disability Premium
SIPTU	Services, Industrial, Professional and Technical Union
STEP	South Tyrone Empowerment Programme
SMI	Support for Mortgage Interest
SPA	State Pension Age
SSA	Social Security Agency
UK	United Kingdom
WCA	Work Capability Assessment
WRAG	Work Related Activity Group
WRDA	Women's Resource and Development Agency
WTC	Working Tax Credit
UC	Universal Credit
UNCRC	United Nations Convention on the Rights of the Child



# Executive Summary

## Key aspects of the Bill

1. The Welfare Reform Bill consists of 7 Parts, 134 clauses and 12 schedules and is generally acknowledged as the most radical reform of the welfare system in a generation.
2. The stated aim of the Bill from an operational perspective is to make the welfare system simpler to administer and, from a customer's perspective, easier to understand. The key principle of the Bill is to make work pay by ensuring that a person will always be better off in work than on benefits.
3. Central to the Bill is the introduction of a new benefit called Universal Credit which replaces a wide range of existing benefits; the replacement of Disability Living Allowance (DLA) with a Personal Independence Payment (PIP); the introduction of a new sanctions' regime; and the establishment of a benefit cap, set at £26k per annum.

## Key Issues

### **Process**

4. During the course of the oral evidence sessions the Committee became increasingly concerned about the potential impact of the Bill on human rights and equality. Subsequently, at its meeting on 8 November 2012 the Committee agreed a motion under Standing Order 35 to refer the Bill to an Ad Hoc Committee on Conformity with Human Rights and Equality Requirements.
5. The motion was supported by the Assembly on 20 November 2012 and was then referred to the Ad Hoc Committee and the formal consideration of the Bill by the Committee for Social Development was suspended.
6. Prior to the formal Committee Stage resuming the Committee agreed a motion to extend the Committee Stage by two weeks, until 19 February 2013, and this was supported by the Assembly on 28 January 2013.
7. The Ad Hoc Committee reported to the Assembly on 29 January 2013 and the Committee resumed its consideration of the Bill on 30 January 2013.

### **Approach to recommendations**

8. While the Committee agreed the general principles and aims of the Bill it had serious concerns about its potential negative impact, particularly on vulnerable groups. Therefore, in its engagement with stakeholders the Committee specifically asked what mitigating measures needed to be put in place in order to minimise the impact on the most vulnerable in society. In drawing up these recommendations the Committee was acutely aware of the arguments relating to parity with GB and the potential cost implications. While social security arrangements are devolved to the Northern Ireland Assembly, the costs (approximately £3bn per annum) are covered by the Treasury and are separate from the NI Block Grant.
9. The Minister made it clear to the Committee that any deviation from parity that had an associated cost would have to be borne by the Block Grant i.e. the Treasury would not make any additional funding provision to accommodate these changes. Therefore, any recommendations that had additional costs associated with them would have to be discussed and agreed by the Executive Committee.

10. The Committee acknowledged that it did not have a role in dictating the spending priorities of the Executive nor was it in a position to evaluate the spending priorities of other departments vis à vis the costs associated with its recommendations.
11. In that context, where the Committee made recommendations that had associated costs the Committee agreed to oppose those related clauses, without prejudice to the outcome of the Minister's discussions and individual positions that may be taken by Members at a later stage of the Bill process.
12. Members felt that this approach allowed the Minister the flexibility to engage with Executive colleagues on the potential to fund these recommendations and therefore offered the best possibility for adoption of a range of mitigation measures to address their concerns and those of stakeholders.
13. These measures are encapsulated in the Recommendations section of the report and are summarised below.

## Summary of Recommendations

14. The Committee had serious concerns in relation to clause 4, shared by stakeholders, that where one member of a couple refuses to sign a Claimant Commitment as part of a joint claim, then no payment will be made to either partner. The Committee felt this was inherently unfair and recommended that the member who is willing to sign is treated as a single claimant.
15. Frequency of payments was repeated by stakeholders as a key area of concern, underpinned by comments regarding the potential ability of people to budget their benefits on a monthly basis. The Committee acknowledged the Minister's consultation on this issue which aims to develop criteria for more frequent payments to be made to claimants in exceptional circumstances. However, the Committee favoured a twice monthly payment by default with an option for monthly payments if requested. The Committee noted the potential costs associated with this but asked the Minister to explore with the Executive Committee how this recommendation might be funded.
16. The impact of this Bill on children and the disabled was raised on a number of occasions by stakeholders and was of importance to the Committee. In relation to clause 10 the Committee was concerned that the disability element of Child Tax Credit would be cut from £57 per week to £28 per week unless the child is receiving the high rate of care allowance or is registered as blind. The Committee acknowledged that the cost of retaining the Child Tax Credit lower rate was around £11.3 million per annum. However, it was supportive of the Child Tax Credit lower rate being retained and recommended this to the Minister.
17. Despite the assurance of transitional protection the Committee shared the concerns of stakeholders, particularly groups representing disabled people, about the removal of the Severe Disability Premium. The Department noted that if a Severe Disability Premium were to be introduced to Universal Credit it would cost in the region of £52.6m per annum if paid in line with existing benefit rules and rates, and also have additional administration costs as this benefit would not form part of the new IT system. However, given the concerns expressed by stakeholders the Committee believed that this option warranted discussion by the Executive.
18. The introduction of higher level sanctions under clause 26 raised significant concerns among stakeholders particularly the potential for loss of benefit for up to 3 years and the subsequent impact this could have on children. The Committee opposed this clause and recommended that the Minister explore the possibility of varying the sanctions regime.
19. The period of entitlement to contributory ESA is being limited to 365 days under clause 52. Members reflected on the fairness of paying into system for many years yet only receiving one year's payment and noted that the Minister shared their concerns. The Committee heard that the cost of extending this was approximately £3 million per month and recommended that the Minister discuss this issue at Executive with a view to making funds available to extend the period of contribution-based ESA to more than 12 months.
20. The Committee was concerned about the particular impact clause 54 would have on young people with disabilities. These concerns were echoed by Disability Action. The Committee heard from stakeholders that the cost of the current provisions was approximately £390k per year. With this in mind the Committee recommended that the current arrangements are maintained.
21. Clause 69 was of key concern to the Committee and all stakeholders viewed this as potentially having considerable and widespread impact. The NI Housing Executive noted that around 26, 000 of its tenants would be deemed as under-occupying their homes and NIFHA stated that 6,500 housing association tenants would also be under-occupying as a result of

- this clause and therefore subject to a reduction in housing benefit. The Committee noted that the Minister shared some of their concerns. The Committee opposed this clause.
22. The issue of split payments (i.e. a percentage of Universal Credit paid to both parties in a couple) was raised by a number of groups that had concerns that a single household payment could potentially have a negative impact on the financial independence of women; and therefore a potentially negative impact on children, given that it is still largely the case that the woman is the main carer and/or the second earner in a family. While the Committee had originally considered an amendment to address this issue, concern was raised about the potential for any amendment to the Bill to be too restrictive and therefore have unintended consequences. Therefore, the Committee decided not to pursue this, but instead recommended that the criteria that will determine the basis for split payments in exceptional circumstances which is currently being developed by the Department, should give priority to determining how payments can be made to ensure the financial independence of women, who tend to be the main carer or second earner, and therefore help protect the interests of children.
  23. The new sanctions regime raised a number of concerns for stakeholders and the Committee questioned the Department about this on several occasions. The Committee was clear that it does not condone fraud or attempted fraud but it did have some reservations about the proportionality of proposed penalties. Therefore in relation to clause 109 the Committee believed that informal cautions should be considered as an option for minor cases, rather than an administrative penalty (£350) and in opposing this clause, made a recommendation to that effect.
  24. The Committee was also concerned whether the level of the administrative penalties was too high for actual cases of fraud, an issue also raised by stakeholders. This concern was largely based on the impact that a sanction could have on a family as the result of the action of an individual. Specifically, the Committee queried whether the increase in the administrative penalty from 30% of the overpayment (as a result of fraud) to 50%, up to a maximum of £2000 was reasonable. The Committee was concerned with the level of the administrative penalty and asked the Minister to review these and therefore opposed this clause.
  25. The Committee also discussed the potential to retain the option of a formal caution instead of an administrative penalty (clause 115) but on balance they believed that this could have long term serious implications e.g. impact on job applications. While the Committee agreed this clause it recommended that the concept of proportionality is used by the Department in determining whether an informal caution is more appropriate in certain cases of benefit fraud.
  26. The Committee agreed amendments as per the report of the Examiner of Statutory Rules to ensure that the regulation-making power in clauses 33 and 91 are subject to the confirmatory procedure.
  27. The Committee acknowledged the key role that the independent advice sector plays in providing advice on the benefits system to claimants and the potential increase in the demand for advice services as a result of the changes to the current system. The Committee noted that the Coalition Government has agreed a £65m fund, created by the Cabinet Office and the Big Lottery Fund, to support the advice sector across the UK between April 2013 and April 2015, as Universal Credit is rolled out. The Committee recommended that additional resources are made available to the independent advice sector, including local advice centres, in NI during this period and subsequent years, to ensure that all benefit claimants can access independent advice relating to the new system.
  28. The Committee also recommended that the Department for Social Development:
    - take cognisance of the recommendations contained in the Ad Hoc Committee's report on the Bill's Conformity with Human Rights and Equality Requirements;



- establishes a monitoring programme to determine whether there is any adverse differential impact on any or all Section 75 groups; and
  - takes all necessary mitigation measures to address this impact.
29. The Committee acknowledged the on-going consultation on Maximising Incomes and Outcomes: a Plan for Improving the Uptake of Benefits and the progress made to date by the Department to ensure that claimants receive all the benefits they are entitled to.
30. However, the Committee recommends that a comprehensive, strategic approach is established on the basis of best practice to maximise benefit uptake for claimants, and that the Department do so in partnership with the voluntary and community sector as well as all relevant customer-facing public bodies.

## Recommendations

### Clause 4 - Basic conditions

- 31. Recommendation: Where one person in a couple is willing to sign a Claimant Commitment and the other member of the couple isn't, then the person willing to sign is treated as a single claimant.
- 32. The Committee believed that it is inherently unfair that where one person in a couple is willing to sign a Claimant Commitment and the other member of the couple isn't that no payment is made to either person.
- 33. The Committee noted that the Department believes the numbers disallowed in these circumstances will probably be very low although no costs have been attached to this recommendation.

### Clause 10 Responsibility for children and young people

- 34. Recommendation: That the Child Tax Credit lower rate be restored.
- 35. The Committee shared the concerns raised by Disability Action, Citizens Advice, NICCY, ICTU and others about the impact that this clause would have on families with a disabled child.
- 36. The Committee noted that there are potentially 6,000 children who will receive more under UC (a severely disabled child will receive £353 per month compared to the current Child Tax Credit equivalent of £345 per month i.e. £9 per month more). The Committee also noted that 7,600 children will receive less under UC (£123 compared with the Child Tax Credit lower rate of £245 per month i.e. £122 per month less).
- 37. The Committee noted that the Minister shared the Committee concerns.
- 38. The Committee believed that protecting the most vulnerable people in society was a key aim of its scrutiny of the Bill and while it noted that the costs associated with restoring the Child Tax Credit lower rate was £11.3million it recommended that the Minister discuss this issue at Executive with a view to making funds available to restore the Child Tax Credit lower rate and amend this clause accordingly.

### Clause 12 Other particular needs or circumstances

- 39. Recommendation: That the Severe Disability Premium be retained.
- 40. The Committee noted that a range of stakeholders were concerned about the removal of the Severe Disability Premium and favoured the retention of the Premium in full.
- 41. The Committee noted the Department referred to the Coalition Government's intention to raise the weekly rate of the support component (equivalent to £34.05 today) in stages to around £81 per week "as resources become available".
- 42. The Committee was concerned that given the higher rates of disability in Northern Ireland this clause was likely to have a disproportionate impact on people here.
- 43. The Committee was also of the opinion that the reference to "as resources become available" was not specific enough to provide the reassurance they required to agree this clause.

44. Therefore, as with clause 10, the Committee believed that protecting the most vulnerable people in society was a key aim of its scrutiny of the Bill and while it noted that the costs associated with retaining the Severe Disability Premium were high (estimated at £52.6m per annum) the Committee believed that this option warranted discussion at the Executive.
45. The Committee supported the Minister in bringing the Committee's recommendation to the Executive Committee with a view to making funds available to retain the Severe Disability Premium.

## Clause 26 Higher-level sanctions

46. Recommendation: That the Minister pursue the possibility of varying the sanction regime with DWP
47. The Committee heard concerns from a range of stakeholders concerning the potential impact of a three year sanction, in particular the impact on families as a result of one person's actions.
48. The Committee was assured that a three year sanction would only apply to claimants who are subject to all work-related requirements and who have deliberately and repeatedly avoided their most important responsibilities. The Department also confirmed that a person subject to a three year sanction will also have received at least two previous high level sanctions and the consequences of continued non-compliance will have been clearly explained.
49. The Committee requested that the Minister consider whether there was room for variation in relation to the sanction regime and the Minister agreed to pursue the possibility of varying the sanction regime with DWP

## Clause 52 Period of entitlement to contributory allowance

50. Recommendation: That the Minister explore options to extend the period of contribution-based ESA to more than 12 months.
51. The Committee was concerned that the period of entitlement to contribution-based ESA will be restricted to 365 days.
52. The Committee noted that the Minister shared these concerns.
53. While acknowledging that the estimated cost of not implementing this measure was approximately £3m per month the Committee wished to explore the possibility of extending the period of contribution-based ESA to more than 12 months.

## Clause 54 Condition relating to youth

54. Recommendation: That the current arrangements, where some claimants under 20 years old qualify for contributory ESA without meeting the usual paid National Insurance contributions, should be maintained.
55. The Committee was concerned about the particular impact this would have on young people with disabilities which was shared by Disability Action. The Law Centre and the NI Welfare Reform Group noted that the cost of the current provisions was approximately £390k per year.

## Clause 69 Housing benefit: determination of appropriate maximum

56. Recommendation: That this clause is not implemented.

57. The Committee heard that should this clause be enacted, 18, 850 NIHE tenants (9,215 singles; 601 couples; 9,034 families) will be deemed as under-occupying by one bedroom and therefore subject to a 14% reduction in their housing benefit.
58. 7, 318 NIHE tenants (5,415 singles; 1, 047 couples; 856 families) will be deemed as under-occupying by 2 or more bedrooms and subject to a 25% reduction in housing benefit.
59. In addition, NIFHA informed the Committee that approximately 6, 500 housing association tenants would also be subject to a reduction in housing benefit as a result of this clause.
60. In total almost 33, 000 tenants will be subject to a reduction in housing benefit as a result of this clause. However, the Committee noted that considerably more people will be affected given that almost 10, 000 families will be subject to a reduction in benefit.
61. The Committee heard from the NI Housing Executive that they would not be able to provide alternative housing provision that reflects the appropriate needs of tenants should they opt to 'downsize' to mitigate the effects of a reduction in housing benefit.
62. The Committee also shared concerns of stakeholders that the segregated nature of our society may restrict options that people otherwise would have to move to areas where appropriate, but limited, housing may be available.
63. The Committee acknowledged that the Minister shares some of the Committee's concerns and noted that an inter-departmental group, which also includes stakeholders, has been established to consider options for dealing with the impact of 'size criteria' and is due to report in April.
64. The Committee recognised that the Minister was not in a position to unilaterally take a decision to implement the Committee's recommendation to oppose this clause given the associated costs (£18m) and the subsequent implications this may have for the NI Block Grant and, therefore, other Departmental budgets.
65. However, the Committee noted that the Minister was willing to take the Committee's recommendation to the Executive for consideration in the context of a re-examination of Executive spending priorities.

## Clause 99 Payments to joint claimants

66. Recommendation: The exceptional criteria that will determine the basis for split payments should give priority to determining how payments can be made to ensure the financial independence of women, who tend to be the main carer or second earner, and therefore help protect the interests of children.
67. The Committee was keen to define how payments could be made to the primary carer or second earner where a joint claim is made. However, on discussion the Committee recognised that without more detailed consideration of how, in particular, 'primary carer' would be defined any proposed amendment could prove too restrictive, or perhaps have unintended consequences in respect of whether the person receiving the payment was the appropriate person to do so.
68. With that in mind the Committee acknowledged that clause 99 allows for payment to be made to a nominated person and that the Department can also decide to whom the payment can be made irrespective of any nomination by the couple.
69. The Committee also acknowledged that the Department was developing criteria with input from a cross section of representatives from the community sector and academia with an interest in the different types of proposed flexible payment arrangements and was due to report in April.

### **Twice Monthly Payments**

70. Recommendation: That Universal Credit shall be paid twice monthly unless a single claimant or the members of a couple jointly opt, in making their claim, to be paid on a monthly basis.
71. The Committee shared the concerns of stakeholders that people who have been used to receiving benefits on a more regular basis may have difficulty budgeting should Universal Credit be paid on a monthly basis.
72. Stakeholders proposed that there should be a choice of payment i.e. weekly, fortnightly or monthly so that the system is geared towards the needs of the claimant.
73. The Committee noted that the Minister shared its concerns around the monthly payment and that many claimants need more frequent payments.
74. The Committee also acknowledged that the Minister was developing proposals to make more frequent payments to claimants in 'exceptional circumstances' and that a report on what the criteria for more flexible payment might be would be available in April.
75. However, the Committee felt that everyone should receive a twice monthly payment by default unless they opt for a monthly payment.

### **Clause 109 Penalty in respect of benefit fraud not resulting in overpayment**

76. Recommendation: That an informal caution is an option where fraud has been attempted but no overpayment has taken place.
77. The Department has indicated that this scenario deals with intentional attempted fraud and that currently the only option the Department has is to pursue court action. The Department contends that this approach may not be a proportionate response either and that it feels that an administrative penalty is a more appropriate way forward where fraud has been attempted but not resulted in overpayment.
78. The Committee was concerned that this clause establishes an administrative penalty (£350) where a fraud has been attempted but no overpayment has taken place. The Committee felt that an informal caution may be more appropriate in certain cases.

### **Clause 110 Amount of penalty**

79. Recommendation: That the Minister reviews the level of the administrative penalty.
80. Where there is overpayment as a result of actual fraud the Committee heard that the administrative penalty will increase from 30% of the overpayment to 50%, up to a maximum of £2000. The Committee also heard that the claimant is free to decline the offer of an administrative penalty and go through the courts.
81. The Committee was concerned with the level of the administrative penalty and asked the Minister to review this.

### **Clause 115 Cautions**

82. Recommendation: That the concept of proportionality is used in determining whether an informal caution is more appropriate in certain cases.
83. While the Committee agreed to this clause it believed that an informal caution might also be an alternative in minor cases.

## Assembly Control – Amendments to clauses 33 and 91

84. Recommendation: That the Committee makes an amendment to Clause 44 and 93 to ensure that the regulation-making powers in clauses 33 and 91 are subject to the confirmatory procedure as per the recommendation of the Examiner of Statutory Rules report.

## Independent Statutory Advice

85. The Committee acknowledged the key role that the independent advice sector plays in providing advice on the benefits system to claimants and the potential increase in the demand for advice services as a result of the changes to the current system. The Committee noted that the Coalition Government has agreed a £65m fund, created by the Cabinet Office and the Big Lottery Fund, to support the advice sector across the UK between April 2013 and April 2015, as Universal Credit is rolled out. The Committee recommended that additional resources are made available to the independent advice sector, including local advice centres, in NI during this period and subsequent years, to ensure that all benefit claimants can access independent advice relating to the new system.

## Maximising Benefits

86. The Committee acknowledged the on-going consultation on Maximising Incomes and Outcomes: a Plan for Improving the Uptake of Benefits and the progress made to date by the Department to ensure that claimants receive all the benefits they are entitled to.
87. However, the Committee recommended that a comprehensive, strategic approach is established on the basis of best practice to maximise benefit uptake for claimants, and that the Department do so in partnership with the voluntary and community sector as well as all relevant customer-facing public bodies.

# Introduction

88. The Welfare Reform Bill was introduced to the Northern Ireland Assembly on 1 October 2012 and referred to the Committee for consideration in accordance with Standing Order 33(1) on completion of the Second Stage of the Bill on 9 October 2012.
89. At Introduction the Minister made the following statement under section 9 of the Northern Ireland Act 1998:
90. “In my view the Welfare Reform Bill would be within the legislative competence of the Northern Ireland Assembly”
91. The Bill as drafted contains 7 parts with 134 Clauses and 12 Schedules.
92. The Bill makes provision for Northern Ireland corresponding to provision contained in the Welfare Reform Act 2012 (c. 5). It is part of the on-going process of welfare reform and modernisation of the benefit system and has been described as the biggest reform of the welfare system for a generation.
93. The major proposal in the Bill is the introduction of a new benefit, to be known as Universal Credit, which will replace existing benefits for people both in and out of work. The Bill also makes provision for a new benefit, Personal Independence Payment, which will replace the existing Disability Living Allowance.
94. During the Committee Stage the Committee held 22 meetings to consider the Bill and related issues.
95. The Committee had before it the Bill, the Explanatory and Financial Memorandum as well as the Report from the Examiner of Statutory Rules on the Delegated Powers. The Committee also considered the report from the Ad Hoc Committee on Conformity with Human Rights and Equality Requirements.
96. At its meeting on 8 November 2012 the Committee agreed a motion under Standing Order 35 to refer the Bill to an Ad Hoc Committee for consideration of the human rights and equality implications of the Bill.
97. The Assembly supported this motion and the formal Committee Stage of the Bill was suspended from 20 November to 29 January 2013.
98. At its meeting of 17 January the Committee agreed a motion to extend its consideration of the Bill until 19 February. This motion was subsequently supported by the Assembly on 28 January 2013.
99. The Committee resumed its consideration of the Bill on 30th January 2013.
100. The Committee published a media sign posting notice in the Belfast Telegraph, Irish News and Newsletter and also wrote directly to a range of stakeholders inviting their views on the Bill. The Committee was specifically interested in hearing stakeholders’ views on mitigation measures that could be adopted to minimize the potential adverse impact of the Bill.
101. In response to its call for evidence the Committee received written submissions from 55 organisations and individuals. Copies of the written submissions are in Appendix 3.
102. The Committee took oral evidence from 31 organisations including the Department, in the latter case on several occasions.
103. The Committee carried out its formal clause-by-clause scrutiny of the Bill on 12 February 2013 and agreed its report on 14 February.

## Consideration of the Bill

104. In response to its call for evidence the Committee received written submissions from 55 organisations and individuals. The Committee took oral evidence from 31 organisations including the Department.

### General Principles and Aims of the Bill

105. The Committee agreed with the General Principles of the Bill that the benefit system should be simplified, that work should always pay and that people who are capable of working should be better off in work than on benefits. There was also wide agreement among stakeholders on these principles. However, the written and oral evidence revealed widespread concern among stakeholders about how the Bill would achieve this without negatively impacting on those currently on benefits. These concerns were largely shared by the Committee which sought to identify key issues and reach an agreed way forward to mitigate the impact of the Bill, taking into consideration the potential costs associated with any mitigation measures.

The Committee noted the following aims of the Bill:

- To make provisions and confer regulation-making powers for an integrated working-age benefit to be called Universal Credit, which, depending on the claimant's circumstances, will include a standard allowance (to cover basic living costs) along with additional elements for responsibility for children or young persons, housing costs and other particular needs.
- To make provision for changes to the responsibilities of claimants of JSA, ESA and IS in the period leading up to the introduction of Universal Credit and the abolition of income-based JSA, income-related ESA and IS (the interim period).
- To make changes to a number of other social security benefits.
- To set out the framework for a new benefit called Personal Independence Payment which will replace the Disability Living Allowance.
- To make provisions relating to the administration of social security benefits, including provisions relating to a cap on benefit payments; measures to deal with benefit fraud and enabling the Department to share data with other bodies.
- To make provision to implement proposals which support the principles of the Government's view that parents should be encouraged and supported to make their own family-based arrangements for the maintenance of their children wherever possible, rather than using the statutory maintenance scheme.

### Limitations on the Committee's consideration

106. The Committee noted that the Bill was an enabling Bill with much of the detail left to the regulations and guidance, which have yet to be produced. In this regard they reflect the concerns of stakeholders such as the Law Centre which referred to having to work "in a vacuum without all the detail".
107. The Committee acknowledged that there were a number of 'unknowns' which, coupled with ongoing developments in GB, made it difficult to assess the potential overall impact of the Bill.

### Human Rights and Equality Issues

108. During its consideration of the Bill a range of stakeholders such as the Human Rights Commission, NICEM, the Law Centre and NICCY raised concerns about the impact of the Bill



on human rights and Section 75 groups such as children, older people, and women. Concern was also voiced about the potential unlawfulness of some provisions in the Bill that relate to EU nationals.

109. Given the importance of these issues the Committee agreed a motion, subsequently supported in the Assembly, to refer the Bill to an Ad Hoc Committee on Conformity with Human Rights and Equality Requirements.
110. That Committee made a number of recommendations relevant to the work of the Committee for Social Development in scrutinising the Bill and indeed a number of those recommendations are also reflected in the recommendations contained in this report.
111. In light of the Ad Hoc Committee's recommendations and concerns of stakeholders, the Committee has made a specific recommendation in respect of human rights and equality issues to ensure that monitoring the impact of the changes takes place and to ensure that mitigation measures are subsequently put in place.

## Part 1 Universal Credit

112. As the cornerstone of the welfare reforms Universal Credit (UC), as dealt with in clauses 1 to 44, was a key element of the Committee's consideration. The Committee acknowledged that UC will replace means-tested benefits and tax credits for working-age adults.
113. The Department also explained that UC would help people back into work by introducing a taper so that they receive support commensurate with their earnings but that the entitlement to UC will be tied to a range of work-related requirements that the claimant would have to adhere to.
114. The Committee acknowledged these aims but had a number of concerns about how these would be achieved at a practical level. These concerns were shared by stakeholders.

### Clause 1 Universal Credit

115. The Committee noted, clause 1 subsection 3 (a)-(d), that this may include, depending on circumstances, a standard allowance, an amount for responsibility for children or young people, an amount for housing costs and amounts for other particular needs or circumstances.

### Clause 2 Claims

116. The Committee noted that a claim can be made by a single person or, in the case of a couple, jointly. This clause also gives the Department the power to make regulations which can determine the circumstances in which a member of a couple may make a single person claim.
117. The Committee noted a number of comments by stakeholders under clauses 1 and 2 but these are dealt with under later clauses such as clauses 69 and 99.

### Clause 3 Entitlement

118. A single person must meet the Basic Conditions and Financial Conditions to be entitled to UC.

### Clause 4 Basic conditions

#### **Mixed-age couples**

119. The Committee shared the concerns of the Law Centre, NI Welfare Reform Group and Age NI in relations to clauses 3 and 4; Entitlement and Basic conditions respectively. In particular was the concern that where one member of a couple is over pension age and the other is under it they will be placed on UC and not Pension Credit. Concern was also raised that this could potentially have ramifications for the all-work requirements detailed in clause 22 i.e. a retired person in a mixed-age couple might be subject to various work requirements in order to receive the payment.
120. The Department subsequently confirmed that in such a circumstance the person above retirement age would not be subject to work-related requirements.

#### **Claimant Commitment**

121. The Committee expressed serious concerns about Clause 4 – Basic conditions. In particular the situation where one partner refuses to sign the Claimant Commitment and, as a result, neither partner receives a payment despite one person being willing to sign the commitment.
122. The Department reiterated that one of the basic conditions under clause 4 is for joint claims and in this circumstance each claimant will need to accept a Claimant Commitment and was

clear that “if either eligible adult in a couple refuses to accept their Claimant Commitment then the claim for the other eligible adult will also end”. The Committee believes this to be fundamentally unfair to the claimant who is willing to sign the Claimant Commitment.

123. The Minister subsequently responded that while he recognised the Committee’s concerns, allowing a separate claim under such circumstances would be a break in parity and have associated costs although the number of people affected by this is expected to be very low. The Minister therefore did not consider that a legislative change was appropriate.

124. However, in its clause-by-clause consideration the Committee did not agree the clause as drafted and recommended that in the case of a joint application, where one person refuses to sign the Claimant Commitment the payment shall be made to the person who is willing to sign the Claimant Commitment and that the Minister should discuss the cost implications with the Executive.

#### **Temporary Absence from NI**

125. The Committee questioned the circumstances in which temporary absence from NI is disregarded – clause 4(5). It queried whether the existing rules on habitual residency will be carried forward and if so will additional safeguards, such as clear guidance, be introduced to protect citizens born in Northern Ireland who move abroad and later return to the UK. The Department confirmed that existing rules on habitual residence which apply to income-related benefits will be carried forward into UC. The Department added that there is no definitive list of factors which determines whether a person is habitually resident but rather that each case is considered individually with all relevant factors taken into account. In addition there is guidance in the Decision Maker’s Guide for staff dealing with these cases.

126. The Committee did recognize that the change in relation to the conditions relating to absence from home, depending on the circumstances, might be more generous than at present but that overall there were likely to be winners and losers as indicated by the Law Centre.

#### **Third Party Verification**

127. The Committee was concerned that where a person due to extenuating circumstances cannot provide all the required documentation to make a claim then there should be provision made for third party verification, in lieu of required documentation (including identity documents), so that the claim can be made.

128. The Committee welcomed and accepted the Minister’s assurance that that the current practice allowing third party verification for vulnerable claimants will carry forward and that such claimants will still be able to make a claim and have their money paid either via a bank account (if held), or via the Simple Payment service which is aimed at claimants who don’t have access to a bank account.

#### **16/17 year olds registered on training but not placed**

129. The Committee was concerned that 16 and 17 year olds who have come out of care or who are registered for training with the Employment Service but have not secured an immediate placement should also be added to the list of specified groups, to mirror the current provision for discretionary hardship payments under Jobseeker’s Allowance.

130. The Committee noted the Minister’s response that those 16/17 year olds on the Training for Success programme are paid a non-means tested Education Maintenance Allowance of £40 a week while in training and this is unique to NI.

131. The Committee also noted in the Minister’s response that 16/17 year olds in these circumstances would be eligible for assistance, providing they met criteria, from the proposed Discretionary Support Scheme only where they are estranged from their family and householders in their own right in circumstances where they meet loan/grant eligibility criteria.

### **16/17 year olds coming out of care**

132. The Committee noted the Minister's response that Discretionary Support will be extended to 16/17 year olds by exception – i.e. where the applicant is estranged from their family and potentially a householder in their own right. The position for those in care is that these cases should be dealt with outside of the social security system.

### **Clause 5 – Financial conditions**

133. Entitlement to UC will be dependent on a claimant's capital and income. This was of concern to a range of stakeholders including NIPSA, Citizens Advice and the Law Centre as currently there is no upper capital limits applied to pension credit or tax credits. It is the aim to introduce a capital limit of £16,000 i.e. those who have savings above this limit will not be eligible for UC. The Committee accepted that this would potentially affect older claimants who have had more time to save towards retirement. In relation to this the Committee noted that a number of stakeholders referred to the Joseph Rowntree report, Monitoring Poverty and Social Exclusion, which noted a rise in pensioner poverty in NI whereas there was a decrease in pensioner poverty in Great Britain.

### **Clause 6 Restrictions on entitlement**

134. The Committee raised concerns about the number of 'waiting days' i.e. a person may not be entitled to UC for a short time despite meeting the conditions of entitlement. The Department confirmed that this was to avoid the administrative costs associated with making awards for very short periods of time and that the clause ensured that the waiting time under subsection (2) of this clause cannot be more than 7 days.
135. The Committee was concerned about the impact this might have on passported benefits that are based on entitlement to UC but was assured that the award notice should give them that underlying entitlement. The Department confirmed this would be addressed in regulations and in passported benefits.
136. The Committee sought reassurance from the Minister that there shall be no loss of passported benefits as a result of clause 6.
137. The Committee welcomed the Minister's reassurance that the notification/award notice will make it clear that an underlying entitlement exists to enable claimants to be able to access passport benefits.

### **Clause 7 Basis of awards**

138. The Committee notes that this clause provides that an award of UC is to be payable in respect of an assessment period. The Committee addresses the issue of frequency of payment in Clause 99.

### **Clause 8 Calculation of awards**

139. NIPSA had a general concern that the proposed benefit cap (£26k) will disadvantage larger families. This issue was also raised by members of the Committee who were concerned that this equated to social engineering; also referred to by NICCY and the Women's Ad Hoc Policy Group. However, other members argued that a working couples' decision to have a family often includes whether they are in a position to financially support a child and this should apply to those on benefits as well. In addition, some members referred to the general principle that it should not pay to be better off on benefits than in work and that a net income of £26k represented a much higher income than the average gross NI income.

140. The Committee also raised a question about what constitutes earned income and highlighted the position of Citizens Advice that statutory sick pay and statutory maternity pay should be treated as earnings. The Department confirmed that this would be the case.

## Clause 9 Standard Allowance

141. The Committee raised the scenario that where the person nominated to receive the UC is placed on remand whether the Bill allows sufficient operational flexibility to enable the housing benefit element of UC to be separated and thereby enable the rent to continue to be paid. The Department confirmed that Clause 9(3) of the Welfare Reform Bill allows for circumstances where an award will not include a standard allowance, for example, a standard allowance will not be included for prisoners on remand but an amount for housing costs could be included in an award for such a claimant. The housing element will be protected for up to 6 months due to imprisonment.
142. The Law Centre raised a particular issue relating to the potential restriction of certain EU nationals to entitlement to the standard allowance that could result in EU nationals being paid lower rates of benefits than those payable to UK and Irish nationals. This was one of the key issues that led to the Committee supporting a motion to refer the Human Rights and Equality aspects of the Bill to an Ad Hoc Committee.
143. The Committee also heard that UC introduces a new feature for the self-employed which means that they will be deemed as having a minimum income which will reduce entitlement to UC. The Committee raised this with the Department and was informed that UC Regulations will require claimants with self-employed income to report it to the Department on a monthly basis via an online tool. The Committee noted with concern that at the time of consideration DWP had not yet indicated what the minimum income level would be and was concerned that this would prove to be a disincentive for people to continue in, or attempt self-employment.
144. The Department maintained that reporting on a monthly basis will ensure the award is reactive to fluctuating income. The Department also noted that comprehensive advice and guidance will be available for self-employed customers and Decision-Makers.

## Clause 10 Responsibility for children and young people

145. The Committee sought clarification on the impact that the introduction of UC would have on claimants who are responsible for children or qualifying young people. In addition the Committee raised concerns highlighted by Disability Action, Citizens Advice, NICCY, ICTU and others about the impact on families with a disabled child. Specifically, there was concern that the disability element of Child Tax Credit would be cut from £57 per week to £28 per week unless the child is receiving the high rate of care allowance or is registered as blind.
146. The Department stated that the Child Tax Credit will be replaced by a new child element that will be paid in addition to Child Benefit. However, the Committee noted that there will be one rate for the first child and a reduced rate for the second and subsequent children but this will be detailed in regulations.
147. The Department also confirmed that the maximum amount of UC is to include a child element called a Disabled Child Addition for each dependent child which, the Department stated, will be similar to the current disability premiums under Child Tax Credits. Therefore there will be two rates (lower and higher) of disabled child addition:
- (i) lower rate disabled child addition will be awarded for a child who receives any rate of either component of Disability Living Allowance (mobility or care) apart from the highest rate of the care component; or

- (ii) higher rate severely disabled child addition will be awarded for a child who receives the highest rate of the care component of Disability Living Allowance or a child is registered blind.
- 148. The Department further stated that under UC it is intended that there will be greater support for the most severely disabled children.
- 149. The Minister subsequently responded that while he understood and shared the concerns of the Committee, any decision to increase or vary the Disabled Child addition was a clear breach of parity and will have an estimated cost attached circa £11.3m with additional administration costs.
- 150. The Committee believed that protecting the most vulnerable people in society was a key aim of its scrutiny of the Bill and while it noted the projected costs associated with restoring the Child Tax Credit lower rate it was not content to agree this clause as drafted and therefore recommended that the Minister discuss this issue at Executive with a view to making funds available to restore the Child Tax Credit lower rate and amend this clause accordingly.

## Clause 11 Housing costs

- 151. Throughout the Committee's consideration of the Bill housing-related issues were some of the major issues that were brought to its attention. It should be noted that the provisions of the Welfare Reform Bill relating to housing are being considered at a time when details regarding the NI Housing Strategy and the restructuring of the NI Housing Executive have yet to be developed. The Committee is therefore concerned that while the Bill will impact on over 30,000 social housing tenants (in respect of under-occupancy) mitigation measures have yet to be determined.

### **Direct payments to tenants**

- 152. One of the key issues raised, particularly by housing groups in their written submissions, was the proposal to have housing credit paid directly to tenants as opposed to landlords. These groups including the NI Housing Executive were concerned that this would result in increased rental arrears. Housing Associations in particular were concerned that this might affect their ability to raise money to build more social housing. This issue was addressed by the Minister in his statement of 22 October in which he stated that housing credit would continue to be paid directly to the landlord. At the time of the announcement the Committee welcomed this change of position as did the housing groups. However, the details of how this payment will be made have yet to be decided.
- 153. The Committee has been informed by the NI Housing Executive that it has approximately 26,000 tenants who will be subject to the size criteria provisions relating to housing otherwise known as the under-occupancy rule. The NI Federation of Housing Associations also informed the Committee that 6,500 of its tenants will also be subject to these provisions.
- 154. The Committee was concerned that people will be unable to pay their rent and be without an option to move to alternative accommodation given that the appropriate housing stock is not and will not be available for the foreseeable future. The Committee therefore has serious concerns that despite knowing in advance that approximately 33,000 tenants in the social housing sector will be deemed to be under-occupying their homes, and therefore have their housing credit reduced by up to 25%, the Department has yet to devise a strategy to deal with this situation.

### **Support for Mortgage Interest (SMI) and zero earnings rule**

- 155. The Committee also raised its concerns with the Department over the proposed approach to Support for Mortgage Interest. The Law Centre highlighted that a person in receipt of SMI would lose this support as a result of the "zero earnings" rule. The Committee heard that

this meant that if a person receiving SMI accepts any paid work, however minimal the hours and payment, then they will lose SMI. The Department subsequently confirmed this to be the case. The Committee believed that this is contrary to the stated aim of the Bill i.e. to encourage people off benefits and into work.

156. The Committee noted the costs associated with retaining SMI would be £18m (number of claimants (10,438 x average of IS and JSA amounts (£33.21) x 52 weeks) and there would be additional costs associated with clerical/administration due to the IT system not being able to perform this calculation due to divergence from GB.
157. The Committee also noted that the Minister was not supportive of any proposal to depart from the policy intention.

#### **SMI waiting period**

158. There was also concern that the current arrangements for SMI, particularly in relation to the waiting period for receipt of this support, would change from 13 weeks to 39 weeks. However, in his autumn statement on December 5th 2012 the Chancellor announced that the waiting period would remain the same and the working age capital limit would also remain at £200,000 until March 2015.

#### **Under-occupancy and separated parents**

159. The Committee raised concerns about how the 'under occupancy' rule would affect separated parents who share custody of their children. The Department stated that where separated parents have a spare bedroom to accommodate their children they may have their housing cost element reduced as they will be deemed to have a spare bedroom. The Department further explained that UC will be awarded to the person with whom the children normally live but where custody is shared the parents will be encouraged to decide which of them receives the payment. In the situation where the parents cannot decide this then the Department will make that decision based on who has the main responsibility for the children.

#### **Under occupancy and foster carers**

160. The Committee also raised this issue in the context of foster careers. However the Department confirmed that while foster careers are allowed to claim the housing costs element for the housing needs of their own families, fostered children living with them are not taken into account when calculating the size of the accommodation required. In other words, a household which has an extra room for a current or potential foster child would be treated as under-occupying.
161. The Department informed the Committee that the financial support that foster carers receive from social services helps them to meet the costs associated with caring for foster children and this support is disregarded in full for the purposes of Housing Benefit. Officials went on to explain that if foster children were to be included in the household, then the fostering allowance would also have to be included as income. However, disregarding foster children in the assessment and then disregarding the fostering allowance as income is normally more beneficial to the claimant.
162. While the Department also indicated that the Discretionary Housing Payment Fund would be available to help foster carers whose housing costs are reduced, the Committee was concerned that a reduction in housing costs would deter potential foster carers and that the discretionary payments was not a long term solution to this issue.
163. The Committee noted that an inter-departmental group, which also includes stakeholders, has been established to consider options for dealing with the impact of 'size criteria' and is due to report in April.
164. The issue of 'size criteria' is dealt with more specifically under clause 69.



## Clause 12 Other particular needs or circumstances

### **Removal of Severe Disability Premium**

165. Citizens Advice, Disability Action and Mencap NI all raised concerns about the removal of the Severe Disability Premium and all favoured the Premium being retained in full. The Equality Commission also questioned why the Severe Disability Premium was not considered within this clause under the extra elements to the Standard Allowance. The Department also informed the Committee that those claimants in receipt of Severe Disability Premium will have transitional protection for as long as that transitional period lasts.
166. The Minister noted the Committee's concerns but responded that this was a parity issues with significant costs attached to doing anything differently within the social security arena. He noted that if a Severe Disability Premium were to be introduced to UC it would cost in the region of £52.6m per annum if paid in line with existing benefit rules and rates (number of claimants currently in receipt 17,000 x current annual rate of premium £59.50 x 52weeks) plus additional administration/clerical costs.
167. While the Minister originally indicated that he was not prepared to consider an amendment to restore the Severe Disability Premium, the Committee believed that protecting the most vulnerable people in society was a key aim of its scrutiny of the Bill. It also noted that that the costs associated with retaining the Severe Disability Premium but the Committee believed that this option warranted discussion at the Executive.
168. The Committee recommended that the Severe Disability Premium be retained and the Minister should therefore discuss this option with the Executive.

### **Support for parent with childcare responsibilities**

169. The Committee also queried whether there would be scope under this clause to support a parent with childcare responsibilities, particularly those who rely on informal childcare arrangements with relatives. The Department, and indeed the OFMDFM Policy and Economic Appraisal of the Options for the NI Childcare Strategy (September 2010), accept that there is a reliance by parents in NI on informal childcare. However, current Tax Credits and benefits (with the exception of DEL funded work programmes/training schemes) do not cover informal childcare payments. The Department acknowledged that while clause 12 does provide for childcare payments in order to get the childcare element the child needs to be in registered childcare. Regulation 36 of the GB Universal Credit Regulations gives details of registered childcare.
170. Therefore families with a registered childminder will be able to recover childcare costs in UC as follows - 70% of up to £760 for one child or £1300 for two or more children per month. The Department advises that this is in line with current arrangements under Tax Credit. It differs from current arrangements in that there will be no restriction on the minimum number of hours to work under UC.
171. The Committee was informed that currently the Department for Employment and Learning (DEL) pays for assistance with informal child care to a lone parent, or a partner of certain benefit customers who are looking for work on the Steps to Work programme. The feasibility study for the new employment programme, Steps 2 Success, states that childcare costs should be borne by the provider and a consultation exercise is currently underway.

## Clause 13 Work-related requirements: introductory

172. This clause defines what 'work-related requirement' means and lists the specific groups which a claimant may fall into. While some comment was made by stakeholders on this clause they relate more specifically to subsequent clauses and are dealt with there. However, the NI Welfare Reform Group did suggest that when considering these requirements the



Department should regard for the prevailing economic conditions and how they may impact on the claimant's ability to meet those requirements.

## Clause 14 Claimant Commitment

173. The implications of one member of a couple refusing to sign a Claimant Commitment, when a joint application is made, were raised again by the Law Centre, NIPSA and the Equality Commission. The Department position that UC will not be paid to either claimant in these circumstances applies.
174. Members supported the view of Citizens Advice that the Claimant Commitment must be more balanced with the Department taking into account the experience, skills and individual circumstances of the claimant when drawing up this document. The Department indicated that all these issues would be taken into account when agreeing the Claimant Commitment with the customer.
175. In response to a question on the support to be given to claimants in their search for work the Committee was informed that the Department for Employment and Learning has agreed to adopt the Department for Work and Pensions' Transforming Labour Market Services (TLMS) system which will provide a comprehensive tool for claimants to use to search for work. The Committee was also assured that specific barriers to employment, such as literacy and numeracy issues, are currently identified by DEL and its contractors and claimants may be referred for an assessment and training to address these barriers to employment. A wide range of tailored provision will be available from short courses to work placements etc.

## Clause 15 Work-focused interviews

176. The issues relating to this clause concerned reasonableness and proportionality when drawing up Claimant Commitments subject to the claimant's individual circumstances as stated by STEP

### **Support for vulnerable people**

177. Disability Action raised concerns about the support that will be given to disabled people to meet commitments.
178. The Committee agreed that all necessary support should be given to the most vulnerable people to allow them to attend a work-focused interview. The Department stated that Employment Service Advisers working with clients on Incapacity Benefit and Employment and Support Allowance have received specialist training, over and above that received by Employment Advisers who are dealing with JSA clients.
179. It was noted that this training would also include awareness of the full range of disabilities including sensory, physical, mental health and learning disability; and that this would also include practical sessions on how interviewers should interact with clients depending on the nature of their disability and how disabilities impact on the individual's behaviour and attitude towards employment. The Committee was advised that in addition to this, the Department's Disability Employment Service provided a Support Model Service to these teams. The Support Model team consists of Occupational Psychologists and experienced Disability Employment Managers who have worked with disabled clients for many years.
180. The Committee queried how long a claimant would have to submit 'good reason' for not attending a work-related interview. The Department confirmed that it will be noted in guidance to Decision-Makers that the claimant should always have the right amount of time but that it is anticipated that the current rule of 5 working days should be the default.

## Clause 16 Work-preparation requirement

### **Assessments**

181. The key issue for the Committee relates to subsection 4 which requires a person with limited capability for work to take part in a work-focused, health-related assessment. This was also raised by the NI Welfare Reform Group and the Law Centre. The Department advised that this was under consideration by DWP.
182. The Committee has serious concerns about health assessments in general as they relate to the reforms. The Committee referenced the problems with the Work Capability Assessments and in particular the high percentage of successful appeals.

### **Work placements**

183. The Department also addressed a concern of the Committee that work placements may actually result in job substitution. Each employer proposing to offer a work experience placement is required to sign a formal agreement with the Employment Service confirming that there are no current vacancies in the area of activity in which the placement is offered, that there have been no redundancies within the organisation within the last 3 months and that there has been no displacement of existing employees as a result of the placement. Work placements will also be monitored to ensure there is support for the participant and that the placement is operating within the broad principles of the scheme.
184. The Committee also noted that specific training e.g. up-skilling, relevant to a claimant's previous occupation can be considered under a Claimant Commitment.

## Clause 17 Work search requirement

### **35 hours per week work search**

185. The Committee recognised the need to require claimants to search for work. However the Committee questioned just how realistic it was to expect claimants to spend 35 hour per week searching for work, particularly under the current economic circumstances when there are limited job vacancies.
186. The Committee sought reassurance that the job search requirement would take into account the number of jobs available in the local market and the caring responsibilities of claimants, and that these would be reflected in the job search commitment.

### **Barriers faced by disabled people**

187. The Committee also noted the comment from Disability Action that this clause does not take into account the physical and attitudinal barriers faced by disabled people in gaining and retaining employment. The Department provided reassurance that the claimant's specific circumstances would be taken into account when drawing up the Claimant Commitment and this would address the work search commitment.

### **Responsible for child under 13**

188. The Committee noted that where the claimant is a responsible carer for a child under the age of 13, the expected number of hours per week will be compatible with the child's normal school hours including the time it takes the child to travel to and from school.

### **Voluntary work**

189. The Committee received clarification from the Department that for claimants carrying out voluntary work, the work search must remain their primary focus. There will be no restriction on volunteering but the claimant will be expected to carry out a search for work with a discount of 50% of the time spent volunteering. For example, if a claimant volunteers for 20

hours per week but is deemed that they should spend 20 hours looking for work then 10 hours will be discounted and they will have to spend only 10 hours looking for work.

## Clause 18 Work availability requirement

190. The Committee sought clarification on the requirement for claimants to be 'immediately' available for work and what derogations there may be for this. The Department clarified that where a person is already in paid work they are allowed up to 48 hours to attend an interview or until their notice period has expired to take up a job. The Department also highlighted that where a claimant has caring responsibilities for a child or a disabled person they will be allowed up to one month to attend an interview and one month to take a job.
191. The Committee reiterated its concerns, shared by NIPSA, Citizens Advice and others that the opportunities for increasing the number of hours worked, or finding suitable paid work, is severely restricted in the current economic environment.

## Clause 19 Claimants subject to no work-related requirements

### Health assessments

192. This clause again relates to health assessments. An individual's work capability will continue to be established through the Work Capability Assessment (WCA) currently undertaken for the Employment and Support Allowance. The Department stressed that the WCA looks at the functional effects of an individual's condition rather than the condition itself.
193. While the Committee acknowledged this, Members highlighted the impact that these health assessments had on individuals and referred to personal experiences of representing individuals at appeals at which the original decision was overturned.
194. The Department stated that claimants are assessed against 7 mental health descriptors and 10 physical descriptors and the information required to determine if a person has limited capability for work, is any information detailing the individual's ability to perform certain defined duties. The outcome of the WCA is determined by a Social Security Agency Decision Maker taking into consideration information provided by the claimant and the Medical Support Service provider, Atos Healthcare. As part of the decision making process customers complete a medical questionnaire (ESA 50) and are asked to provide supporting medical evidence. In going forward this will continue to be the process.
195. The Committee was of the opinion that medical records should have primacy in the health assessment process and that it should not be an allocation of points based on a tick box exercise.

## Clause 20 Claimants subject to work-focused interview requirement only

196. The Committee noted that that this clause will apply to claimants who are responsible carers for a child who is aged at least one and is under a prescribed age (not less than 3). The Committee also noted that regulations may also specify other claimants who fall into this group.

## Clause 21 Claimants subject to work preparation requirement

197. This clause determines those categories of claimants who will be subject to work preparation and work focused interview requirements only.

198. The Committee noted that a claimant in this group may not be required to look for or be available for paid work, for example as a result of a physical or mental health condition or if they fall into another description as prescribed in regulations.

## Clause 22 Claimants subject to all work-related requirements

199. The Committee heard that the requirement of this clause will apply to those claimants who do not fall into one of the previous three groups.

### **Potential impact on EU workers/jobseekers**

200. Of particular concern to the Committee was an issue raised by the NI Welfare Reform Group, NICEM and the Law Centre regarding the treatment of EU workers or jobseekers. The Committee heard opinion that placing EU workers or jobseekers in the 'all work-related group' was clearly discriminatory and likely to be unlawful.
201. The Committee considered these concerns in its deliberations to refer the Human Rights and Equality Requirements of the Bill to an Ad Hoc Committee.

## Clause 23 Connected requirements

202. The Committee noted the provisions of this clause e.g. requiring a claimant to attend an interview at a particular time and place or requiring the claimant to provide evidence that requirements are being met.

## Clause 24 Imposition of requirements

203. The Committee welcomed this clause which provides for regulations to prescribe circumstances in which specific requirements must or must not be imposed on certain claimants.

### **Victims of domestic violence**

204. In particular, the Committee noted subsection 7 which allows claimants who have been victims of domestic violence to be given a 13 week exemption from any work-related requirements. This was welcomed in principle by STEP but the 13 week period was thought to be too short.
205. The Department highlighted that in case of domestic abuse there will be other provisions such as splitting the payment within the household for claimants. There will also be a facility to provide additional assistance with housing costs including provision to consider costs for both the normal and temporary residences.
206. The Committee also noted that the definition of domestic violence will be the same as that in the current JSA regulations and will cover emotional, psychological and financial abuse as suggested by STEP. The Department also advised that the regulations will extend to address victims of hate crime.

## Clause 25 Compliance with requirements

207. The Committee noted that under this clause regulations may set out the conditions under which a person will be treated as having met the requirements placed upon them.

## Clause 26 Higher level sanctions

208. The introduction of a new sanctions regime raises significant concern among a wide range of stakeholders. The Equality Commission urged restraint in the blanket application of these sanctions and recommended that each case is examined on its own merit taking into account the Department's equality obligations under Section 75 and the Disability Discrimination Act 1995.

### **3 year sanction**

209. The Committee and stakeholders expressed serious concerns about the potential for a claimant to lose UC for up to three years. The Committee questioned if this might potentially lead to destitution and therefore breach human rights requirements.

### **Impact on family**

210. The Committee questioned whether sanctions applied to the main applicant would impact on the rest of the family, particularly children. The Department indicated that the sanction would not affect the child or housing elements where a claimant is entitled to the maximum standard allowance (i.e. earnings have not reduced their award). However, where this is not the case the sanction may reduce the housing or child elements. The Department has stated that where there is a reduction in payment the claimant will have to manage their budget and use other income such as earnings to meet their housing or other costs. The Committee questioned whether a person already potentially living at a subsistence level would be able to do this.

### **Lack of childcare strategy**

211. The NI Welfare Reform Group highlighted that there is no childcare strategy in place in NI and it is widely accepted that there is a lack of accessible and affordable childcare. It therefore proposed that sanctions should not apply to a claimant who does not have guaranteed and predictable access to childcare. The Department noted that access to childcare would be taken under consideration as part of the guidance issued to Decision-Makers.

### **Good reason**

212. The Department emphasised that higher level sanctions would only be applied if the claimant could not provide 'good reason' for not meeting 'their most important requirements' e.g. which might include not accepting a job offer, misconduct or dismissal. The Committee confirmed with the Department that the Decision-Maker will consider each case on its own merits and that guidance will be developed to allow the Decision-Maker to consider what circumstances might constitute 'good reason'.

### **Impact on children**

213. The Women's Ad Hoc Policy Group were particularly concerned about the impact on children as a result of the new sanction regime and again referred to their proposal (under clause 99) to pay UC to the second earner/carer or to split payments according to financial circumstances.

### **Potential ineffectiveness of sanctions**

214. Citizens Advice made the general point, supported by some Members of the Committee, that there is little evidence to show that sanctions are effective in moving people closer to the labour market and that the new sanctions regime is therefore contrary to the purported aim of the Bill.

### **Accessing hardship payment**

215. Where, after a sanction is applied, a claimant cannot meet their basic requirements they can make a claim for a hardship payment. The Committee noted that hardship payments are recoverable.
216. While the Minister indicated that any variation in the sanctions regime would be a breach of parity the Committee opposed this clause and recommended that the Minister discuss with DWP the scope for varying the sanctions regime.

### **Clause 27 Other sanctions**

217. The Committee noted that these sanctions relate to failure to meet a work-related requirement or requirement under clause 23 without good reason and that any failure which is sanctionable under clause 26 cannot also be sanctionable under clause 27.
218. The Department also confirmed that a work search and work availability requirement will be limited to Northern Ireland and that travel time will be limited to within 90 minutes of the claimant's home.

### **Clause 28 Hardship payments**

#### **Recoverability of hardship payments**

219. The key concern for the Committee was the apparent default position of hardship payments being recoverable. Stakeholders such as Citizens Advice, STEP, the Law Centre and the NI Welfare Reform Group recommended that they should not be recoverable as this is, in effect, an additional punishment and likely to cause additional difficulties for claimants.
220. The Committee had sympathy with these views and suggested that the Department highlight the circumstances, provided for in 28(1)(f), where hardship payments are recoverable.
221. The Committee also noted that the payments would be made in equal installments commensurate with the period of sanction and that hardship payments would be demand-led.

### **Clause 29 Concurrent exercise of certain functions by the Department for Employment and Learning**

222. The Department confirmed that should the Department for Employment and Learning be dissolved a Transfer of Functions Order will set out how the functions of that Department will be carried out.

### **Clause 30 Delegation and contracting out**

223. Some Members were concerned that this was a prelude to privatisation of the benefits system. NIPSA was concerned that this would lead to the privatisation of both front-line and back office functions.
224. Disability Action was concerned that where contracting out of services did take place that contractors had the appropriate skills and experience in working with disabled people in gaining and retaining employment.

### **Clause 31 Supplementary regulation-making powers**

225. The Committee noted that Schedule 1 provides for a wide range of regulation-making powers relating to UC.

**Rules on savings**

226. The Law Centre referred to the indication that rules on savings were not going to be changed significantly and this was welcomed by the Committee.

**Vouchers**

227. The Committee also questioned the Department on paying all or part of an award by means of a voucher.

**Potential unlawfulness of schedule 1 paragraph 7**

228. The Committee also noted concerns from the Law Centre about the potential unlawfulness of schedule 1 paragraph 7 which allows for EU workers with a right to reside to be placed into the all work-related requirement group rather than any of the other groups.

**Clause 32 Supplementary and consequential amendments****Provision of other benefits**

229. The Committee noted that this allows the Department to make other regulations under Schedule 2. These relate, among other things, to amendments to allow some UC claimants to receive other benefits such as free school meals or legal aid.

**State Pension Credit/Work-related requirements**

230. Of particular concern, raised elsewhere in this report, is paragraph 49 of Schedule 2 which amends the State Pension Credit Act 2002 so that a member of a couple who has reached the qualifying age for State Pension Credit may not receive that credit if the other member of the couple has not reached the qualifying age and the possibility that the older partner may be subject to work-related requirements.
231. The Department has confirmed that, in such circumstances, the person who has reached the qualifying age for Pension Credit will not be subject to any work-related requirements but that the couple will have to apply for UC.

**Clause 33 Powers to make supplementary and consequential provision etc****Impact of future regulations**

232. The Committee made the general point that supplementary subordinate regulation may make greater changes than was originally anticipated and asked how this might be addressed.
233. The Department advised that in this scenario regulations may be considered by the Executive but it depended on the degree of change proposed. It also suggested that equality screening might also identify such changes and be dealt with accordingly.

**Clause 34 Abolition of benefits**

234. The Committee noted the benefits to be abolished under this clause and asked if it would be possible to identify actual savings realised by the new system, compared to the current system. The Committee was advised that monitoring and evaluation would take place that would also include estimated cost savings.



### **Reinstatement of Child Tax Credits**

235. The Department noted that the call from some stakeholders to reinstate Child Tax Credits for childcare to 80% (from the current 70%) would cost approximately £17 million and equated to an extra £12 per claimant. The Department also noted that this was an excepted matter and therefore not under the control of the NI Executive.

### **Clause 35 Universal credit and state pension credit**

236. The Committee confirmed that 'housing credit' equated to 'housing benefit' and that questions relating to this credit would be the same as they currently are.

### **Clause 36 Universal credit and working-age benefit**

237. The Committee was assured by the Department that the hardship payments would match need.

### **Clause 37 Migration to universal credit**

238. The Committee noted that this clause gives effect to Schedule 6. Members questioned the process by which the migration from current benefits to UC would proceed but were informed that while this is likely to be on a phased basis the details have yet to be decided.

### **Clause 38 Capability for work or work-related activity**

#### **Physical and/or mental condition**

239. The Committee received confirmation from the Department that reference to 'physical or mental condition' under this clause should read 'physical and/or mental condition'.

#### **Requirement for individualised assessment**

240. The Committee noted comments from the Equality Commission that any assessment process established for the Working Capability Assessment, as a result of this clause, should result in fair, appropriate and individualised assessment processes and practices.

#### **Primacy of medical evidence**

241. The Committee also reiterated its view that medical evidence should have primacy in any medical-based assessment. The Department acknowledged that medical evidence would be taken into account but that other factors such as assessing what functions the claimant can perform will also be important.
242. The Department further clarified that as part of the mandatory reconsideration of decisions, all medical evidence submitted by the claimant would be considered.
243. The Committee acknowledged that the establishment of a mandatory reassessment of a decision prior to the formal appeal stage offered the opportunity to introduce full medical evidence to support a claimant.
244. The Committee was therefore reassured by this approach.

### **Clause 39 Information**

245. The Committee noted this clause.



## Clause 40 Couples

### **Clarification on polygamous relationships**

246. The Committee noted that polygamous relationships are not recognised under this Bill.

### **Ex-partners living in the same house**

247. The Department stated that guidance for Decision-Makers will include how to deal with a situation where a relationship breaks down but the ex-partners choose to continue living in the same house.

## Clause 41 Interpretation of Part 1

248. The Committee noted the definition of terms listed under this clause.

## Clause 42 Pilot schemes

249. The Committee noted with concern that there were no plans to conduct pilot schemes in NI and that it was intended to extrapolate the results of GB pilots to NI.
250. The Committee raised the issue of the specific circumstances relating to NI such as the higher rates of disability, lack of childcare provision and housing issues and questioned the validity of extrapolating the finding of GB pilots to here. In addition, Members were concerned that the provisions of Section 75 would not be addressed in such pilots.
251. The Department indicated that inclusion in a pilot scheme is an expensive undertaking but that interim learning reports from DWP would be made available; and that research has been commissioned into the impact of certain provision on the housing situation in NI.
252. The Committee expressed concerns that Northern Ireland has not been included in any pilot schemes to date and was of the view that the objectives of the pilot schemes, as defined in the Bill may be too restrictive.
253. The Committee believed that future pilot schemes should include Northern Ireland where appropriate. The Committee acknowledged that the Minister will write to Lord Freud conveying the Committee's views about the inclusion of NI in future pilots so that NI demographics can influence the application of learning from any such pilots within GB.

## Clause 43 Regulations

### **Housing costs**

254. The Committee noted this clause, in particular subsection (6) which allows for regulations relating to housing costs. In particular, the Committee noted that there will be no change from the current position where local housing allowance rates are based on eight broad market rental areas and each month, the Housing Executive monitors rent in an area and decides the local rate for that area.

## Clause 44 Assembly control

255. The Committee noted that in the first instance regulations made under specified provisions will be subject to the confirmatory procedure and subsequently by the negative resolution procedure.

256. The Committee agreed an amendment to this clause to make the regulation-making power in clause 33 subject to the confirmatory procedure as recommended by the Examiner of Statutory Rules:

Clause 44, page 21, line 25

At end insert -

(c) regulations under clause 33

## Part 2 Working Age Benefits

### Clause 45 Claimant commitment for job-seekers allowance

257. A number of concerns raised under Part 1 of the Bill were reiterated by stakeholders.

#### **Privatisation of public services**

258. NIPSA objected to the use of the term “other person” in line 12 of this clause as it suggests a third party outside of any government department assuming these responsibilities.
259. The Committee agreed to seek assurances from the Minister that this clause does not provide for privatisation of services delivered by the public sector.
260. The Committee accepted that the purpose of this clause was to enable DEL to be able to use Work Service and Training Providers, including voluntary and community sector providers, as is currently the practice.
261. The Committee therefore accepted the Minister’s assurance that there are no plans to use this clause to privatise services delivered by the public sector.

### Clause 46 Interviews

#### **Remote interviews**

262. The Committee sought clarification on the explanatory note associated with this clause which stated that claimants may be required to participate in interviews that are conducted remotely. This was described by the Department as a ‘future proofing’ exercise to allow it to conduct interviews by means other than face-to-face meetings, but indicated that there were no immediate plans to do this.

### Clause 47 Sanctions

#### **Misconduct**

263. The Committee questioned how ‘misconduct’ that led to the loss of employment would be defined and how sanctions would be applied if the claimant lodged an appeal. The Department stated that sanctions would apply until the outcome of the appeal was known and if the appeal was upheld then the sanctions would be removed and the claimant reimbursed.
264. The Department emphasised that they considered sanctions to be a deterrent not a punishment.

### Clause 48 Procedure for regulation-making powers

265. The Committee noted this clause.

### Clause 49 Consequential amendments

266. The Committee noted this clause.

## Clause 50 Claimant responsibilities for jobseeker's allowance

### **Claimant-specific approach**

267. The Committee again noted comments from Citizens Advice that relate to the need for a specific focus on the claimant to help them meet their Claimant Commitment and to help them back into work. The Department also noted these comments.

## Clause 51 Dual entitlement

268. The Department confirmed the Committee's view that this clause 'tidied up' aspects of the 2007 Welfare Reform Act.

## Clause 52 Period of entitlement to contributory allowance

269. This clause limits an award of contributory ESA to a period of 365 days.
270. Some Members were of the view that the aim of this clause was to simply reduce the cost of the benefit system and were concerned, as were a number of stakeholders, that despite possibly paying into the National Insurance scheme for years, a person will only receive contributory ESA for one year. It also noted that where people have been in receipt of Contributory ESA for 365 days they will cease to receive this payment and will move to other, reduced, benefits.
271. The Committee discussed the possibility of these changes not coming into place until those claimants subject to the changes were notified of them i.e. the 365 day period would begin only when claimants had been notified.
272. However, the Department advised the Committee that there were significant cost savings associated with these measures. These are £36.5 million in 2013-14; £51 million in 2014-15; and £62.2 million in 2015-16. The Department clarified that these are the result of saving on costs that would be incurred where individuals are compensated by income-related Employment and Support Allowance.
273. The Committee noted that the Minister shared the Committee's concerns around the time limit associated with contribution-based ESA and also acknowledged the cost of not implementing this measure.
274. However, the Committee was not content to agree this clause as drafted and recommended that the Minister explore the possibility of extending the period of contribution-based ESA to more than 12 months.

## Clause 53 Further entitlement after time-limiting

### **Appropriate checks to confirm status**

275. The Committee highlighted to the Department the concern of stakeholders that there should be appropriate checks to ensure whether a claimant should be in the ESA Support Group and therefore not subject to the time-limit; and that appropriate advice is given in relation to their change of circumstances where they are subject to the time-limit.

## Clause 54 Condition relating to youth

276. The Committee noted that until this clause comes into operation there is provision under paragraph 4 of Schedule 1 of the Welfare Reform Act 2007 for claimants, on the basis of youth, to qualify for contributory ESA without having to meet the paid National Insurance

contributions. The Committee noted no new claims will be allowed when this clause comes into operation.

277. The Committee was concerned about the particular impact this would have on young people with disabilities which was shared by Disability Action. The Law Centre and the NI Welfare Reform Group noted that the cost of the current provisions was approximately £390k per year.
278. The Department stated that almost 97% of those people to whom this provision currently applies will not be affected by the change and that new claimants may qualify for income-related ESA.
279. The Minister's response indicated that there was an equality issue in that no other contributory benefit waives its conditions of receipt for any other age or client group. The Minister also noted that claimants will have access to income-related ESA if they do not have sufficient income or savings to support themselves. The Minister therefore did not believe that there was a strong enough case for making exceptions as this proposal puts young people on the same footing as other groups and treat them in the same way in relation to entitlement based on paid National Insurance contributions.
280. However, the Committee noted the relatively low cost, indicated by stakeholders, of retaining this provision. The Committee was not content to agree this clause as drafted, but recommended that the Minister discuss this issue at the Executive Committee with a view to making funds available to maintain the current arrangements.

## Clause 55 Claimant commitment for employment and support allowance

281. The Committee noted the Department's position that beyond accepting a Claimant Commitment there is no change to the current requirements and that where a person is placed in the support group the content of the commitment will be minimal.

### **Commitment should be claimant-specific**

282. As noted under Clause 4 - Basic conditions, one of the conditions that must be met for the entitlement of an award is the acceptance of a Claimant Commitment.
283. Stakeholders, such as NIPSA and Citizens Advice, again referred to the lack of balance in relation to the Claimant Commitment i.e. obligations are placed on the claimant but not the Department.
284. Citizens Advice called for an amendment to the Bill to ensure that the Claimant Commitment is based on the skills, abilities, knowledge and experience of the claimant. However, the Committee noted the Department's previous response that all Claimant Commitments would be drawn up in close consultation with the claimant and tailored to address their specific circumstances as well as the job market.

### **Support for disabled people**

285. The Committee also highlighted concerns from stakeholders about the support required for disabled people to obtain and retain work. The Department acknowledged these concerns and envisaged support tailored to people's needs.

## Clause 56 Work experience etc.

286. The Committee noted paragraph 287 of the Explanatory and Financial Memorandum that any requirement imposed on a claimant to undertake work experience or work placement will need to be reasonable in the claimant's circumstance.

## Clause 57 Hardship Payments

287. The Committee noted that hardship payments will not be recoverable for Employment and Support Allowance claimants.

## Clause 58 Claimant responsibilities for employment and support allowance

### **Open-ended period**

288. The Committee noted that this clause introduces a range of claimant responsibilities in respect of ESA, as clause 50 does for Jobseekers (Northern Ireland) Order 1995. The Committee questioned whether the term “open ended period” referred to in paragraph 294 of the Explanatory and Financial Memorandum meant ‘indefinite’ and the Department confirmed this.

### **Concerns about delegating and contracting out**

289. The Committee also noted that NIPSA reiterated its previous concerns regarding delegating and contracting out – section 11(L) and the potential for this to lead to job losses in the public sector.

## Clause 59 Entitlement of lone parents to income support etc.

### **Lack of childcare**

290. The Committee raised concerns about the work-related activity requirements associated with this clause that lone parents may face despite the absence of accessible and affordable childcare.
291. However, the Department replied that a lack of childcare would be considered as a mitigating factor. It is anticipated that there will be clear guidance regarding a lack of childcare provision and entitlement under this clause.

## Clause 60 Claimant commitment for income support

292. Again, the Committee acknowledged the general points made earlier in respect of Claimant Commitments and notes the aim to tailor these to the claimant's circumstances.

## Clause 61 Entitlement to work: jobseeker's allowance

293. The Committee noted this clause.

## Clause 62 Entitlement to work: employment and support allowance

294. The Committee noted this clause.

## Clause 63: Entitlement to work: maternity and statutory payments

295. The Committee noted concerns from the Law Centre in relation to clauses 61-63 that these clauses create new requirements for claimants to have an entitlement to work in order to obtain contributory JSA, ESA and statutory maternity, paternity and adoption pay.

## Part 3 Other Benefit Changes

### Clause 64 Injuries arising before 5 July 1948

- 296. The Department indicated that the overall aim of this clause is to remove redundant legislation from the statute book.
- 297. The Department confirmed that rules relating to ‘unforeseen aggravations’ - where injuries arising from an accident cause health issue later in life – will remain unchanged.
- 298. This was noted by the Committee.

### Clause 65 Persons under 18

- 299. The Committee noted this clause.

### Clause 66 Trainees

- 300. The Committee noted this clause.

### Clause 67 Restriction on new claims for industrial death benefit

- 301. The Committee noted the Department's clarification that Industrial Death Benefit is payable only when the death occurred before 11 April 1988, and that claims for deaths that occurred before that date are no longer being made. Deaths that occurred after that date are dealt with through Bereavement Benefit.

### Clause 68 Determinations

- 302. The Committee shared concerns with ICTU regarding the right to request an accident declaration to be abolished. However, the Department stated that it is currently possible to make a claim for an industrial accident without a previous declaration being made. Furthermore, the Department also confirmed that employers must keep an accident book as a legal requirement and this can be a source of evidence should a claim be made subsequently.

### Clause 69 Housing benefit: determination of appropriate maximum

- 303. As noted under Clause 11, the aim to apply a maximum level of housing benefit generated concerns among a wide range of stakeholders.

#### **Size criteria/under occupancy**

- 304. The key concern for the Committee relates to the ‘size criteria’ referred to in paragraph 337 of the Explanatory and Financial Memorandum. This will apply to the calculation of housing benefit for working age tenants in the social housing sector and will be dependent on the number of additional bedrooms in the property. Where the property is deemed to have 1 extra bedroom the housing benefit will be reduced by 14%; where there are two extra bedrooms this will be reduced by 25%.
- 305. The Committee heard that upwards of 32, 500 tenants in the social housing sector will be deemed as under-occupying and therefore subject to a reduction in benefit.
- 306. The Committee heard from the NIHE that around 26,000 of their tenants will be subject to these provisions, 7000 of whom will be deemed as under-occupying by more than one

bedroom. However, the NIHE was clear that it did not have the appropriate stock to match tenants' needs i.e. it could not facilitate this number of tenants who might want to downsize in order to avoid a reduction in housing benefit.

307. The Committee therefore shared the concerns of the Housing Policy Forum and others that tenants will be penalised by having their benefit reduced without other viable options being presented. NIFHA also felt that the under-occupancy penalty was unfair and had the potential to cause real hardship to many low-income families. The Committee recognised that if these tenants are unable to increase their income then they will have to make up the shortfall from their existing benefits.

308. The Committee noted that the Minister shared some of the concerns expressed by the Committee around the issues of housing and under-occupancy and that he recently raised the issue of under-occupancy and the housing situation in Northern Ireland with Lord Freud. However the Minister also noted that any departure from the proposals will have a significant cost impact to revenue streams in the region of £18m per annum.

#### **Requirement for appropriate housing stock**

309. A number of stakeholders proposed that this clause should not be introduced until there is the appropriate type of housing stock to allow people to move to smaller homes. Others such as NICCY and Save the Children advocated an exemption for households with children. A fairer approach to housing benefit was also called for by the four main churches.

#### **Restriction on moving as a result of community background**

310. The Committee also noted concerns about the restrictions on moving to more suitable accommodation given the segregated nature of housing in NI and that choice is likely to be particularly limited in rural areas.

#### **No exemptions for foster carers of disabled**

311. Some stakeholders, including CIH, NIFHA and MENCAP, highlighted their concern that disabled people and foster carers were not exempted from the size criteria rule.

#### **Size criteria rules will only apply to claimants of working age**

312. The Committee was advised by the Department that the size criteria rules will only apply to claimants of working age. Any claimant over the qualifying age for State Pension Credit or with a partner over that age will be exempt from the size criteria rules.

#### **Standard of private rented sector option**

313. The Committee raised concerns with the Department regarding the standard of accommodation available at the bottom 30th percentile of private sector rents and the aim to set local housing allowance by reference to the lower of either the CPI or the bottom 30th percentile of private sector rents. This may force people into the lower end of the private rental market and possibly a lower standard of accommodation.

314. This was a key issue for the Committee. Given the potential widespread impact of the size criteria rule the Committee did not agree the clause as drafted but recommended that the Minister discuss this with the Executive.



## Clause 70 Ending of discretionary payments

## Clause 71 Purposes of discretionary payments

## Clause 72 Determination of amount or value of budgeting loan

## Clause 73 Community care grants

315. The Committee noted that clauses 70 to 73 deal with the abolition of the discretionary part of the Social Fund and that the details of the replacement for the discretionary support scheme have not been finalised. The Committee will be consulted on proposals in due course.

## Clause 74 State pension credit: carers

316. Members questioned how “regular and substantial caring responsibilities” would be defined and whether the current prescribed minimum of 35 hours per week would be changed. The Department responded that this definition would be detailed in regulations but the intention was to extend this definition beyond people entitled to carer’s allowance.

## Clause 75 State pension credit: capital limit

### **Prescribed amount**

317. The Committee noted concerns that entitlement to State Pension Credit will be subject to claimants having capital below a “prescribed amount” and that this has yet to be determined.
318. The Department confirmed that there would be a mechanism to appeal against the Department’s evaluation of assets.

## Part 4 Personal Independence Payment

### Clause 76 Personal independence payment

319. This clause sets out the basic conditions of entitlement to PIP, the constituent components of the award and the residency requirements that apply.

#### **Anticipated savings**

320. The Committee noted that the Treasury Report produced at the time of PIP stated the aim was to save 20% over the projected expenditure of DLA and was concerned if this target would influence Decision-Makers in the Department. However, the Department did state categorically that there were no such savings' targets for individual Decision-Makers and each decision in respect of PIP would be made on a case-by-case basis.

#### **Assessment**

321. NICCY called for the establishment of an "expert group" to examine the new assessment for PIP and this should include psychiatrists and pediatricians as well as other experts in childhood disability.

#### **Free independent advice**

322. Stakeholders also strongly advocated that claimants should have access to free independent advice, noting that currently there is a waiting time of several weeks to get advice from the independent advice sector.
323. Of key concern to stakeholders was the assessment process associated with PIP which relates to clauses 77, 78 and 79.

#### **Time allowed abroad**

324. The Committee was concerned that the period of temporary absence (to be set out in regulations under clause 76(3)) set at 4 weeks, was too short. The Minister confirmed that this period had been extended to 13 weeks following public consultation.
325. The Committee welcomed this change and noted the Minister's reassurance that he will continue to raise the issues of both the number of claimants and the higher number of claimants in NI with mental illness with DWP Ministers.

### Clause 77 Daily living component

#### **Descriptors**

326. Disability Action raised concerns about the descriptors associated with the daily living component listed in paragraph 359 of the Explanatory and Financial Memorandum and felt these should be amended to reflect the true context in which people with disabilities live.
327. The Committee noted that these descriptors were not on the face of the Bill but will be in the regulations and asked the Department if the higher rate of mental health issues in NI would be taken into account in drawing up the descriptors.
328. The Department advised the Committee that there had already been extensive consultations on these descriptors but that the Minister had written to the DWP Minister and secured a commitment that all views and concerns expressed from Northern Ireland during the most recent consultation exercise would be given careful consideration as DWP evaluates what further changes need to be made to the Personal Independence Payment assessment criteria to ensure that they are a fair reflection of disabled peoples' needs.

## Clause 78 Mobility component

329. This clause sets out the basic entitlement conditions that apply to the standard rate and enhanced rate that claimants must satisfy.

### **Ability to plan and follow a journey**

330. The Committee was concerned that in any assessment process the ability of a person to plan and follow a journey should be considered. This was an issue also raised by NIPSA. The Department confirmed that this would be covered under subsection (4) and referred the Committee to paragraph 367 of the Explanatory and Financial Memorandum.

### **Impact of condition on entitlement**

331. The Committee also clarified a point raised by STEP regarding subsection (7) where a person eligible to the mobility component is deemed not to be entitled to it as a result of their condition. The Department confirmed that this would be in extreme circumstances, outlined in paragraph 371 of the Explanatory and Financial Memorandum, such as the person being in a coma or vegetative state and therefore considered not in a position to benefit from mobility assistance.

## Clause 79 Ability to carry out daily living activities or mobility activities

### **Assessment process**

332. Stakeholders highlighted the problems relating to the current Work Capability Assessment process associated with ESA, and the need not to simply duplicate this process in respect of PIP assessment.
333. The Department was keen to emphasise the difference between ESA and PIP and that the assessment for PIP will focus on the ability to carry out key everyday activities, the challenges people face and the support they need, rather than on the functions linked to a person's ability to work, as is the case with the Work Capability Assessment.
334. The Department advised that PIP would be paid to people regardless of whether they are in work and that they were seeking to learn from the experience of delivering the Work Capability Assessment to ensure that the PIP assessment is right from the start. To that extent the Department stated that the independent review of the WCA by Professor Harrington would be considered and that his recommendations, where appropriate, would be fully taken into account.
335. The Department also advised that the contract for the PIP assessment will include an annual review, monthly performance reporting on service levels and that penalties will be in place for scenarios in which thresholds are breached.

## Clause 80 Required period condition: further provision

336. The Committee heard concerns that a claimant must satisfy the conditions for PIP for three months before the date of entitlement and for 9 months afterwards and that this compares with 3 months and 6 months for DLA. However, the Department subsequently confirmed that this had been changed, following consultation, to 3 months and 6 months respectively.
337. The Committee welcomed this change.

## Clause 81 Terminal illness

338. This clause was noted by the Committee.

## Clause 82 Persons of pensionable age

339. This clause was noted by the Committee.

## Clause 83 No entitlement to daily living component where UK is not competent state

340. This clause was noted by the Committee.

## Clause 84 Care home residents

### **Clarification on supported housing**

341. The Committee sought clarification on whether claimants in Supported Housing will receive the daily living component of Personal Independence Payment. The Department confirmed that Supported Housing was not defined as a 'care home' and that these people would continue to receive their payment.

### **Definition of 'care home'**

342. The Committee also clarified that the definition of 'care home' does not extend to establishments such as hostels where people might receive support services and the Department confirmed this to be the case.

## Clause 85 Hospital in-patients

343. Hospital patients will continue to receive their payment for the first 28 days that they are in hospital, mirroring the current rules on DLA.
344. The Committee noted that the Equality Commission had recommended that the mobility component for adults is brought into line with the extended timeline provided for children (12 weeks) under this clause. However, the Department pointed out that PIP does not apply to under 16 year olds and that extension to 12 weeks for children under 16 is a condition, and recognition of the additional special needs they may have for support from their parents while they are adjusting to hospital life.

## Clause 86 Prisoners

### **Avoiding duplication of funding**

345. The Committee had raised concerns about the daily living component not being paid to someone on remand who is subsequently released. The Department stated that stopping payments to people on remand was not a reflection on a person's presumed innocence but rather focused on avoiding double provision.
346. They noted that DLA and PIP are intended to contribute towards the extra costs associated with disability. Disabled prisoners have their disability-related daily living and mobility needs met by the Prison Service or through healthcare provided by health and social care trusts. They therefore highlighted to the Committee that to pay PIP on top of that would be to duplicate public funding.
347. The Committee noted that payment would continue for the first 28 days as per clause 85.
348. The Minister indicated that the policy intention to treat those people on remand or who have their conviction quashed in the same way as people are treated who go into hospital and that is a fair and equitable approach.

349. The Committee was content with this clarification.

## Clause 87 Claims, awards and information

### **Fixed term awards**

350. Disability Action raised concerns about the fixed-term approach to determining awards. The Department replied that the aim was to introduce more regular reassessments into Personal Independence Payments to ensure that ongoing benefit decisions reflected any changes and remained accurate. They noted that the majority of awards for Personal Independence Payments will be limited to an appropriate fixed term and that under the current system, the majority of fixed-term awards are given for up to two years.
351. The Committee noted that subsection (3) allowed decision-makers to determine when a fixed-term award would be inappropriate in accordance with Departmental guidance.

## Clause 88 Report to the Assembly

352. The Committee was concerned about the time by which the Department had to report to the Assembly on the operation of assessments for PIP with the first laid within 2 years and the second within 4 years. The Committee believed this was too long.
353. However, further clarification from the Department revealed that there would not be sufficient numbers of people gone through the system within a shorter timeframe suggested by the Committee to make the report meaningful.
354. The Committee also acknowledged that the data on the impact of the new criteria on existing claimants would not be available by June 2014.
355. The Committee was advised that the Department could continue to update the Committee on progress made with people moving to the new system and provide any briefings as requested.
356. The Committee was content with this approach.

## Clause 89 Abolition of disability living allowance

357. The Committee noted this clause.

## Clause 90 Amendments

358. The Committee noted this clause.

## Clause 91 Power to make supplementary and consequential provision

359. The Committee noted this clause.

## Clause 92 Transitional

360. The Committee noted this clause.

## Clause 93 Regulations

361. The Committee noted that in the first instance regulations made under specified provisions will be subject to the confirmatory procedure and subsequently by the negative resolution procedure.
362. The Committee agreed an amendment to this clause to make the regulation-making power in clause 91 subject to the confirmatory procedure as recommended by the Examiner of Statutory Rules:

Clause 93, page 65, line 26

At end insert -

(c) regulations under clause 91

## Clause 94 Interpretation of Part 4

363. The Committee noted this clause.

## Part 5 Social Security: General

### Clause 95 Benefit cap

#### **Amount of cap**

364. Subsections 1 to 3 of this clause allow regulations to establish a cap for the total amount of benefit that a claimant can receive and is referenced by the average earnings of working households in Great Britain. It is anticipated that this cap will be £350 for a single person and £500 for couples and lone parents.

#### **Number of households affected by cap**

365. The Department noted that approximately 620 households in NI would be affected by this cap. Members did discuss the argument that work should pay and that households getting benefits should not receive more in benefit than the average working household receives in pay.
366. While the number of households affected by this is small the Committee and stakeholders were concerned about the potential impact on these claimants. Members noted that this cap would impact on large families given that Child Benefit is included in the list of benefits (See Appendix 6) covered by the cap and NICCY's contention that 6,500 children will see their families lose money.

#### **Risk of homelessness**

367. Stakeholders, such as Housing Rights Service, had concerns that this cap would increase the risk of homelessness as the cap will be applied through deductions from Housing Benefit payments. The concerns were also shared by Citizens Advice who questioned whether alternative, affordable housing options would be available given the pressures on the housing sector in NI.

#### **Private rented sector**

368. CIH referred to the fact that NI has the highest levels in the UK of families with four or more children and also noted that there is a much greater dependence on the private rented sector to meet housing need and that these rents are higher than in the social housing sector.

#### **Higher disregards**

369. While the Department noted that the disregards associated with UC would act to encourage people into work and keep more of what they earn, the Committee highlighted that the current economic conditions were such that finding employment would be very difficult and people would be subject to hardship as they will have to make up the shortfall in rent from their other benefits.

### Clause 96 Benefit cap: supplementary

#### **Additions to excepted benefits**

370. Members raised the issue of additional benefits that could be added to the list of excepted benefits namely, Carer's Allowance, widow's and bereavement benefits and contributory-based ESA.

#### **Carer's Allowance**

371. In particular, it was noted that while Carer's Allowance is viewed as an income-replacement benefit it places restrictions on the amount that carers can earn and that the comparative hourly rate is less than the minimum wage.

### **Right to appeal**

372. Citizens Advice highlighted concerns about making an appeal against an award however the Department clarified that every aspect of the award is appealable except the benefit cap itself.

### **Clause 97 Claims and awards**

373. The Committee noted subsection 4 of this clause amends section 5(1)(g) of the SSAA 1992 so that a one member of a couple may make a claim on behalf of both members jointly.

### **Financial independence for women**

374. The Women's Ad Hoc Policy Group again noted that this had the potential to return to a male 'Head of Household' model and impact on a woman's financial independence with potential consequences for the provision of support to children.

### **Clause 98 Powers to require information relating to claims and awards**

The Committee noted this clause.

### **Clause 99 Payments to joint claimants**

#### **Budgeting and payment options**

375. The Committee heard from Advice NI, the Law Centre, NICCY and others that people who have been used to receiving benefits on a more regular basis may have difficulty budgeting should UC be paid on a monthly basis.
376. Stakeholders proposed that there should be a choice of payment i.e. weekly, fortnightly or monthly so that the system is geared towards the needs of the claimant. The Department responded that officials within the Universal Credit Programme are currently developing a Customer Preparation & Budgetary Support Strategy.
377. This Strategy will determine the types of budgeting advice customers may require, the development of suitable banking products (transactional banking products) and the types of alternative payment arrangements that may be required for those customers who will have difficulty budgeting from a single household monthly payment. It is anticipated that this Strategy will be launched in advance of Universal Credit although the level of resources to be dedicated to these activities have yet to be assigned.
378. The Department also stated that Paragraph 4 of Schedule 2 to the Welfare Reform Bill amends the Social Security Administration (NI) Act 1992 to allow the Department to carry forward the existing arrangements that apply to other benefits in respect of claims and payments of Universal Credit i.e. allow payments more frequently. The Department stated that this will be more fully developed in forthcoming regulations.

#### **Agreed payment flexibilities**

379. In addition, the Department noted that the Minister had announced on 22 October 2012 that that Lord Freud had agreed to payment flexibilities. These were;
- Housing element of Universal Credit paid directly to landlords rather than customer;
  - Payment of Universal Credit may be split between two parties in the household; and
  - Payment of Universal Credit may be payable twice each month.
380. The Committee noted that this statement appeared to reflect provisions of the existing legislation. Furthermore, the Committee noted that the Minister intended to conduct a



consultation on these elements to determine the criteria that customers will have to meet before the payment flexibilities will be applied.

- 381. The consultation process was launched at an event on 15 November 2012. Two further events were held on 17 January in Derry/Londonderry and 22 January in Belfast.
- 382. An Oversight Board has also been established, chaired by the DSD Permanent Secretary, with input from a cross section of representatives from the community sector and academia with an interest in the different types of proposed flexible payment arrangements.
- 383. The Oversight Board will contribute to the final report which will be prepared by the Permanent Secretary. This is expected to be completed by April 2013.

#### **Option of twice monthly payments**

- 384. NICCY and Save the Children were of the view that claimants should have the option of fortnightly payments without having to meet any additional criteria and that this would protect the most vulnerable claimants and their children. However, the Department indicated that the Decision-Maker will take these issues under consideration on a case-by-case basis when reaching a decision about frequency of payment.
- 385. The Committee also raised concerns about the provision of mainstream financial services to claimants and asked what discussions the Department has had with the Northern Ireland banking institutions to ensure that appropriate financial products are available to UC claimants.
- 386. The Department clarified that the DWP Universal Credit Programme has been in discussion with the British Banking Association and that the NI UC Programme has been involved in these discussions. A UK-wide procurement exercise has since been launched to select banking products suitable for UC customers and NI is within the scope of this procurement exercise.
- 387. The Committee noted that the Minister shared its concerns around the monthly payment and that many claimants need more frequent payments.
- 388. The Committee also acknowledged that the Minister was developing proposals to make more frequent payments to claimants in 'exceptional circumstances' and that a report on what the criteria for more flexible payment might be would be available in April.
- 389. However, the Committee felt that claimants should receive a twice monthly payment by default unless they opt for a monthly payment. While the Committee was presented with costs for payment flexibilities (£24m) it had concerns about the accuracy of these costs.

#### **Split Payments**

- 390. The Committee heard from stakeholders that the aim of having one household payment would potentially negatively impact on women.
- 391. The Women's Ad Hoc Policy Group told the Committee that this approach failed to appreciate the impact of a woman's reduced access to income including vulnerable women suffering financial and other domestic abuse.
- 392. This group, as well as NICCY and others, strongly advocated that the default position should be to pay UC to the second earner or carer in the household where the main earner is working. The groups premised this on the fact that UC is designed to reward the primary earner and the primary earner in households is normally the man, although they acknowledged that on occasion it may be the other partner.
- 393. It was the group's contention that clause 99 of the Welfare Reform Bill would allow this and indeed the Department's response to a Committee question confirmed this to be the case.

394. The Department stated **Clause 99** of the proposed Welfare Reform Bill amends the Social Security Administration Act 1992 to allow for regulations to specify that couples may nominate which partner should receive the payment of benefit.
- It further gives the Department the power to make an intervention and determine to which member of the couple the payment may be made, irrespective of whom the couple has nominated.*
- Further, this clause also allows the Department to split payments of Universal Credit between partners.*
395. However, it was clear that this decision would not be based on the choice of the claimant but rather, as per frequency of payment, the Decision-Maker will consider the claimant's financial circumstances and any vulnerability factors e.g. any relevant health issues before deciding on whether and how the payment should be split.
396. The Women's Ad Hoc Policy Group also proposed that where neither couple is working UC should be paid as a split payment by default.
397. The Committee heard, and had sympathy with, the argument that this was a return to the 'male, head of household' model and that as a result women would lose financial support and economic independence and therefore suffer from financial abuse – a recognised component of domestic abuse.
398. Similar points were made by NICCY who stated that "research has shown that when money goes directly to the mother, it is more likely to be spent on children than when it goes to the father" and that this could result in a breach of children's rights under the UNCRC. NICCY strongly supported operational flexibility to ensure that the child element of the credit is paid directly to the primary carer and this would better serve the rights and lives of children.
399. The Committee wrote to the Minister proposing the following:
- UC payments are, by default, paid fortnightly;
  - in the case of a joint application payments are made, by default, on a split basis; and
  - in a joint application where one person is in paid employment, the payment is made, by default, to the second earner/primary carer.
400. The Committee acknowledged that on 22 October 2012 the Minister announced payment flexibilities including split payments and payment frequency. However, the Committee also noted that these payments would be subject to criteria, developed in consultation with public and voluntary sector representatives, and that a report would not be available until April 2013.
401. The Committee was keen to define how payments could be made to the primary carer or second earner where a joint claim is made. However, on discussion the Committee recognised that without more detailed consideration of how, in particular, 'primary carer' would be defined any proposed amendment could prove too restrictive, or perhaps have unintended consequences in respect of whether the person receiving the payment was the appropriate person to do so.
402. The Committee was not content to agree this clause as drafted and recommended that the Minister discuss with the Executive the Committee's preferred option of twice monthly payments by default and that the criteria that will determine when payments are made on an exceptional basis should give priority to determining how payments can be made to ensure the financial independence of women, who tend to be the main carer or second earner, and therefore help protect the interests of children.

## Clause 100 Payments on account

### **Clarification on Social Fund**

403. The Department confirmed that this was not related to the replacement of the Social Fund. This clause was noted by the Committee.

## Clause 101 Power to require consideration of revision before appeal

404. The Committee questioned the Department on the requirement, in the first instance, for a reconsideration of any decision before an appeal can be made. The Department noted that the aim was to reduce the number of appeals and the costs associated with these, by dealing with these through a reconsideration of the decision by other departmental officials.
405. NIPSA indicated that this approach is already standard practice but the Explanatory Memorandum states that, in practice, many people make an appeal from the outset.

### **Application of time limit to hear appeal**

406. The Law Centre advocated that a time limit should be applied to the Department to ensure the appeal is heard in a timely fashion, but the Department replied that while there are operational targets for the Department to provide appeal submissions to the tribunal they cannot impose a time limit on the tribunal.

## Clause 102 Electronic communications

407. The Department clarified that this clause was not related to data protection issues but rather it makes it possible for the Department to include in regulations provision for electronic communications in relation to claims to benefit, notification regarding claims to benefit and notification regarding change of circumstances, rather than having to go through a separate Order under the Electronic Communications Act (Northern Ireland) 2001.

## Clause 103 Recovery of benefit payments

408. The Committee raised concerns about the recovery of payments from a claimant where the overpayment was not their fault. In particular the Committee was concerned about scenarios where the repayment may be detrimental to the claimant's health.
409. The Department noted that where reasonable evidence is available that the recovery of an overpayment would be detrimental to the health and/or welfare of the debtor and/or their family, particular criteria would need to be satisfied in order to waive recovery of the overpayment. The also noted that this criteria would be in the guidance for Decision-Makers.
410. The Committee noted that the Minister's response indicated there are particular criteria which must be satisfied before any decision to waive recovery of an overpayment is made and that the Department would consider the "Overpayment Recovery Guidance", to see if any additional clarification is needed for Decision-Makers.

## Clause 104 Deductions from earnings: other cases

411. The Committee questioned the level of recovery by this method. The Department stated that there was a maximum of 25% of earnings that could be recovered to repay overpayments but that all the circumstances of each case is taken into account before the level of recovery is determined. If the person is faced with greater hardship, a lower deduction would probably be more appropriate.

## Clause 105 Application of the Limitation (Northern Ireland) Order 1989

412. The Committee noted that under the current rules a 6 year time limit exists for recovery of a payment. This clause provides the clarification that the Department may recover social security overpayments and social security debt by means other than court action and amends the relevant Acts to ensure that time limits for recovery do not apply.

## Clause 106 Powers to require information relating to investigations

## Clause 107 Time limits for legal proceedings

## Clause 108 Prosecution powers of the Housing Executive

413. The Committee noted these clauses.

## Clause 109 Penalty in respect of benefit fraud not resulting in overpayment

414. Some Members had concerns that this clause introduces a penalty of £350 even though an overpayment has not occurred. Both Citizens Advice and the Law Centre shared these concerns particularly the possibility of hardship being caused to family members.
415. The Committee had concerns around the intention to commit fraud and how the Department would distinguish between actual intent to defraud with a genuine mistake on the claimant's part.
416. However, the Department pointed out that this was to address deliberate, attempted fraud i.e. providing false information on an application form with the intention of getting benefits that the person would otherwise not be entitled to. The Department also pointed out that the average level of fraud is around £4000 and that the £350 penalty is to act as a deterrent.
417. The Department indicated that this scenario deals with intentional attempted fraud and that currently the only option the Department has is to pursue court action. The Department contends that this approach may not be a proportionate response either and that it feels that an administrative penalty is a more appropriate way forward, where fraud has been attempted but not resulted in overpayment.
418. The Committee acknowledged this argument but did not agree the clause as drafted but asked that the Minister consider an informal caution as an alternative option.

## Clause 110 Amount of penalty

419. The Committee noted that where an overpayment has been made as a result of fraud the penalty will be £350 or 50% of the amount overpaid, whichever is greater, up to a maximum of £2000. As noted in clause 109, where there is no overpayment the penalty will be fixed at £350.
420. The Department emphasized that attempted fraud was not about people making mistakes on their form; it was about intentionally providing false information in order to obtain benefits which they would otherwise not be entitled to.
421. The Minister stated that administrative penalties provide an alternative option for claimants and in some cases may be a much more appropriate solution.

422. The Committee opposed this clause and recommended that the Department review the levels of penalty under this clause.

### Clause 111 Period for withdrawal of agreement to pay penalty

423. This clause reduces the “cooling off” period for a person agreeing to pay a penalty to avoid prosecution from 28 days to 14 days. This is the period during which a claimant may withdraw from an agreement to pay a fine in lieu of prosecution.
424. The Committee asked the Department to reconsider increasing this period as a longer period would give claimant’s the opportunity to seek independent advice.
425. The Committee welcomed the Minister’s decision to increase the ‘cooling-off’ period from 14 to 28 days.

### Clause 112 Civil penalties for incorrect statements and failures to disclose information

#### **Fixed penalty**

426. The Committee noted that this clause introduces a fixed penalty for negligently making incorrect statements or for claimants who fail, without reasonable excuse or good reason, to disclose information about their claim. In each case a penalty would only be imposed if an overpayment has been made.

#### **Impact on third party verification**

427. Members were concerned about how this would be imposed where third party verification is required. However, the Department confirmed that the applicant would be subject to the penalty not the third party.
428. Citizens Advice had particular concerns about this clause but the Department advised that the claimant will be given an opportunity to explain the errors on their form and where there is good reason a penalty will not be imposed.
429. The Department explained that the aim of this clause is to reduce the financial loss from claimant error and achieve greater compliance.

### Clause 113 Benefit offences: period of sanction

430. The Committee was concerned about the potential disproportionate approach under this clause. For example, while the Committee recognised that serious fraud offences deserve prosecution and possibly a prison sentence, subsection 11A(a) also introduces a new 3 year loss of benefit sanction. The Committee therefore sees the potential for a person to be subject to a long benefit sanction and a sentence of the courts.
431. The Minister noted the Committee’s concerns but indicated that the aim is to deter people from attempting serious fraud. The Committee acknowledged that this will apply only to cases of serious fraud i.e. cases of over £50,000, fraud of over 2 years, fraud involving identity fraud or a sentence imposed of 12 months imprisonment or over.

### Clause 114 Benefit offences: sanctions for repeated benefit fraud

432. The Committee noted this clause.

## Clause 115 Cautions

433. The Committee discussed the nature of cautions and the option of accepting a formal caution rather than an administrative penalty.
434. The Committee noted that the Department would tend to offer the administrative penalty at the lower end of the fraud scale as a first option; prosecutions for amounts greater than £2000 and cautions in-between these two.
435. The Department indicated to the Committee that a person may see a formal caution as the better option, as opposed to an administrative penalty, or vice versa. However, the Department emphasised that a formal caution takes place at the end of an investigation into alleged fraud and the Department has found that fraud has in fact taken place.
436. This caution goes on to a person's criminal record and this may have ramifications for employment prospects, travel etc. A formal caution is not therefore a simple verbal warning.
437. The aim of this clause is to remove cautions for benefit offences and replace them with more severe administrative penalties or prosecution.
438. The Committee had originally considered opposing this clause but on clarification it noted the potentially serious impact of a formal caution on a person's record and therefore agreed this clause.

## Clause 116 Information-sharing in relation to provision of overnight care etc

439. This clause was noted by the Committee.

## Clause 117 Information-sharing in relation to welfare services etc

440. The Committee noted the Department's point that it is public bodies that share information and that this is dictated by data protection legislation.
441. The Department noted that it is sharing data with the Department of Education for the purposes of providing welfare services; for example, free school meals.

## Clause 118 Unlawful disclosure of information

442. This clause was noted by the Committee.

## Clause 119 Sections 116 and 118: supplementary

443. This clause was noted by the Committee.

## Clause 120 Information-sharing for social security or employment purposes etc

444. This clause was noted by the Committee.

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## Part 6: Miscellaneous

### Clause 121 Supporting maintenance agreements

445. The Committee noted that it had responded to the Department's consultation on Supporting Separated Families and this was forwarded to DWP.

### Clause 122 Collection of child support maintenance

446. The Committee noted that the aim of maintenance agreements is to help separated families reach and maintain voluntary arrangements. The Department confirmed that where voluntary arrangement breakdown the parent-with-care is entitled to come to the Department to seek payment enforcement.

### Clause 123 Indicative maintenance calculations

447. This provides parents with the option to receive an indication of the amount of maintenance which would be payable under the statutory child maintenance scheme if an application were to be made. It does not create any liability to pay maintenance.
448. The Committee noted that any maintenance agreement entered into was based on the circumstances at the time of agreement and that the circumstances of either, or both parents, could change over time.

### Clause 124 Recovery of child support maintenance by deduction from benefit

449. The Committee noted this clause.

### Clause 125 Fees

450. The Committee noted that this clause does not introduce fees.
451. The Department confirmed that no decision had been taken on introducing fees and that the clause is about specifying where there would be a waiver for fees and that if fees were to be introduced, there would be a review within two and a half years.

### Clause 126 Exclusion from individual voluntary arrangements

452. The Committee noted and welcomed the arrangement that parents who are declared bankrupt will still have to meet the debt on their child maintenance.

### Clause 127 Use of jobcentres by sex industry

453. The Committee noted this clause.

### Clause 128 Reduced fee for dog licences

454. The Committee noted this clause.

## Clause 129 Orders of Secretary of State under Administration Act

455. The Department clarified that clause 129 amends section 165 of the Social Security Administration (Northern Ireland) Act 1992 by adding the Secretary of State to the list of persons and Departments that can make regulations and orders under that Act. It corrects an unintentional outcome of the Tax Credits Act 2000 which amended section 165 and narrowed the scope of the power and prevented the Secretary of State from making regulations or orders by statutory rule
456. Reciprocal agreements between the UK and a number of non-EU International relations are an excepted matter under schedule 2(3) to the Northern Ireland Act 1998, and the power to make the necessary order rests with the Secretary of State under section 155(1) of the Social Security Administration (Northern Ireland) Act 1992.
457. The relevant provisions would cover any future order relating to reciprocal agreements between the UK and a number of non-EU countries to assist in the satisfaction of conditions for entitlement to various benefits. As international relations are an excepted matter under schedule 2(3) to the Northern Ireland Act 1998, the power to make the necessary order rests with the Secretary of State under section 155(1) of the Social Security Administration (Northern Ireland) Act 1992.
458. In this context the Department explained the need to restore the original position to provide for the Secretary of State to make regulations and orders under the Act by statutory rule, and that the Northern Ireland Welfare Reform Bill was the only available vehicle to do that.



## Part 7: Final

### Clause 130 Rate relief schemes: application of housing benefit law

459. While the Law Centre and Citizens Advice raised concerns about the future of the rate relief scheme the Department advised that the Executive has agreed to preserve the existing entitlements for up to two years and fund any shortfall out of public expenditure for an interim two-year period.

### Clause 131: Repeals

### Clause 132: General interpretation

### Clause 133: Commencement

### Clause 134: Short title

460. The Committee noted these clauses.

### **Schedules**

461. These were discussed and noted by the Committee.

## Clause by Clause Scrutiny

462. The Committee undertook its formal clause-by-clause scrutiny of the Bill on 12 February 2013

463. The Committee had sought assurances and further clarification from the Minister on a number of issues. The Minister's response is included at Appendix 4.

Clause 1 Universal credit

464. The Committee agreed that it was content with Clause 1 as drafted.

Clause 2 Claims

465. The Committee agreed that it was content with Clause 2 as drafted.

Clause 3 – Entitlement

466. The Committee agreed that it was content with Clause 3 as drafted.

Clause 4 – Basic conditions

467. The Committee agreed that it was not content with Clause 4 as drafted.

Clause 5 Financial conditions

Clause 6 Restrictions on entitlement

468. The Committee agreed that it was content with Clauses 5 and 6 as drafted.

Clause 7 Basis of awards

Clause 8 Calculation of awards

469. The Committee agreed that it was content with Clauses 7 and 8 as drafted.

Clause 9 Standard allowance

470. The Committee agreed that it was content with Clause 9 as drafted.

Clause 10 Responsibility for children and young persons

471. The Committee agreed that it was not content with Clause 10 as drafted.

Clause 11 Housing costs

472. The Committee agreed that it was content with Clause 11 as drafted.

Clause 12 Other particular needs or circumstances

473. The Committee agreed that it was not content with Clause 12 as drafted.

Clause 13 Work-related requirements introductory

Clause 14 Claimant commitment

474. The Committee agreed that it was content with Clauses 13 and 14 as drafted.

Clause 15 Work-focussed requirement

Clause 16 Work preparation requirement

Clause 17 Work search requirement

Clause 18 Work availability requirement

475. The Committee agreed that it was content with Clauses 15, 16, 17 and 18 as drafted.
- Clause 19 Claimants subject to no work-related requirements
  - Clause 20 Claimants subject to work-focused interview only
  - Clause 21 Claimants subject to work preparation requirement
  - Clause 22 Claimants subject to all work-related requirements
476. The Committee agreed that it was content with Clauses 19, 20, 21 and 22 as drafted.
- Clause 23 Connected requirements
  - Clause 24 Imposition of requirements
  - Clause 25 Compliance with requirements
477. The Committee agreed that it was content with Clauses 23, 24 and 25 as drafted.
- Clause 26 Higher level sanctions
478. The Committee agreed that it was not content with Clause 26 as drafted.
- Clause 27 Other sanctions
  - Clause 28 Hardship payments
479. The Committee agreed that it was content with Clauses 27 and 28 as drafted.
- Clause 29 Concurrent exercise of certain functions by the Department for Employment and Learning
  - Clause 30 Delegation and contracting out
480. The Committee agreed that it was content with Clauses 29 and 30 as drafted.
- Clause 31 Supplementary regulation-making powers
  - Clause 32 Supplementary and consequential amendments
481. The Committee agreed that it was content with Clauses 31 and 32 as drafted.
- Clause 33 Power to make supplementary and consequential amendments
482. The Committee agreed that it was content with Clause 33 as drafted.
- Clause 34 Abolition of benefits
  - Clause 35 Universal credit and state pension credit
  - Clause 36 Universal credit and working age benefit
  - Clause 37 Migration to universal credit
483. The Committee agreed that it was content with Clauses 34, 35, 36 and 37 as drafted.
- Clause 38 Capability for work or work-related activity
  - Clause 39 Information
  - Clause 40 Couples
  - Clause 41 Interpretation of Part 1
484. The Committee agreed that it was content with Clauses 38, 39, 40 and 41 as drafted.
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Clause 42 Pilot schemes

485. The Committee agreed that it was content with Clause 42 as drafted.

Clause 43 Regulations

486. The Committee agreed that it was content with Clause 43 as drafted.

Clause 44 Assembly control

487. The Committee was not content with Clause 44 as drafted. The Committee agreed the following amendment:

Clause 44, page 21, line 25

At end insert -

(c) regulations under clause 33

Clause 45 Jobseeker's Allowance

Clause 46 Interviews

Clause 47 Sanctions

Clause 48 Procedure for regulation-making powers

Clause 49 Consequential amendments

488. The Committee agreed that it was content with Clauses 45, 46, 47, 48 and 49 as drafted.

Clause 50 Claimant responsibilities for jobseeker's allowance

489. The Committee agreed that it was content with Clause 50 as drafted.

Clause 51 Dual entitlement

490. The Committee agreed that it was content with Clause 51 as drafted.

Clause 52 Period of entitlement to contributory allowance

491. The Committee agreed that it was not content with Clause 52 as drafted.

Clause 53 Further entitlement after time-limiting

492. The Committee agreed that it was content with Clause 53 as drafted.

Clause 54 Condition relating to youth

493. The Committee agreed that it was not content with Clause 54 as drafted.

Clause 55 Claimant commitment for employment and support allowance

Clause 56 Work experience etc

Clause 57 Hardship payments

494. The Committee agreed that it was content with Clauses 55, 56 and 57 as drafted.

Clause 58 Claimant responsibilities for employment and support allowance

495. The Committee agreed that it was content with Clause 58 as drafted.

Clause 59 Entitlement of lone parents to income support etc.

Clause 60 Claimant commitment for income support

496. The Committee agreed that it was content with Clauses 59 and 60 as drafted.
- Clause 61 Entitlement to work: jobseeker's allowance
  - Clause 62 Entitlement to work: employment and support allowance
  - Clause 63: Entitlement to work: maternity and statutory payments
497. The Committee agreed that it was content with Clauses 61, 62 and 63 as drafted.
- Clause 64 Injuries arising before 5 July 1948
  - Clause 65 Persons under 18
  - Clause 66 Trainees
  - Clause 67 Restriction on new claims for industrial death benefit
  - Clause 68 Determinations
498. The Committee agreed that it was content with Clauses 64, 65, 66, 67 and 68 as drafted.
- Clause 69 Housing benefit: determination of appropriate maximum
499. The Committee agreed that it was not content with Clause 69 as drafted.
- Clause 70 Ending of discretionary payments
  - Clause 71 Purposes of discretionary payments
  - Clause 72 Determination of amount or value of budgeting loan
  - Clause 73 Community care grants
500. The Committee agreed that it was content with Clauses 70, 71, 72 and 73 as drafted.
- Clause 74 State pensions credit: carers
  - Clause 75 State pensions credit: capital limit
501. The Committee agreed that it was content with Clauses 74 and 75 as drafted.
- Clause 76 Personal independence payment
  - Clause 77 Daily living component
  - Clause 78 Mobility component
  - Clause 79 Ability to carry out daily living activities or mobility activities
  - Clause 80 Required period condition: further provision
502. The Committee agreed that it was content with Clauses 76, 77, 78, 79 and 80 as drafted.
- Clause 81 Terminal illness
  - Clause 82 Persons of pensionable age
  - Clause 83 No entitlement to daily living component where UK is not competent state
  - Clause 84 Care home residents
  - Clause 85 Hospital in-patients
  - Clause 86 Prisoners
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503. The Committee agreed that it was content with Clauses 81, 82, 83, 84, 85, and 86 as drafted.
- Clause 87 Claims, awards and information
- Clause 88 Report to the Assembly
504. The Committee agreed that it was content with Clauses 87 and 88 as drafted.
- Clause 89 Abolition of disability living allowance
- Clause 90 Amendments
505. The Committee agreed that it was content with Clauses 89 and 90 as drafted.
- Clause 91 Power to make supplementary and consequential provision
506. The Committee agreed that it was content with Clause 91 as drafted.
- Clause 92 Transitional
507. The Committee agreed that it was content with Clause 92 as drafted.
- Clause 93 Regulations
508. The Committee was not content with Clause 93 as drafted. The Committee agreed the following amendment:
- Clause 93, page 65, line 26
- At end insert -
- (c) regulations under clause 91
- Clause 94 Interpretation of Part 4
509. The Committee agreed that it was content with Clause 94 as drafted.
- Clause 95 Benefit cap
- Clause 96 Benefit cap: supplementary
510. The Committee agreed that it was content with Clauses 95 and 96 as drafted.
- Clause 97 Claims and awards
- Clause 98 Powers to require information relating to claims and awards
511. The Committee agreed that it was content with Clauses 97 and 98 as drafted.
- Clause 99 Payment to joint claimants
512. The Committee agreed that it was not content with Clause 99 as drafted.
- Clause 100 Payments on account
513. The Committee agreed that it was content with Clause 100 as drafted.
- Clause 101 Power to require consideration of revision before appeal
514. The Committee agreed that it was content with Clause 101 as drafted.
- Clause 102 Electronic communications
515. The Committee agreed that it was content with Clause 102 as drafted.
- Clause 103 – Recovery of benefit payments

516. The Committee agreed that it was content with Clause 103 as drafted.  
Clause 104 Deductions from earnings: other cases  
Clause 105 Application of the Limitation (Northern Ireland) Order 1989
517. The Committee agreed that it was content with Clauses 104 and 105 as drafted.  
Clause 106 Powers to require information relating to investigations  
Clause 107 Time limits for legal proceedings  
Clause 108 Prosecution powers of the Housing Executive
518. The Committee agreed that it was content with Clauses 106, 107 and 108 as drafted.  
Clause 109 – Penalty in respect of benefit fraud not resulting in overpayment
519. The Committee agreed that it was not content with Clause 109 as drafted.  
Clause 110 – Amount of penalty
520. The Committee agreed that it was not content with Clause 110 as drafted.  
Clause 111 Period for withdrawal of agreement to pay penalty.
521. The Committee agreed that it was content with Clause 111 as drafted.  
Clause 112 Civil penalties for incorrect statements and failures to disclose information
522. The Committee agreed that it was content with Clause 112 as drafted.  
Clause 113 Benefit offences: period of sanction  
Clause 114 Benefit offences: sanctions for repeated benefit fraud
523. The Committee agreed that it was content with Clause 113 and 114 as drafted.  
Clause 115 – Cautions
524. The Committee agreed that it was content with Clause 115 as drafted.  
Clause 116 Information-sharing in relation to provision of overnight care etc  
Clause 117 Information-sharing in relation to welfare services etc  
Clause 118 Unlawful disclosure of information  
Clause 119 Sections 116 and 118: supplementary  
Clause 120 Information-sharing for social security or employment purposes etc
525. The Committee agreed that it was content with Clauses 116, 117, 118, 119 and 120 as drafted.  
Clause 121 Supporting maintenance agreements  
Clause 122 Collection of child support maintenance  
Clause 123 Indicative maintenance calculations  
Clause 124 Recovery of child support maintenance by deduction from benefit  
Clause 125 Fees  
Clause 126 Exclusion from individual voluntary arrangements

526. The Committee agreed that it was content with Clauses 121, 122, 123, 124, 125 and 126 as drafted.
- Clause 127 Use of jobcentres by sex industry
527. The Committee agreed that it was content with Clause 127 as drafted.
- Clause 128 Reduced fee for dog licences
528. The Committee agreed that it was content with Clause 128 as drafted.
- Clause 129 Orders of Secretary of State under Administration Act
529. The Committee agreed that it was content with Clause 129 as drafted.
- Clause 130 Rate relief schemes: application of housing benefit law
530. The Committee agreed that it was content with Clause 130 as drafted.
- Clause 131 Repeals
531. The Committee agreed that it was content with Clause 131 as drafted.
- Clause 132 General interpretation
532. The Committee agreed that it was content with Clause 132 as drafted.
- Clause 133 Commencement
533. The Committee agreed that it was content with Clause 133 as drafted.
- Clause 134 Short Title
534. The Committee agreed that it was content with Clause 134 as drafted.
- Schedule 1 Universal credit: supplementary regulation-making powers
535. The Committee agreed that it was content with Schedule 1 as drafted.
- Schedule 2 – Universal credit: amendments
536. The Committee agreed that it was content with Schedule 2 as drafted.
- Schedule 3 Abolition of benefits: consequential amendments
537. The Committee agreed that it was content with Schedule 3 as drafted.
- Schedule 4 Housing credit element of state pension credit
538. The Committee agreed that it was content with Schedule 4 as drafted.
- Schedule 5 Universal credit and other working-age benefits
539. The Committee agreed that it was content with Schedule 5 as drafted.
- Schedule 6 Migration to universal credit
540. The Committee agreed that it was content with Schedule 6 as drafted.
- Schedule 7 Jobseeker's allowance in interim period: consequential amendments
541. The Committee agreed that it was content with Schedule 7 as drafted.
- Schedule 8 Social fund discretionary payments: consequential amendments
542. The Committee agreed that it was content with Schedule 8 as drafted.



#### Schedule 9 Amendments relating to Part 4

543. The Committee agreed that it was content with Schedule 9 as drafted.

#### Schedule 10 Personal independence payment: transitional

544. The Committee agreed that it was content with Schedule 10 as drafted.

#### Schedule 11 Power to require consideration of revision before appeal

545. The Committee agreed that it was content with Schedule 11 as drafted.

#### Schedule 12 Repeals

546. The Committee agreed that it was content with Schedule 12 as drafted.

#### Long Title

547. The Committee agreed that it was content with the long title of the Bill.

### Departmental Amendment

548. At its meeting on 14 February 2013 and subsequent to the Committee completing its clause-by-clause scrutiny on 12 February 2013, the Committee considered a proposed Departmental amendment. The Committee noted that the proposed amendment will introduce a new clause to allow the Department to provide discretionary support in the form of direct financial award or the provision of goods and services and to bring forward regulations providing further detail. The Committee recognised the benefits of such a clause and were therefore content with the new clause as drafted.

#### **New clause**

After clause 130 insert

‘Discretionary support

- (1) The Department may, in accordance with regulations under this section —
  - (a) make payments by way of grant or loan to prescribed persons;
  - (b) provide, or arrange for the provision of, goods or services to prescribed persons.
- (2) Anything done under subsection (1)(a) or (b) is referred to in this section as the provision of discretionary support.
- (3) Regulations may make provision —
  - (a) for the Department to provide discretionary support only in prescribed circumstances;
  - (b) conferring a discretion on the Department (subject to any provision made by virtue of paragraph (c) or (d)) —
    - (i) as to whether or not to provide discretionary support in a particular case; and
    - (ii) as to the nature of the discretionary support and (in the case of support by way of payments) as to the amount of the payments and the period for or in respect of which they are made;
  - (c) imposing a limit on the amount of the discretionary support that the Department may make in any particular case;
  - (d) restricting the period for or in respect of which the Department may provide discretionary support in any particular case;

- (e) for claims for discretionary support to be made in the prescribed form and manner and for the procedure to be followed in dealing with and disposing of such claims;
  - (f) imposing conditions on persons claiming or receiving discretionary support requiring them to provide to the Department such information as may be prescribed;
  - (g) for the disclosure of information relating to discretionary support in prescribed circumstances or to prescribed persons;
  - (h) authorising the Department in prescribed circumstance to recover by prescribed means discretionary payments made under this section;
  - (i) requiring or authorising reviews (whether by the Department or a prescribed person) of decisions made by the Department with respect to the provision of discretionary support or the recovery of payments made under this section;
  - (j) for such other matters as appears to the Department to be necessary or expedient in connection with the provision of discretionary support, including provision creating criminal offences and provision amending or applying (with or without modification) any statutory provision.
- (4) In this section “prescribed” means prescribed by, or determined in accordance with, regulations under this section.
- (5) Discretionary support is not to be regarded as a social security benefit; but regulations under this section may provide for any statutory provision relating to a social security benefit (or to such benefits generally) to apply with prescribed modifications to discretionary support.
- (6) The first regulations under this section shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.
- (7) Other regulations made under this section are subject to negative resolution.
- (8) The Department shall, in respect of each financial year, prepare and lay before the Assembly a report on the operation of regulations made under this section.

**Clause 133**

Page 95, line 32, at end insert —

‘( ) section (Discretionary support);



Northern Ireland  
Assembly

Appendix 1

# Minutes of Proceedings



# Thursday 4 October 2012

## Room 29, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
 Mr Mickey Brady MLA (Deputy Chairperson)  
 Ms Paula Bradley MLA  
 Ms Pam Brown MLA  
 Mr Gregory Campbell MLA  
 Ms Judith Cochrane MLA  
 Mr Michael Copeland MLA  
 Mr Mark H Durkan MLA  
 Mr Fra McCann MLA  
 Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
 Mr Stewart Kennedy (Assistant Assembly Clerk)  
 Ms Claire McCanny (Assistant Assembly Clerk)  
 Mr Neil Sedgewick (Clerical Supervisor)  
 Ms Allison Ferguson (Clerical Officer)

**Apologies:** Mr Sammy Douglas MLA

**10:09am** The meeting began in public session.

**10:09am** Mr Michael Copeland declared an interest in accordance with the register of interests.

### 1. Apologies

Apologies were as indicated above.

### 12. Welfare Reform Bill – Departmental Briefing

**13.12pm** The following officials from the Department joined the meeting.

Ms Anne McCleary

Mr Michael Pollock

Ms Martina Campbell; and

Mr Colm McLaughlin

**13:14pm** Mr Michael Copeland re-joined the meeting.

The officials briefed the Committee on the general principles of the Welfare Reform Bill. This was followed by a question and answer session covering a range of issues relating to Universal Credit; the Benefit Cap; transitional protection; conditionality groups; sanctions, Employment and Support Allowance; fraud and error; Personal Independence Payment.

**13:37pm** Ms Pam Brown re-joined the meeting.

The briefing was recorded by Hansard

The Chairperson thanked the officials for their attendance.

**13:59pm** The officials left the meeting.

**Agreed:** The Committee agreed to write to the Department to ask the following:

- clarification on the differences between the GB Bill and the NI Bill;

- clarification on the differences between direct payments here and in GB;
- if the Department has examined all optional areas of flexibility in the Bill;
- clarification on whether ESA will carry on in its current form;
- if the Department has been in any discussions with other Departments on whether the jobs will be available for people to go back to work;
- clarification on the amount of benefits that will be abolished;
- if there is any scope for monthly payments to be fortnightly;
- confirmation on whether childcare payments will only be for registered child minders;
- clarification on the timeline for transitional protection;
- confirmation on whether the Committee will be briefed on the new IT system underpinning PIP and Universal Credit;
- confirmation on whether Child Benefit is included in the proposed benefit cap; and
- details of the impact on the main applicant reaching pension age in the under occupancy proposals.

**[EXTRACT]**

## Wednesday 10 October 2012

### Room 144, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Mr Gregory Campbell MLA  
Ms Judith Cochrane MLA  
Mr Michael Copeland MLA  
Mr Sammy Douglas MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Ms Claire McCanny (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** Mr David McClarty MLA

**10:10am** The meeting began in public session.

### 3. **Welfare Reform Bill – Departmental Briefing**

**10.12am** The following officials from the Department joined the meeting.

Ms Anne McCleary;  
Mr Michael Pollock;  
Ms Martina Campbell; and  
Ms Margaret Stitt.

The officials briefed the Committee on Clauses 1 – 14 of the Bill.

**10.29am** Ms Paula Bradley joined the meeting.

**10.46am** Ms Judith Cochrane joined the meeting.

**12.00pm** Mr Gregory Campbell left the meeting.

**12.00pm** Mr Sammy Douglas left the meeting.

**12.00pm** Mr Fra McCann left the meeting.

**12.00pm** The Chairperson suspended the meeting.

**12.33pm** The Committee reconvened and the clerk provided an overview of the morning's discussions.

The officials briefed the Committee on Clauses 15 – 30 of the Bill.

**13.23pm Ms Judith Cochrane left the meeting.**

**13.30pm** Mr Sammy Douglas re-joined the meeting.

**12.37pm** Mr Fra McCann re-joined the meeting.

**13.45pm** Mr Michael Copeland left the meeting.

**13.49pm** Ms Pam Brown left the meeting.

**13.55pm** Ms Judith Cochrane re-joined the meeting.

The briefing was recorded by Hansard.

The Chairperson thanked the officials for their attendance.

**14.03pm** The officials left the meeting.

Agreed: The Committee agreed to write to the Department to ask the following:

**Clause 5**

- Clarification on whether money a claimant receives from the Child Maintenance Enforcement Division would be classified as income under UC?

**Clause 7**

- Details of what support will be provided to claimants who will be expected to manage the transition to a 4 week period for receipt of Universal Credit?
- A list of the financial products which will be made available to claimants to assist them in budgeting their finances?
- The number of people on low-incomes who are paid on weekly or fortnightly basis?
- Details of what role the Voluntary and Community Sector will provide in the provision of advice on budgeting?
- Confirmation as to whether the existing rules on habitual residency will be carried forward and if so, will additional safeguards, such as clear guidance, be introduced to protect citizens born in Northern Ireland who move abroad and later returns to the UK?

**Clause 8**

- Confirmation as to whether the allowances provided for childcare costs will be made available to non-registered childminders as well as registered childminders?

**Clause 9**

- In the event that the main householder/main applicant for UC is on remand, confirmation on whether the Bill allow sufficient operational flexibility to enable the housing benefit element of UC to be separated and thereby enable the rent to continue to be paid?

**Clause 10**

- Clarity on what impact the introduction of Universal Credit will have on the child tax credits and child benefit provided to claimants who are responsible for children or qualifying young people?

**Clause 11**

- Clarity on the prescribed period for the support for mortgage interest payments under the Bill and when the temporary measures which reduced the period from 35 to 14 weeks will end?
- Clarity on how household size will be calculated in cases such as separated families with shared parental responsibilities or short-term foster carers?
- Confirmation as to whether guidance will be provided on the definition of 'exceptional circumstances' and 'suitable accommodation'?
- Confirmation as to whether financial incentives will be provided to assist claimants to move to the private rented sector in instances of over occupancy?



**Clause 13**

- More detail (duration, quality, qualification of training providers) on what training will be provided for client advisers who will be responsible for carrying out work focused interviews? In particular, what assurances can the Department give that this will enable the advisers to deal with specific mental health issues such as bi-polar disorder and autism?
- Confirmation on the time period that claimants will have for submitting evidence in respect of good cause in order to avoid being sanctioned for failure to attend an interview?
- Confirmation as to whether a claimant's commitment will take account of any permitted work a claimant may also be undertaking? Will the same rules apply to voluntary work under the claimant's commitment?

**Clause 14**

- Details of what support (provision of internet, newspapers) will be available to claimants to assist them in their search for work?
- Details of what consideration has been given to the use of mobile phones in assisting the claimants in their search for work?
- Details of how a claimant's physical, literacy, numerical and IT skills will be assessed and will this assessment be undertaken at the same stage of the process? What type and level of training be provided to claimants to assist them in their work preparation?
- Confirmation as to whether the potential risks of industrial disease will be taken into account in the claimant commitment?
- Clarity on whether the claimant commitment will be legally binding?

**Clause 16**

- Details of what steps the Department is taking to minimise the risk that work placements will lead to possible redundancies of full-time positions?
- Confirmation as whether work placements will be tailored to the local job-market?

**Clause 17**

- Whether industry specific training relevant to a claimant's previous profession (i.e. plumbing) would be considered under a claimant commitment?

**Clause 18**

- Confirmation as to whether a definition or guidance will be provided on what constitutes "availability"?

**Clause 19**

- More details on the process for assessing limited capabilities and who will be undertaking this assessment? Will the assessors have access to a claimant's full medical records?
- Will lone parents in full-time education continue to receive benefit?

**Clause 20**

- Confirmation as to whether the claimant's commitment will make an allowance for claimants who are parents/carers/guardians of children with specific conditions such as ADHD? And for parents during a child's settling in period at primary school?

**Clause 26**

- In instances where the main applicant in a household receives a higher level sanction- can the Department confirm what the impact will be on the family?

- Will the same amount, minus the main applicant's allowance – be paid to the partner and the children?
- Would the person who is sanctioned cease to be the main applicant?
- Would the partner be reclassified as a lone parent and therefore receive a lone parents benefits?
- Can the Department outline the process and timeline for reassessment of UC in this instance?
- Is 'good reason' the same as 'good cause'?
- If a sanction is imposed and evidence is subsequently produced that would call into doubt the decision, what procedures are in place to protect the claimant? Example of a claimant with a medical condition that would impair their decision making process is sanctioned for failure to comply and evidence of the condition was subsequently provided to the department.

**Clause 27**

- Does the notion of reasonable travel time, in respect of work availability, include travel to another jurisdiction?

**Clause 29**

- Confirmation on what will happen to those functions assigned to the Department for Employment and Learning if this Department is later dissolved?

The Chairperson advised Members that at next week's meeting the Committee will consider Standing Order 35 as a substantive business item. The Chairperson also advised Members that the Clerk is working with the Bill Office and the Speakers Office on this issue.

**[EXTRACT]**

## Tuesday 16 October 2012

### Room 144, Parliament Buildings

- Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Mr Gregory Campbell MLA  
Ms Judith Cochrane MLA  
Mr Michael Copeland MLA  
Mr Sammy Douglas MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA
- In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Ms Patricia Casey (Bill Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)
- Apologies:** None

**10:05am** The meeting began in public session.

### 3. Welfare Reform Bill – Departmental Briefing

**10.14am** The following officials from the Department joined the meeting.

Ms Anne McCleary;  
Mr Michael Pollock;  
Ms Martina Campbell; and  
Ms Margaret Stitt.

**10.14am** Ms Paula Bradley joined the meeting.

**10.19am** Mr Gregory Campbell joined the meeting.

**10.27am** Ms Judith Cochrane joined the meeting.

The officials briefed the Committee on Clauses 31 - 63 of the Bill.

**11.47am** Mr Gregory Campbell left the meeting.

**11.57am** Ms Margaret Stitt left the meeting.

**11.57am** The Chairperson suspended the meeting.

**13.11pm** The Committee reconvened.

**13.11pm** DSD official, Ms Jane Corderoy joined the meeting.

The Clerk provided an overview of the morning's discussions.

The officials briefed the Committee on Clauses 64 - 120 of the Bill.

**13.35am** Ms Paula Bradley joined the meeting.

**13.35am** Mr Mark H Durkan joined the meeting.

*Agreed:* The Committee agreed to defer Clauses 107 – 115.

**14.29pm** The Chairperson suspended the meeting.

**14.59pm** The Committee reconvened.

**15.23pm** Ms Paula Bradley left the meeting.

**16.25pm** Mr Michael Copeland left meeting.

*Agreed:* The Committee agreed for the Department to respond to the following questions at later date:

**Clause 34**

Clarification on how income from occupational pensions will be treated in Universal Credit (UC).

**Clause 35**

Confirmation on whether claimants will be asked if they receive income from specific compensation scheme e.g. a diagnosis of variant Creutzfeldt-Jacob disease, Japanese POW's.

**Clause 37**

The Department are asked to provide an example of UC being awarded without a claimant applying.

**Clause 38**

Clarification on whether the wording 'and/or' will appear in Clause 38 in respect of a physical or mental health condition.

**Clause 40**

Clarification on the definition of a couple including what will be provided in legislation and will it appear in guidance.

**Clause 42**

The Department are asked to share with the Committee the interim learning reports on DWP pilot schemes when they become available

**Clause 45**

Details on the rules/guidance governing travel to interviews and what may be considered excessive including details on expenses and support available to claimants.

Confirmation on whether reasonable travelling time to work includes cross border travel.

**Clause 56**

Confirmation on whether permitted work will continue in the new benefits regime.

Clarification on the training that will be provided to staff dealing with claimants with a disability, in particular Personal Advisers.

Confirmation on whether work experience placements will be permitted in the political sector as they are not permitted in the Steps Ahead Programme.

**Clause 60**

Clarification on whether priority will be given to benefit claimants when allocating places at nursery schools.

**Clause 67**

Clarification on how specific bereavement benefit will be in relation to death caused by an industrial accident.

Clarification on whether someone who is in receipt of bereavement benefit and later proves death was caused by an industrial injury, will the difference in money be made up.

**Clause 68**

Clarification on whether a claimant can still claim historically for an industrial accident if the accident declaration is to be abolished.

**Clause 69**

Clarification on whether a landlord who creates a downstairs bedroom in a house and as a result an upstairs bedroom is no longer used, will this be treated as under-occupancy.

Confirmation on whether the funding for Discretionary Housing Benefit will be match need.

Clarification on the maximum amount of arrears the Department will permit if a claimant experiences difficulty in moving to a smaller property due to lack of alternative properties and accrues arrears in rent.

The Department are asked to provide the number of claimants that will be affected by the reduction in Housing Benefit.

Clarification of 'executive determination' at Clause 69 (3) (5).

The Department are asked to calculate the reduction in benefit people are likely to receive.

**Clause 72**

Confirmation on whether outstanding Business Loan debt held by an individual claimant will be considered when a claim for further support is received from the claimant when they form part of a couple.

**Clause 74**

Clarification on the support for carers e.g. a disabled claimant and one member of the household is under state pension qualifying age and one over the qualifying age. How will the entitlement be determined?

**Clause 75**

Confirmation on whether there is there a right to appeal against a decision by the Department to assume a capital value for a property.

**Clause 95**

Clarification on whether the Benefit Cap discriminates against large families due to the inclusion of Child Benefit in the calculation.

**Clause 96**

The Department are asked to provide a list of benefits that will exempt a claimant for application of the Benefit Cap.

Clarification of the amount of claimants out of the estimated 620 in NI who will be affected by the Benefit Cap will be in work on low income.

**Clause 99**

The Department are asked to provide further clarification in the explanatory note on the circumstances when a split payment would be considered.

**Clause 100**

Confirmation on whether there will be a cap on the amount that can be recovered from regular benefit payments to recover outstanding debt.

**Clause 102**

Confirmation on whether the Department will be advocating the use of mobile phones when dealing with benefit claims. Concerns were expressed regarding the charges for using the internet on pay-as-you-go mobile phone tariffs.

**Clause 116**

Confirmation on whether provision will be given to ignore more than one bedroom when determining under-occupancy when a claimant requires overnight care.

The briefings were recorded by Hansard.

The Chairperson thanked the officials for their attendance.

**16.50pm** The officials left the meeting.

**[EXTRACT]**

## Wednesday 17 October 2012

### Room 144, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Mr Michael Copeland MLA  
Mr Sammy Douglas MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Ms Patricia Casey (Bill Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** Ms Pam Brown MLA and Mr Gregory Campbell MLA

**10:11am** The meeting began in public session.

**1. Apologies**

Apologies were as indicated above.

**2. Chairperson's Business**

The Chairperson advised Members that tomorrow's meeting will begin in closed session to receive procedural advice on Standing Order 35

**10.12am** Mr Sammy Douglas joined the meeting.

**3. Welfare Reform Bill – Departmental Briefing**

**10.13am** The following officials from the Department joined the meeting.

Ms Anne McCleary;  
Mr Michael Pollock;  
Mr Mickey Kelly; and  
Ms Jane Corderoy

**10.16am** Mr Mark H Durkan and Mr Michael Copeland joined the meeting.

The officials briefed the Committee on Clauses 76 - 94 of the Bill.

**10.41am** Mr David McClarty joined the meeting.

The Committee agreed to return to Clauses 107 – 115 which were deferred from the previous meeting.

**11.30am** Mr Mickey Kelly left the meeting.

**11.30am** The Departmental official, Mr Conrad McConnell joined the meeting.

The officials briefed the Committee on Clauses 107-115 of the Bill.

**11.55am** Mr Conrad McConnell left the meeting.

**11.55am** The Chairperson suspended the meeting.

**12.33pm** The Committee reconvened.

**12.33pm** The Departmental official, Mr Maurice Byrne joined the meeting.

The officials briefed the Committee on Clauses 121-133 of the Bill.

The briefing was recorded by Hansard.

The Chairperson thanked the officials for their attendance.

**13.10pm** The officials left the meeting.

*Agreed:* The Committee agreed for the Department to respond to the following questions at later date:

**Clause 76**

Confirmation on whether Disability Working Allowance will exist in the benefit system.

**Clause 84**

Clarification on whether claimants in Supported Housing will receive the daily living component of Personal Independence Payment.

**Clause 85**

Clarification on whether a claimant who has been admitted to hospital has to have run-on period of 28 days after they leave hospital for their DLA award to continue.

Clarification on whether the period you can be hospital for and still receive your DLA been reduced to 28 days.

**Clause 108**

Confirmation on whether the NI Housing Executive can prosecute all tenants in receipt of Housing Benefit who commit fraud.

**Clause 113**

Clarification on whether the regulations will address the issue of when claimant is released from prison and returns to the family household. Will this result in a change of circumstances and a fresh claim having to be made.

**Clause 123**

Clarification on whether payment in kind will be included in the regulations.

**Clause 125**

Clarification on the maximum amount of allowed to be taken from a non-resident parent.

**Clause 129**

Confirmation on whether the Secretary of State has the power, under the Social Security Administration Act, to overrule a decision by the Assembly relating to the provisions of the Bill.

The Department are asked to provide examples of reciprocal arrangements here.

A Member asked how the Department arrived at the figures relating to the estimated net effect of the Bill on benefit expenditure and asked for sight of a formula if one was used.

**[EXTRACT]**



# Thursday 18 October 2012

## Room 29, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Mr Gregory Campbell MLA  
Ms Judith Cochrane MLA  
Mr Michael Copeland MLA  
Mr Sammy Douglas MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Ms Patricia Casey (Bill Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** Ms Pam Brown MLA

**10:17am** The meeting began in closed session.

### 1. Welfare Reform Bill

Mr Damien Martin (Clerk Assistant) briefed the Committee on Standing Order 35. This was followed by a question and answer session.

**10.19am** Mr Michael Copeland joined the meeting.

**10.34am** Mr Gregory Campbell joined the meeting.

**10.39am** Mr Sammy Douglas joined the meeting.

**10.45am** Mr Damien Martin left the meeting.

The Committee agreed to return to this issue at its meeting on Tuesday 23rd October.

**10:46am** The meeting opened in public session.

**[EXTRACT]**

## Tuesday 23 October 2012

### Room 29, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Mr Gregory Campbell MLA  
Ms Judith Cochrane MLA  
Mr Michael Copeland MLA  
Mr Sammy Douglas MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** Mr David McClarty MLA

**10:09am** The meeting opened in public session.

#### 4. Welfare Reform Bill – Briefing by Advice NI

**10.29am** The following representatives from Advice NI joined the meeting.

- Mr Kevin Higgins;
- Ms Sinead McKinley; and
- Ms Jenny McCurry.

The representatives briefed the Committee on the Welfare Reform Bill. This was followed by a question and answer session which covered a number of issues in relation to the Bill including; Universal Credit, Disability Living Allowance/Personal Independence Payment; time limiting the payment of contributory ESA (WRAG group) to 12 months; and lone parents with a youngest child aged 5 and over.

**11.00am** Mr Michael Copeland left the meeting.

**11.01am** Mr Gregory Campbell left the meeting.

**11.15am** Mr Sammy Douglas left the meeting.

**11.17am** Ms Paula Bradley left the meeting.

The Committee considered a number of proposed recommendations from Advice NI and agreed to consider these going forward.

This session was recorded by Hansard.

The Chairperson thanked the representatives for their attendance.

**11.27am** The representatives left the meeting.

#### 5. Welfare Reform Bill – Briefing by the Women's Resource and Development Agency (WRDA)

**11.28am** The following representatives joined the meeting.

Ms Lynn Carvill - WRDA;  
 Ms Bronagh Hinds – DemocraShe;  
 Ms Marie Cavanagh – Gingerbread NI; and  
 Ms Sharon Burnett – Causeway Women's Aid

**11.28am** Ms Paula Bradley re-joined the meeting.

**11.33am** Mr Michael Copeland re-joined the meeting.

The representatives briefed the Committee on the Welfare Reform Bill. A detailed question and answer session followed covering a range of issues including how Universal Credit could potentially give women less control of the household income if it is to be paid to the main earner in the household – usually the man; how conditionality and sanctions increase the pressure on women juggling work, childcare and domestic responsibilities; and the impact on women regarding the frequency of payments.

The Committee welcomed the recommendations made by the Group and agreed to consider these going forward.

This session was recorded by Hansard.

The Chairperson thanked the representatives for their attendance.

**12.34pm** The representatives left the meeting.

**12.34pm** Ms Pam Brown left the meeting.

**12.34pm** Ms Paula Bradley left the meeting.

**12.35pm** The Chairperson suspended the meeting.

**13.11pm** The meeting reconvened.

**13.11pm** Ms Judith Cochrane joined the meeting.

## **6. Welfare Reform Bill – Briefing by the Law Centre (NI)**

**13.11pm** Mr Les Allamby, Director of the Law Centre (NI) joined the meeting.

Mr Allamby provided the Committee with a detailed briefing on the clauses of the Bill. This was followed by a question and answer session covering a range of issues including Universal Credit entitlement; restrictions on entitlement; housing costs; work related requirements; and hardship payments.

**13.22pm** Ms Pam Brown joined the meeting.

**14.09pm** Ms Paula Bradley re-joined the meeting.

During the detailed discussions, an issue was raised regarding the calculation of awards and how the Bill may restrict certain EU nationals (i.e. work seekers) entitlement to the standard allowance only.

*Agreed:* The Committee agreed for the Clerk to seek legal advice regarding this issue.

The Committee welcomed the recommendations and agreed to consider these going forward.

This session was recorded by Hansard.

**14.44pm** Mr Michael Copeland left the meeting.

The Chairperson thanked Mr Allamby for his attendance.

**14.45pm** Mr Allamby left the meeting.

**[EXTRACT]**

## Thursday 25 October 2012

### Room 29, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Mr Gregory Campbell MLA  
Ms Judith Cochrane MLA  
Mr Michael Copeland MLA  
Mr Sammy Douglas MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** None

**10:05am** The meeting opened in public session.

**10:07am** Ms Paula Bradley joined the meeting.

#### 6. Welfare Reform Bill – Briefing by WAVE Trauma Centre

**10.14am** The following representatives from WAVE joined the meeting.

Ms Annette Creelman;  
Ms Amanda Deans;  
Mr Stuart Magee; and  
Ms Philomena McCaughey.

**10.30am** Mr Michael Copeland joined the meeting.

**10.32am** Ms Paula Bradley left the meeting.

**10.32am** Ms Pam Brown left the meeting.

The representatives briefed the Committee on the potential impact the Welfare Reform Bill will have on victims/survivors of the conflict here. This was followed by a question and answer session which covered a number of issues in relation to the Bill including: the impact on claimants of the time limit placed on receipt of contribution-based Employment Support Allowance; the primacy of medical records in the decision-making process; and the criteria for PIP and the assessments being carried out on claimants.

The Committee considered a number of proposed recommendations from WAVE and agreed to consider these going forward.

This session was recorded by Hansard.

The Chairperson thanked the representatives for their attendance.

**11.02am** The representatives left the meeting.

## 7. **Welfare Reform Bill – Briefing by the Northern Ireland Housing Executive (NIHE)**

**11.03am** The following officials from the NIHE joined the meeting.

Mr Gerry Flynn, Director of Housing & Regeneration;

Ms Dolores Ferran, Assistant Director of Housing & Regeneration;

Ms Fiona Neilan, Assistant Principal Officer Housing & Regeneration Department; and

Mr Pat Durkin, NIHE.

The officials briefed the Committee on the Welfare Reform Bill. A detailed question and answer session followed covering a range of issues including; the impact on the Housing Executive tenants due to the under-occupancy rule; the potential changes that could arise as a result of PIP which may influence overall personal/family finance in relation to households; and the sanctions being introduced for giving false information.

**11.06am** Ms Judith Cochrane joined the meeting.

**11.24am** Mr Michael Copeland left the meeting.

The Department agreed to respond the Committee on the following issues;

- clarification on the rules governing the issuing of the discretionary payment for assistance with rent;
- data on the number of NIHE homes that are over occupied;
- information on the number of new builds targeted at singles;
- a breakdown into categories (singles, couples etc) of those in housing stress;
- a breakdown of the 26,000 figure into those working (but in receipt of housing benefit) and those not working (and in receipt of benefit).

**11.46am** Mr Michael Copeland re-joined the meeting.

**11.31am** Ms Pam Brown re-joined the meeting.

This session was recorded by Hansard.

**11.55am** Mr Sammy Douglas left the meeting.

**11.57am** Ms Paula Bradley re-joined the meeting.

The Chairperson thanked the officials for their attendance.

**12.08pm** The officials left the meeting.

**12.08am** Mr Gregory Campbell, Mr Michael Copeland, Ms Pam Brown and Ms Judith Cochrane left the meeting.

**12.08pm** The Chairperson suspended the meeting.

**13.06pm** The meeting reconvened.

## 8. **Welfare Reform Bill – Briefing by Northern Ireland Commissioner for Children and Young People (NICCY)**

**13.07am** The following representatives from NICCY joined the meeting.

Ms Patricia Lewsley-Mooney, Commissioner

Ms Colette McIlvanna, Senior Legal and Casework Officer at NICCY

Dr Goretti Horgan, University of Ulster

**13.10pm** Ms Judith Cochrane re-joined the meeting.

**13.11pm** Mr Michael Copeland re-joined the meeting.

The representatives briefed the Committee on the potential impact the Welfare Reform Bill will have on children and young people. This was followed by a question and answer session which covered a number of issues in relation to the Bill including; the conditionality and sanctions; the proposed mechanisms to pay benefits to the recipients; the benefit cap; the lack of a childcare strategy in NI; and changes to the housing benefit.

The Committee considered a number of proposed recommendations from NICCY and agreed to consider these going forward.

This session was recorded by Hansard.

**13.56pm** Mr Michael Copeland left the meeting.

The Chairperson thanked the representatives for their attendance.

**13.57pm** The representatives left the meeting.

**9. Welfare Reform Bill – Briefing by NI Association for Mental Health (NIAMH)**

**13.58pm** The following representative from NIAMH joined the meeting.

Ms Iris Elliott, Head of Public Affairs and Policy

**14.04pm** Mr Michael Copeland re-joined the meeting.

Ms Elliot briefed the Committee on the potential impact the Welfare Reform Bill will have on people suffering from mental health illness. This was followed by a question and answer session which covered a number of issues in relation to the Bill including; how the anxiety of Welfare Reform is causing people to withdraw from activities that support their recovery, human rights review of the Bill, the ‘digital by default’ approach; and the need for a media campaign using non-stigmatised language.

**14.11pm** Ms Paula Bradley left the meeting.

The Committee considered a number of proposed recommendations from NIAMH and agreed to consider these going forward.

**14.30am** Mr Michael Copeland left the meeting.

**14.43am** Ms Judith Cochrane left the meeting.

This session was recorded by Hansard.

The Chairperson thanked Ms Elliott for her attendance.

**14.48pm** The representatives left the meeting.

**[EXTRACT]**

# Monday 29 October 2012

## Room 29, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
 Mr Mickey Brady MLA (Deputy Chairperson)  
 Ms Paula Bradley MLA  
 Ms Pam Brown MLA  
 Ms Judith Cochrane MLA  
 Mr Michael Copeland MLA  
 Mr Sammy Douglas MLA  
 Mr Mark H Durkan MLA  
 Mr Fra McCann MLA  
 Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
 Mr Stewart Kennedy (Assistant Assembly Clerk)  
 Mr Neil Sedgewick (Clerical Supervisor)  
 Ms Allison Ferguson (Clerical Officer)

**Apologies:** None

**10:06am** The meeting opened in public session.

### 1. Apologies

Apologies were as indicated above.

### 2. Welfare Reform Bill – Briefing by the Churches

**10.07am** The following representatives from the Churches joined the meeting

- Rev Dr Roy Patton, Presbyterian Church in Ireland;
- Rev Donald Ker, Methodist Church;
- Fr. Tim Bartlett, Catholic Church; and
- Rev Adrian Dorrian, Church of Ireland.

**10.09am** Mr Michael Copeland joined the meeting

The representatives briefed the Committee on the impact the Welfare Reform Bill will have on their members and the wider community.

This was followed by a question and answer session which covered a number of issues in relation to the Bill including; the anxiety already created amongst claimants before the Bill has been introduced; lone parents having to return to work and the impact that will have on child care; the lack of appropriate child care provision in Northern Ireland; carers of the elderly, disabled or a sibling having to come off benefit to return to work; the need for the reassessment process of claimants to be tailored to Northern Ireland; and the inadequate amount of housing stock in Northern Ireland to deal with those seeking single accommodation as a result of under-occupancy.

**11.04am** Mr Michael Copeland left the meeting

**11.04am** Ms Paula Bradley left the meeting

The Committee considered a number of proposed recommendations from the Churches and agreed to consider these going forward.

This session was recorded by Hansard.

The Chairperson thanked the representatives for their attendance.

**11.17am** Ms Paula Bradley re-joined the meeting

**11.19am** The representatives left the meeting.

**11.21am** The Chairperson suspended the meeting.

**11.23am** The Committee reconvened.

### **3. Welfare Reform Bill – Briefing by Trade Union Representatives**

**11.25am** The following representatives joined the meeting:

- Ms Alison Millar, NIPSA;
- Ms Maria Morgan, NIPSA/ICTU;
- Ms Pauline Buchanan, ICTU; and
- Mr Derek Thompson, PCS

**11.27am** Mr Michael Copeland re-joined the meeting

The Chairperson drew attention to a comment in NIPSA's paper which stated that the paper was prepared within the unacceptable constraints imposed by the Social Development Committee.

The Chairperson put on record that the Committee did not accept that statement.

The Chairperson gave assurance that the committee will give line-by-line scrutiny of the Bill and that is why the Committee asked stakeholders, where possible, to focus on the clauses in the Bill rather than make general comment in their submissions.

The Chairperson highlighted that the Committee had received approximately 40 written submissions and it will have taken oral evidence from over 20 organisations by the time this stage of its consideration is over.

The Chairperson also highlighted that the Committee has had 8 pre-legislative briefings from the department over the last year on this Bill and has consulted with a wide range of key stakeholders, including the trade union movement.

The representatives briefed the Committee on the Welfare Reform Bill. A detailed question and answer session followed covering a range of issues including; concerns that the Universal Credit application is an online application and how this might impact those with learning difficulties and those who are disabled or not IT literate; the need for the Bill to accommodate the large amount of people in Northern Ireland who claim DLA as a result of the post-conflict situation and segregated housing; how the benefit cap will impact families with multiple roles i.e., carers, parents and those with disabilities; how families will be impacted by the under-occupancy proposals; and concerns relating to Conditionality and Sanctions given the current economic climate and the high unemployment and low vacancies rate.

**12.24pm** Mr David McClarty left the meeting

**12.32pm** The Chairperson left the meeting

**12.32pm** The Deputy Chairperson replaced the Chairperson

**12.35pm** The Chairperson re-joined the meeting

**12.38pm** Mr Michael Copeland left the meeting



The Committee considered a number of proposed recommendations from the trade unions and agreed to consider these going forward.

**13.29pm** Mr Fra McCann declared an interest as a Member of SIPTU

This session was recorded by Hansard.

The Chairperson thanked the representatives for their attendance.

**13.42pm** The representatives left the meeting

*Agreed:* The Committee agreed to write to the Department to ask the following:

- confirmation of potential job losses contained in the outline Business Case for Universal Credit;
- confirmation and details of a communication plan/strategy; and
- confirmation on whether Work Capability Assessment decision makers' guidelines set out targets.

**[EXTRACT]**

## Tuesday 30 October 2012

### Room 29, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Mr Gregory Campbell MLA  
Ms Judith Cochrane MLA  
Mr Michael Copeland MLA  
Mr Sammy Douglas MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** None

**10:11am** The meeting opened in public session.

#### 2. Welfare Reform Bill – Briefing by the NI Welfare Reform Group

**10:12am** The following representatives from the Churches joined the meeting

- Ms Georgina Ryan-White, Law Centre;
- Ms Anne Moore, Save the Children; and
- Ms Bernadette Magennis, Age NI

The representatives briefed the Committee on the Welfare Reform Bill.

This was followed by a question and answer session which covered a number of issues in relation to the Bill including; concerns that there is a lack of knowledge regarding the regulation making procedures of the Bill and the need for a draft timetable for publishing the regulations; the requirement for safeguards to be put in place for claimants with mental health and literacy issues when English is not their first language; how mixed age couples will be impacted when one claimant is not of working age; and how exemptions should be put in place to protect lone parents' children from the obligation on their parents to undertake employment or work-related tasks that are not in the best interest of the child.

The Committee asked the representatives if they could provide examples of typical possible categories of potential Universal Credit claimants.

The Committee considered a number of proposed recommendations from the NI Welfare Reform Group and agreed to consider these going forward.

This session was recorded by Hansard.

The Chairperson thanked the representatives for their attendance.

**11:21am** The representatives left the meeting.

**11:21am** Mr Gregory Campbell and Ms Judith Cochrane left the meeting

**11:21am** The Chairperson suspended the meeting.

**13.12pm** The Committee reconvened.

**3. Welfare Reform Bill – Briefing by the NI Equality Commission**

**13.13pm** The following representatives joined the meeting:

- Ms Evelyn Collins, Chief Executive;
- Mr Darren McKinstry, Director of Policy and Research; and
- Mr Tony O'Reilly, Policy Officer.

The representatives briefed the Committee on the Welfare Reform Bill and recommended amendments to lessen adverse impact on the relevant Section 75 equality groups.

A detailed question and answer session followed covering a range of issues including; whether the Bill, as drafted, breaches the United Nations Convention on the Rights of Persons with Disabilities; whether there would be a breach in equality if a pilot scheme was not implemented in Northern Ireland; the need for appropriate equality training to be given to skilled staff who make decisions and assess claimants with mental health issues; and the role of the Equality Commission if there are clear inequalities in the Bill.

The Committee considered a number of recommended amendments from the Equality Commission and agreed to consider these going forward.

**14.05pm** Ms Paula Bradley left the meeting

This session was recorded by Hansard.

The Chairperson thanked the representatives for their attendance.

**14.14pm** The representatives left the meeting

**14.14pm** Ms Paula Bradley re-joined the meeting

**13.22pm** Mr Michael Copeland left the meeting

**4. Welfare Reform Bill – Briefing by the NI Human Rights Commission**

**14.16pm** The following representatives joined the meeting:

- Mr John Corry; Commissioner
- Dr David Russell; Deputy Director
- Mr Colin Caughey; Policy Worker

The representatives briefed the Committee on the human rights aspect of Welfare Reform Bill.

**14.22pm** Mr Michael Copeland re-joined the meeting

A detailed question and answer session followed covering a range of issues including; concerns regarding the absence of detailed human rights analysis of the Bill and its potential implications; how the Bill could potentially discriminate against women and the rights of the child; the potential discrimination against disabled people when undertaking the reassessment when moving from DLA to PIP; the consequences if the Bill breached the United Nations Convention on the Rights of Persons with Disabilities; and the potential violation of human rights if the Bill led to claimants becoming destitute.

**15.09pm** Mr Michael Copeland left the meeting

The Chairperson advised Members and the representatives that the Clerk has sought legal advice regarding schedule 1 paragraph 7 of the Bill which related to migrant workers.

The Committee considered a number of recommendations and amendments from the Human Rights Commission and agreed to consider these going forward.

*Agreed:* The Committee agreed to write to the NI Human Rights Commission to ask for comment on whether there would be a breach of human rights if a claimant served 2 years in prison for benefit fraud and on release has a further year of a three year benefit sanction.

This session was recorded by Hansard.

The Chairperson thanked the representatives for their attendance.

**15.23pm** The representatives left the meeting

*Agreed:* The Committee agreed to hold an informal external meeting on Wednesday 7 November to take stock of the evidence from stakeholders and to clarify issues in advance of the clause-by-clause stage of the Committee's consideration of the Bill.

**[EXTRACT]**

## Wednesday 31 October 2012

### Room 30, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
 Mr Mickey Brady MLA (Deputy Chairperson)  
 Ms Paula Bradley MLA  
 Ms Pam Brown MLA  
 Ms Judith Cochrane MLA  
 Mr Michael Copeland MLA  
 Mr Sammy Douglas MLA  
 Mr Mark H Durkan MLA  
 Mr Fra McCann MLA  
 Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
 Mr Stewart Kennedy (Assistant Assembly Clerk)  
 Mr Neil Sedgewick (Clerical Supervisor)  
 Ms Allison Ferguson (Clerical Officer)

**Apologies:** None

**10:05am** The meeting opened in public session.

#### 5. **Welfare Reform Bill – Briefing by the Citizens Advice**

**10.10am** The following representatives from the Citizens Advice joined the meeting

- Mr Pól Callaghan; Head of Policy
- Ms Rose Henderson; and
- Ms Louisa McKee.

The representatives briefed the Committee on the Welfare Reform Bill.

This was followed by a question and answer session which covered a number of issues in relation to the Bill including; whether medical evidence should take primacy at the initial stage of a reassessment; if any discussions have taken place with the Department in respect of additional funding for the advice sector in order to help cope with the additional resources that might be required; the impact on families if someone is released from prison for benefit fraud and cannot claim benefits for another year due to a higher sanction; and if there is any evidence to show that the recoverability of hardship payments is likely to deter the entry of people into work.

The Committee considered a number of proposed recommendations and amendments from Citizens Advice and agreed to consider these going forward.

**12.13pm** Ms Pam Brown left the meeting

This session was recorded by Hansard.

The Chairperson thanked the representatives for their attendance.

**12.17pm** The representatives left the meeting.

**12.19pm** Mr Michael Copeland and Mr David McClarty left the meeting

**12.19pm** The Chairperson suspended the meeting.

**13.02pm** The Committee reconvened.

**6. Welfare Reform Bill – Briefing by Housing Organisations**

**13.04pm** The following representatives joined the meeting:

- Dr Jennie Donald, Chartered Institute of Housing;
- Ms Ricky Rowledge, Council for the Homeless;
- Mr Cameron Watt, NI Federation of Housing Associations; and
- Ms Nicola McCrudden, Housing Rights Service

The representatives briefed the Committee on the housing related elements of the Welfare Reform Bill.

**13.09pm** Mr Michael Copeland re-joined the meeting

A detailed question and answer session followed covering a range of issues including; whether under-occupancy requirements should not be applied until there is sufficient housing stock available to address the need; concerns that the timetable for implementing regulations has not been published; the impact on homeless people who may not have access to IT and the difficulties people face setting up a bank account when they are in temporary accommodation; and the need for a public information campaign and the provision of scenarios to help make people aware of the changes ahead.

The Committee considered a number of recommendations from the housing organisations and agreed to consider these going forward.

**13.57pm** Mr Mark H Durkan left the meeting

**14.03pm** Ms Paula Bradley left the meeting

This session was recorded by Hansard.

The Chairperson thanked the representatives for their attendance.

**14.09pm** The representatives left the meeting

**14.10pm** Mr Michael Copeland left the meeting

**14.10pm** The Chairperson suspended the meeting.

**14.16pm** The Committee reconvened.

**7. Welfare Reform Bill – Briefing by Disability Action and Mencap**

**14.16pm** The following representatives joined the meeting:

- Ms Karen Hall, Information and Policy Manager, Disability Action;
- Ms Norah Marquess, Disability Action; and
- Ms Jenny Ruddy, Campaigns Officer, Mencap.

The representatives briefed the Committee on the impact the Welfare Reform Bill will have on disabled people and people with learning difficulties.

**14.20pm** Mr Michael Copeland and Ms Paula Bradley re-joined the meeting

**14.26pm** Mr Mark H Durkan re-joined the meeting

A detailed question and answer session followed covering a range of issues including; whether medical evidence should take primacy at the initial stage of a reassessment; the need for decision makers to be fully skilled and trained in disability and mental health issues; concerns regarding the output related funding model for contractors; the impact on the Department for Employment and Learning when thousands of claimants will migrate to Work

Related Activity Groups; concerns that housing with adaptations for disabled people are not protected whereas supported housing is protected; and concerns that people with disabilities may have to move into shared accommodation.

This session was recorded by Hansard.

The Chairperson thanked the representatives for their attendance.

**15.02pm** The representatives left the meeting

**15.02pm** Mr Michael Copeland and Ms Paula Bradley left the meeting

**8. Welfare Reform Bill – Briefing by the NI Council for Ethnic Minorities (NICEM)**

**15.03pm** The following representatives joined the meeting:

- Mr Patrick Yu, Director NICEM;
- Ms Karen McLaughlin, Lead Policy Officer NICEM; and
- Ms Jolena Flett, Manager Belfast Migrant Centre.

The representatives briefed the Committee on the impact the Welfare Reform Bill will have on black and minority ethnic communities.

**15.07pm** Ms Paula Bradley re-joined the meeting

**15.15pm** Mr Mark H Durkan left the meeting at

A detailed question and answer session followed covering a range of issues including; whether NICEM has raised any concerns with the Department regarding the Bill in relation to United Nations conventions, Council for Europe and EU Laws; concerns that the online application process and the requirement to have a bank account could potentially lead to migrants living in destitution due to the difficulties faced by non-British/Irish Citizens when trying to open a bank account upon arrival in the country; the potential indirect and direct discrimination as a result of the application process being online; and whether special provision for victims of domestic violence should be extended to hate crime.

This session was recorded by Hansard.

The Chairperson thanked the representatives for their attendance.

**15.41pm** The representatives left the meeting

**[EXTRACT]**

## Tuesday 6 November 2012

### Room 144, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Mr Gregory Campbell MLA  
Ms Judith Cochrane MLA  
Mr Michael Copeland MLA  
Mr Sammy Douglas MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Ms Patricia Casey (Bill Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** None

**10:11am** The meeting opened in public session.

**1. Apologies**

Apologies were as indicated above.

**2. Welfare Reform Bill – Departmental Briefing**

The following officials from the Department joined the meeting at 10.11am

- Ms Anne McCleary;
- Mr Michael Pollock;
- Ms Martina Campbell;
- Ms Jane Corderoy;
- Mr Mickey Kelly; and
- Mr Colm McLaughlin

**10.11am** Ms Paula Bradley joined the meeting.

**10.13am** Mr Mark H Durkan joined the meeting.

**10.13am** Ms Judith Cochrane joined the meeting.

**10.14am** Mr Gregory Campbell joined the meeting.

**11.10am** Mr Michael Copeland joined the meeting.

The Committee questioned the officials on each clause and schedule of the Bill based on issues made by stakeholders in written submissions and during the oral evidence sessions

**11.38am** Ms Judith Cochrane left the meeting.

**11.47am** Mr Gregory Campbell left the meeting.



This session was recorded by Hansard

**12.02pm** The Chairperson suspended the meeting.

**16.06pm** The Committee reconvened.

The Committee continued its deliberation on the clauses and schedules of the Bill.

**16.47pm** Ms Pam Brown joined the meeting.

**17.29pm** Mr David McClarty left the meeting.

*Agreed:* The Committee agreed to defer consideration of clauses 106 to 115 until its meeting on Thursday 8 November 2012.

This session was recorded by Hansard.

The Chairperson thanked the officials for their attendance.

**18.03pm** The officials left the meeting

**[EXTRACT]**

## Thursday 8 November 2012

### Room 29, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Mr Gregory Campbell MLA  
Mr Michael Copeland MLA  
Mr Sammy Douglas MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Ms Patricia Casey (Bill Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** Ms Judith Cochrane MLA

**10.07am** The meeting began in closed session.

#### **1. Welfare Reform Bill**

Ms Tara Caul (Assembly Legal Services) briefed the Committee regarding concerns raised in respect of Schedule 1 Paragraph 7 of the Bill.

This was followed by a question and answer session.

**10.44am** Mr Michael Copeland left the meeting

**10.50am** The meeting was declared open to the public.

#### **6. Standing Order 35**

The Chairperson reminded Members that in light of repeated concerns from stakeholders regarding the human rights and equality issues raised by the Bill, the Committee had agreed to return to the issue of whether the Welfare Reform Bill should be referred to an Ad Hoc Committee on Conformity with Equality Requirements and observance of Human Rights.

A detailed discussion followed.

While all Members recognised the concerns of stakeholders about these issues, Members also discussed the impact of referring the Bill to an Ad Hoc Committee on the Committee's current time-line and the potential risks attached to not completing its Committee Stage in accordance with that time-line.

Following discussions Mr Mickey Brady proposed that the Bill should be referred to an Ad Hoc Committee. This was seconded by Mr Fra McCann.

Question put:

"That under Standing Order 35 (2)(b) the Committee recommends that the Welfare Reform Bill be referred to an Ad Hoc Committee on Conformity with Equality Requirements."

The Committee divided.

**Ayes:** Mr Alex Maskey, Mr Fra McCann, Mr Mickey Brady, Mr Mark H Durkan and Mr David McClarty

**Noes:** Mr Gregory Campbell, Ms Paula Bradley, Ms Pam Brown and Mr Sammy Douglas.

The motion was supported by majority.

The Chair clarified with the Committee that, in regards to the motion, the Ad Hoc Committee would only deal with the equality and human rights aspects of the Bill and would not assume the statutory role of the Committee.

Members were content with that clarification.

This session was recorded by Hansard

**11.51am** Mr Sammy Douglas left the meeting

## **7. Welfare Reform Bill – Departmental Briefing**

The following officials from the Department joined the meeting at 11.51am

- Mr Michael Pollock;
- Ms Martina Campbell;
- Ms Jane Corderoy;
- Mr Conrad McConnell; and
- Ms Leonora McLaughlin.

The Committee continued its deliberation of Clauses 106 – 114 of the Welfare Reform Bill. Departmental officials briefed the Committee regarding some outstanding issues that were raised during the Committee's deliberation at its meeting on 6 November 2012.

**12.04pm** Mr Gregory Campbell left the meeting.

**12.22pm** Mr Sammy Douglas re-joined the meeting

**12.23pm** Mr David McClarty left the meeting

**12.40pm** Ms Pam Brown left the meeting

**13.13pm** Mr Michael Copeland re-joined the meeting

This session was recorded by Hansard.

The Chairperson thanked the officials for their attendance.

**13.20pm** The officials left the meeting

**[EXTRACT]**

## Tuesday 13 November 2012

### Room 29, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Mr Gregory Campbell MLA  
Mr Michael Copeland MLA  
Mr Sammy Douglas MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Ms Patricia Casey (Bill Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** None

**10.07 a.m.** The meeting began in public session.

#### 1. Apologies

Apologies were as indicated above.

#### 2. Welfare Reform Bill – Departmental Briefing

**10.08 a.m.** The following officials from the Department joined the meeting

- Mr Michael Pollock;
- Ms Martina Campbell;
- Ms Jane Corderoy; and
- Mr Maurice Byrne;

The Committee continued its deliberation of the Welfare Reform Bill. Departmental officials briefed the Committee regarding some outstanding issues that were raised during the Committee's deliberation at its previous meetings.

**10.08 a.m.** Mr David McClarty joined the meeting.

**10.14 a.m.** Ms Pam Brown joined the meeting.

**10.44 a.m.** Ms Paula Bradley joined the meeting.

**10.55 a.m.** Ms Judith Cochrane joined the meeting.

**11.55 a.m.** Mr David McClarty left the meeting.

**12.03 p.m.** Mr Gregory Campbell joined the meeting.

**12.10 p.m.** Mr Gregory Campbell left the meeting.

**12.10 p.m.** The meeting was adjourned.

**13.21 p.m.** The meeting resumed in public session.

The Committee continued its deliberation of the Welfare Reform Bill.

**13.25 p.m.** Mr Gregory Campbell re-joined the meeting.

**13.29 p.m.** Mr Mickey Brady left the meeting.

**14.01 p.m.** Mr Michael Copeland left the meeting.

**14.02 p.m.** Mr Gregory Campbell left the meeting.

**14.09 p.m.** Mr Mickey Brady re-joined the meeting.

**14.19 p.m.** Mr Gregory Campbell re-joined the meeting.

**14.26 p.m.** Mr Michael Copeland re-joined the meeting.

**14.28 p.m.** Ms Paula Bradley joined the meeting.

**14.28 p.m.** Mr Mark Durkan left the meeting.

**14.52 p.m.** Mr Mark Durkan re-joined the meeting.

**14.52 p.m.** Ms Judith Cochrane left the meeting.

**14.58 p.m.** Mr Michael Copeland left the meeting.

**15.02 p.m.** Ms Paula Bradley left the meeting.

**15.11 p.m.** Mr Gregory Campbell left the meeting.

**15.20 p.m.** Ms Pam Brown left the meeting.

This session was recorded by Hansard.

The Chairperson thanked the officials for their attendance.

**15.50 p.m.** The officials left the meeting

**[EXTRACT]**

## Wednesday 14 November 2012

### Room 29, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Mr Gregory Campbell MLA  
Mr Michael Copeland MLA  
Mr Sammy Douglas MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Ms Patricia Casey (Bill Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** None

**10.13am** The meeting began in public session.

#### 1. Apologies

Apologies were as indicated above.

#### 2. Welfare Reform Bill

The Committee continued its deliberation of the Welfare Reform Bill. Members discussed several key areas of the Bill and considered the possible ways forward in dealing with the outstanding issues.

**10.18 a.m.** Mr Michael Copeland joined the meeting

**11.12 a.m.** Mr Michael Copeland left the meeting.

**11.27 a.m.** Ms Paula Bradley left the meeting.

**11.31 a.m.** Mr Michael Copeland re-joined the meeting.

**11.59 a.m.** The meeting adjourned.

**11.59 a.m.** Mr Mark Durkan left the meeting.

**11.59 a.m.** Ms Pam Brown left the meeting.

**13.11 p.m.** The meeting recommenced in public session.

The Committee continued its deliberation of the Welfare Reform Bill.

**13.23 p.m.** Ms Judith Cochrane joined the meeting

**13.23 p.m.** Mr Mark H Durkan re-joined the meeting.

**13.58 p.m.** Ms Pam Brown re-joined the meeting

**14.20 p.m.** Mr Gregory Campbell joined the meeting

**14.22 p.m.** Mr Fra McCann left the meeting

This session was recorded by Hansard.

**[EXTRACT]**

## Tuesday 20 November 2012

### Room 144, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Mr Gregory Campbell MLA  
Ms Judith Cochrane MLA  
Mr Michael Copeland MLA  
Mr Sammy Douglas MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** None

**10.05am** The meeting began in public session.

**1. Apologies**

Apologies were as indicated above.

**2. Welfare Reform Bill**

**10.07am** Ms Paula Bradley joined the meeting.

The Committee briefly discussed the possibility of the Welfare Reform Bill being referred to an ad hoc committee following the result of a vote in the Assembly later that morning.

The Chairperson proposed that the Committee adjourn and indicated that the Clerk would contact members regarding the date and time of the next meeting.

*Agreed:* The Committee agreed to adjourn the meeting.

**10.15am** Mr Michael Copeland left the meeting.

**10.18am** The Chairperson adjourned the meeting.

**[EXTRACT]**

## Thursday 17 January 2013

### Room 29, Parliament Buildings

**Present:**

- Mr Alex Maskey MLA (Chairperson)
- Mr Mickey Brady MLA (Deputy Chairperson)
- Ms Paula Bradley MLA
- Ms Pam Brown MLA
- Ms Judith Cochrane MLA
- Mr Michael Copeland MLA
- Mr Gregory Campbell MLA
- Mr Mark H Durkan MLA
- Mr Fra McCann MLA
- Mr David McClarty MLA

**In Attendance:**

- Dr Kevin Pelan (Assembly Clerk)
- Mr Stewart Kennedy (Assistant Assembly Clerk)
- Mr Neil Sedgewick (Clerical Supervisor)
- Ms Allison Ferguson (Clerical Officer)

**Apologies:** Mr Sammy Douglas MLA

**10.06am** The Chairperson declared the meeting open to the public.

#### **10. Welfare Reform Bill**

The Committee considered the option of requesting a two week extension to the Committee Stage of the Welfare Reform Bill.

Question put and agreed:

That, in accordance with Standing Order 33(4), the period referred to in Standing Order 33(2) in relation to the Committee Stage of NIA Bill 13/11-15 Welfare Reform Bill is extended to 19 February 2013.

**[EXTRACT]**



## Thursday 24 January 2013

### Room 29, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Mr Michael Copeland MLA  
Mr Gregory Campbell MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** Mr Sammy Douglas MLA  
Ms Judith Cochrane MLA

**10.04am** The Chairperson declared the meeting open to the public.

#### **4. Matters Arising**

The Chairperson reminded Members that at last week's meeting the Committee agreed a motion to extend the Committee Stage of the Welfare Reform Bill to 19 February. The Chairperson advised Members that the motion is on the order papers for Monday 28 January and asked Members to consider the following tasks that the Committee still needs to undertake:

- Consider the Ad Hoc Committee Report;
- Receive a briefing from the Minister on Thursday 31st January on his response to the Committee's paper sent in November and then consider our response;
- Consider all amendments;
- Undertake clause-by-clause scrutiny; and
- Agree the Committee's Report.

**[EXTRACT]**

## Wednesday 30 January 2013

### Room 29, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Mr Michael Copeland MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** Ms Pam Brown MLA  
Mr Sammy Douglas MLA  
Ms Judith Cochrane MLA  
Mr Gregory Campbell MLA

**10.05am** The Chairperson declared the meeting open to the public.

#### **2. Welfare Reform Bill**

The Chairperson reminded Members that the formal Committee Stage of the Welfare Reform Bill had recommenced following the Ad Hoc Committee's report to the Assembly which was debated on 29 January 2013.

Mr Mickey Brady and Ms Paula Bradley provided the Committee with an overview of some of the recommendations made by the Ad Hoc Committee.

The Chairperson acknowledged the good work of the Ad Hoc Committee and suggested that Members may wish to consider the recommendations contained in the report as deliberations on the Bill continue.

**10.20am** The following Departmental officials joined the meeting:

- Mr Michael Pollock; and
- Ms Martina Campbell

Members held a discussion on the Minister's response to issues raised by the Committee on the Welfare Reform Bill.

**10.23am** Mr Michael Copeland joined the meeting

The Committee agreed to further consider the Minister's response after his briefing to the Committee on 31 January 2013.

The Chairperson thanked the officials for their attendance at the meeting.

**10.27am** The officials left the meeting

This session was recorded by Hansard

**3. Any Other Business**

The Chairperson advised Members that the Committee were scheduled to receive a briefing from the Bill Clerk on Committee amendments but due to commitments with another Committee the Bill Clerk would not be able to attend.

*Agreed:* The Committee agreed to reschedule the briefing by the Bill Clerk to 31 January 2013.

**[EXTRACT]**

## Thursday 31 January 2013

### Room 144, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Ms Judith Cochrane MLA  
Mr Michael Copeland MLA  
Mr Gregory Campbell MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Ms Patricia Casey (Bill Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** Mr Sammy Douglas MLA

**The Chairperson declared the meeting open to the public at 10.04am.**

#### **2. Welfare Reform Bill – Ministerial Briefing**

**10.04am** The Minister and the following officials from the Department joined the meeting:

- Mr Tommy O'Reilly;
- Mr Michael Pollock; and
- Ms Martina Campbell

**10.08am** Mr Mark H Durkan joined the meeting

**10.14am** Ms Pam Brown joined the meeting

**10.59am** Ms Paula Bradley joined the meeting

The Minister briefed the Committee on his response to a number of issues raised by the Committee on the Welfare Reform Bill. A detailed discussion followed covering a range of issues including options for split Universal Credit payments and frequency of payments, Support for Mortgage Interest, Under Occupancy and Sanctions.

**11.04am** Ms Judith Cochrane left the meeting

**11.08am** Mr Michael Copeland left the meeting

The Chairperson thanked the Minister and his officials for their attendance.

**11.18am** The Minister and Departmental officials left the meeting.

This session was recorded by Hansard.

The Committee agreed to return to the Minister's response in the afternoon session for further consideration.

**10. Welfare Reform Bill – Committee Amendments**

The Committee received a briefing from the Bill Clerk on Committee Amendments to the Welfare Reform Bill.

**2.04pm** Mr Alex Maskey (Chairperson) left the meeting

**2.04pm** Mr Mickey Brady took over as Deputy Chairperson

**2.55pm** The Closed session ended

**2.55pm** Mr Mark H Durkan left the meeting

**2.59pm** The Deputy Chairperson declared the meeting open to the public

**11. Welfare Reform Bill – Further Deliberation**

**2.59pm** The following officials from the Department joined the meeting

- Michael Pollock, DSD;
- Martina Campbell, DSD;
- Jane Corderoy, DSD; and
- Conrad McConnell, DSD.

**3.06pm** Mr Mark H Durkan re-joined the meeting

The Committee continued with further consideration of the Minister's response to issues raised by the Committee on the Welfare Reform Bill.

**3.17pm** Mr Conrad McConnell left the meeting

**3.56pm** Mr Michael Copeland left the meeting

This session was recorded by Hansard.

The Deputy Chairperson thanked the Departmental officials for their attendance at the meeting.

**4.23pm** The Departmental officials left the meeting

**[EXTRACT]**

## Tuesday 5 February 2013

### Room 144, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Ms Judith Cochrane MLA  
Mr Gregory Campbell MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Ms Patricia Casey (Bill Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** Mr Sammy Douglas MLA  
Mr Michael Copeland MLA

**10.31am** The meeting began in closed session.

**11.23am** The Chairperson declared the meeting open to the public.

## 2. Welfare Reform Bill

**11.24am** The following officials from the Department joined the meeting:

- Mr Michael Pollock
- Ms Martina Campbell; and
- Ms Jane Corderoy

**11.24am** Ms Paula Bradley joined the meeting.

The Committee discussed the potential way forward in compiling the Committee report on the Welfare Reform Bill with a focus on a series of recommendations that calls on the Minister to take the issues that have cost implications to the Executive for consideration and agreement.

The Committee and officials discussed the Minister's response to a number of issues raised by the Committee on the Welfare Reform Bill. A detailed discussion followed covering a range of issues including options for split Universal Credit payments and frequency of payments, Employment and Support Allowance and Sanctions.

The Committee agreed to receive a briefing from officials representing the Social Security Agency in relation to issues regarding the proposed frequency of Universal Credit payments.

**11.42am** Mr David McClarty left the meeting.

**11.45am** Mr Mark Durkan joined the meeting.

**12.02pm** Ms Paula Bradley left the meeting.

**12.10pm** Ms Paula Bradley re-joined the meeting.

**12.10pm** Mr David McClarty re-joined the meeting.

The Committee agreed to return to the Minister's response in the afternoon session for further consideration.

This session was recorded by Hansard.

**12.32pm** The Chairperson suspended.

**1.41pm** The Committee reconvened in public session

The Committee continued with further consideration of the Minister's response to issues raised by the Committee on the Welfare Reform Bill.

**2.04pm** Ms Paula Bradley re-joined the meeting.

**2.09pm** Ms Pam Brown left the meeting.

Ms Paula Bradley re-joined the meeting at

This session was recorded by Hansard.

The Chairperson thanked the Departmental officials for their attendance at the meeting.

**2.18pm** The Departmental officials left the meeting.

**[EXTRACT]**

## Thursday 7 February 2013

### Room 29, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Ms Judith Cochrane MLA  
Mr Michael Copeland MLA  
Mr Gregory Campbell MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Ms Patricia Casey (Bill Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** Mr Sammy Douglas MLA

**10.11am** The Chairperson declared the meeting open to the public.

#### 8. Welfare Reform Bill – Further Consideration

The following officials from the Social Security Agency joined the meeting at 10.55am.

- Tommy O'Reilly, SSA
- Colin Sullivan, SSA

The officials briefed the Committee in order to clarify out-standing issues regarding the costs associated with Universal Credit claimants being paid monthly for the first month before bi-monthly payments could begin.

**11.06am** Mr Michael Copeland left the meeting

**11.08am** Ms Paula Bradley re-joined the meeting.

This session was recorded by Hansard.

The Chairperson thanked the officials for their attendance at the meeting.

**11.42am** The officials left the meeting.

**11.43am** The Chairperson suspended the meeting.

**12.17pm** The Committee reconvened in closed session.

#### 3. Welfare Reform Bill – Further Deliberation

The Committee considered the Welfare Reform Bill in closed session.

**12.52pm** The Chairperson declared the meeting open to the public.



## Tuesday 12 February 2013

### Room 144, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Mr Sydney Anderson MLA  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Mr Gregory Campbell MLA  
Mr Michael Copeland MLA  
Mr Mark H Durkan MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Ms Patricia Casey (Bill Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** None

**10.05am** The Chairperson declared the meeting open to the public.

#### **2. Welfare Reform Bill**

The following officials from the Department joined the meeting at 10.06am:

- Mr Michael Pollock
- Ms Martina Campbell; and
- Ms Jane Corderoy

The Committee undertook its clause by clause scrutiny of the Bill

#### **Clauses 1 Universal Credit**

The Committee agreed that it was content with Clause 1 as drafted.

#### **Clause 2 Claims**

The Committee agreed that it was content with Clause 2 as drafted.

#### **Clause 3 Entitlement**

The Committee agreed that it was content with Clause 3 as drafted.

#### **Clause 4 Basic Conditions**

The Committee agreed that it was not content with Clause 4 as drafted.

#### **Clause 5 Financial conditions**

#### **Clause 6 Restrictions on Entitlement**

The Committee agreed that it was content with Clause 5 and 6 as drafted.

#### **Clause 7 Basis of awards**

#### **Clause 8 Calculation of awards**

The Committee agreed that it was content with Clause 7 and 8 as drafted.

**Clause 9 Standard allowance**

The Committee agreed that it was content with Clause 9 as drafted.

**Clause 10 Responsibility for children and young persons**

The Committee agreed that it was not content with Clause 10 as drafted.

**Clause 11 Housing costs**

The Committee agreed that it was content with Clause 11 as drafted.

**Clause 12 Other particular needs or circumstances**

The Committee agreed that it was not content with Clause 12 as drafted.

**Clause 13 Work-related requirements introductory**

**Clause 14 Claimant Commitment**

The Committee agreed that it was content with Clauses 13 and 14 as drafted.

**Clause 15 Work-focussed requirement**

**Clause 16 Work preparation requirement**

**Clause 17 Work search requirement**

**Clause 18 Work availability requirement**

The Committee agreed that it was content with Clause 15, 16, 17 and 18 as drafted.

**Clause 19 Claimants subject to work-related requirements**

**Clause 20 Claimants subject to work-focused interview only**

**Clause 21 Claimants subject to work preparation requirements**

**Clause 22 Claimants subject to all work-related requirements**

The Committee agreed that it was content with Clause 19, 20, 21 and 22 as drafted.

**Clause 23 Connected requirements**

**Clause 24 Imposition of requirements**

**Clause 25 Compliance with requirements**

The Committee agreed that it was content with Clause 23, 24 and 25 as drafted.

**Clauses 26 Higher level sanctions**

The Committee agreed that it was not content with Clause 26 as drafted.

**Clause 27 Other sanctions**

**Clause 28 Hardship payments**

The Committee agreed that it was content with Clause 27 and 28 as drafted.

**Clauses 29 Concurrent exercise of certain functions by the Department for Employment and Learning**

**Clause 30 Delegating and contracting out**

The Committee agreed that it was content with Clause 29 and 30 as drafted.

**Clause 31 Supplementary regulation-making powers****Clause 32 Supplementary and consequential amendments**

The Committee agreed that it was content with Clause 31 and 32 as drafted.

**Clause 33 Powers to make supplementary and consequential amendments**

The Committee agreed that it was content with Clause 33 as drafted.

**Clause 34 Abolition of benefits****Clause 35 Universal Credit and state pension credit****Clause 36 Universal Credit and working age benefit****Clause 37 Migration to Universal Credit**

The Committee agreed that it was content with Clause 34, 35, 36 and 37 as drafted.

**Clause 38 Capability for work or work-related activity****Clause 39 Information****Clause 40 Couples****Clause 41 Interpretation of Part 1**

The Committee agreed that it was content with Clause 38, 39, 40 and 41 as drafted.

**Clause 42 Pilot schemes**

The Committee agreed that it was content with Clause 42 as drafted.

**Clause 43 Regulations**

The Committee agreed that it was content with Clause 43 as drafted.

**Clause 44 Assembly control**

The Committee was not content with Clause 44 as drafted. The Committee agreed the following amendment:

Clause 44, page 21, line 25

At end insert -

(c) regulations under clause 33

**Clause 45 Jobseekers Allowance****Clause 46 Interviews****Clause 47 Sanctions****Clause 48 Procedure for regulation-making powers****Clause 49 Consequential amendments**

The Committee agreed that it was content with Clause 45, 46, 47, 48 and 49 as drafted.

**Clause 50 Claimant responsibilities for jobseeker's allowance**

The Committee agreed that it was content with Clause 50 as drafted.

**Clause 51 Dual entitlement**

The Committee agreed that it was content with Clause 51 as drafted.

**Clause 52 Period of entitlement to contributory allowance**

The Committee agreed that it was not content with Clause 52 as drafted.

**Clause 53 Further entitlement after time-limiting**

The Committee agreed that it was content with Clause 53 as drafted.

**Clause 54 Condition relating to youth**

The Committee agreed that it was not content with Clause 54 as drafted.

**Clause 55 Claimant Commitment for employment and support allowance**

**Clause 56 Work Experience etc**

**Clause 57 Hardship Payments**

The Committee agreed that it was content with Clause 55, 56 and 57 as drafted.

**Clause 58 Claimant responsibilities for employment and support allowance**

The Committee agreed that it was content with Clause 58 as drafted.

**Clause 59 Entitlement of lone parents to income support etc.**

**Clause 60 Claimant Commitment for income support**

The Committee agreed that it was content with Clause 59 and 60 as drafted.

**Clauses 61 Entitlement to work: jobseeker's allowance**

**Clause 62 Entitlement to work: employment and support allowance**

**Clause 63: Entitlement to work: maternity and statutory payments**

The Committee agreed that it was content with Clause 61, 62 and 63 as drafted.

**Clauses 64 Injuries arising before 5 July 1948**

**Clause 65 Persons under 18**

**Clause 66 Trainees**

**Clause 67 Restriction on new claims for industrial death benefit**

**Clause 68 Determinations**

The Committee agreed that it was content with Clause 64, 65, 66, 67 and 68 as drafted.

**Clause 69 Housing benefit: determination of appropriate maximum**

The Committee agreed that it was not content with Clause 69 as drafted.

**Clause 70 Ending of discretionary grants**

**Clause 71 Purposes of discretionary payments**

**Clause 72 Determination of amount or value of budgeting loan**

**Clause 73 Community care grants**

The Committee agreed that it was content with Clause 70, 71, 72 and 73 as drafted.

**Clause 74 State Pensions credit: carers**

**Clause 75 State Pensions credit: capital limit**

The Committee agreed that it was content with Clause 74 and 75 as drafted.

**Clause 76 Personal Independence Payment**

**Clause 77 Daily living component**

**Clause 78 Mobility component**

**Clause 79 Ability to carry out daily living activities or mobility activities**

**Clause 80 Required period conditions: further provision**

The Committee agreed that it was content with Clause 76, 77, 78, 79 and 80 as drafted.

**Clause 81 Terminal illness**

**Clause 82 Persons of pensionable age**

**Clause 83 No entitlement to daily living component where UK is not competent state**

**Clause 84 Care home residents**

**Clause 85 Hospital in-patients**

**Clause 86 Prisoners**

The Committee agreed that it was content with Clause 81, 82, 83, 84, 85, and 86 as drafted.

**Clause 87 Claims, awards and information**

**Clause 88 Report to the Assembly**

The Committee agreed that it was content with Clause 87 and 88 as drafted.

**Clause 89 Abolition of Disability Living Allowance**

**Clause 90 Amendments**

The Committee agreed that it was content with Clause 89 and 90 as drafted.

**Clause 91 Power to make supplementary and consequential provision**

The Committee agreed that it was content with Clause 91 as drafted.

**Clause 92 Transitional**

The Committee agreed that it was content with Clause 92 as drafted.

**Clause 93 Regulations**

The Committee was not content with Clause 93 as drafted. The Committee agreed the following amendment:

Clause 93, page 65, line 26

At end insert -

(c) regulations under clause 91

**Clause 94 Interpretation of Part 4**

**Clause 94 Interpretation of Part 4**

The Committee agreed that it was content with Clause 94 as drafted.

**Clause 95 Benefit Cap**

**Clause 96 Benefit cap: supplementary**

The Committee agreed that it was content with Clause 95 and 96 as drafted.

**Clause 97 Claims and awards**

**Clause 98 Powers to require information relating to claims and awards**

The Committee agreed that it was content with Clause 97 and 98 as drafted.

**Clause 99 Payments**

The Committee agreed that it was not content with Clause 99 as drafted.

**Clause 100 Payments on Account**

The Committee agreed that it was content with Clause 1000 as drafted.

**Clause 101 Power to require consideration of revision before appeal**

The Committee agreed that it was content with Clause 101 as drafted.

**Clause 102 Electronic communications**

The Committee agreed that it was content with Clause 102 as drafted.

**Clauses 103 – Recovery of benefit payments**

The Committee agreed that it was content with Clause 103 as drafted.

**Clause 104 Deductions from earnings: other cases**

**Clause 105 Application of the Limitation (Northern Ireland) Order 1989**

The Committee agreed that it was content with Clause 104 and 105 as drafted.

**Clause 106 Powers to require information relating to investigation**

**Clause 107 Time limits for legal proceedings**

**Clause 108 Prosecution powers of the Housing Executive**

The Committee agreed that it was content with Clause 106, 107 and 108 as drafted.

**Clause 109 – Penalties as alternative to prosecution**

The Committee agreed that it was not content with Clause 109 as drafted.

**Clause 110 – Amount of penalty**

The Committee agreed that it was not content with Clause 110 as drafted.

**Clause 111 Period for Withdrawal of agreement to pay penalty.**

The Committee agreed that it was content with Clause 111 as drafted.

**Clause 112 Civil penalties for incorrect statements and failures to disclose information**

The Committee agreed that it was content with Clause 112 as drafted.

**Clause 113 Benefit offences: period of sanctions****Clause 114 Benefit offences: sanctions for repeated benefit fraud**

The Committee agreed that it was content with Clause 113 and 114 as drafted.

**Clause 115 – Cautions**

The Committee agreed that it was not content with Clause 115 as drafted.

**Clause 116 Information sharing in relation to provision of overnight care etc.****Clause 117 Information sharing in relation to welfare services etc.****Clause 118 Unlawful disclosure of information****Clause 119 Sections 116 and 118: supplementary****Clause 120 Information-sharing for social security or employment purposes**

The Committee agreed that it was content with Clause 116, 117, 118, 119 and 120 as drafted.

**Clause 121 Supporting maintenance agreements****Clause 122 Collection of child support maintenance****Clause 123 Indicative maintenance calculations****Clause 124 Recovery of child support maintenance by deduction from benefit****Clause 125 Fees****Clause 126 Exclusion from individual voluntary arrangements**

The Committee agreed that it was content with Clause 121, 122, 123, 124, 125 and 126 as drafted.

**Clause 127 Use of jobcentres by sex industry**

The Committee agreed that it was content with Clause 127 as drafted.

**Clause 128 Reduced fee for dog licences**

The Committee agreed that it was content with Clause 128 as drafted.

**Clause 129 Orders of Secretary of State under Administration Act**

The Committee agreed that it was content with Clause 129 as drafted.

**Clause 130 Rate relief schemes: application of housing benefit law**

The Committee agreed that it was content with Clause 130 as drafted.

**Clause 131 Repeals**

The Committee agreed that it was content with Clause 131as drafted.

**Clause 132 General Interpretation**

The Committee agreed that it was content with Clause 132 as drafted.

**Clause 133 Commencement**

The Committee agreed that it was content with Clause 133 as drafted.

**Clause 134 Short Title**

The Committee agreed that it was content with Clause 134 as drafted.

**Schedule 1 Universal Credit: supplementary regulation-making powers**

The Committee agreed that it was content with Schedule 1 as drafted.

**Schedule 2 – Universal Credit: amendments**

The Committee agreed that it was content with Schedule 2 as drafted.

**Schedule 3 Abolition of benefits: consequential amendments**

The Committee agreed that it was content with Schedule 3 as drafted.

**Schedule 4 Housing credit element of state pension credit**

The Committee agreed that it was content with Schedule 4 as drafted.

**Schedule 5 Universal Credit and other working-age benefits**

The Committee agreed that it was content with Schedule 5 as drafted.

**Schedule 6 Migration to Universal Credit**

The Committee agreed that it was content with Schedule 6 as drafted.

**Schedule 7 Jobseeker's allowance in interim period: consequential amendments**

The Committee agreed that it was content with Schedule 7 as drafted.

**Schedule 8 Social Fund Discretionary Payments: Consequential Amendments**

The Committee agreed that it was content with Schedule 8 as drafted.

**Schedule 9 Amendments relating to Part 4**

The Committee agreed that it was content with Schedule 9 as drafted.

**Schedule 10 Personal Independence Payment: transitional**

The Committee agreed that it was content with Schedule 10 as drafted.

**Schedule 11 Power to require consideration of revision before appeal**

The Committee agreed that it was content with Schedule 11 as drafted.

**Schedule 12 Repeals**

The Committee agreed that it was content with Schedule 12 as drafted.

**Long Title**

The Committee agreed that it was content with the long title of the Bill.

The Chairperson thanked the Departmental officials for their attendance at the meeting.

The Departmental officials left the room at 10.50am

This session was recorded by Hansard.

**[EXTRACT]**



# Thursday 14 February 2013

## Room 144, Parliament Buildings

**Present:** Mr Alex Maskey MLA (Chairperson)  
Mr Mickey Brady MLA (Deputy Chairperson)  
Mr Sydney Anderson MLA  
Ms Paula Bradley MLA  
Ms Pam Brown MLA  
Ms Judith Cochrane MLA  
Mr Michael Copeland MLA  
Mr Gregory Campbell MLA  
Mr Mark H Durkan MLA  
Mr Fra McCann MLA  
Mr David McClarty MLA

**In Attendance:** Dr Kevin Pelan (Assembly Clerk)  
Ms Patricia Casey (Bill Clerk)  
Mr Stewart Kennedy (Assistant Assembly Clerk)  
Mr Neil Sedgewick (Clerical Supervisor)  
Ms Allison Ferguson (Clerical Officer)

**Apologies:** None

**10.06am** The Chairperson declared the meeting open to the public.

### 9. **Apologies**

Apologies were as indicated above.

### 4. **Welfare Reform Bill**

The Chairperson asked the Clerk to clarify an issue with Clause 115 of the Welfare Reform Bill. The Clerk highlighted that during deliberations it was the Committee's intention to agree Clause 115 as it recognised the potential serious impact of a formal caution on a person's record. The Clerk also highlighted that the Committee may have not agreed this Clause in error and should have agreed Clause 115.

*Agreed:* The Committee agreed 115 as drafted.

The Chairperson advised Members that as the Committee was not content with a number of clauses as drafted it has the option of registering formal opposition to the question that these clauses stand part of the Bill.

*Agreed:* The Committee agreed to register formal opposition on these clauses.

The Committee considered a Departmental amendment to the Welfare Reform Bill. The Committee noted that the proposed amendment will introduce a new clause to allow the Department to provide discretionary support in the form of direct financial award or the provision of goods and services and to bring forward regulations providing further detail. The Committee recognised the benefits of such a clause and were therefore content with the new clause as drafted.

The Committee agreed the main body of the report:

Recommendations, read and agreed;

Introduction, read and agreed;

Consideration of the Bill, read and agreed;

Clause-by-clause scrutiny of the Bill, read and agreed; and

Executive Summary, read and agreed.

*Agreed:* The Committee agreed that it was content for the Report to be printed as the Fifth Report of the Committee for Social Development.

This session was recorded by Hansard.

**[EXTRACT]**



Northern Ireland  
Assembly

Appendix 2

# Minutes of Evidence



## 4 October 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Michael Copeland  
 Mr Fra McCann

### Witnesses:

Ms Martina Campbell      *Department for Social*  
 Ms Anne McCleary      *Development*  
 Mr Colm McLaughlin  
 Mr Michael Pollock

1.     **The Chairperson:** We have with us this afternoon four officials from the Department: Anne McCleary, Michael Pollock, Martina Campbell and Colm McLaughlin. Thank you all for being here.
2.     I remind Committee members that we are here to hear a briefing from the Department on how it views the general principles of the Bill, in advance of Tuesday's Second Stage debate. It is not a debate on the merits or demerits of the Bill; it is not that type of discussion. I remind members that, this morning, we strayed from the discussion into the rights and wrongs or whatever else of the policy, as opposed to dealing with the Bill itself.
3.     Anne, I welcome you and your colleagues. I will leave it to you to take members through the principles of the Bill.
4.     **Ms Anne McCleary (Department for Social Development):** Good afternoon. Thank you to the Committee for the opportunity to brief you on the high-level principles contained in the Welfare Reform Bill for Northern Ireland, which, as you are all aware by now, was introduced by the Minister on Monday past. The Bill's Second Stage is scheduled for Tuesday 9 October, with Committee scrutiny

scheduled to commence the following day. Therefore, it is opportune for us to meet the Committee today to outline the legislative process thus far and what happens next, and to take the Committee's views on issues of particular concern, which, hopefully, we can address during its clause-by-clause scrutiny of the Bill.

5.     Before I go on, I want to introduce, or possibly reacquaint members with, the individuals supporting me. Martina Campbell and her team have responsibility for universal credit, and no doubt this will not be Martina's only appearance before the Committee. Michael Pollock's team has overall responsibility for the Bill, its drafting, and so on, and, in particular, for working-age benefits, which will ultimately migrate to universal credit. Again, I am quite sure that this is not going to be the first and only time that you see Michael. There are others involved in this across the social security policy and legislation division, including my colleague Colm McLaughlin, and from the Social Security Agency (SSA) and elsewhere. For example, the child maintenance and enforcement division is involved in what is the most radical shake-up of the welfare reform system since its inception.
6.     I will start by briefly going through what is in the Bill. The first thing is the creation of universal credit, which, as you know, will replace the key working-age benefits. Secondly, we have the creation of the personal independence payment (PIP), which will replace the disability living allowance (DLA). Thirdly, we have reform of the social fund. Fourthly, we have housing benefit reforms. Fifthly, we have the introduction of a benefit cap. Sixthly, there are changes to the employment and support allowance (ESA); that is, the one-year limit on the payment of contributory ESA. Seventhly, we have new conditionality

- and sanctions powers. Finally, there are new powers to deal with fraud. Those are the key changes contained in the Bill.
7. It is important to look at the context and at why the reform is necessary. There are a number of reasons, the first being sustainability. The system has, quite simply, become too expensive. The second reason is simplicity. The system, as I am sure you are all aware from your constituency business, has become too complex. Thirdly, it needs to be targeted. We need to ensure that resources are focused on those who are most in need.
  8. We then have personal responsibility. We want to ensure that those who can work are helped to move towards work, and not trapped in benefit dependency. We want to make sure that the system is fairer. We want to make the system fair for not only those who receive the benefits but those who fund it; in other words, the taxpayer. Finally, there is the infamous parity. Northern Ireland simply does not have the capacity to run or fund its own social security service. Cost is around £4.6 billion a year. That is effectively the same cost as the health service in Northern Ireland. Therefore, that is the kind of money that we are talking about and the context that we are dealing with.
  9. I mentioned the next steps in the legislative process, but let us focus particularly on the Committee's role, by way of scrutinising the Bill. I suppose that what we as officials hope to get from today's session is an appreciation of particular aspects of the Bill that members have questions around so that we can tailor our approach for future briefings to facilitate Committee scrutiny and address the issues raised. On that point, I want to say that we are very appreciative of the Committee's decision to sit on additional days. I think that that is very helpful for all concerned.
  10. At the outset, I point out that the Bill is essentially an enabling Bill, which sets out the broad policy direction and will subsequently allow for the detail around the policy intent to be set out in regulations. We are beginning to see the process work through for the GB legislation at Westminster, which gained Royal Assent in March this year. Hopefully, the outworkings of that will be useful in the Assembly and for the Committee's deliberations.
  11. The Bill is set out in seven Parts, ranging from the introduction of universal credit in Part 1, through changes in working-age benefits in Part 2, to Part 7, which deals with the generalities of repeals, interpretation, and so on. We envisage that there will be something in the order of 25 sets of regulations flowing from the Bill, many of them containing a number of provisions. By any stretch, that represents a significant workload for all concerned, including the Committee — in fact, particularly the Committee — and, in some cases, the full Assembly, as some of the regulations will be confirmatory and, therefore, must be debated in the Assembly within six months of coming into operation. In that regard, as I said, it is extremely helpful that the Committee has agreed to additional sessions.
  12. As you will be aware, we are aiming to achieve Royal Assent for the Bill by March of next year. To manage the regulations, we plan to group them into three packages, depending on their operational date. I think that we have already provided some papers to the Committee explaining that approach.
  13. In advance of today, we also provided Committee members with an outline paper that touches on some of the headline topics in the Bill. If members are happy, it may be useful to run through that paper quickly. We can take any questions that members might have after that.
  14. **The Chairperson:** OK. We are happy enough to continue on that basis.
  15. **Ms McCleary:** Take a look at the document headed "Annex A". It contains the information that we will go through. The background there to universal credit —
  16. **The Chairperson:** Is it annex A or annex 1?

17. **Ms McCleary:** In my pack, it is annex A.
18. **The Chairperson:** We have it as “Appendix 1”.
19. **Ms McCleary:** It is headed  
*“Briefing for Social Development Committee on the general principles of the Welfare Reform Bill”.*
20. **The Chairperson:** It follows Anne’s covering letter.
21. **Ms McCleary:** OK. Let us start with universal credit. The background is the overall policy intent, and that, as no doubt you have heard before, is:  
*“to address poverty through tackling worklessness and benefit dependency. The underlying principle is that work should always pay and that people should be better off in work.”*  
 It continues:  
*“Universal Credit will replace a complex system of working-age benefits and credits with a single set of rules.”*
22. The grid compares the current system with the new universal credit. I do not want to go through each and every aspect of it, but you can see that it is about reducing the number of benefits from 30 to just one. It looks at improving work incentives and conditionality, because there are concerns:  
*“some benefit claimants are capable of working but have no obligations to look for work.”*
23. That is not about forcing them to work but about moving them closer to the workplace.
24. Next, it states:  
*“Payments are paid to different adults in a household and for various periods.”*
25. Therefore, this is about streamlining that entire process.
26. Universal credit is a working-age benefit that replaces income support, income-based jobseeker’s allowance (JSA), income-related ESA, housing benefit, child tax credits and working tax credits. The upper age limit is the age at which one becomes eligible for state pension. We know now that the first claims for universal credit will start, as currently planned, in October 2013, and then there will be a migration for a number of years after that.
27. Entitlement will be based on households rather than on individuals. Universal credit will be paid monthly, the idea being that it replicates a wage, as most wages are paid monthly. That is about smoothing the transition into work and making it easier for people to move into work.
28. We then have the support that will be available, including budgetary advice and help. Entitlement will be based on information already held, and this is where we get into the HM Revenue and Customs (HMRC) information. Information on those who have earnings from employment will come in from HMRC. We will use real-time information to try to make benefit calculations as accurate as possible.
29. There will be a single taper rate and a simple system of disregards, based on people’s particular circumstances. The idea of that is that people can see more clearly that they will be better off in work. Therefore, they will be able to look at that and make those decisions.
30. The real-time information will also mean that universal credit payments can be gradually reduced as earnings increase. It will make that system easier. Taper rate is expected to be set at around 65%. In other words, 35 pence in every £1 earned would be kept. That means that someone would be £35 better off for every £100 of net earnings that they have. That is a distinct advantage by comparison with the current system.
31. Standard allowance is the core cast component of any universal credit claim. It is intended to help with ordinary living expenses. On to that basic amount, additional amounts will be added to provide for particular circumstances, such as the number of children, childcare costs, persons with disability in the household and housing

- costs. They are like building blocks. Each of those building blocks will be added to the core cash component. An amount will be included for those who are responsible for children, and an additional amount will be paid if a dependent child or qualifying young person is disabled. That is consistent with the objectives of simplicity and affordability. That will replace child tax credit and take over its role as the main source of extra support for children in low-income families either in, or indeed out, of work. As now, child benefit will remain separate. Therefore, child tax credit will be a part of universal credit, but child benefit will continue to be separate.
32. Support with the cost of childcare will be available to all lone parents and couples where both members are in work, regardless of the number of hours that they work. Families will be able to recover childcare costs of 70% for up to £760 for one child or £1,300 for two or more children. That mirrors the current arrangements under the tax credit system.
33. The housing cost element will cover similar types of payment liabilities as are covered by the current housing benefit and support for mortgage interest schemes. Claimants who are tenants in the social rented sector and who underoccupy their properties will have their housing benefits payments limited. The size criteria will replicate that which applies to claimants in the private rented sector.
34. People will remain registered on the system for two years after their claim has ended. That means that they will not have to wait for vital support if they lose their job or cannot work for a period owing to ill health.
35. Following universal credit in the Bill, we have the benefit cap. As you are probably aware, the cap will be limited to around £500 a week for couple and lone-parent households and £350 a week for single households. Those amounts correspond to the level in GB, even though earnings are in fact lower in Northern Ireland.
36. It is important to remember that there are exemptions from the benefit cap. Those exemptions are for war widows and, particularly importantly, for households with a member in receipt of DLA, personal independence payment, attendance allowance, industrial injuries benefit, the support component of ESA or the limited capability for work or work-related activity element of universal credit. Therefore, the benefit cap will not apply to a significant amount of people in Northern Ireland.
37. Current figures suggest that 64% of households will have the same or an improved — higher — benefit entitlement. However, for those who do not, there will be a transitional protection package to ensure that there are no losers as a direct result of the move to universal credit where circumstances remain the same. If somebody's circumstances change, that will make a difference, but if they remain the same, transitional protection will assist that person.
38. The other factor is conditionality groups, of which there are four: full conditionality; work preparation groups; those who are keeping in touch with the labour market; and no conditionality. You have a description of who meets what criteria in your papers.
39. Relevant to the conditionality groups are sanctions. One of the features of the Welfare Reform Bill is strengthened conditionality supported by a new system of financial sanctions. The sanctions are there to provide greater incentives for people to meet their responsibilities. Under the existing JSA sanctions regime, the consequences of failing to comply with requirements are not always clear. For example, if a person refuses a reasonable job offer, he might get a sanction of anywhere between one and 26 weeks. The new regime will make it far clearer as to what anyone should expect in that circumstance. Prior to the introduction of universal credit, the JSA and ESA



- sanctions regime will be revised to align themselves broadly with the universal credit sanctions model and will feature four levels of sanctions: high; medium; low; and lower still. No one will be sanctioned if no work is available, and sanctions will apply only if a job is available, the claimant has been offered it and he or she does not take that job. The level of sanction will depend on which conditionality group that person is in, and there is a table in your papers that explains all of that.
40. It is proposed that a new, one-year time limit will apply to people who claim contributory ESA and are placed in the work-related activity group. I stress that that will not apply to those who are in the support group for contributory ESA. For the most severely ill or disabled people who will be in the support group, work is not a viable option for them, and they will not be affected by this. Therefore, the time that they are entitled to the benefit will not be limited.
41. I move on to fraud and error. People who fail to report or are negligent with their benefit claim will now face a financial penalty as well as recovery of the overpaid benefit. The current administrative penalty and cautions will be replaced with a new minimum administrative financial penalty, and cautions will be replaced by a new minimum administrative financial penalty for benefit fraud or 50% of the amount overpaid whichever is the greater up to a maximum of £2,000. They will also have a loss of benefit for four weeks. Again, that is intended to deter. It is not about penalising; it is about deterring from fraud in the first place.
42. I move on to the personal independence payment, which will replace DLA for people aged between 16 and 64. The rationale is quite clear. DLA has not been fundamentally reviewed since it was introduced in 1992. It has become hard to understand, and it is certainly very complex to administer, as I am sure you are all aware. There is no systematic process for checking that awards remain correct. As we all know, medical conditions change. They can either improve or they can worsen, so we need to make sure that there is a systematic process. We also need to target our support at those who most need help. It is worth noting that, in 2010-11, spending on DLA was £754 million, a significant amount of money.
43. PIP is a new benefit. It is payable to those who meet conditions that will be set out in regulations. Those conditions are expected to include: being resident and present in Northern Ireland; having a physical or mental condition that limits or severely limits their ability to carry out daily living or mobility activities; and having had the disability for a qualifying period of three months, with the prospect of remaining disabled for the next nine months — that is the prospective test. Claimants will be assessed on their ability to perform nine daily living and two mobility activities. A claimant who has a terminal illness may be entitled to benefit without having to satisfy either the qualifying period or a prospective test. Again, we have two components: a daily living component and a mobility component. Each component will be payable at either a standard or an enhanced rate, and that will be set out in regulations.
44. The majority of awards will be for a fixed term, and there will be a process to regularly review the awards to ensure that they remain correct. The SSA will retain responsibility for decision-making, but decisions will carry a right of appeal. A key part of the reform is that decisions will be based on an assessment. You will be pleased to hear that there will be a shorter, two-part claim form.
45. With PIP it is always important to remember what it is there for. DLA has reached the stage where people sometimes forget what it is for. It is not there to replace income; it is there to help people with their living costs caused by their disability.
46. PIP will consider the impacts that the person's disability has on that individual's ability to perform a range of everyday tasks. The assessments will be carried out by a third-party provider.

- The criteria are still being developed, but they have been consulted on. They will take account of physical, sensory, mental, intellectual and cognitive impairments. They will consider that individual's ability to carry out the activities over a period of time and those that apply for the majority of the time, for example, in cases where a person's condition fluctuates. I am sure you are aware that that has been an issue during the consultation.
47. A key part of the assessment process for claimants will be the face-to-face consultation with a trained health professional, and that will apply to the majority of claimants. Separate consultations on the assessment criteria and the detailed design of personal independence payment have been undertaken in conjunction with the Department for Work and Pensions (DWP). The formal response to those consultations will be published in due course.
48. Those are the key changes coming through in the Welfare Reform Bill as proposed. The timetable for the Bill, as I am sure you are aware, is that from June 2013, new claims will start to be received. In October 2013, there will be a natural reassessment; in other words, where there has been a change in circumstances or where the claims come to an end. From January 2014, there will be managed reassessment, through which 1,000 cases a week will be reassessed by March 2016.
49. That concludes what I wanted to say. We are happy to take questions. In particular, we are interested to know the issues in relation to which the Committee has a particular interest so that we can provide as much assistance to you as possible in your scrutiny role.
50. **The Chairperson:** Thank you for that, Anne. I remind members that, first of all, I want you to address whether you are satisfied with the presentation you have got this morning as to what the Bill is supposed to be doing. It is not a discussion on whether you like it or not, or any element of it, or think that it is wonderful. It is a matter of whether
- we are satisfied with the explanation given on what the Bill is supposed to do. That is the first thing. Are we happy enough with it? Do we think there is anything in this paper that we need further understanding about? It does not matter whether you agree with the Bill's intention or not. I am taking that as a yes.
51. Again, then, the potential thing here would be if there was something specific about the Bill. I am not sure how we can do this, Anne, because a range of issues have been debated at length around the table over quite a number of sessions. That is as it should be. We are certainly not going to get a consensus in the Committee that we agree on a, b and c. Perhaps if members have specific concerns that they want the Department to consider, they should just itemise them. You do not need to elaborate on them; just identify what the fundamental issues are. We do not expect a to and fro about whether we agree or do not agree.
52. **Mr Copeland:** Thank you for your presentation. I have seven points that I wish to seek clarification on, and I am quite happy to take the replies in writing. First, I would like some explanation or information on any differences that exist between our proposed legislation and the current legislation in GB. I would like clarification on the arrangements for direct payments; in other words, that they will be the same as those enacted by DWP. If they are not, I would like to know what the differences are. Is the Department content that you have exhausted all potential areas of operational flexibility? Will the facility for permitted work for people in both categories of ESA continue to exist in its current form? I would like some indication on what the net reduction in the cost of the welfare bill will be at the end of this process.
53. I have a theoretical point, for which I apologise. I foresee that a large number, or a potentially large number, or an unknown number of people who currently consider themselves to be unfit for work by virtue of disability or illness will be classified as being fit for some

- sort of work. Have any discussions taken place with the Departments that are charged with providing work to see whether work will be available? The most recent figures that I saw are that 66,000-odd people are looking for work and 5,417 available jobs. For me, that does not compute. I know that that is not a point about the Bill, but it goes to the core of this. I apologise for the length of those questions, and I would appreciate written answers at some stage.
54. **Ms McCleary:** We can come back to you on that. It is key to remember that the Bill is, generally speaking, an enabling Bill. A lot of the detail will be in the regulations.
55. **Mr Copeland:** I understand that.
56. **Ms Martina Campbell (Department for Social Development):** You said that you had seven points. You have given six, I think.
57. **The Chairperson:** I really have to caution, because we are going into detail that we cannot get into. This is about the principles of the Bill.
58. **Mr Copeland:** I understand, Chair.
59. **The Chairperson:** We just need to satisfy ourselves that we understand what the Department is saying about the principles. It does not matter whether we agree with them or not, and, with respect, we cannot really go into the type of detail that you tried to go into there now.
60. **Mr Copeland:** Apologies. It should have been six.
61. **The Chairperson:** Sorry about that, Michael.
62. **Mr Brady:** Thanks for the presentation; we were starting to miss you, Anne.  
[Laughter.]
63. **Ms McCleary:** You will not be missing me in the near future.
64. **Mr Brady:** We are thinking of you, honestly.
65. **Ms McCleary:** That reassures me and does my heart good.
66. **Mr Brady:** I just want to make you feel wanted.
67. I have a few fairly general questions. You talked about the reduction from 30 benefits to one. Is it possible to check how many of those benefits will actually be abolished rather than reduced? For example, the young person's incapacity benefit, which replaced severe disabled allowance. With the industrial injuries benefit, unforeseen aggravation and all that will go out the window. You could maybe check those.
68. You mentioned the monthly payment. Within the past week, David Freud has said that, for a two-year period, people may be paid fortnightly. The premise is that people are paid monthly when they are in work. That is not the case here; most people are paid fortnightly. However, he did not go into detail on that.
69. The taper will be set at 65%, and people will earn £35 for every £100. To me, that may encourage employers to pay less so that they can get more benefit. I am not sure if that has been addressed.
70. You talked about childcare, and your paper says:  
*"This mirrors the current arrangements under the Tax Credit system."*
71. The reason that that has failed, particularly for lone parents, is that your child has to be looked after by a registered child-minder. Is that going to persist, or will it be looked at? My constituency had one of the worst childcare provisions in western Europe when the survey was done. That can easily be checked.
72. How long is the timeline for transitional protection? Has there been any thought about the people who pay contributory benefits and who will only get ESA for a year based on the contributions? People will consider that grossly unfair.
73. You talked about the rationale for the change from DLA to PIP and said that there is no systematic process for checking that awards remain correct. I do not accept that. The periodic review was specifically introduced for that

- purpose. I attended the briefings by the Department in the mid 1990s, and we were told that that was the purpose. I do not necessarily agree that it has become hard to understand and complex to administer, because that was a self-inflicted wound by the Department. Our report in the last mandate highlighted how the Department could change that.
74. The paper says:
- “Key part of the assessment process for claimants will be a face to face consultation with a trained health professional”.*
75. We went into a lot of detail on the work capability assessment and how it is fundamentally flawed. There is nothing to suggest that the assessment will be different.
76. **Ms McCleary:** A lot of this is to do with the regs, particularly in relation to things like the monthly payments and childcare, and I appreciate the issue of formal childcare as opposed to informal childcare. Those factors are still being looked at. Perhaps one of my colleagues can confirm the timeline for transitional protection.
77. **Ms M Campbell:** It is for as long as their circumstances remain the same. There is no cut-off.
78. **Mr Brady:** As we said previously, childcare in Britain is a statutory entitlement from the local authority. We do not have that here, and are unlikely to for quite a while.
79. **Ms McCleary:** That issue is being looked at.
80. Finally, from my perspective, the face-to-face discussions — referring now to PIP — as we very often remind people, particularly the media, there is considerable confusion about the difference between an assessment for ESA and an assessment for DLA or now PIP. They are for very different purposes, and there is a general lack of understanding about that. One is about whether someone is able to work or able to move closer to the workplace, and the other is about what that person needs to help them in their day-to-day life.
81. **Mr Brady:** Is that a fundamental change in the Department's thinking? Initially, we were told that it was going to be much the same type of assessment by the same company.
82. **Ms McCleary:** We do not know which company will do the assessment.
83. **Mr Brady:** When you find out, will you let us know?
84. **Ms McCleary:** I am sure that you will be the first to know.
85. **Mr Brady:** I do not think that I will be the first, but I would like to be on the list.
86. **Mr Durkan:** Members who have spoken previously have touched on stuff that I have been thinking of. The lack of detail in the answers is really frightening, but I do not blame anyone for that. It is due to the fact that this is enabling legislation. *[Inaudible.]* We know very little about the content.
87. I have just one question specific to this, and it is on the benefit cap. Given that child benefit is separate from universal credit, is it included in the limits for the benefit cap?
88. **Ms M Campbell:** We will confirm that for you.
89. **The Chairperson:** That is an important issue. You do not have the information yet? That is what we are saying, Michael and Martina, yes?
90. **Ms M Campbell:** I do not have it with me. I am sorry.
91. **Ms McCleary:** We will come back to you on that.
92. **Mr Durkan:** It says:
- “The total level of entitlement to welfare benefits is to be limited to £500 a week”.*
93. It does not say that that is the total level of entitlement under universal credit.
94. **Ms M Campbell:** It is out-of-work benefits.
95. **Ms McCleary:** It is not a benefit. It is not part of the benefit system and,

- therefore we do not think it would be included, but we will confirm that.
96. **Mr F McCann:** Most of the stuff has been answered, and you threatened us all at the start not to take the debate to a place where it should not be.
97. I am interested in the transition setup. I know from previous periods of transition that, when the slightest change in a benefit kicks in, people are taken off it. I take it that that will still be the same? Once this starts kicking in, there will be very few people who will stick to the letter of the transitional thing. It will affect most people, probably, within a short period of time.
98. **Ms M Campbell:** Colleagues in the Department are working on what they call volumetrics, the number of people that they expect in each tranche of the migration over. As you say, yes, any change in a claimant's circumstance will trigger a review in benefit assessment which could end up in losing the transitional protection. That is correct.
99. **Mr F McCann:** My other point is about fraud and error. I see the sanctions that will be applied. Considering most of the error is done within the Department, what sanctions are being laid against people working in the Department?
100. **Ms McCleary:** That is a perennial question.
101. **Mr F McCann:** The other thing is — *[Interruption.]* Sorry, I thought I had that off. I think that someone at the back has rung me.
102. **The Chairperson:** We will talk among ourselves if you want to take your call there.
103. **Mr F McCann:** Thank you very much, Chair. I appreciate it.
104. My other point is about underoccupancy and the rules that have been set down there. I do not see anything in there that says — certainly in policy — that if houses or accommodation are not available to take up the slack of people in underoccupancy, they will not be penalised for it.
105. **Ms McCleary:** I think that the Department with its other hat on, in other words, the housing aspect of the Department, is looking at those kinds of issues, and we are working with them on it. However, underoccupancy is the housing change in all of this. It is important to remember, when we are talking about underoccupancy, that there are groups that are excluded from that, so that we are not going to be looking at underoccupancy in relation to pensioners. However, it is an issue that we need to look at.
106. **Mr F McCann:** It applies to people up to 65.
107. **Ms McCleary:** Yes. We need to look at that, and the Department is aware that there are issues around this.
108. **Mr F McCann:** When you say the Department is aware, are you saying there will be changes to this?
109. **Ms McCleary:** I do not know quite what the Department will do. Because we have responsibility for housing, in the social sector in particular, there are things that can be looked at from a different perspective, perhaps to ameliorate the situation.
110. **Mr F McCann:** The reason I raise that is that we are being given a briefing on what is going to happen. I would like a briefing with all the facts. It is difficult to do that —
111. **Ms McCleary:** Michael might be able to help.
112. **The Chairperson:** Fair enough.
113. **Mr Michael Pollock (Department for Social Development):** Underoccupancy is one issue that —
114. **Mr F McCann:** Mickey is calling me a cynic here.
115. **Mr Pollock:** I know, but it is an issue that impacts particularly on the housing sector. Most of the welfare stuff, because of the breadth of the reform agenda, will touch on the work of lots of Departments, whether that is Health or Education. What Anne is saying is



- that the housing arm of our Department will be looking particularly at those issues. The Minister has already established that Executive subgroup on welfare reform. The types of issues that are exercising your mind are the type of things that will be raised at that type of forum to see whether the Northern Ireland Departments need to do something else to ameliorate or alleviate any difficulties in implementing the welfare reform programme along the way.
116. **Mr F McCann:** Michael, the only reason I raised it is because Anne raised underoccupancy in her presentation. It may lie in another part of the Department, but we are getting a departmental briefing here.
117. **Mr Durkan:** That is the thing. We are dealing with universal credit, so I do not think it is right that we are talking about different crowds, like the housing crowd and the social security crowd. I would very much like to hear from the IT crowd about the IT systems and costs. Universal credit deals with all those things.
118. You talked about the exemption for pensioners from underoccupancy, but that raises another issue. Say if there are a couple, and one of them is the nominated person to receive the universal credit, yet they are younger than the other person. When the other person reaches pension age, what effect does that have?
119. **Ms McCleary:** In relation to the housing aspect?
120. **Mr Durkan:** In relation to the housing aspect or other age-related benefits.
121. **Mr Colm McLaughlin (Department for Social Development):** That would go out to the housing aspect. In relation to, for example, JSA, the younger one has to claim JSA.
122. **Mr Durkan:** Yes, but say the younger person is already the nominated person, so they will be on JSA, and the older person, who is not the nominated person, then reaches pension age. What impact will that have?
123. **Mr C McLaughlin:** As far as I understand, the person on JSA has to claim for both, because he is the younger person. The person who is actually claiming has not reached the qualifying age, so that person has to be available and actively seeking work for JSA purposes. It is a joint claim.
124. **Ms M Campbell:** Where one half of a couple is of working age, the couple must claim universal credit and, therefore, be subject to the conditions applicable to universal credit.
125. **Mr C McLaughlin:** It will be the same for JSA.
126. **Mr Durkan:** Including underoccupancy?
127. **Mr Pollock:** Including the housing cost element of universal credit.
128. **Ms M Campbell:** All of the elements.
129. **Mr Brady:** Obviously it would be easier to sanction the person if they are claiming the JSA benefit, because it will be sanction-led. It would look better, from the Department's point of view, if it sanctioned the younger person rather than the pensioner. And you can accuse me of being cynical, but you tend to —
130. **Mr F McCann:** You are.
131. **The Chairperson:** Is there anything else any member wants to raise?
132. **Mr Brady:** Social fund has not been mentioned specifically. That is obviously something that is going to change dramatically here under welfare reform in general terms.
133. **Ms McCleary:** The bulk of social fund will move into the new universal credit. Then, we have the rest of it, what is known as the discretionary element of social fund, which will cease to exist. I think everybody knows that we are looking at proposals for a successor scheme for the discretionary elements of social fund. That is being looked at. I am quite sure that there will

- be consultation on that as we move forward.
134. **Mr Copeland:** I apologise if this sounds slightly specific, but it does concern me slightly. A number of my constituents are not capable of oversight of their own affairs and have appointed people to do that for them. Will that system still be available? Are there any implications for that system arising from these changes?
135. **Ms McCleary:** As far as I know, the nominee arrangement will continue.
136. **The Chairperson:** As members have no other issues at this moment in time, I will make two wee points, Anne. First, I appreciate that it may not be possible, no matter how many people you have at the table, to have every answer, but I do think it important that, on the key things, we make sure that people are available to respond. Secondly, when we met the Minister, Tommy Reilly and other officials to discuss the Bill and its timetable, they stressed that there were issues; that for example, if we did not meet a deadline, things like the social fund would have no legislative authority to be paid out. They said that there are a range of issues like that, but I have not seen that range of issues. I have only heard from the Minister and Tommy directly that social fund, for example, would fall foul of us not meeting a deadline. Can we have that list? It is important.
137. **Ms McCleary:** I think that a letter has been sent to the Department asking for clarity on that. You will receive that information through that.
138. **The Chairperson:** I would have thought that that should be something you should be able to say, just like that.
139. **Ms McCleary:** Well, we can tell you that there are quite considerable and significant IT issues, where there is delay with the Bill. There are other issues. As you say, social fund is one area, along with the rates element of housing benefit, that will move out of the social security arena once GB has commenced its Bill on 1 April.
- In both cases, that funding will move from annually managed expenditure to departmental expenditure limit. So, there are significant funding issues around that that need to be looked at. All that needs to be clarified. There are issues, undoubtedly.
140. **The Chairperson:** I want to place on record that the Committee is going to devote quite a considerable amount of additional time —
141. **Ms McCleary:** We appreciate that.
142. **The Chairperson:** Thank you for that. That is important. We are going to make sure that the scrutiny of the Bill is very robust. All parties have already acknowledged that what they want to do is enable full scrutiny with stakeholder involvement. By the same token, although I am coming into this mandate afresh, I have heard arguments in the Chamber before to say that we need to get something done because of parity or because there will be no legislative authority. Then, lo and behold, six months later, we find that that did not apply, and that people had been rushed into making decisions. I am not saying that we are going to be rushed, because we are going to give this all the time that we need.
143. **Ms McCleary:** I am not sure that the imperative is around legislation. The imperative is around money. The existing legislation will continue to exist until such times as it is repealed or a scheme is abolished. The issue is more to do with money.
144. **The Chairperson:** That is helpful, Anne. We will await the formal response. Thank you very much.





# 10 October 2012

## Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann

## Witnesses:

Ms Martina Campbell	<i>Department for</i>
Ms Anne McCleary	<i>Social Development</i>
Mr Michael Pollock	
Ms Margaret Stitt	<i>Social Security Agency</i>

145. **The Chairperson:** I welcome formally officials Anne McCleary, Michael Pollock, Martina Campbell and Margaret Stitt. Thank you very much for being here. You are very welcome. I hope that you get home a wee bit earlier this evening.
146. Obviously, the purpose of today's session is to deal with all matters that relate to universal credit, which is covered by clauses 1 to 44 of the Welfare Reform Bill. During this session, officials will outline that particular part in as much detail as they can. I remind members that the purpose of the session is not to debate the issues, but to have the Bill and that particular set of clauses explained and for members to explore the detail of that. On that basis, members may raise any specific issues with the officials.
147. As per our schedule, which members have agreed, we intend to have a number of these sessions to work our way through the Bill clause by clause. We plan to have formal clause-by-clause scrutiny of the Bill on 13, 14, 15 and 20 November. All of that is leading up to our explanations. Of course, in the meantime, we will have plenty of time as
- a Committee to debate our approach to those clauses. This is an information-gathering exercise in the first instance.
148. I, therefore, welcome Anne and her colleagues this morning. The floor is yours for your presentation to the Committee.
149. **Ms Anne McCleary (Department for Social Development):** Thank you very much for giving us this opportunity to talk to you about where the Bill is going. As the Minister said during the debate, the scrutiny of the Bill is particularly important. We welcome suggestions that members may have about where we in Northern Ireland go with the Bill. I stress that at the outset; it is particularly important.
150. We plan to take you through the universal credit clauses, discuss with you what the various clauses are about and what they are intended to do, and give you as much information as we can at this stage about any of the detail around it. At the previous Committee meeting that we were at, we discussed the benefit cap. A member asked whether child benefit was included in the benefit cap. At that point, we were unable to give you a definitive answer, so we assured you that we would check the position and revert to the Committee. We can now confirm that there is a list of benefits that will be taken into account on the NI Direct website. The Welfare Reform Bill does not give a list of which benefits are going to be included in the benefit cap, but the NI Direct website does. I will tell you very briefly what is there: bereavement allowance; carer's allowance; child benefit; child tax credit; employment and support allowance, except where it is paid with the support component; guardian's allowance; housing benefit; incapacity benefit; income support; jobseeker's allowance; maternity allowance; severe disablement

- allowance; widowed parent's allowance; widowed mother's allowance; widow's pension; and widow's pension age-related. Those are the benefits that are intended to be encompassed in the benefit cap. That gives you the definitive answer: child benefit is on that list. That gets that out of the way.
151. A number of other questions were asked, but they were for written answer. Those will be available shortly.
152. I will now introduce my colleagues, some of whom will be familiar —
153. **The Chairperson:** Anne, can we just leave that? A couple of members have indicated that they want to come in on the previous point. Sorry about that.
154. **Mr F McCann:** Thanks for that information. I do not know whether we can have that list of benefits rather than having to go to the website. Is it possible for that to be shared with us?
155. **Ms McCleary:** Yes, certainly.
156. **Mr Copeland:** This is a very small point, Anne, and it may seem pedantic. You gave a whole list of things and described them as benefits. We are now dealing with something called credit. What is the difference between benefits and credit? Why has the language been changed?
157. **Ms McCleary:** The simple answer is that I do not know.
158. **Mr Michael Pollock (Department for Social Development):** It is possibly something to do with the concept of incentivising people to work; you get credit for the hours that you work. It could be something to do with that policy rationale.
159. **Ms Martina Campbell (Department for Social Development):** It is also to do with the fact that the universal credit will be payable to people in and out of work. We will be dealing with a different type of clientele.
160. **The Chairperson:** If you are not in work, you are getting benefit, and if you are in work, you are getting credit. That is good; it is a nice difference. When we are going through the clauses, if members need to intervene, it might be useful to indicate that through the Chair. We will work on that basis.
161. **Mr Douglas:** Obviously, I have not been on the Committee for quite some time. I am delighted to be back, in some ways. Have all the clauses that we are going through been accepted in the rest of the UK?
162. **Ms M Campbell:** Yes, they are in law.
163. **Ms McCleary:** I will introduce my colleagues. To my extreme left is Margaret Stitt, who comes from the Social Security Agency and is involved in the operational side of this. We thought that it would be helpful for the Committee to have somebody with operational experience here in case there were questions around how that works out. Martina, whom you have met previously, leads on the universal credit aspect of the Welfare Reform Bill. Michael, whom, again, you know of old, is the Bill leader. Therefore, that is who we all are and what our individual responsibilities are. Martina will now take you through the clauses on universal credit.
164. **Ms M Campbell:** I refer members to the explanatory memorandum. Members may find it easier to understand than the clauses, so I propose to work between it and my brief.
165. Clause 1 establishes universal credit as a new benefit under the provisions of Part 1 of the Bill. Universal credit is a modern, simplified benefit that will be available to people who are in work as well as those who are out of work, instead of their claiming a number of benefits and tax credits from different sources. Therefore, I remind members that universal credit is replacing income-based jobseeker's allowance, income-based employment support allowance (ESA), income support, housing benefit, working tax credit and child tax credit.
166. The policy intention is that universal credit will be simpler to understand and designed to make work pay. The introduction of a single taper on

- earnings means that claimants will see clearly how their benefits, or universal credit, will adjust as their earnings increase. Therefore, depending on a claimant's circumstances, universal credit may include a standard allowance, as benefits do now, and additional amounts for children or young people, an amount for housing costs, and amounts for other particular needs or circumstances, such as disability.
167. Clause 2 deals with claims. It sets out the basic requirements for claiming universal credit. As members are aware, the intention is that people who are in a couple, whether they are married, in a civil partnership or cohabiting, will make a claim as a single person. Single people will be able to make claims individually in their own right. The concept of joint claiming is not new. It should be familiar to claimants of jobseeker's allowance and tax credits, which already provide for joint claims.
168. We will move on to clause 3 —
169. **The Chairperson:** Sorry, Martina. Can we deal further with clause 2? Michael has a query.
170. **Mr Copeland:** I just want to check whether the definition of a couple is gender specific.
171. **Ms M Campbell:** No. It includes civil partnerships and same-sex couples who live together. The arrangements are more or less the usual ones that are used to ascertain whether a couple, regardless of sex, is entitled to benefits.
172. **Mr Brady:** Sorry that I missed a bit there. I would like clarification that, although the couple — whatever the definition — can claim separately or as a single person, their benefit or income will be aggregated.
173. **Ms M Campbell:** Yes.
174. Clause 3 provides that claimants must meet basic and financial conditions to be entitled to universal credit. Clauses 4 and 5 make further provisions relating to that, so it is all linked. As I have said, universal credit is an income-related benefit that combines support for people both in and out of work. Therefore, claimants need to meet financial conditions — their earnings cannot be above a certain level — as well as basic conditions around residency and all the usual things.
175. Clause 4 sets out in more detail the basic conditions that must be met in order for people to be entitled to universal credit. Those cover things such as age, residency, education and, importantly, acceptance of the claimant commitment that sets out the person's responsibilities in relation to their award of universal credit. Universal credit will be a benefit for working-age people. Working-age people are defined as those at the age at which you qualify for state pension credit. It is available to people over 18. There will be some exemptions for under-18s, namely lone parents or people under that age who are disabled or estranged from their parents. That position is the same as it is now in benefit.
176. Where one half of the couple is over pension age and the other half is younger, we will require that couple to make a claim for universal credit. The reasoning behind that is that it is not fair that a couple in which there is a younger partner is not required to seek work. As members will be aware, the Government moved in 2011 to remove the default retirement age, and that means that people can continue to work for as long as they wish. We heard the arguments last night about work being good for emotional, physical and mental well-being.
177. As is the case now, people who are in full-time education will not generally be entitled to claim universal credit. That is because there are other means of support for full-time students. Clause 4 also introduces the basic condition that each claimant must accept a claimant commitment. That is a type of contract or agreement between the claimant and the Government that the claimant will take certain steps in return for being supported. The more detailed provisions relating to claimant commitment are in

- clause 14, so we will talk about those later.
178. The claimant commitment will set out clearly what is expected of the claimant. It will be personalised to each claimant. We will talk about this later, but claimants can restrict their availability for work to fit in with their childcare arrangements and all of that. That is clause 4 in a nutshell.
179. **The Chairperson:** OK, Martina. Please pause for breath in case anybody wants to come in with a question. It is not compulsory to come in on every clause.
180. **Mr Brady:** You kind of answered the question that I was going to ask about the uniformity of the claimant commitment.
181. **Ms M Campbell:** Yes; it is personalised.
182. **Mr Brady:** It is in clause 14. Maybe I will think of something to ask you.
183. **Ms P Bradley:** The part about being resident in Northern Ireland refers to oil rigs, working on ships and stuff like that. What about Territorial Army soldiers? How does it work for them?
184. **Ms M Campbell:** If they are away on manoeuvres, they will be, as now, treated as residents.
185. **Mr Pollock:** There are provisions to allow for that.
186. **The Chairperson:** It was passed recently, as I remember.
187. **Ms P Bradley:** I thought that there was something — I remember hearing something about it; I just wanted it clarified.
188. **Ms M Campbell:** We are also looking at the case of claimants who are resident in the South of Ireland but work in the North of Ireland. They are contributing to our taxes. Those claimants are entitled to tax credits. Are there any other questions?
189. **The Chairperson:** No; you can move on. Thank you.
190. **Ms M Campbell:** Clause 5 is about the financial conditions. It builds on the entitlement provisions in clause 3 and talks about the income test. It needs to be considered in conjunction with clause 8, which is about how the award is calculated. The key aspect of universal credit is that benefit will be reduced on a tapering basis. Claimants will be allowed to retain more of their earnings. The proposed taper at the minute is that the claimant will be allowed to retain 35p in every pound, which is substantially more than they are allowed to keep at the minute. In a lot of benefits, for every pound they earn, they are knocked out after, I think, £10 or £12.
191. **Mr Pollock:** It could be as low as a penny. This is to do away with those sorts of cliff edges and to try to get out of the benefit trap whereby people do not find it worthwhile to go to work. It is designed to smooth out those rough edges.
192. **Ms M Campbell:** Sorry, Chair; did you want to ask a question?
193. **The Chairperson:** Have you finished your explanation of clause 5?
194. **Ms M Campbell:** Yes. I can take a question.
195. **The Chairperson:** We will let you go through all your explanation for the particular clause, and then there will be a brief stop for members to be brought in. A number have indicated. If we work on that basis, we can get it smoothly worked out.
196. **Mr G Campbell:** I would like to have had an example. I listened to Michael talking about the rough edges, but do you have a couple of examples of where changes, for somebody who is on a particular level —
197. **Ms M Campbell:** We can bring those back after lunch.
198. **Mr Pollock:** There were certainly some working examples.

199. **Mr G Campbell:** It would help if we could see a working, practical and reasonable example of the difference.
200. **Ms M Campbell:** We will bring that back to you after lunch.
201. **Mr Copeland:** In the case of a parent or carer who derives income from the child maintenance and enforcement division, would that be calculated as income?
202. **Ms M Campbell:** I cannot think off the top of my head. I will come back to it after lunch.
203. **Mr F McCann:** This may be in another part of the Bill, but if somebody applies for universal credit, is there an amount of money that they can have and that is disregarded before they can —
204. **Ms M Campbell:** Yes. I am going to come on to that now.
205. Clause 5 also puts a limit on the amount of capital that a claimant can have. Again, it is similar to the current position. Their benefits would be adjusted on a tapering basis. We can come back to this after lunch.
206. We will flick forward to clause 8. It sets out the way in which universal credit will be calculated. A maximum amount of universal credit is available. From that, you would deduct the amounts that need to be taken away because of earnings and any capital or unearned income from those people who are lucky enough to have trust funds, etc, or, perhaps, occupational pensions.
207. It also provides that the maximum amount of universal credit is calculated by adding all the elements together; that would be the standard allowance plus any amount for a child or young person, disability premium, housing costs, etc. It also includes an amount for childcare costs. Under universal credit, the Government are removing the minimum number of hours that a parent is required to work before help will be given with childcare costs. This is good news, which will, obviously, encourage many women to take up part-time jobs of less than 16 hours a week.
208. **The Chairperson:** Is that your explanation of the clause?
209. **Ms M Campbell:** That is more or less it, yes.
210. **Mr Brady:** I know that I asked you this question last week, Anne, but, perhaps, you will clarify the issue. At present, under working tax credit, an awful lot of parents are losing out on the childcare element because of the restriction on registered childminders. They are few and far between. Will that restriction be kept? If so, it will disenfranchise many people and will disincentivise them from going to work.
211. **Ms M Campbell:** This is a big issue. We are dealing with it within the constraints that the legislation allows. As the member knows, the Department of Health, Social Services and Public Safety's guidance is that a child should be with a registered childminder. As the member may be aware, the Department for Employment and Learning (DEL) already pays informal childcare costs when a claimant attends a programme organised within that structure. Our colleagues in DEL are consulting on their new programme, which I think is called Steps 2 Success. In that, they have considered the issue of informal childcare. They are considering putting a requirement on the training provider to make some kind of payment.
212. **Mr Brady:** It is obviously a child-protection issue and is, therefore, not to be minimised. There is a restriction on informal childcare, which historically would have been provided by a mother or grandmother. When I was in the voluntary sector, we actually tried to encourage people. I went out with social services when they were recruiting or trying to recruit people as registered childminders. The difficulty is that if your sister or mother looks after your child, she must also look after at least one other child who is not related to her, which is a huge responsibility. I know that it is a Health Department issue as well as an issue for social services. Has there been any real interaction or engagement with them? I know that DEL



- is taking what might be considered to be a sensible approach. Has there been any interaction?
213. **Ms M Campbell:** Yes. Colleagues in the Social Security Agency are represented on the Office of the First Minister and deputy First Minister's (OFMDFM) childcare strategy group. Certainly, in evidence from the economic appraisal that OFMDFM conducted a while ago on childcare provision in Northern Ireland, the whole issue of informal childcare was raised.
214. **Mr Brady:** I reiterate that child protection is paramount. It needs to be put first.
215. **Ms M Campbell:** Yes. Anecdotally, informal childcare is much higher in Northern Ireland, probably because, geographically, most of us do not move more than five miles from our home place.
216. **Mr Brady:** It is also because of the infrastructures of families and extended families.
217. **Ms M Campbell:** Absolutely; yes.
218. **Mr Copeland:** You spoke a few moments ago about the impact of some of these changes in assisting women to work extra hours on the basis of childcare. Is that gender-specific? A considerable number of fathers have charge of their children.
219. **Ms M Campbell:** No, it is not.
220. **Mr Copeland:** So, it works as well for fathers as it does for mothers.
221. **Ms M Campbell:** Yes.
222. Clause 6 provides regulation-making powers for restrictions on entitlement even though the basic and financial conditions are met. The regulations will set out the circumstances, and members will see those regulations. That includes particular groups of people, such as prisoners and people involved in trade disputes, and children leaving full-time care who remain the responsibility of trusts. As I said, details of the specifics will be set out in regulations.
223. The power might also be used to exclude people such as members of religious orders who are fully maintained by their order. It may also be used to remove entitlement for a short period. There will be a waiting period for entitlement. If you are unemployed or need the benefit for only three days, for example, the credit may not be paid because of the administrative cost of processing it.
224. **Mr Copeland:** Entitlement would be inappropriate in the case of prisoners, for example. Is there a potential clash if the prisoner is the designated head of household? Is there a likely scenario in which the family for which someone is the designated head of household could be deprived of income while that person is on remand or awaiting sentencing?
225. **Ms M Campbell:** The other person would make the claim in that case.
226. **Mr Copeland:** Yes, but there will be a lapse between the old claim being paid and the other person, in light of changed circumstances, being able to make the new claim. That will leave a void in which they may be deprived of income.
227. **Ms M Campbell:** They may be deprived of income but only while the claim is processed.
228. **Mr Copeland:** It is then dependent on how long the claim takes to process and on the impact.
229. **Mr Pollock:** There are a hardship provisions that will cover those sorts of eventualities.
230. **Mr Copeland:** All will be explained.
231. **Ms M Campbell:** It will be the same position as it is now when the head of household enters prison.
232. **Mr Brady:** Are those what were termed waiting days?
233. **Ms M Campbell:** Yes.
234. **Mr Brady:** They applied to everybody. Will that be the same?

235. **Ms M Campbell:** Yes.
236. **Mr Brady:** So, what we are really talking about is changing the terminology.
237. **Ms M Campbell:** Yes.
238. **Mr Brady:** So, nothing has changed in that respect.
239. **Ms M Campbell:** No.
240. **Mr Brady:** You are still depriving people of benefit for three days; that is really the point.
241. **Mr Douglas:** I read something — I am trying to find it — that stated that young people and education would be mentioned in this clause.
242. **Ms M Campbell:** Do you mean where those young people are part of the family and in full-time education up to the age of 19 or whatever?
243. **Mr Douglas:** Yes.
244. **Ms M Campbell:** They will be covered in the same way as they are now.
245. **Mr Douglas:** They will be specified.
246. **Ms M Campbell:** Yes, they will be specified.
247. **The Chairperson:** Clause 7.
248. **Ms M Campbell:** Thank you, Chair. I have so many papers here that I do not know whether I am coming or going.
249. Universal credit will follow the practice established in most existing benefits and tax credits, whereby benefit is assessed and paid for a specified period. The effect is to make payments more predictable and clarify when changes in circumstances should be taken into account.
250. Clause 7 provides that universal credit is payable in respect of each complete assessment period while the claimant is entitled. The clause also provides regulation-making powers to cover when an assessment period starts and to provide for payments of universal credit for shorter periods. In existing out-of-work benefits, the assessment period is normally a week, with a fortnightly payment cycle, but universal credit will normally be paid on a monthly basis as a monthly payment cycle will fit in with the usual cycle of earnings for people in work.
251. For those who are out of work, the whole policy intention of universal credit is that it will mimic a salary for paid employment and help to smooth the transition into work. Some households will need more help to budget. We heard a lot about that in the debate last night. Under the clause, the Department has the power to make payments more frequently than monthly, and it will use guidance to set out the circumstances under which it can do that.
252. **Mr Brady:** On the prescribed period; it might be mentioned later, but I want to check about habitual residence. Case law to date is fairly sketchy, because you become more habitually resident the longer you are here. For some offices, a person could be here for a week and the prescribed period could start within a week of the claim. For other offices, it could start within three months. It is a very arbitrary decision by decision-makers. Is this still going to apply? Essentially, we are talking about people who were born here, lived here and then moved to America or Australia to work. This came in, as you know, in 1995, under a Tory Government it has to be pointed out. You have to show that you are habitually resident. If you have children, they have to be registered at schools. If you are looking for a house, you have to be on the Housing Executive waiting list. Is that still going to be applied or will more cognisance be given to that? Will it be tightened up? What is that prescribed period? When do you become habitually resident? That is an issue, and it will become more so. I am making the point because a lot of our young people, because of a lack of work, have to go to Australia, in particular. At some stage, they may come back and have to claim benefit for relatively short periods. The habitual residence regulation is all about xenophobia; that is why it was introduced. There is no

- other reason. Is that going to be looked at? It may be dealt with later, but it needs to be flagged up.
253. **Ms M Campbell:** The intention is probably that the existing rules will carry forward. The basic principle is that what is not broken will not be fixed.
254. **Mr Brady:** The issue is that someone who comes in from the European Union immediately qualifies for benefit, but somebody who was born and reared here and goes away to work and then comes back does not qualify. That is quite difficult for them.
255. **Ms M Campbell:** There has been a lot of discussion over habitual residence. We will come back to you. It may not be today; I will certainly come back to that issue on Tuesday.
256. **Mr Brady:** It is really to get some uniformity.
257. **Mr Pollock:** It is probably the case that the residency conditions would carry forward in the same way that they are applied to the benefits today.
258. **Mr Brady:** The point that I am making is that there is no uniformity in the decisions of decision-makers. Somebody could be accepted as being habitually resident after they have been here for a week; somebody else might have to wait six weeks or three months. It is unfair. There should be uniformity; they need to say that they accept that someone is habitually resident after two weeks, three weeks or a month.
259. **Ms M Campbell:** That is a very good point about uniformity of interpretation of guidance. We want to make sure that the guidance is robust enough that there is —
260. **Mr Brady:** It is really to flag that up.
261. **Mr Copeland:** I want to test you on the statement you made a few minutes ago.
262. **Ms M Campbell:** “Test” does not sound good.
263. **Mr Copeland:** I will say “examine” then. I am not for one minute claiming to have heard correctly, but, if I am correct, you said that most people who work are paid monthly. Is that the case?
264. **Ms M Campbell:** I do have figures on this.
265. **The Chairperson:** Is that relevant to this particular clause, Michael?
266. **Mr Copeland:** You raised it, did you not, Ms Campbell?
267. **Ms M Campbell:** Yes, I did. According to the ‘Northern Ireland Annual Survey of Hours and Earnings 2011’, which was published in November 2011, 29% of employees indicated that their gross pay covered a period of one week, 4% indicated that it covered two weeks and 67% indicated that their gross pay covered a period of either four weeks or one calendar month. That is 67% of people in Northern Ireland from the period tested, April 2011, who confirmed that their salary was paid either four-weekly or monthly. That survey should shortly be updated.
268. **Mr Copeland:** Was any balancing exercise undertaken, because the vast majority of people who may be in line for universal credit will be those who work limited hours or who are on low incomes? I suggest that the vast majority of those, the people who would be most affected, are in the 29% that you referred to.
269. **Ms M Campbell:** Yes, the number of employees earning under £10,000 was queried. I will also submit these figures in writing. The group representing 67% is roughly 530,000 employees, and 142,000 of them were earning under £10,000. That comprised 11,000 full-time employees and 131,000 part-time employees.
270. **Mr Copeland:** What I am really driving at is the people who are going to continue to benefit — if that is the right word — from universal credit. In my opinion, the vast majority of them are low paid, and most are paid weekly. Those are the people who this will impact on, not the overall statistic.



271. **Ms M Campbell:** Yes, and that is why the Minister is on record as saying that he is looking at payment frequency.
272. **Mr Copeland:** We shall await the outcome of his deliberations with interest.
273. **Mr G Campbell:** On the point about more frequent payments, I can see the logic of preparing people to get into a work environment. Most people are likely to be paid monthly. I presume that a nucleus, a hard core, of people may prefer to get more frequent payments, say weekly. It may be the case that they are less likely to be more easily prepared for work and more likely to be welfare-dependent. Therefore, will that not lead to the more frequent payments over a reasonably short period becoming the norm because they have been used to that and because the offices that are preparing it understand that that will probably be the case for the foreseeable future? If you like, the exception becomes the rule. How will that work?
274. **Ms M Campbell:** Colleagues, including, in fact, Margaret, are involved in that work, so I will let her speak more on it. The Government, in the form of the Department for Work and Pensions (DWP), are developing a range of financial products, and people will be helped to work out budgets. Further work will be done with banks in developing specific banking products. I will let Margaret answer that.
275. **Ms Margaret Stitt (Social Security Agency):** As Martina said, DWP and the Social Security Agency are working very closely with banks at the minute. They are developing a range of products to support those people to cope with the transition.
276. There are three big changes on the financial side. First, the payment of the housing element will be made directly to the claimant. This has been agreed in GB. That will be the monthly payment and the single household payment. It is recognised that some people will need more help than others for all the reasons that you stated. The majority of people will be used to getting paid weekly or fortnightly. I do not have the figures, but quite a number of people are paid fortnightly.
277. We are developing a range of products to help people along the way. We intend to start quite early in the process, from the time that they speak to the personal adviser about job opportunities, and so on. They will probably be taken through an online tool that will tell them how capable or otherwise they will be to cope with the budgeting aspects. If the answers to the relevant questions flag up as amber or red, they will be given help.
278. Help could be a range of things. They could be signposted to various websites, for example. We know that this is not suitable for everybody, but it is one extreme. On the other extreme, people might have to be provided with face-to-face budgeting advice. A range of things is being developed. A couple of weeks ago, GB issued a prior information notice to the financial sector, and Northern Ireland was included in that. They hope to award the contract around April 2013. We are linked with them. Anything proposed has to be relevant to NI.
279. **Mr G Campbell:** The nub of this is that there will probably be a number of people — we do not know how many — who will go through all that signposting, assistance, direction and help but, at the end, still prefer, demand or be guided along the lines of the continuation of fortnightly or weekly payments. They need the assurance that the answer will still be yes after all that help.
280. **Ms Stitt:** We are not in any doubt that there will always be people who are paid weekly.
281. **The Chairperson:** Margaret, you might have referred to this, but are there discussions taking place with the banks here as well?
282. **Ms Stitt:** No, we are not having discussions with the banks here. It is being done on the mainland. Forty-

- eight or 50 financial institutions turned up to the information day last week, and Northern Ireland banks were represented among them.
283. **Mr F McCann:** I will be brief, because Gregory has asked the question. Could we get a list of the financial products you talked about? As Mickey said, you could call it wonga.com, as people will not be able to understand it. What we have to remember in all this is that people are already being paid at subsistence level. The only thing that financial institutions would be after is the tender and the money that it brings. They will not want to sit and explain to people who are getting £50 a week how they should spend that money over the week.
284. **Ms Stitt:** I need to check that out, because it is commercial at the minute. It is very early days. The information day was last week.
285. **Mr F McCann:** The other thing is that the vast majority of people here who are paid benefits are paid through the Post Office.
286. **Ms Stitt:** I know.
287. **Mr Brady:** That was a question I was going to ask. You mentioned banks; you did not mention the Post Office.
288. **Ms Stitt:** Post Office is there, too.
289. **Mr Brady:** People probably find Post Office accounts easier to access, because they use the Post Office for other reasons.
290. You say that there is a contract out for the “products”, whatever they might be.
291. **Ms Stitt:** A tender will be going out.
292. **Mr Brady:** So, a private company is going to come in and, essentially, talk to people about life skills and budgeting. Has any thought been given to the resources that might be put into the very vibrant and strong voluntary sector we have here, which is much, much better than what they have in Britain, that deals with those problems on a daily basis? Obviously, you are not in a position to say who is tendering. In my constituency, as part of Advice NI, Debt NI does tremendous work with a very, very small budget and only two workers. The amount of work that it does in relation to debt is phenomenal. It is about organisations like that. That is a wider issue, but the Minister has mentioned putting more money into advice services. It seems to me that the people who are better qualified are the people I am talking about, rather than Atos or its equivalent swanning in with a lot of money and not necessarily having the required effect.
293. **Ms Stitt:** I mentioned the banks, but I used that term loosely. It was all the financial institutions.
294. **Mr Brady:** In fairness, you did say financial institutions.
295. **Ms Stitt:** That includes credit unions, as Martina has just reminded me. Nothing is off the table here. We are in contact and in discussion with the voluntary and community sector. In fact, we are having a stakeholder event in a couple of weeks, at which we hope that the sector will help us in determining how we identify the groups of people who are going to find it most difficult to cope. It has all the experience, you are right.
296. **Ms M Campbell:** To conclude, it is important to remember that the legislation does have flexibility built in to it already for payment to be made on a more frequent basis in exceptional circumstances. Again, the Minister is on record as saying that the issue of payment frequency is one of the flexibilities that he is continuing to pursue with the Department for Work and Pensions.
297. We move on to clause 9, which is about the standard allowance. Clause 9 is the cornerstone of universal credit and allows for a standard allowance for each adult single person or joint claimants. The standard allowance is the core cash component of any universal credit claim intended to help with living expenses. On that, will be a number of building blocks; for example, housing cost,

- children, disability and childcare. There may be situations where no standard allowance is appropriate; for example, if the person is in prison. However, the person in prison, as is the position now, will be allowed help with housing cost, if it is a short-term prison sentence — for example, for not paying a fine — so that their house is protected. That provision will carry forward.
298. The rates of the standard allowance will be set in regulations. There will be separate rates, as now, for single people and couples and lower rates for young people. The normal rules will apply to uprating. Again, it is considered that the consumer price index is the most appropriate measure to use. I can confirm that the regulations setting out the allowances will be brought before the Committee and before the House for confirmatory procedure.
299. **Mr Copeland:** Just a possible anomaly. I was quite clear in my mind a few moments ago; it has become a bit more cloudy. Take the scenario where the male, for example, is the head of household and getting payments, and is the tenant of a private landlord, with the replacement housing benefit being paid directly to the landlord. If that head of household finds himself on remand or in prison, is there a mechanism by which the transfer of the entitlement for the payment of the housing element can be made from the prisoner, who has lost his entitlement, but who is the actual tenant of the property, to his partner, who may be living with him in the property?
300. **Ms M Campbell:** Whether there is a need to change would depend on how long he or she was going to be in prison. The remaining partner would be required to make a new claim.
301. **Mr Copeland:** Which could give rise to rent arrears?
302. **Ms M Campbell:** Possibly. That would depend very much on the situation.
303. **Mr Pollock:** There is cover, as Martina said, for circumstances where an individual is on remand, to ensure that there is no chance of them becoming homeless because they are on remand for not paying a fine or something like that. If someone is going away for a long period, the chances are that their tenancy is going to have to be looked at as well. The remaining partner would have to claim in their own right and look at the tenancy agreement.
304. **Mr Copeland:** Can a private landlord make direct payment a condition of the tenancy he offers people?
305. **Ms M Campbell:** *[Inaudible due to mobile phone interference.]*
306. **Mr Brady:** On the point Michael made, if someone is on remand, it is my understanding that their tenancy can be protected for six months and, because of the nature of remand, up to a year. You would assume that if somebody was sentenced to a longer sentence, that would give time enough for the housing benefit aspect to be sorted out. That might not become a big problem. It has been my experience, over the years, that that is what happens. Some people can be on remand for two or three years, but, after a year, the whole thing would have to be considered in light of how long it was going to take. That might not be as big a problem as we think.
307. **Ms M Campbell:** Moving on to clause 10: responsibility for children and young persons. The clause provides for an amount to be included in the calculation for children or qualifying young people. To take the point that Mr Douglas made earlier, that would include young people in certain types of education. An additional amount will be payable if the dependent child or young person is disabled and consistent with the objectives of universal credit. This element of universal credit will replace what is now known as child tax credits and take over its role as the main source of extra support for children in low-income families. Child benefit will continue to be paid in the same way it is now, which is primarily to the main carer, usually the woman.
308. Integrating support for children with other elements of support in universal

- credit will bring clear advantages by removing the need for parents to make numerous claims for all the different benefits: child benefit, child tax credits, working tax credits, etc. It is hoped that this will make the benefit simpler to understand, and make it easier for people to understand the advantages of either taking up work opportunities or increasing their hours.
309. The regulations will specify the rates for children and young people and the additional premiums. The regulations will be brought before the Committee and will be confirmatory. That is my explanation of that clause.
310. **Mr Brady:** When the child tax credit was introduced, it knocked a number of lone parents off income support *[Inaudible due to mobile phone interference.] The child element was taken away. [Inaudible due to mobile phone interference.]* They lost passport benefits.
311. You do not have the rates, presumably, because those are part of the regulations. Is there any idea at this time whether they will be equivalent to the current rates, because they are prescribed rates, presumably. We have no idea at this time what the rates may be.
312. **Ms M Campbell:** The rates have not, and will not, be finalised until closer to going live, but I expect them to be around the same as now.
313. **Mr Brady:** At the moment, child benefit is a qualifying benefit for a dependent child. In other words, you can get benefit, be that child tax credit or the old income support, for a child for whom you were getting child benefit. Is that likely to remain the case?
314. **Ms M Campbell:** I cannot confirm that, but I imagine that those conditions would carry forward.
315. **Mr Brady:** Is it possible to find that out?
316. **Ms M Campbell:** I will find that out for you. It may not be today, but I will get back to you next Tuesday.
317. **Mr Brady:** That is fine. They are reverting back to including it in universal credit. Child tax credit was administered by HMRC, so it will be back into social security.
318. **Ms M Campbell:** I am not sure about that one.
319. **Mr Douglas:** Martina, you mentioned additional premiums. Will you say a bit about that?
320. **Ms M Campbell:** They will be additional premiums for disability, other housing costs and such things.
321. I move now to clause 11 on housing costs.
322. **Mr G Campbell:** Chair, I have a housekeeping issue. I am conscious that officials said that they would come back in the afternoon on a number of issues that were raised earlier. That is understandable. I am also aware that a number of members have other Committee business in the afternoon. Are we likely to be quorate when the other information comes back?
323. **The Chairperson:** We are hoping to have this wound up by 2.00 pm. All the other Committees start at 2.00 pm, so, hopefully, we will have this completed. I am not cutting people, as this is obviously about making sure that we are clear on all the clauses. We are doing well, but I want to keep away from any running commentaries. I want members to stick to any clarification that they are looking for.
324. **Ms M Campbell:** We will also follow it up in writing, so any members who are not here will get the answer in writing.
325. Clause 11 is about housing costs, and it provides for an amount to be included for the support of housing costs within universal credit. It enables the award of universal credit to include such an amount if the claimant is liable to make payments on their home in the form of rent, mortgage costs or other housing-related costs.
326. As I said at the start, housing benefit will be abolished, and its rent element will be replaced by universal credit. The intention was certainly that that would

- be paid directly to the claimant rather than to the landlord. The Minister is on record as saying that he is pursuing with DWP the issue of direct payments to landlords. The legislation, as drafted, allows for direct payments to landlords in exceptional circumstances, as it does for single payments and frequency of payments, but the volume of people who would require direct payments is the issue that we are pursuing with DWP
327. The reforms to housing benefit will enable people to afford suitable accommodation but no longer enable them to live in accommodation that is out of the reach of working families. It requires people to make choices about where they live. It will also start to tackle the problem of underoccupancy in social sector housing by creating a financial incentive, by means of a reduction in the benefit, to move into appropriately sized accommodation.
328. I think that that is about all I need to say there.
329. **Mr Copeland:** I have a question on household size. In many cases, the much-dreamed-of ideal family does not exist. You could have a whole mixture of children with shared parental responsibility, which is now where you get two weeks of the child benefit or seven days' child benefit in 14. Will all the things that actually reflect the reality of the world as it is, as opposed to the reality of the world that we would like it to be, continue to be the case? In other words, if you have a single person or a couple who have access to children, who may be from previous relationships, three days a week, what is the effective size of that household? Is it the size that it is two or four days a week? Or is it the size that it is on the three days when those children are there?
330. Has any work been done on defining exceptional circumstances? We have heard that phrase quite often, and you think that it would cover everything. However, in my experience, exceptional circumstances are fairly well nailed down. We have to reserve a judgement on the impact for people by the actuality or the definition of the exceptional circumstances. Have you had sight of that as yet?
331. **Ms Stitt:** Exceptional circumstances cover the three elements: the housing element, the —
332. **Mr Copeland:** Direct payments, head of household.
333. **Ms Stitt:** A support and exceptions working group has been formed in GB, and Northern Ireland is part of that group. It is its responsibility to try to define exceptional circumstances as far as it can and as far as is practical. As I said, we intend to work with the voluntary and community sector. At an event a couple of weeks ago, we heard of some of the circumstances that would fall into that category. Work is ongoing in relation to that.
334. **Mr Copeland:** If I understand you correctly, there is a working group in GB, of which we are a part.
335. **Ms Stitt:** Yes; absolutely.
336. **Mr Copeland:** I would have thought that the best place in which to examine exceptional circumstances pertaining to Northern Ireland is Northern Ireland.
337. **Ms Stitt:** Absolutely, but we will lead on from there.
338. **Mr Copeland:** Right; OK.
339. What is the answer to my question about what constitutes a household?
340. **Ms M Campbell:** Is that in relation to how a household is defined?
341. **Mr Copeland:** Yes.
342. **Ms M Campbell:** A household, whether it is the couple and their children — do you mean the size?
343. **Mr Copeland:** There are things that flow from this about shared parental responsibility, where the father is the parent with care, and where the mother is the parent with care. Then there are the relationships with partners and extended half families. It is quite safe to say that, for two or three days a



- week, a couple and two children could be accommodated in a two- or, possibly, three-bedroom property. However, if you have another three children coming for three or four days a week, that is impractical. Is that factored in?
344. **Ms M Campbell:** Yes. I should have said that there will be regulations specifying more detail, and they will be brought before the Committee and are confirmatory. Therefore, those circumstances, where there are custody issues, will be specified in regulations.
345. **Mr Copeland:** I presume fostering or short-term fostering will be dealt with, as well.
346. **Ms M Campbell:** It will be the same.
347. **Mr Copeland:** Thank you.
348. **Mr Brady:** Martina, you mentioned suitable accommodation, so I presume that you were leading to underoccupancy. Housing stock was well debated yesterday. Will there be any definition about what is suitable or will it be kind of arbitrary? It was interesting that when Cameron was rationalising why they were not putting the mansion tax on, he was going on about people working hard and paying their mortgage, and he said that they should not be penalised for their house. However, many people here have worked hard and paid their mortgage and have ended up on housing benefit for various reasons. I am not sure how you can apply double standards. I am diverting slightly into a political rant. However, my point is like Michael's when he asked about the definition of exceptional circumstances. Will there be any sort of guidance or definition of what suitable accommodation is?
349. **Mr Pollock:** I think that there will be. It makes sense. These are not new circumstances. The underoccupancy clause and the supposed reduction in benefit that attaches to the underoccupancy of a particular property is a key element of this, but all the existing circumstances in housing and housing stock are not new issues. It is about how they are dealt with in the implementation.
350. **Mr Brady:** We hear a lot about underoccupancy. What about over-occupancy? That is one of the big issues for people who are in housing stress. Will a balance be struck where over-occupancy takes priority in the limited social housing stock for people —
351. **Ms McCleary:** Those issues are for our housing colleagues and for the Housing Executive —
352. **Mr Brady:** It will obviously impact to some degree on the housing aspect of universal credit. That is what I am trying to factor in.
353. **Ms McCleary:** There are huge issues around all this, and they are still being explored.
354. **Mr F McCann:** The Bill talks about a prescribed time for inclusion that will end after a prescribed period in which mortgage assistance may be paid. Is there any idea of how long that would be? Is it from the date of an application? Is there a period after that in which people would be paid? It used to be that you might have waited 18 weeks or 36 weeks.
355. **Ms M Campbell:** The whole issue of mortgage support was consulted on. I cannot —
356. **Ms McCleary:** Michael is more involved in that.
357. **Mr F McCann:** It would take you to be an expert in gobbledegook to understand the consultation.
358. **Mr Brady:** I thought that you were.
359. **Mr F McCann:** Mickey says that I am an expert in gobbledegook. Given the financial circumstances, this could have a serious effect on people with existing claims rather than those who make fresh applications for help.
360. **Mr Pollock:** It is the support for mortgage interest consultation that you are talking about, Fra. Due to the way in which the legislation is written,

- there is an exception that reduces the waiting time from 35 weeks to 13 weeks, but that was for a prescribed period; it was for two years or something of that nature. That was due to run out. I am not sure exactly whether that has expired yet and has reverted to 35 weeks' waiting, which is on the statute books.
361. **Ms McCleary:** We can check that out.
362. **Mr F McCann:** Would you do that, please? That is what makes some of this really difficult: it completely depends on the regulations that are coming out to give you guidance. You are dealing with stuff that you have no control over until you have a set of regulations in front of you.
363. **Mr Copeland:** If the state imposes a financial penalty for occupying a property in a condition of underoccupancy, should it not give some sort of consideration to redressing the balance on the other side of the equation and perhaps make some sort of financial incentive for those who suffer from over-occupancy? That might allow families to take properties that are bigger and, consequently, more expensive in the private sector, which would free up the social sector to allow families who have more need. It strikes me that there is a kick in the pants on one side of the equation and a pat of the wallet on the other.
364. **Ms McCleary:** I think that if you are talking about over-occupancy, you are effectively saying that there are more people in a property than is probably safe for there to be in it.
365. **Mr Copeland:** Yes; correct.
366. **Ms McCleary:** I am not sure that we should encourage that.
367. **Mr Copeland:** In many cases, that is the actual situation. It is the biggest impediment to availability in the social sector of appropriate properties at affordable prices. People can go to the private sector, where costs are much higher. To me, the equation would be that if people are going to be penalised for under-occupancy on the one hand,
- there should be some mechanism by which those who suffer from over-occupancy can be incentivised to move into a more suitable property without any financial —
368. **Ms McCleary:** Our colleagues in housing division have commissioned research into the current housing stock. There will be more information on that fairly shortly.
369. **Mr Copeland:** The problem is that they consider box rooms to be bedrooms.
370. **Mr Douglas:** Fra has already asked my question.
371. **Ms M Campbell:** I cannot remember whether I said this, but those regulations would be confirmatory.
372. We move on to clause 12, which deals with other particular needs or circumstances. The clause provides the powers to include additional amounts to reflect a claimant's personal circumstances. Subsection 2 lists three examples of such additional amounts for people with limited capability for work, people with limited capability for work and work-related activity, and carers.
373. There are situations in which people get additional support in the current system. It makes sense to carry those equivalent provisions through into universal credit. Quoted here are examples. It is not the definitive list. Clause 12 gives us the flexibility to make additional payments to other groups or in other situations as is necessary. For example, the additional amount for childcare would be set out in the regulations under this clause.
374. It is important to ensure that universal credit is flexible enough to provide a range of support for particular groups of people. That is what clause 12 aims to do. Again, the regulations would be confirmatory.
375. **The Chairperson:** OK. Thank you. If there are no takers, we will move on.
376. **Ms M Campbell:** Are there no questions?
377. **The Chairperson:** No. Fine.

378. **Mr Copeland:** Do you want one?  
[Laughter.]
379. **The Chairperson:** Do not encourage him, Martina.
380. **Mr G Campbell:** You are on a roll. Keep going.
381. **The Chairperson:** Remember the rule of thumb: just draw a breath, but do not hold it.
382. **Ms M Campbell:** You told me off earlier for not drawing breath. Now, I have to draw breath. [Laughter.]
383. **The Chairperson:** Just draw a breath, but do not hold it for too long.
384. **Ms P Bradley:** He has changed his mind.
385. **Ms McCleary:** It has to be a quick intake of breath.
386. **The Chairperson:** Put yourself on the starting block whenever — [Inaudible due to mobile phone interference.]
387. **Ms M Campbell:** OK. We will move on to clause 13 — lucky for some. It deals with work-related requirements. It is an introductory clause. It provides the powers to include additional amounts in a universal credit calculation to reflect — sorry. I have not looked on yet. You took me by surprise there. [Laughter.] Sorry. My apologies, Chair.
388. **Mr Copeland:** You are easily surprised.
389. **Mr Brady:** He has that effect on most officials.
390. **The Chairperson:** We are digressing again.
391. **Ms M Campbell:** Individuals who are able to look for or prepare for work should be required to do so. That is fair. It is what the taxpayer would expect. People who are able to look for work or prepare for work should do so as a condition of receiving benefit. Those who fail to meet their responsibility should face a financial sanction.
392. This clause is the first in a series that will set out the requirements

that may be placed on claimants and provide for the sanctions that may follow the failure to comply with those requirements. In particular, the clause introduces the term “work-related requirements” and sets out four different types: work-focused interviews, which would require the claimant to attend interviews periodically to see what work he or she may or may not be capable of; work preparation, which would require the claimant to attend suitable training courses; work search, which would require the claimant to produce evidence that they have been looking for work; and work-availability requirements, whereby lone parents, for example, would be able to restrict their hours of work to suit their childcare arrangements. Clause 13 goes on to explain that the requirements can be imposed on an individual depending on which of those four groups they fall into. As I said, they will fall into four groups: those with no work-related requirements who are not required to do anything at all, and they will get their benefit; those subject to work-focused interviews only, and the interviews may be monthly, six-monthly, or three-monthly, depending on their circumstances; those subject to work-focused interviews and work-preparation only, which is a little bit of both; and those subject to all the work-related requirements.

393. Those groups are broadly the same as we have at the moment. For example, those in the employment and support allowance support group for lone parents with children under one will fall into the group with no work-related requirements. We intend that lone parents with children between one and five years will be in the work-focused interview only group. Jobseekers receiving jobseeker’s allowance will be in the group subject to all work-related requirements, as you would expect.
394. This clause provides the context for the rest of the chapter on work requirements. That concludes my explanation.
395. **The Chairperson:** There are a couple of wee points there, just to clarify in the



- general sense. It is indicated in a few places here that the first regulations will be by way of confirmatory resolution procedure. Does that mean that there will be other regulations following after the first, and on what basis are they subject to confirmation?
396. **Ms M Campbell:** Yes, for most, that would be the normal convention. With a Bill where there is a new policy, the first main regulations will be by confirmatory resolution, and subsequent regulations will normally be by negative resolution. That is ordinarily the case. If you flick to clause 44 or 45 — in fact, the explanatory memorandum probably sets it out as well — it will tell you the actual number of regulations that we are bringing through.
397. **Mr Pollock:** Clause 44.
398. **Ms M Campbell:** Clause 44. Do you want the list now?
399. **The Chairperson:** No, I do not want the list. I think that we need to go back to the Minister's original statement on this, because it was made very clear that these regulations — he did not say first regulations — will be by way of confirmatory procedure. I just ask you to reflect on that subject. It may well be the norm, but this is not a normal Bill.
400. **Mr Pollock:** I do not think that there is any subtext or anything like that. As Martina said, that is ordinarily the convention, because the first set will be the set that specifies all the particular groups, all the various exemptions and that.
401. **The Chairperson:** Fair enough. I was just flagging it up, because it could be an issue.
402. **Mr F McCann:** Some of my questions have been answered. However, this goes to the crux of the whole sanction. Over the past months, we have tried to tease out that whole thing, but all of it depends on the regulations of how and when sanctions will be applied. It is difficult to try to tease out the whole thing. All this is done on the premise that people will be trained for work that
- is there. There is no work there. Four or five people are chasing every job, and there is the impact that that has on people.
403. **Mr Pollock:** I think that you are right. As Martina said, the paragraphs that she is going through are putting things in context. However, in the broad context, this is where it all hangs together. If the interface between the personal adviser and the claimant is right and they get the right support, the idea is that they should progress on from there. If the implementation does not work in practice, then you get complications and people get sanctioned wrongly or feel that they are getting sanctioned wrongly, if they are slotted into the wrong work-related group in the first place. It all has to hang together for it to work through to the conclusion that we hope to reach.
404. **Mr F McCann:** A lot of it will — *[Inaudible due to mobile phone interference.]* — direction. Mickey touched — *[Inaudible due to mobile phone interference.]* — aspect earlier. It will all boil down to the direction that people are given. Every decision-maker and every personal adviser will have a different slant on what is in front of them.
405. **Ms McCleary:** That is where the guidance will come in. It is particularly important.
406. **Mr Pollock:** The personal adviser is at the front end of the process. As regards sanctions, the decision-maker should be at the other end of the process. It is about getting it right at the start.
407. **Mr F McCann:** I have dealt with some really strange and difficult cases in which people have been sanctioned.
408. **Mr Brady:** Just on the work-focused interview, I go back to the initial stages of welfare reform in 2007, which was put through by accelerated passage because we were told at the time that if we did not do that, people would lose their benefit. We were naive then. Thank God, we not as naive now. There was a lot of talk then about the training that client advisers were going to have.

- There has been a migration of 76,000 people from incapacity to jobseeker's allowance. Quite a proportion of them will be involved in these interviews. We have heard about autism champions and all of that and how people with bipolar can go in and be interviewed and be on top of the world but end up in bed for a month after it. Obviously you do not have it with you, but would it be possible to get some detail on the training that staff will get?
409. There is another thing that I am concerned about. When the actively seeking work requirement was introduced in the late 1980s or early 1990s, people were told that they had to show evidence. It is like this work search. Unscrupulous employers, certainly in my area, when I worked in the advice centre — people were going along to employers and saying, "I am looking for work. I want a job. Could you give me something to say that I have been with you?" Then they started charging them £10 or £20 for a letter. That is the reality, and this is the real world. Will all that be factored in? I know that it is not in regulations but that is the sort of thing that needs to be looked at as part of the guidance. It is a fact that that happened, and it continues to happen. It ended up that we were facetious about it. We gave people who had been signing on for a long time a wee leaflet to give to their box clerk saying, "I have been signing on so long that I think that I could do your job. Is there any chance of getting a job in the Civil Service?" It was just to make a point. That is the reality.
410. **The Chairperson:** Point made.
411. **Ms M Campbell:** Good point.
412. **Mr Copeland:** I want to clarify whether the current position regarding ESA and permitted work carries over to the new benefits and, if so, whether discharging the permitted work would be a viable excuse for not attending a work-related interview. As I understand it, there are several different groups of people on ESA, but let us take the —
413. **Ms M Campbell:** Sorry; are you talking about therapeutic work?
414. **Mr Copeland:** Permitted work. It is a mechanism that allows a person who is in the support group to work for 16 hours a week deriving an income of no more than about £100 £97·50. If you are in the support group, you can do that forever. If you are not in the support group, you can do it for 52 or 54 weeks or something like that. Will someone who is quite lawfully deriving the new benefit still be able to do permitted work? If they are summoned for an interview, will that interview be tied around the hours that they discharge? That could be 16 hours made up of two eight-hour days or whatever. As Mickey said, all this stuff is fine until it confronts reality.
415. **Ms M Campbell:** Absolutely; I take that point very firmly. I think that the answer is yes, but I will come back and confirm that. People who do voluntary work, for example, will be able to build that into their claimant commitment, provided that they are not working voluntarily full-time. Allowances will be made to allow people to continue to do voluntary work for all the right reasons.
416. **Mr Copeland:** With respect, voluntary work and permitted work are not the same thing.
417. **Ms M Campbell:** Absolutely; they are two different things. I will come back and confirm that, but I think that the answer is yes.
418. **Mr Douglas:** I have a question on the sanctions. *[Inaudible due to mobile phone interference.]* A member of my family has epilepsy. He may be going for an interview and may not have had an epileptic fit for weeks, but he could take one an hour before the interview. What, effectively, would happen with the legislation? When would the sanctions kick in?
419. **Ms M Campbell:** There would be good cause, obviously, and all those circumstances would be taken into account. Excuses such as bereavement and various other circumstances that

- we know happen to us all cannot be anticipated, and that will be considered by the claims adviser.
420. **Mr Douglas:** Is there a time span? Say that person did not report in that day or the next day, is there a week or some sort of timescale when they have to report or get a doctor's report?
421. **Ms M Campbell:** I am not sure. I will come back to you. However, I imagine that they would be expected to make a reasonable effort to notify the office.
422. **Mr F McCann:** My question has partly been answered, but I want to pick up on the good cause. I know that we have probably all struggled in trying to work out what "good cause" actually means. Have they ever come down with a —
423. **Ms M Campbell:** No. My advice is that you should not define "good cause" in legislation, simply because you could come up with circumstances today that would be accepted as good cause, but there could be something new and additional tomorrow. A fair assessment of "good cause" is common sense. It is about the relationship that the personal adviser will have built up with the claimant over time, and it is about the claimant's history in claiming, and whether they have complied with all the requirements to date, and this is, obviously, an unusual circumstance.
424. Although the guidance will give some examples of good cause, it is a common-sense approach. However, I take the point that members have made.
425. **Mr Brady:** It is too subjective to be definitive.
426. **Ms M Campbell:** Yes; absolutely.
427. We move on to clause 14, which is about the claimant commitment and the responsibilities that a claimant has to make. Clauses 45, 54 and 59 are also linked into the claimant commitment. The claimant commitment is a record of a claimant's responsibilities in return for receiving benefits. It is sort of like a contract. It will clearly set out what our expectations are of the claimants and the requirements that are placed on them for the receipt of benefit. It will also be clear about the consequences, and I refer to member Douglas's comment about the consequences of failing to meet those requirements. That will include a bit about sanctions.
428. We will require universal credit claimants to accept a claimant commitment as a condition of entitlement, regardless of which of the four groups they fall into. That is the groups that I talked about earlier — the work-focused only, work prep or work search. For those who do not expect to look for or prepare for work, the content of the commitment will be minimal, with just the requirement to inform us of a relevant change of circumstances.
429. For those whom we expect to seek or take steps towards work, the content will be a detailed list of the specific actions that they must carry out in return for benefit. For example, that could include the amount of time to be spent looking through job papers, the internet, etc, for vacancies; any specific jobs that they should apply for; any work preparation activities that would make it more likely for them to find work, such as attending a training course or registering with a recruitment agency or a website; and any interviews that they are required to attend at a jobs and benefits office. Alongside each action, the commitment will also include details of any sanction that will be applied if they fail to carry it out. This is about making it absolutely clear what the claimant must do and what will happen if they fail to do so. The claimant commitment will be revised as necessary, such as when a person moves between groups, because, obviously, the ages of parents' children will change and their availability will also change in line with school times. Therefore, they move between groups as their circumstances and responsibilities change or as their job search progresses. Member Campbell talked earlier about people who are so far down the spectrum and away from work. Those people will be required to take a series of steps to get themselves

- prepared, ready and closer to the job market.
430. The claimant commitment is about strengthening the link between people receiving benefit and meeting their responsibilities by helping to ensure that they fully understand what is expected of them. That, more or less, is clause 14.
431. **Mr Brady:** It is a two-way process. You mentioned access to the internet and job search — *[Inaudible due to mobile phone interference.]* Will that kind of facility be available in the job markets?
432. **Ms M Campbell:** Yes. We are looking at providing more of those stand-alone terminals where the claimant can go in and look for jobs or complete the application form. Obviously, the whole emphasis on universal credit is digital online. The job markets will have more of those terminals available.
433. **Mr Brady:** The difficulty is that a lot of people who are unemployed and looking for work do not have access to that facility. Obvious, buying newspapers costs money.
434. **Ms M Campbell:** It does, but claimants can go to the library, where they can access newspapers and the internet. We very much recognise that not everyone has a computer. However, I read something last night that stated that 75% of people in Northern Ireland have broadband, and I will try to track that down and come back on that point.
435. **Mr Brady:** Is there anything in the contract that the Department will sign to ensure that it fulfils its obligation, or is it a one-way contract that is just signed by the client? A contract can work both ways. It seems grossly unfair if you were to sign a contract to say that you will carry out specific actions that are asked of you.
436. **Ms M Campbell:** Sorry, I have not seen a copy of the claimant commitment.
437. **Mr Pollock:** It is a claimant commitment.
438. **Ms McCleary:** The other side to it is the payment of the benefit.
439. **Mr Brady:** That is the difficulty. If claimants do not fulfil their commitments, they do not get paid, but if the Department does not fulfil its obligation, then it goes back to what is good cause or common sense. I worked in the Social Security Agency a long, long time ago, and common sense is not so common sometimes, and we need to bear that in mind. I am just flagging up a possible difficulty.
440. **Mr F McCann:** I have just a small point to make. Martina said that 75% of people have broadband. That does not mean to say that 100% of people have access to computers.
441. **Ms M Campbell:** I do not have it myself.
442. **Mr F McCann:** Where I live, not a lot of people are running about with iPads or have computers.
443. **Ms McCleary:** It is worth mentioning that training on IT is likely to be a factor in some of the claimant commitments as well, because that will be important to help people move into work.
444. **Ms M Campbell:** There is also a lot of work going on with colleagues in the digital inclusion unit, which I think is in the Department of Finance and Personnel, linking into that whole strategy, which is part of the Government's commitment to increase access to broadband and get people to become more digitally aware.
445. **Mr Douglas:** This clause is not just about work-related issues. Is that right? It is also about the claim. To go back to Gregory and Mickey's point, will this be like a legal contract, as such? The onus is not just on the claimant. To go back to Gregory's point, you agree that you would exhaust every measure, but it might come down to the fact that that person would not need to have to be paid weekly or fortnightly. Is that the sort of thing that would be in this?
446. **Ms M Campbell:** Yes.
447. **Mr Douglas:** Would it be a legally binding contract on both parties?

448. **Ms M Campbell:** I do not know about the status of it being legally binding. However, it is a commitment that the claimant will sign, and it sets out clearly the steps that both parties — the adviser and the claimant — have agreed that the claimant will take to get ready to work.
449. **Ms Brown:** Just on Mickey's point about the location of internet access and that, has any work or research been done on the use of mobile phones? I know that on pay-as-you-go and most phones, you have access to free Wi-Fi. There are hot spots everywhere. Although it is not ideal or as good as a PC or a laptop — *[Inaudible due to mobile phone interference.]*
450. **Ms Stitt:** I think that that is part of the work that the digital inclusion unit is undertaking. I know that a colleague of mine is linking in with that as well. It is being investigated.
451. **Mr Copeland:** Will those who find themselves directed to IT training be required to fulfil any basic literacy or numeracy skills? If those are found to be failing, will that level of training be provided?
452. **Ms M Campbell:** Yes, that will be part of the preparation. Obviously, where there are literacy or numeracy issues, as is the case at the minute, there will be a range of courses to suit each level of literacy and numeracy.
453. **Mr Copeland:** Would the jobs that they would be expected, consequentially, of being capable of doing be limited by their skills level at that time? In other words, would their physical availability for work limit them initially to jobs that are physical in nature, or would the literacy and numeracy and computer training that may prepare them for other types of work be done in parallel with that or separate from it?
454. **Ms M Campbell:** I think that it would all be done in parallel. They would be doing a number of things. Your commitment would change as your circumstances change. At the moment, you come in to me today, you have no literacy or numeracy skills or no IT skills, but you are strong, fit and healthy, and have no childcare issues, etc, and you are available to work full time, so you are quite happy to take a physical job or a job of another nature that does not require literacy and numeracy skills. However, as the situation is today, employers have the right to specify what requirements they need of an employee, and it would be up to the claimant to match that employer specification. Therefore, at the minute, if you are only available for work of a physical nature, your agreement will specify that you are looking for jobs in the following areas. At the same time, however, you may be attending a work preparation course that includes literacy, numeracy and IT skills. When you complete that course, your claimant commitment will be reviewed, depending on your level of attainment on the course. That is the whole point about the claimant commitment. It is a living document, and it is reviewed as your circumstances change. Does that answer your question?
455. **Mr Brady:** On industrial diseases — I am thinking of things such as dermatitis — I have had cases where people were capable of work and were sent along to a job market and then sent to the old government training centre, which would not accept them because they were an insurance risk. As regards the personalised contract, it goes back to Sammy's point about it being legally binding, because most contracts are regarded as legally binding. In this case, for instance, would the Department think that there was not good cause for not attending, and that it could break the contract in the sense that it would not pay the person's benefit? The only redress that the person might have would be to appeal, and that could take a few weeks. Would industrial disease-type issues be factored in, for instance, someone who has dermatitis? That person could work in certain circumstances, although they may have to wear gloves, cream, all of that. However, in the past, most employers simply saw them as an insurance risk, and if there was a reoccurrence, then



— I know that is kind of going into the devil in the detail stuff, but it has to be flagged up and considered.

456. **Ms M Campbell:** I cannot say for certain, but I assume that that is the situation at the minute. Where people have conditions that flare up from time to time, flexibility is built in.
457. **Mr Brady:** Common sense.
458. **Ms M Campbell:** Common sense; absolutely.
459. **Mr Copeland:** The vast majority of people feel that they have been through some of this. There are some cases where it does work, but they feel that they are going through a whole rigmarole and a process that will not end up with employment. Many years ago, my wife was injured at work; she was a police officer. At that time, she was on either industrial injuries or reduced earnings allowance — one of those odd ones. She was found not to be fit for her proper job but fit for other work. It gave a list: cinema usherette. There was not a single cinema in the city of Belfast. It was an insult to her intelligence and an insult to my intelligence. What I am dreadfully afraid of is that a lot of this stuff will end up as being an insult to the intelligence of people who may not be academically bright, but neither are they stupid. If this is going to have any credibility, it has to be rooted in reality.
460. **The Chairperson:** I do not know whether there is any response to that.
461. **Mr Brady:** To follow Michael's point, bingo caller used to be a favourite.
462. **Mr Copeland:** That was one of them : cinema usherette and bingo caller, and there was not a single cinema left in the city of Belfast.
463. **Ms M Campbell:** I think that it goes back to Mickey's point: It is about common sense and reality.
464. **The Chairperson:** The bingo caller one tempts a response, but I will refrain.
465. I was hoping to test whether we could have a discussion on a short clause

— clause 15 — but it is a couple of minutes to twelve so we will break for lunch for half an hour. I remind you that we have gone through 14 clauses out of 44, so I will leave it to you to judge progress.

466. **Ms M Campbell:** Back here at 12.30?
467. **The Chairperson:** Yes, please.
- Committee suspended.*

*On resuming —*

468. **The Chairperson:** I declare the meeting open to the public. We are now recording. I ask people to switch off any electronic devices.
469. We got as far as clause 14. I will ask the Committee Clerk to recap on where we are.
470. **The Committee Clerk:** This will be a brief recap, and it may not capture everything. We will liaise with the departmental officials following the meeting to see what issues they have picked up on and to compare notes. Hopefully, we will have a comprehensive list of issues and questions that will be addressed by the Department.
471. No issues were raised with regard to clause 1. As regards to clause 2, some issues were raised in respect of the gender specification of a couple. Mr Copeland raised an issue about aggregated income. No issues were raised with regard to clause 3.
472. With regard to clause 4, Mr Brady raised an issue in respect of the uniformity of the claimant commitment. Ms Bradley raised an issue in respect of a TA soldier. The Department said that it would look into the issue where a claimant resides in the South and works in the North. On clause 5, examples of financial provisions and clarification on income in respect of child maintenance, which Mr Copeland raised, were to be provided.
473. On clause 6, the question was asked about when a prisoner is head of a household and whether *[Inaudible due to mobile phone interference.]* might be required. That would depend on the length of sentence or whether the person is on remand.
474. On clause 7, the key issue was flexibility with regard to payments and also whether banking products had been developed and the role of financial institutions in that; that includes not only banks but post offices and credit unions. The role of the voluntary and community sector or the advice sector was also explored. Issues were raised about the number of people who are paid fortnightly or weekly as opposed to monthly. I may not have picked this up correctly, but of the figure of 530,000 people mentioned, 142,000 earn less than £10,000 a year. It was indicated that people who *[Inaudible due to mobile phone interference.]* are unable to pay are more likely be paid fortnightly or weekly.
475. In clause 8, the big issue was the current requirement for childminders to be registered. The provision is that if a family member looks after a child, he or she must also look after an unrelated child. That issue is being addressed. DEL is looking into it, as is OFMDFM's childcare strategy group.
476. We move to clause 10. The question was asked whether claimants can still claim child benefit and child tax credits. Hopefully, that sums it up. Clarification was required on that and child tax credits.
477. Clause 11 relates to housing costs. This was a key issue on which there was lengthy discussion. Issues related to household size; how to calculate benefit for separated families with shared parental responsibility, and how that would affect foster carers. It also included some short-term fostering. That was subsequent to discussions in which one member raised the issue of how to define a bedroom, which led to discussion on box rooms being considered bedrooms.
478. There was a question on interest on the mortgage-support period, and clarification was required on whether it had expired; the 35-week to 13-week period was also discussed. There was discussion on under-occupancy and guidance on what constitutes suitable accommodation. Members raised the financial incentives in respect of over-occupancy: if people will be penalised for under-occupancy, should there not be incentives to address over-occupancy?
479. No issues were raised in respect of clause 12.

480. With regard to clause 13, the training of client advisers for work-related interviews was raised, as well as permitted work affecting claimant commitment. The Committee wants detail in respect of that. There is a period for submitting evidence in respect of good cause to avoid sanctions. That, too, was raised by members.
481. **Mr F McCann:** I hate to interrupt. However, I have raised the issue of permitted work at the Committee on numerous occasions. Obviously, people who are on benefits have to be available for work. Many people would like to volunteer to work in their local communities, and that is to be encouraged. If they do, will that be considered as work or as their being unavailable for work? Can that be checked out for us?
482. **Ms M Campbell:** I said that I would confirm that with regard to Mr Copeland's question. As you say, voluntary work is to be encouraged. It will be built into a claimant's commitment with regard to restricting his or her availability for work or it may satisfy requirements. It depends on the individual's circumstances.
483. **Mr F McCann:** Is there a list of restrictions on what they can or cannot do?
484. **Ms M Campbell:** I imagine that that would be specified in the regulations, although I am not sure. Voluntary work is permitted, and it will be taken into account as satisfying some of the claimant's requirements for work — *[Inaudible due to mobile phone interference.]*
485. **The Chairperson:** I do not want something to hold up —
486. **Mr Copeland:** I just want to add, with your permission, Chair, one adjunct to the under-occupancy issue about children who are not normally domiciled in the house. Will you also address the issue that, if there is someone in the house who requires care during the night because of mental or physical disability, that is excluded?
487. **Ms M Campbell:** That is covered.
488. **The Committee Clerk:** The last clause that the Committee got to was clause 14 about the claimant commitment. Issues were raised in respect of internet access for job searches. There will be access in job centres and libraries, and newspapers would be available there, also. Questions were also raised about the numeracy, literacy and IT assessment carried out to help people in their job searches.
489. An issue was raised as to whether industrial diseases would be reflected, and it was confirmed that they would be, as would any training subsequently provided in respect of IT, etc.
490. **The Chairperson:** Michael, you mentioned during the lunch break that some information that was sought earlier might be brought back. We will have that now as well.
491. **Mr Pollock:** OK, Chair. We can update the Committee on some of the points that were raised this morning. I have given the Committee staff a few work examples of universal credit assessment. They are based on existing benefit levels, as opposed to — *[Inaudible due to mobile phone interference.]* Fra mentioned the support for mortgage interest. We checked with DWP colleagues over lunch as well. They have not yet — *[Inaudible due to mobile phone interference.]* As I say, there is still discussion on the finances that will be required for that.
492. I mentioned the work examples. I think that it was Mickey who asked whether child benefit would be required as a qualifying benefit. It is not a factor for universal credit, but it may be a factor for some other passported benefits. Michael Copeland asked about housing costs and tenancies in respect of someone who is on remand or in prison. There are examples. One that was cited to me was about cases of abandonment, where the tenancy reverts. However, the basic principle is that housing benefit could still be paid to the person who



- is left in the property. I hope that that helps.
493. **The Chairperson:** Thanks for that. We are ready for you, Martina.
494. **Ms M Campbell:** Thank you, Chair. We move to clause 15, which is about the work-focused interview requirement. This introduces the concept that a work-focused interview requirement may be placed upon some universal credit claimants. These interviews are designed to keep the claimant in touch with the job market and local labour market developments. They also give claimants the opportunity to explore steps that they might take, immediately or at some point in the future, to increase their chances of getting work, getting work that is better paid or increasing the number of hours that they work.
495. During the interview, the adviser will ensure that the claimant is aware of the help and support that is available to them. That could consist of literacy and numeracy courses or courses run by DEL, or simply access to online services to help them in the job market, or access to childcare and budgeting support. All claimants, except those in the group with no work-related requirements, may be required to participate in the work-focused interview. Those interviews normally take place once a year. For some people, they may take place more often, but that will be agreed with the claimant in their initial interview and any subsequent review interviews. That is the completion of clause 64, and regulations will set it out in more detail.
496. **The Chairperson:** We are talking about clause 15.
497. **Ms M Campbell:** What did I say? Clause 64? Sorry; it is paragraph 64.
498. **The Chairperson:** You are well ahead of yourself.
499. **Ms M Campbell:** I did not have enough coffee at lunchtime. *[Laughter.]*
500. **The Chairperson:** Unfortunately, we are not at clause 64. We will move on swiftly to clause 16. When we get the chance, run for it.
501. **Ms M Campbell:** Clause 16 is about the work preparation requirement. It requires that the claimant take actions that will increase their chances, now or in the future, of getting work, work that is better paid or increased hours. Therefore, all claimants who are fit and able to prepare for work should be required to do so as a condition of receiving benefit. It is likely that all but the most work-ready jobseekers will have some sort of work preparation requirement placed upon them, even if it is simply updating their CV or even drafting a CV, and help will be available to them to do that.
502. People who have been found, through the work capability assessment, to have limited capability for work but who are capable of work-related activity will also have some work preparation activity requirements placed on them. In those terms, many disabled people play a full and active role in the labour market, and there is evidence that work is good for people's physical and mental well-being; a great deal was said about that in the debate last night. There are still too many people on benefits who have been written off, and the Department is committed to increasing the number of disabled people in employment. We will provide better and more intensive support to help people to get off benefits and to find sustainable work.
503. Advisers will devise a tailored work preparation plan for each claimant. The details of that will be included in the claimant commitment, and the claimant can, obviously, challenge the adviser, and they will reach some kind of compromise.
504. As I say, examples of work preparation could include skills training, confidence building, drafting a CV, or work experience. Again, the regulations will set out other actions.

505. **Mr Brady:** When you hear that people have been “written off”, I always wonder who has written them off, because most of the people whom I have dealt with over the years certainly have not written themselves off. The system may do that. That is where the anomaly arises in all these so-called reforms, and we are really going to start paying attention to your condition.
506. **The Chairperson:** Keep it moving, Mickey.
507. **Mr Brady:** One thing that worries me about this is the undertaking of work experience or work placement. In my constituency, a store has taken eight young people on work experience. They get paid their benefit when they are working, and the employer gets free labour. People who were working there previously have been paid off. The employer gets x amount for taking them. That is worrying. It seems to me that there are not enough restrictions on the employer. If the kids or young people do not take the placements, they will be sanctioned; the employer will not.
508. This is not a recent phenomenon; it has been going on for 25 — nearly 30 — years. They introduced schemes whereby young people worked in hairdressers, which got £15 a week for taking them on. They paid them £10 a week, so they got free labour and an extra fiver. Nothing has ever really been done about it. That is an area that the Department needs to address, as employers seem to have free reign. Yet the young people who are expected to participate in these schemes will be sanctioned. There is no equality, and it is not equitable at the other end. That will have to be looked at.
509. **Ms McCleary:** That was discussed in the not so recent past. As we said then, work experience regulations, particularly for those who — *[Inaudible due to mobile phone interference.]*
510. **Mr Pollock:** It is something *[Inaudible due to mobile phone interference.]* DWP, in its work programme, or Steps 2 Success in DEL here in Northern Ireland. *[Inaudible due to mobile phone interference.]* They have fairly robust procedures to monitor the performance of a company. If it is the case that a company is substituting trainee experience for labour, there would be sanctions. *[Inaudible due to mobile phone interference.]* It works both ways, and if it works well, it works well for both.
511. **Mr Brady:** I want to make one final point on that. Any rules, regulations or agreements work only if they are properly enforced. Unfortunately, it is a one-way system, in that the person gets penalised but the employer, the would-be employer, or the putative employer — whatever you want to call them — does not, and that needs to be tightened up. There was the fiasco in Britain where —
512. **The Chairperson:** Sorry, Mickey, can we deal with the clause? Have you addressed your concern about the clause?
513. **Mr Brady:** Yes.
514. **The Chairperson:** I appreciate the importance of the matter, and I am trying to ensure that we get clarity on it.
515. **Mr F McCann:** To follow on from what Mickey said, this has a knock-on impact on what DEL provides. However, I have sympathy with what Mickey said. Local people with kids were doing a week’s hod-carrying work for a tenner. It needs to be stated clearly in regulations that there are strict rules to guide people when they take on employment. The jury is still out on whether it would be a work programme. However, the preparations for people going into work are interesting. Obviously, it is on the premise that work will be available. You mentioned four tools that are essential for getting people back into work. However, it needs to go a wee bit further.
516. The nature of jobs has changed, along with the traditional trades that people would have relied on. Has anything been built in that looks at the job market and the availability —

517. **Ms M Campbell:** Yes, it is based on the local job market.
518. **The Chairperson:** It is tailored and localised — *[Inaudible due to mobile phone interference.]*
519. **Ms M Campbell:** Clause 17 talks about the work search requirement. Jobseekers claiming universal credit will be required to take all reasonable action to look for work in return for their benefit. That is similar to what happens at the moment. The clause defines the work search requirement in two parts: first, a general requirement to take all reasonable action to obtain paid work; and, secondly, a requirement to take any particular action specified by an adviser, such as applying for a specific job or registering with a particular recruitment agency. That builds on the point that Mr McCann raised about the local job market. For example, if Tesco opens a new store and there are x number of jobs, people, where they are suitable, will be advised to apply for those jobs. Therefore, it is tailored to the local market.
520. Regulations will allow some claimants in certain circumstances to restrict their work search either indefinitely or for a particular period. That can be due to childcare arrangements or other circumstances. As I said, regulations will specify that. At the beginning of the claim or period of unemployment, claimants may be allowed to restrict their job search to their previous profession and rate of pay. However, the longer they are out of work, the wider their search will have to become, and they will be asked to accept a job of a lesser standing. Alternatively, the person's circumstances may mean that they can only do work of a particular type or work for a number of hours, for example, if they have young children, school hours, or a health condition that fluctuates and means that they can work only in specific types of jobs.
521. Regulations made under clause 25 will set out what we expect claimants to do in order to be treated as having taken all reasonable steps. Claimants will be required to spend as much time on job search and work preparation activities as the number of hours they are required to be available for work. For example, a claimant required to look for full-time work will be required to do job search and work preparation activities full time. If a claimant has to look for only 20 hours' work a week, they will be asked to do job-share search and work-preparation activity for only 20 hours. However, if they are full time, they will be expected to spend the equivalent time that they would work taking steps to get ready for work.
522. The exact requirements will depend on the claimant's circumstances and will be set out in the claimant commitment, which the claimant will agree. Essentially, claimants are to be encouraged to do all that they can to look for and find a job. That is the purpose of the clause.
523. **Mr F McCann:** You said that people will try as hard as possible to place them in their former profession. However, over time, some of the regulations that guide those professions change; for example, the work that they do with machinery may be upgraded. Would training to continue in their former profession be part of that?
524. **Ms M Campbell:** That could happen, with the adviser's agreement. DEL runs sponsored courses relating to manual lifting and health and safety in the workplace, for example.
525. **Mr F McCann:** I knew a guy who upgraded his work experience. He was probably called a plumber and then became a specialist heating engineer and dealt with certain machines. However, those machines are continuously upgraded. Therefore, you need to be retrained on the new machines that come out to allow you to continue with that work. Will that training be provided to ensure that people are kept up to date?
526. **Ms M Campbell:** I am not sure whether that type of specific training will be provided by DEL. Certainly,

- in discussions with the adviser, the claimant can ask for that to be considered in their agreement.
527. Clause 18 is about work availability. As I said repeatedly, we expect jobseekers to maximise their chances of moving into work, and so we expect them to be able to take up any offer of work immediately. There will be some exceptions to that rule, and those will be specified in regulations.
528. Where a claimant is allowed to restrict their work search, they will only be required to be available for jobs that fit within those restrictions; that will be people with childcare or caring responsibilities, for example. That means that, typically, at the beginning of a claim or period of unemployment, claimants will only be required to be available for work in their previous profession with a similar rate of pay. Alternatively, the claimant's circumstances may mean that they are only required to be available to work for a number of hours of a particular type. For example, work that fits around school hours, as I have just said, or work that would not aggravate an existing health condition.
529. As universal credit is an in- and out-of-work benefit, it may not be possible for some claimants who work to take up another job immediately if it would interfere with their current job. That could, for example, be somebody who works part time and is able to increase their hours, but has to do so by taking another job. In those circumstances, the requirement to be available immediately could be relaxed. Again, as I said, we would relax the requirement where there are caring responsibilities or where people are engaged in voluntary work. That completes that clause.
530. **Mr Brady:** Just on the question of availability, the guidelines and applying common sense. Someone whom I represented a couple of years ago was sanctioned because it was said that he was not available for work. However, the reason for that was that he was getting married [*Inaudible due to mobile phone interference.*] The ultimate test of availability would have been if a member of staff had walked up the aisle, tapped him on the shoulder and said, "You have a job."
531. **Mr Durkan:** Hard labour. [*Laughter.*]
532. **Mr Brady:** Well, some might argue that he would have been better going to the job.
533. **The Chairperson:** I think that he probably should have been sectioned. [*Laughter.*]
534. **Mr Brady:** I will not comment on that. I am just making the point that some strange decisions are made about availability. If there were proper guidelines in place, they may save people from a fate worse than —
535. **Ms M Campbell:** That is a good point. I would like to think that the Department has learned from examples of decision-making that lacked common sense.
536. **Mr Brady:** I hope so. I should point out that he is still married, as you will be glad to know.
537. **The Chairperson:** He must have had marriage guidance.
538. **Mr Copeland:** My question is a bit obtuse. Will any special arrangements be made for, or consideration given to, members of the Territorial Army or Reserve forces?
539. **Ms M Campbell:** Yes. That is being considered.
540. **Mr Copeland:** Will that ensure that if they are the head of the household, the entire mechanism could be put in place again when they return? Does the income that they provide during a period of deployment count?
541. **Ms M Campbell:** As far as I know, the existing arrangements, whatever they are, will continue.
542. **Mr Durkan:** In clauses 17 and 18, what geographical considerations were given to the availability of work and claimants' work search?

543. **Ms M Campbell:** The travelling distance is described as “reasonable”, and I presume that regulations will define what that is. Obviously, it will take account of bus routes, availability of public transport, whether the claimant has a car, etc.
544. **The Chairperson:** Did we not deal with a statutory rule recently in which the time stipulated was 90 minutes each way? We will move on.
545. **Ms M Campbell:** Clause 19 deals with claimants subject to no work-related requirements. The clause sets out the categories of claimants on whom work-related requirements must not be imposed and for whom financial support will be unconditional. That includes claimants whom we do not expect to be able to work or to prepare for work, or who will not, under any circumstances, be subject to work-related requirements.
546. As is the case now, people found to have limited capability for work and work-related activity, owing to a disability or health condition, or those with regular and substantial caring responsibilities for a severely disabled person, will not have any work-related requirements imposed on them. Claimants with responsibility for a child under the age of one will also not be required to meet any work-related requirements. In the case of a couple with children, the couple will be able to nominate which person will be treated as the responsible carer and, therefore, exempted from conditionality. However, the other partner will have to submit to conditionality.
547. Additional categories of claimant will be added to that group through regulations. We expect that to include claimants who are over the state pension age; women who are heavily pregnant or have just given birth; and claimants who qualify for universal credit in exceptional circumstances where they are in full-time education. As universal credit is an in- and out-of-work benefit, conditionality will apply to people in work who still receive universal credit up to a particular threshold. That threshold will be set at the equivalent of the national minimum wage. So, if claimants are working full time for 35 hours and are paid at the minimum wage, they will not be required to do any more, but if they are working full time and are paid less than that, they will be required to take steps.
548. Regulations will also provide that where a claimant in work continues to be above the threshold, but for a particular change of circumstances, they should remain in that group as long as those circumstances apply: for example, when a claimant’s earnings fall because of their taking maternity leave or being on jury service. We will use regulations to prescribe a comprehensive list of the circumstances in which a claimant would remain in the group subject to no work-related requirements.
549. Individuals whom we do not expect to work full time will face a lower conditionality threshold that reflects the earnings that they could accrue in the hours for which we would expect them to be paid. It is important that individuals who are able to look for work should be required to do so as a condition of receiving benefit. Equally important is that those unable to look or prepare for work, or who are in work and doing enough, should receive unconditional financial support. That concludes my explanation of that clause.
550. **Mr Copeland:** I just want to check the process by which the limited capability for work would be assessed and in whose opinion that would be limited.
551. **Ms M Campbell:** Sorry, I should have mentioned that when explaining the previous clause. An assessment will be conducted by a healthcare professional, who could be a GP, nurse or another specified person.
552. **Mr Pollock:** That is set out in section 60 of the Health Act 1999.
553. **Mr Copeland:** Is it envisaged that, at that time, healthcare professionals will have access to people’s full medical records, or will they just see people themselves?



554. **Ms M Campbell:** I do not know. I will get back to you on that one.
555. **Mr Copeland:** The difficulty is that there will be several opinions on every case. Generally, the opinion that counts in this case is that of the healthcare professional, who is probably the person least capable to take a decision on the basis of the information available to them. I am very curious about that point, because I know what kind of decisions have come through the current system. There seem to be a number of conditions, which, to be quite frank, healthcare professionals do not think exist. ME is one, and fibromyalgia is another. Despite clients arguing that they are incapable of work, someone else takes a decision, in the absence of medical records, that they are, and much flows from that. I await your written answer with interest.
556. **Mr Brady:** You mentioned education-related exemptions. One current exemption applies to a single or lone parent in full-time education — *[Inaudible due to mobile phone interference.]* — qualify for benefit. Will that still be the case for someone who is in full-time education but also a responsible lone parent? The Bill refers to a parent being responsible, as in caring for a young child, and that, I presume, applies to children under the age of one. I wonder whether that will change, because it is an exemption that quite a lot of people avail themselves of currently. However, there is no specific mention of someone who is in full-time education and also the responsible carer of a child.
557. **Ms Stitt:** I think that Martina mentioned earlier that there would be some exceptions.
558. **Ms M Campbell:** They will be listed in the regulations.
559. **Mr Brady:** You mentioned education exemptions, but you did not —
560. **Ms M Campbell:** They will be specified in the regulations. I will have a look at what that involves and come back to you.
561. Clause 20 relates to claimants subject to work-focused interviews only. They will not be required to take on any other form of activity that gets them a job. They will fall into this category if they are the responsible carer; that is, a lone parent or a nominated carer in a couple with a child aged at least one but under three. We intend to set this at age five so that all lone parents and nominated carers with a child under school age are required to participate only in work-focused interviews. That mirrors the currently unused flexibility in income support legislation, which enables work preparation requirements to be imposed on lone parents with a child aged between three and five. We have kept that legislative flexibility in case it becomes appropriate at some point in the future; for example, if more is needed to achieve good employment outcomes when their child moves into early or full-time education.
562. In addition to parents with young children, the clause enables regulations to prescribe additional categories of claimants who will fall into that group and will, therefore, be required to participate only in an interview. We spoke about one such category earlier, which is that of foster carers, either single or nominated carers in a fostering couple who have a child in placement, or while they are between placements but intend to continue fostering up to a maximum of eight weeks. That will apply until their youngest foster child reaches the age of 16, or in exceptional circumstances where the foster child has proven care needs until they leave care. Where there is evidence that a foster child requires the full-time care of two adults, both members of the fostering couple will fall into that group.
563. The whole purpose of work-focused interviews is to keep claimants in touch with local labour market developments and to ensure that they are aware of the help and support available. These interviews give claimants the opportunity to explore the steps that they might take, either now or at some point in the future, to increase their

- chances of getting into work, getting work that is better paid or increasing the number of hours worked. It includes encouraging parents to prepare for their child reaching school age, and, for foster carers, it could include signposting to support and considering how a return to the labour market might be balanced with existing responsibilities.
564. Work-focused interviews are a significant tool in supporting the Executive's aim of reducing the number of people living in poverty, particularly children, by reducing worklessness. That concludes my explanation of clause 20.
565. **Mr Copeland:** Will any allowance be made for parents, guardians or couples with a child who has an enduring recognised medical condition or a disability, such as attention deficit disorder or attention deficit hyperactivity disorder, where leaving that child alone for any period would generally be quite difficult?
566. **Ms M Campbell:** I would say that that would be built into the claimant commitment, but I will check. It may simply come down to common sense and the relationship between the adviser and claimant.
567. **Mr Copeland:** That is what frightens me.
568. **Ms M Campbell:** Margaret has just reminded that it could come in under that commitment if the child is considered disabled.
569. **Mr Copeland:** I presume that that is for both physical and mental impairment?
570. **Mrs Cochrane:** You say that you plan to set the age at five to take into account children who have not started school. I appreciate the idea behind that. However, for it to be really effective, it needs to go beyond Halloween of the first term. People are trying to settle their children in school at that stage, when they may be in class for only one or two hours. I do not know whether something as specific as that could be built in.
571. **Ms M Campbell:** That will be built in.
572. Clause 21 sets out those who will be in the work preparation group: claimants who will be subject only to work preparation and work-focused interview requirements and not exactly required to look for work. Claimants in this group will be expected to take reasonable steps to prepare for work and attend work-focused interviews. They may not be required to look for or be available for work. Claimants could be in this group if they are disabled or have a health condition that means that they have limited capability for work at the time. This group is equivalent to the work-related activity group in the current employment and support allowance. We are committed to providing better and more intensive support to take people off benefits and find them sustainable work. However, in return, we expect claimants who are capable of taking steps to prepare to return to work to do so.
573. Regulations may also allow us to put responsible carers with a child aged between three and five into this group. That power replicates our current flexibility in income support legislation. Advisers will have broad discretion when setting requirements and will devise a tailored plan for each claimant. This means that the nature and amount of work preparation could vary from claimant to claimant, but we will always be reasonable in the claimant circumstances. As I said previously, examples might include skills training, confidence building, work experience or help with preparing a CV. That concludes my explanation of clause 21.
574. **Mr Brady:** When we hear the word "discretion", we think, "Great, some common sense." However, my experience over the years has been that talk of discretion in the agency context means targets. What if you have an office in Newry, for instance, with client advisers, people going to work-focused interviews and discretion being used? Does everybody have to accept it when they do not qualify? We have to be honest about this: the Department functions primarily on targets and

- is target-led. It has been for a long, long time. So if you had sympathetic, and rightly so, client advisers who did not sanction people — we will come on to that in clause 26 — I wonder what would happen in an office where everything was wonderful, a utopia. Would the Department start to look at targets and say that perhaps not enough people were being sanctioned?
575. **Mr Pollock:** There are no targets on sanctions. There never have been; there never will be.
576. **Mr Brady:** I am a bit sceptical about that. I just want to make that point.
577. **The Chairperson:** I think that you have made your point. OK. Thank you. We will move on.
578. **Ms M Campbell:** We are at clause 22 — time flies when you are having fun, does it not? Clause 22 deals with claimants who are subject to all work-related requirements. Any claimant who does not fall into any of the previous three groups may be subject to all work-related requirements. This will be the default group for work-ready claimants, including parents with children over five years of age. Claimants in this group will be required to seek work and be available for work, as they would be currently under jobseeker's allowance. In some circumstances, that requirement may be waived temporarily; for example, if the claimant has a domestic emergency, such as flooding, or falls ill. Regulations will outline the circumstances in which that may apply. They may also be required to participate in work-focused interviews and carry out work preparation activities.
579. **The Chairperson:** OK. That is great. We will move to clause 23.
580. **Ms M Campbell:** Clause 23 deals with connected requirements. Therefore, it is wrapping up, if you like, all the previous clauses. It enables us to impose other requirements on claimants in connection with the main work-related requirements. Essentially, it enables us to require claimants to participate in interviews and provide evidence that they are complying with the requirements imposed on them. The requirement on the jobseeker is to demonstrate that he or she is actively seeking and available for work. Signing a statement to that effect is a key part of the jobseeker's regime. This power will also enable us to conduct all the other reviews and interviews that we hold with claimants at key points throughout their claim. Such interviews may be to deal with skills needs, adjust claimant commitments or review any limitations based on their job search activities as their circumstances change.
581. Evidence shows that regular contact with claimants helps to reduce the time that they spend on benefit. Regular and meaningful discussions with people about what they have been doing to find or prepare for work helps us to ensure that they fulfil their responsibilities. This clause also requires us to require claimants to report certain changes in their circumstances, such as leaving a job, that might affect the group that they fall into or the requirements placed on them. That is particularly important because the real-time information system that we will use to collect the details of their earnings details will operate retrospectively. Therefore, there could be a gap of up to four weeks between claimants leaving a job and our identifying that through the real-time information system. This power allows us to ensure that the requirement is placed on the claimant to notify us and keep us up to date as his or her circumstances change. That is the purpose of that clause.
582. **The Chairperson:** If members are OK with that, we will move on.
583. **Ms M Campbell:** Clause 24 deals with the imposition of requirements. We want to give advisers broad discretion to impose requirements that they think give claimants the best chance of finding or preparing for work. There may be certain requirements or actions that are not and will never be appropriate. The clause allows us to make regulations to put such matters beyond doubt, setting out particular circumstances in which



- requirements or specific actions must not be imposed.
584. Restrictions drawn from current regulations include where imposing a requirement would go against a sincerely held religious belief or conscientious objection, as long as the claimant can show that he or she has reasonable prospects of finding work notwithstanding those restrictions.
585. The clause also enables advisers to take certain matters into account when setting up a work-focused interview or work preparation requirement. That could be used to ensure that any such requirements accommodate a person's current job, health condition or caring responsibilities. There may also be circumstances that justify claimants' exemption from having requirements imposed on them for short periods; for example, if they have just had a bereavement or domestic emergency. A specific example of that, which the Assembly debated yesterday before its debate on the Bill, was allowing claimants who have been victims of, or been threatened with, domestic violence to be given a 13-week exemption from any work-related requirements. That sums up clause 24.
586. **The Chairperson:** Thank you. We move on to clause 25.
587. **Ms M Campbell:** Clause 25 is about compliance. Claimants have to take all reasonable action to prepare for and look for work. Ultimately, what constitutes all reasonable action will depend on each case. We want to be clear about what we expect claimants to have to do in return for their benefit. Regulations under the clause will provide that only certain actions and a certain level of activity will be treated as taking all reasonable action. They will set out some matters that can be considered as contributing to reasonable action and any that cannot. That will set a benchmark minimum standard. For single claimants with no caring responsibilities, we expect that to be a full-time job search. We also expect that the actions taken must be those with the best prospects of finding work. We may also use that power to prevent abuse of the system by those who try to evade their responsibilities. So claimants who deliberately sabotage their chances of getting work by sending in the wrong CV or being unco-operative in an interview with an employer will not be considered to be actively seeking work and may be sanctioned. Claimants who are violent or abusive to jobs and benefits office staff during an interview will also be treated as not having participated. That concludes that clause.
588. **Mr F McCann:** We are starting to look into a group of clauses that includes sanctions. I think that some require an explanation of how sanctions will work in practice.
589. I understand the whole question of people being violent in local offices, and so on. However, there is a reference to claimants' behaviour or appearance. Will you explain that or give me an example of how someone's appearance can undermine his or her success in a job interview?
590. **Ms M Campbell:** I think that this is where a claimant answers no, or gives a stupid answer, to every question asked by an employer at interview.
591. **Mr F McCann:** Are you talking about body language?
592. **Mr Durkan:** It is behaviour.
593. **Ms M Campbell:** No, not body language.
594. **The Chairperson:** It is not about someone's physical appearance, as in whether they wear a shirt and tie.
595. **Ms M Campbell:** No, it is appearance in so far as whether they turn up to the interview intoxicated or in a state that means that they are unfit to be interviewed. It is what you would normally expect.
596. **Mr Brady:** What is normal?
597. **The Chairperson:** Some people's sartorial elegance would exclude them from all sorts of things.

598. **Mr F McCann:** Is there anything that lays out what this means? It may mean what you said, Martina, but it may also mean many other things. People may not be able to afford to wear a suit, shirt and tie for interview.
599. **Ms M Campbell:** No, it is not that.
600. **Mr F McCann:** I know people with tattoos on the side of their head or on their arms, and they were frowned on at interview. A tattoo is a personal choice.
601. **Ms McCleary:** Clause 25 makes no reference to appearance at all.
602. **Mr F McCann:** My point is that it does not say that it does not apply to appearance.
603. **Ms M Campbell:** The regulations will, I hope, contain more detail.
604. **Mr F McCann:** As Mickey says, it is common sense.
605. **Ms M Campbell:** Mickey's good friend, common sense.
606. **The Chairperson:** No doubt, we will return to this one again. We move on to clause 26.
607. **Ms M Campbell:** Clause 26 deals with higher-level sanctions. This provides for financial sanctions for those claimants who are subject to all work-related requirements and who, without good reason, fail to meet their most important responsibilities. We recognise that most people want to find work and will never be in the position of facing a sanction. The vast majority of claimants already comply with requirements. However, for the small minority who shirk their personal responsibilities, we need to have an effective sanction system that encourages responsibility and deters non-compliance. That links back to the overarching policy intent of universal credit. It is about making people take personal responsibility, making work pay and encouraging people into work.
608. Sanctions, especially for the most serious failures, are set at too low a level. Claimants are not always clear about the consequences of failing to meet their requirements. We want to create a clearer, stronger system that is easily understood by claimants and acts as a more effective deterrent to non-compliance. The clause provides for sanctions of up to three years for the most serious failures: failing to apply for a vacancy; failing to accept an offer of work; failing to take part in certain work placement schemes, such as work experience and mandatory work activity; and losing pay or employment voluntarily or by reason of misconduct. Those failures clearly damage a claimant's employment prospects, and it is only right that we have a sanction system that effectively deters such behaviour.
609. The amount of the sanction will be set in regulations. We intend to set a sanctionable amount that is broadly in line with the existing jobseeker's allowance arrangements: for example, a single claimant subject to a sanction is expected to have his or her benefit reduced by about £9 a day.
610. The sanctions period will be set in regulations, too. Those will come before the Committee and be subject to confirmatory resolution. We expect the sanction period to be three months for a first failure, six months for a second and three years for a third and subsequent failures. A three-year sanction would only ever be imposed where a claimant fails to meet their most important requirements on at least three separate occasions. We expect that to be applied to very few claimants. There will be some circumstances where shorter sanctions may apply; for example, when a claimant leaves a job voluntarily a week before their contract ends, but such cases would be the exception. If a claimant refuses to participate in work experience or mandatory work activity and cannot show good reason, they would get a three-month sanction. If, four months later, they were asked to apply for a job, and they refused to do so, and, as long as there is no good reason, their sanction would be for six months.
611. There are clear sanctions that are critical to incentivise claimants to meet

- their responsibilities. Only in the most extreme cases of non-compliance will claimants face a three-year sanction. In the example that I have just given, the claimant would have to refuse another job or fail to meet another important requirement within 12 months of the second failure, and then they would be sanctioned for three years. As I said earlier, when a claimant comes in and they are discussing their work availability, their work preparation and work search requirements, that will all be built into the claimant commitment, and details of the sanctions that will be applied for failure to meet any of the agreed requirement will be set out clearly. The claimant will be made fully aware of what they are signing up to. That concludes the explanation.
612. **Mr Brady:** We are getting to the crux of the whole thing, which is sanctions, and that is what it is all about, although people might see it in other ways.
613. Over the years, I have dealt with cases where somebody was working and, for whatever reason, the employer accused them of misconduct. Obviously, that person would go in and make a claim and be asked whether they left voluntarily or were sacked. A form would be sent to the employer to give their reasons, and the person would also get a form, and a decision would be made on the basis of that. Again, we are back to guidance. You could get an employer who has something personal against somebody, and that person could be sanctioned. It could have been the equivalent of constructive dismissal, or something like that. It always seemed to me that the credence, in many cases unfortunately, was given to the employer, even in cases where the employee or the claimant was not at fault.
614. I have another question. I know that Michael was going to ask it, but I am going to ask it as well. In the case of the sanctions — three months, six months and three years — if that is the head of the household, and let us say that he has a wife or a partner and three or four children, does the partner have to make a fresh claim in her own right? Technically, they are regarded as a couple living together, and that creates difficulties around that, because they would still be treated as a couple. Is the family going to be sanctioned as well?
615. **Ms M Campbell:** No. Hardship provisions are built in, so the payment will continue.
616. **Mr Brady:** Will the same amount of benefit be paid to the partner and children? You think of a hardship payment as something temporary, short-term or crisis and not even subsistence level.
617. **Mr Pollock:** The individual's amount would be reduced. If I were the individual —
618. **Mr Brady:** Would it be like a split payment? There could be an argument where somebody who gambles or drinks or whatever would be taken out of the equation and the partner would get the equivalent of the overall benefit less a single person's amount, or something like that.
619. **Ms McCleary:** Something like that.
620. **Mr Brady:** That would need to be clarified.
621. **Mr Copeland:** The case would not be that the miscreant, if that is the right word, or the person who had been sanctioned continues to get the payments, on the basis of being head of the household, with his amount taken out?
622. **Mr Pollock:** They would continue to qualify for hardship payments in their own right. They would get access to hardship payments.
623. **Mr Copeland:** So, the person who has been sanctioned would cease to be head of household?
624. **Mr Pollock:** They would not qualify for benefit —
625. **Mr Brady:** Would the partner then be classified as a lone parent and get the lone-parent rate for themselves and the children?
626. **Mr Pollock:** Sorry, Mickey. Would what?

627. **Mr Brady:** The head of the household has been taken out of the equation. Would the partner who gets the benefit then be classified as a lone parent and receive the attendant premiums?
628. **Mr Pollock:** We are getting into the detail. I would not like to say yes or no. However, I would imagine that they would still be defined as part of a couple. The overall amount would —
629. **Mr Brady:** That is a technical detail.
630. **Ms M Campbell:** That detail will be in the regulations. We will have a look at the Department for Work and Pensions regulations that are available and come back to you on that on Tuesday. It may be that we do not have that level of detail. However, I might be able to give you some kind of high-level —
631. **Mr Brady:** Chair, I am not trying to be — well, I am trying to be picky because you have to be. I think that it is important to flag up these issues now for your sake as well as ours, because it gives you the opportunity to come back to us.
632. **Ms M Campbell:** Absolutely. I agree totally.
633. **Ms McCleary:** Basically, the idea is that the person who is penalised is the person who has not co-operated. The family should not be affected. That is the general direction of travel.
634. **Mr F McCann:** I want to go back to the issue of crisis payments. If, as Mickey says, the identified head of the household has moved out of the equation, and a person has to apply for money to survive, how long does it take? In some of the stuff that you have here, it looks as though the person will have to make a new claim for benefits. If the head of the household is out of the equation, there has to be a reassessment of benefits. Take, for example, somebody who has three children. That person goes into the office and says that their wife or husband has been sanctioned and they have to make a claim for benefits in their own right. The office tells that person that they are overloaded and offers them an appointment in four weeks' time.
635. **Mr Pollock:** I do not think that that will necessarily be the case, Fra. One point about universal credit, which the Minister mentioned yesterday, is that a person will be on the system for at least two years after. Therefore, all the details of the claim, whether it is for a couple or individual, would be on the claim.
636. **Mr F McCann:** It is a change of circumstances.
637. **Mr Pollock:** It is a change of circumstances. However, the details would relate only to one particular issue. *[Inaudible due to mobile phone interference.]*
638. **Mr F McCann:** So, if somebody walks in, staff could press a button and find out that their eligible section of that money is £54 a week. They will just deduct the £54 a week and pay the rest. You know that it does not work like that.
639. **Mr Pollock:** No; it would not work like that necessarily. It would require some level of decision. However, in theory, it should work something along those lines in so far as the household claim for universal credit has been assessed at x amount, which is the total of your claim, your partner's claim, any allowance for housing costs, any allowance for *[Inaudible due to mobile phone interference.]* and any other additional premiums. If, as you say, someone is sanctioned because he or she did not comply with a requirement, that amount should be reasonably simple to deduct.
640. **Ms McCleary:** I do not think that there is any need to make a fresh claim.
641. **Mr F McCann:** For the purposes of that, could we find out?
642. **Ms McCleary:** We will come back on that.
643. **Mr F McCann:** Is "good reason" is the same as "good cause"?
644. **Ms M Campbell:** Yes.
645. **Mr F McCann:** So, the same would apply.

646. **Ms M Campbell:** Yes.
647. **Mr F McCann:** I have dealt with cases in which people have been sanctioned for a couple of weeks. I have actually gone to the office with them and argued their cases for crisis loans. Cases took, perhaps, five or six days to assess. By that time, the crisis was over and people did not get payments. I understand what you are saying. You are going by what is there to the letter. However, it does not work in offices.
648. **Ms M Campbell:** I know.
649. **The Chairperson:** We need clarification on the process when someone is sanctioned, whether it is for three months, six months or three years, and how that actually impacts on the other party to the claim.
650. **Ms M Campbell:** Clause 27 deals with other sanctions. This provides for financial sanctions for claimants who, without good reason, fail to meet certain work-related or connected requirements. The whole emphasis is on creating a clearer and stronger sanction system that acts as an effective deterrent to non-compliance. We also want a system that, in the case of certain failures, can incentivise claimants to re-engage quickly. Clause 26 provides for higher-level sanctions up to three years, and any failures subject to those sanctions cannot also be sanctioned under this sanction. You cannot have a double whammy. This clause provides the power to impose sanctions for other failures for an open-ended period and for a fixed period of up to 26 weeks, or a combination. As with the previous clause, the sanctionable amount will be set in regulations and will be broadly equivalent to the amount that will be sanctioned under existing benefits. To use the same example, a single jobseeker who fails to meet his requirements is expected to see his universal credit award reduced by £9 a day.
651. We expect to use the powers under this clause for three broad levels of sanctions. Medium-level sanctions will apply to claimants who are subject to all work-related requirements who fail to take all reasonable action to search for work or be available for work. The actual sanction periods will be set in the regulations. Medium-level sanctions will be four weeks for a first failure and three months for second and subsequent failures. Claimants who fail to meet particular work preparation requirements, such as participating in skills training, will face lower-level sanctions. Lower-level sanctions may be applied to claimants subject to all work-related requirements and claimants who are subject to work-focused interviews and the work preparation requirement only. Sanctions will also be applied to claimants in these groups who fail to meet connected requirements such as participating in interviews and supplying relevant information.
652. So, we intend to introduce two components to the lower-level sanctions, an open-ended component that will continue until a claimant re-engages with their requirements and a fixed component. The fixed component will last for one week for a first failure, two weeks for a second and four weeks for a third and subsequent. The purpose of the open-ended component is to encourage claimants to quickly re-engage. It will be clear to all that the quicker you re-engage, the shorter your sanction.
653. Some claimants will be only required to participate in work-focused interviews, and the amount of the sanction for claimants in this group will be lower than that for jobseekers and claimants with limited capability. Again, all the detail of this will be set out in regulations. That is my explanation of that. Again, these regulations will come before the Committee and be subject to confirmatory procedure.
654. **Mr Copeland:** I want to ask one thing.
655. **The Chairperson:** Then, are you going to go away?
656. **Mr Copeland:** I will be away two seconds. Is the time distance for travelling 90 minutes, or whatever it



- is, within the territorial and geographic integrity of Northern Ireland, or does it include other neighbouring states?
657. **Mr Pollock:** Ninety minutes is 90 minutes. It depends what direction you go in.
658. **Mr Copeland:** I mean does it apply on both sides of the border, if work were available in another jurisdiction?
659. **The Chairperson:** You have to allow for check-in time at Heathrow.
660. **Ms M Campbell:** I do not think so. We will clarify that.
661. **Mr F McCann:** Part of this was asked earlier, and it is something that we have laboured on. People may suffer from different forms of mental illness and do not realise that they are ill. They could be bipolar, for example, and not recognise it. Is there anything to allow for that? People might get deeply offended that they are being sanctioned for something that they cannot do anything about.
662. **Ms M Campbell:** If they do not know that they are ill, how would the adviser know?
663. **Mr F McCann:** The point is that people have gone back to friends and family and told them that they had been sanctioned and could not understand why. When you phone the office and explain that the person is bipolar, the sanction is already in place.
664. **Ms McCleary:** The issue then would be whether the sanction could be removed once that representation is made. It is almost an informal appeal.
665. **Mr Pollock:** I would be amazed if a client adviser did not pick up on something such as that.
666. **Mr Brady:** That goes back to a question that we asked four years ago: what training will client advisers have to pick up on this?
667. **Mr F McCann:** That is the issue.
668. **Ms M Campbell:** We said that we would come back to you on that.
669. **Mr Pollock:** We do not expect them to be experts in all aspects. Their day-to-day job is dealing with individuals.
670. **Ms M Campbell:** Clause 28 is about hardship payments. Again, most of the detail will be in the regulations, which will be confirmatory and which will come before the Committee. This provision is to introduce a clearer, stronger sanction system under universal credit. It will be a system that is easily understood by claimants and which acts as an effective deterrent to non-compliance. Alongside improvements to the sanctions system, we want to maintain important safeguards. These include provisions to make hardship payments. Regulations under this clause will enable hardship payments to be made where any universal credit claimant has received a sanction and, as a result, is or will be in hardship. Many aspects of the system will be similar to the current arrangements under jobseeker's allowance. For example, in determining whether a person is or will be in hardship, we will continue to look at matters such as the resources available to the claimant's family or wider household. We will also take into account the risk that, without hardship payments, essential items such as food, heating and accommodation will not be available to the claimant or their family. These matters will all be set out in regulations.
671. In line with the current system, hardship payments will not be made automatically. Claimants will only be eligible for the payments if they make an application providing a statement of their circumstances and continue to meet their work-related requirements. Again, all this will be set out in regulations. We expect the rate of hardship payments to be broadly similar to current rates. This means that hardship payments would be equivalent to approximately 60% of the value of the sanction. So, a single jobseeker who would have been sanctioned £9 a day would have his award reduced by around £65 a week, and if he were to successfully claim hardship, he would

- expect to receive a weekly payment of around £39. It is roughly 60% of the sanctioned amount.
672. We intend, however, to introduce some changes. We want to ensure that the existence of hardship payments does not undermine the deterrent effect of sanctions. Therefore, we intend to make hardship payments recoverable. We are also exploring options for time-limiting payments so that claimants who repeatedly fail to meet their work-related requirements cannot rely on hardship payments for the duration of their sanction. We recognise the need, however, to ensure that a robust safety net remains in place. Therefore, these changes will not apply to certain groups of claimants whom we consider to be most vulnerable, either through their own circumstances or those of a family member. For these purposes, we expect such groups of claimants to reflect those currently eligible for jobseeker's allowance hardship payments without being required to wait for 14 days from the beginning of the sanction period. This will be extended to cover anyone *[Inaudible due to mobile phone interference.]* This is about putting in place important safeguards to protect vulnerable people, and it is also about helping to incentivise claimants to meet their requirements while protecting the most vulnerable people and their dependants. That is my explanation.
673. **Mr Brady:** Why do you not call them crisis loans rather than hardship payments? They are exactly the same thing. You made an important statement about protecting vulnerable people. The fact that they are vulnerable may well be the reason why they are initially sanctioned. It goes back to staff assessing competence. Competence is a big part of why that person is actually failing. In a way, you have hit the nail on the head; if you are going to make provision for them being vulnerable, why sanction them in the first place?
674. **Ms M Campbell:** That is right. I keep saying that it comes back to the claimant and the relationship that they build up with the adviser. Through this regime, that relationship and trust will, hopefully, build up. The adviser will get to know the claimant and be aware of other factors —
675. **Mr Brady:** I accept that, and you have to pay tribute to social security and DEL staff who deal with this; you have some very good advisers. Their difficulty is that they may not be able to pick up on the nuances of a person's condition, a bipolar disorder being one such thing. I represent many people with bipolar disorders, and if you sat down and talked to them on a good day, they could fly to the moon; the next day, they would not be capable of doing anything. That is why I think that training is important.
676. **Ms M Campbell:** We will come back to you on that.
677. **Mr Brady:** I am not talking about medical training, just what is required to pick up on such things. The same applies when dealing with autistic adults.
678. **Mr Pollock:** In the past, we shied away from specifying things such as bipolar or autism; somebody else might say, "Well, I'm as bad".
679. **Mr Brady:** Somebody was just in a bad mood that day, and that could have been the staff. *[Laughter.]*
680. **Ms M Campbell:** Clause 29 allows the concurrent exercise of functions by the Department for Employment and Learning. It is really to reflect the difference in how jobs and benefits offices are structured here. It allows DEL to carry out functions in respect of the work-related requirement. That is it, plain and simple.
681. **Mr Durkan:** What might happen, given the uncertainty of DEL's future?
682. **Ms M Campbell:** If DEL is dissolved before the Bill goes through, the draftsmen will make provision to bring those functions into another Department, to DETI or wherever. If it is not dissolved by the time the Bill is passed, the transfer of functions order will carry the consequential

- amendments to the Bill that will bring those functions into whichever Department gets those work search powers.
683. **The Chairperson:** OK; thank you.
684. **Ms M Campbell:** Clause 30 relates to the previous clause about DEL carrying out functions on our behalf. So, it is about allowing contracted providers in the private and voluntary sectors to exercise functions relating to imposing work-related and connected requirements. That is needed to deliver employment programmes, such as the new employment programme Steps 2 Success, which DEL is consulting on. A jobs and benefits adviser, using the power to impose work preparation requirements under clause 16, may require claimants to participate in a work programme. Work programme providers — these guys in the private or the voluntary sector — will then be authorised, through clause 30, to impose relevant requirements, such as work preparation or participation in a training course, on claimants.
685. Any functions that are contracted out in that way will be subject to the same restrictions that apply to jobs and benefits advisers. Providers will be able to impose only requirements that are appropriate to the claimant's circumstances and to the group that the claimant is in. So, if the claimant has been assessed as only being required to take work preparation steps, the provider cannot then require them to look for work or attend and interview for work at the same time. An important point is that the ability to impose sanctions cannot be contracted out. If the claimant were to fail to comply with any requirement that is imposed by the private person, the decision to sanction will be for jobs and benefits decision-makers.
686. **Mr Brady:** Fra and I were on the Committee for Social Development in the previous mandate. You mentioned clause 16, which we tried to have deleted because of the privatisation aspect. The then Minister for Social Development will remain nameless, but she told us that there was no need to change or delete it, because it was never going to happen. We tabled the amendment, and it was voted down. About four weeks later, medical support services became private. She spoke with a forked tongue, for want of a better expression. There seems to be an agenda to privatise. If I worked in the Social Security Agency, particularly in a local office, I would have serious concerns about the implications of this because it opens the door for large-scale privatisation. I know that you are talking about Pathways to Work and all that, but clause 30(2) states:
- "An authorisation given by virtue of this section may authorise the exercise of a function—*
- (a) wholly or to a limited extent;"*
687. The Department can authorise someone to do that. That gives a very wide remit, and that is worrying. I keep quoting Atos as an example, but it is a good example of a bad example, if that is the right way to put it. To me, that clause opens the door to privatisation. The staff must feel that, and I am not sure what consultation there has been. We have recently had meetings with NIPSA, and it is certainly not happy about this. It will affect not only claimants but staff.
688. **Ms M Campbell:** Of course, many of our staff will be our claimants because many of them will be entitled to claim universal credit.
689. **Mr Brady:** I accept that. When I worked in the social security office and family income supplements were introduced, a special section had to be set up for civil servants [*Inaudible due to mobile phone interference.*] The point is that they may be well be going on to universal credit.
690. **Ms McCleary:** It may be the voluntary sector that becomes involved in this. We just do not know.
691. **Mr Brady:** That might well be the case, but that goes back to the whole issue around funding for the voluntary sector.



692. **Ms McCleary:** If the voluntary sector were to take on this work, it would not be doing so for the good of its health. It would have to be paid for it.
693. **Mr Brady:** It depends how much. It is semantics, but I wanted to flag that up. We have been down this road before about clause 16, and we are five years on from 4 June 2007, when this was first introduced. By 25 June, it was a done deal because it went through on accelerated passage.
694. **The Chairperson:** We have clarified what the Department's intention is. It is now 2.00 pm. We are scheduled to work until then, and I presume that we will be inquorate very quickly. I propose that we conclude at clause 30. We will return to that.
695. Martina, Anne, Michael and Margaret, thanks very much for your support and guidance. When we resume next week, we will recap where we are at. If members are broadly content with the way that we ran this session, we will do the same thing next week. Next week, we will have a brief recap from the Committee Clerk. If there is additional information that we could not get today, can we have that by next week? If members are happy enough, we will proceed on that basis.
696. There is one other item on which I will give notice, because it affects the Bill. In the Assembly last night, I mentioned considering invoking Standing Order 35. We cannot deal with that today or even tomorrow because it is a substantive Committee item. As it has not been invoked before, the Clerk, the Bill Office and the Speaker's Office will be consulting on that issue. We will deal with that as a substantive Committee item next week.
697. **Mr Douglas:** Will you clarify that it is not the case, as was suggested last night, that there will be a separate committee?
698. **The Chairperson:** This is the Statutory Committee, and, as I said, I do not want to open up the discussion because, in fairness and out of courtesy, I am just giving notice that I have asked officials to look at Standing Order 35. Ultimately, that question will be dealt with by a Speaker's ruling because it has not happened before. We will give a full report to members next week. I am serving a wee bit of notice that I am looking at this as a member. We will bring all the relevant information to the Committee when we have it.
699. **Mr F McCann:** Mickey raised the question earlier of bipolar people. Is there anything in writing about this Bill or the previous Bill, to which we put down an amendment in 2007, that details the training and its duration and quality that staff get to enable them to monitor people they see? There must be some guidance there.
700. **Ms M Campbell:** There is.
701. **Mr F McCann:** There is nothing there. I have spoken to a number of personal advisers over time, and, to be perfectly honest, they think that the training they get is a joke. In fairness to them, it does not equip them to deal with such situations. We can talk about what may be suggested in a Bill, but the actual outworking of this does not happen.
702. **Ms M Campbell:** The Disability Discrimination Act 1995 requires all employers to provide some level of training to all their staff on the requirements under disability legislation.
703. **Mr F McCann:** Could we have that?
704. **The Chairperson:** OK, because it is, I suppose, a substantive item for discussion at some point, so —
705. **Mr F McCann:** It was raised as part of today's discussions.
706. **The Chairperson:** That is not a problem.
707. **Ms M Campbell:** OK; thank you.
708. **The Chairperson:** Thank you very much.



# 11 October 2012

## Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
Mr Mickey Brady (Deputy Chairperson)  
Ms Paula Bradley  
Mrs Judith Cochrane  
Mr Michael Copeland  
Mr Mark Durkan  
Mr Fra McCann

## Witnesses:

Ms Angela Clarke	Department for
Mr Brian Doherty	Social Development
Ms Leonora McLaughlin	

709. **The Chairperson:** We will receive a briefing from departmental officials.
710. **Mr Brian Doherty (Department for Social Development):** Our presentation on social fund reform was part of our first presentation.
711. **The Chairperson:** Fair enough. That is why I said earlier that there was a bit of straying.
712. **Mr Doherty:** My apologies; I should have made that clear.
713. **The Chairperson:** OK, there may be another couple of questions.
714. **Mr Brady:** Thanks for the briefing on the social fund.
715. Quite a bit of the argument on Tuesday, which was regurgitated by many on many occasions, was that the Welfare Reform Bill not getting through would mean that the social fund would finish in April. However, what you are saying, Brian, is that there has to be a new scheme in place anyhow. Therefore I could not understand why, if there is to be a new scheme in place, people were rabbiting on, for want of a better expression, about the current social fund when it will be abolished anyhow. I tried to explain that, but we were there till 12.00 am, and I did not want to be there for another 12 hours.

716. **The Chairperson:** Keep it temperate, now. This is not Tuesday; this is Thursday.
717. **Mr Brady:** It was used as an argument, and I really could not understand why. I presume that there will be a new scheme, and it will not necessarily be based on similar lines.
718. Under the current social fund, if you apply for items and get a grant or a loan, you cannot apply for the same items within six months. Is that likely to be maintained?
719. Paragraph 3.5 of your briefing states:  
*"It is planned to introduce a pilot exercise to trial the direct provision of goods to customers as an alternative to cash payments. It is anticipated that this sort of provision could provide an opportunity to put in place competitive discount arrangements with suppliers."*
720. In my experience, going back to the 1980s, that does not work. When the social fund was introduced after single payments, one furniture supplier closed down because it relied totally on such vouchers. One shop in Newry, which has a branch in Belfast and is quite a big furniture shop, had a sign in its window saying, "DHSS giros accepted." When I asked whether those were the only cheques accepted or could anybody go in with a cheque, they said, "Oh, yes." That was stigmatising people who were on benefits. Therein lies the problem.
721. Then you had a patronising attitude, whereby visiting officers or social workers would go into the shop with the person by the hand and tell them what to buy. I remember that they were selling Spanish cookers, where the grill was in the oven and did not work. I am using that as an illustration of the pitfalls so that we can avoid them. The idea that there is somebody who knows better than you what you should have in your house and that shops are making a

- profit out of it needs to be addressed. This is an opportunity to avoid all that.
722. **Mr Doherty:** Under the proposals in the Welfare Reform Bill, the social fund will be abolished. Therefore from our point of view the issue is operational delivery: we need to have a scheme that we can deliver. As I said earlier, that provides us with an opportunity to do something for Northern Ireland that will not be delivered elsewhere in the UK. In England, any money that is dished out will be dished out to local authorities. Scotland and Wales are watching what we are doing before they decide how to proceed, although they have different approaches. There can be little doubt that, with effect from 1 April next year, subject to the Welfare Reform Bill being passed, the social fund will not exist. That would be terrible, given that it would take £30 million out of the pockets of very vulnerable people and out of the economy in Northern Ireland. Therefore, it is very important to us. I will let Leonora pick up on the items within the six months. We will look at white goods in a pilot scheme. You rightly raised issues, Mickey, about how that worked. In GB, an organisation called the Family Fund does something very similar. However, we will not be giving out cheques or vouchers. The simple payment system is being rolled out across the agency with effect from Monday past, so cheques will not be in existence from March of next year.
723. The pilot scheme has yet to be devised, but our intention is that if people told us that they needed a cooker, for example, we would use local suppliers to deliver a cooker. In this day and age, most such items come with a 12-month guarantee, whereas in the past, some people would come in within a 12-month period telling us that they needed three, four or five cookers. The new scheme avoids that and gives people support for what they actually need. Nevertheless, we have to have some discretion. We want to pilot it to see whether it works; if it does not, we will perhaps look at other things.
724. **Ms Leonora McLaughlin (Department for Social Development):** We have the same issue with items as we have with trying to spread the money and making sure that as many customers as possible are assisted. As Brian said, because of guarantees, we intend that there will not be repeat applications for the same item within a 12-month period, except in instances of disaster such as fire or flood, in which case we will make an exception.
725. We are aware of sensitivities about the goods and services pilot. A very strong theme came through in the phase 1 research, and there is no intention that customers will be stigmatised. The Family Fund, which operates in Northern Ireland as well, has a very good system whereby pre-paid cards are used in some instances, which allow customers a degree of discretion about the item that they get, so long as it is a cooker or fridge, for example. That is probably a good model that we can look to. However, it remains to be seen. As Brian said, we will take this on a small scale in the first instance.
726. **Mr Doherty:** The pilot will not be done before we land the scheme on 1 April; it will be done at some stage next year when we have worked out what shape we want it to take. It may be done in a small geographical area just to see how it works. That will not be landed on 31 March.
727. **Mr Brady:** I am not criticising examples of good practice or good models. It is really that the control, in a sense, is taken away from the person and they are told what somebody else thinks they require. I know that the Family Fund does good work and that there were people in the past who used the fund almost as a topping-up system, and that has to be watched. It goes back to the experience of staff who have been implementing the system for a long time.
728. Going back to what I said, this is a chance to be innovative and introduce a scheme that targets people who need it most. There will probably be tiers for the most needy up the scale. We were originally told that the social fund would be cut by some 10%. You are now saying

- that that will not happen, which is good news.
729. **Mr Doherty:** Absolutely.
730. **Mr Brady:** It is still probably inadequate but better to have a 10% cut than lose it.
731. **Mr Durkan:** Mickey was saying that too many cooks spoiled the broth. [Laughter.] On the budget, the discretionary support policy is for the social fund as well.
732. **Mr Doherty:** It is for the discretionary payment scheme with effect from 1 April 2013.
733. **Mr Durkan:** Yes, sorry, in the new scheme to replace the social fund.
734. **Mr Doherty:** Yes.
735. **Mr Doherty:** It will keep the same budget as the social fund.
736. **Mr Doherty:** That is what the Treasury advised us, that we will receive —
737. **Mr Durkan:** You mentioned £30 million.
738. **Mr Doherty:** The total expenditure per year is £29 million for community care grants and crisis loans, and it is funded from two channels. The Treasury gives us about £16 million a year, which is part of its annually managed expenditure, and we keep about £13 million from what we recoup on the loans, with Treasury agreement. That is how you get the £29 million.
739. **Mr Durkan:** Some people who talked the other day about it being abolished said that it was, I think, £82 million.
740. **Mr Doherty:** Eighty million pounds is an accurate figure in that it is the entire social fund. However, we are talking about the non-regulated elements. The social fund also includes maternity grants, funeral payments, budget loans —
741. **Mr Brady:** Yes, funeral expenses, and discretionary and non-discretionary payments.
742. **Mr Doherty:** Discretionary and non-discretionary payments. That would be reflective of the total budget.
743. **The Chairperson:** That is all part of the debate, and we could debate that all week. If we do not pass the Welfare Reform Bill, we still have the current legislation. We have no void.
744. Earlier, I think that Angela or you referred to working with the community and voluntary sector on referrals in particular. Will you elaborate a little bit on that for me?
745. **Ms Angela Clarke (Department for Social Development):** Certainly. When developing the policy, some opinions were expressed that, when people appear in an emergency or crisis, we should force them to take advice from certain people. It is not about forcing people, but referring them and making them aware that there are particular agencies that could help them with advice. The important thing is to meet the immediate need there and then; that is what we have to do. We are also keen to make sure that people know where they can go to get good advice, which will, perhaps, help them in the future and maybe more so than with the immediate need that crept up on that occasion.
746. We know that there is a lot of concern about the advice, and we want to make sure that whatever advice is available is provided to the appropriate standards. The Department has done a lot of work with advice agencies over the past couple of years, and we have agreed a new contract quite recently. It is very much based on a partnership arrangement, and a lot more information is shared about the kind of people they see and the kind of issues that come up. That is then fed back to the Department. In some ways, we try to match how the money is spent against the areas that come for advice.
747. As welfare reform is such a huge issue and will cause so much concern, the Department has decided that the focus of the advice and the quite substantial amount of money that goes to the advice sector really needs to be on welfare reform. We want to make sure that there are staff on the ground. There

- will be support from the centre, but we want to make sure that the people who deliver on the ground are properly trained. We also want to see evidence of the kind of training they get and we want them to work very closely with the Department to understand what they should be training in. It is not just that. It is about trying to align better across the public services, so that we do not do that in isolation and work more closely with social services and with the people who support people. That may take a bit of time, but we have to bring it all together and make sure that the people at the centre are being supported with the proper advice.
748. **Mr Doherty:** If I could just add to that. Earlier, Fra wanted an assurance that the Social Security Agency would deliver the scheme. As part of our early engagement with stakeholders, the message came through fairly clearly that the advice sector did not want to play the role of delivery agent, and that it saw itself playing a different role. We very much respect that, and, as has been pointed out this afternoon, some people do not, necessarily, like to engage with government. Thankfully, that is not a huge number of people, but we must give those who do not want to engage an avenue.
749. The advice sector has a very important role to play in signposting people to the services it provides on a holistic basis, which we cannot provide. Citizens Advice or Advice NI deliver a debt service on behalf of the Department of Enterprise, Trade and Investment (DETI), and people come to it for social fund moneys. Many people who are on benefits are probably better debt managers than, dare I say it, anybody in this room. They get very small amounts of money and know how to use it. Being able to divert or signpost them to the advice sector to give them other advice on the other things that are available will be really important, and the advice sector was very keen to play that sort of role. It could be that some people in our offices will do that for them. We have not quite worked that out. As Angela said, this is very much a partnership approach. We recognise the important role that the advice sector plays in supporting people through difficult times.
750. **Ms A Clarke:** Perhaps it is important to mention the new financial capability strategy that DETI is developing. We want to work very closely with DETI to ensure that it understands the kind of issues and business that we need support on. What DETI does has to be properly reflected across government.
751. **Mr F McCann:** I think that the advice services have been an unequal partner with the Social Security Agency as far as the level of funding they get is concerned. How much funding goes to that sector? I think that one Minister gave it an extra half a million pounds a number of years ago, and that may have been increased by the present Minister. Given the level of advice that is required for the changes that are coming, a substantial amount of money needs to be put in. The advice services are stretched dealing with that. Other groups also provide professional debt advice and a good service — the likes of the Housing Rights Service, which works with people who are losing their homes. Advice NI is a great organisation. Citizens Advice is a good policy organisation. Other groups are specific in the advice and work that they do, and they need to be considered, too.
752. **Mr Doherty:** As indicated, the Minister has that actively under consideration. However, the Committee will be aware, as you know, that our benefit uptake programme is delivered in strong partnership with Advice NI. Of the 25,000 people whom they would have contacted last year, debt advice is among much of the advice that they would provide to vulnerable people on very low incomes. I tend to disagree; I think that we have worked on a true partnership basis with the advice sector. It is a challenging partnership at times, but it is one in which we recognise that they have a very important role to play.



753. **Mr F McCann:** It is like a Big Brother partnership, sometimes. I think that that applies to most Departments.
754. **Mr Brady:** I have two points: you mentioned debt advice, and I think that Advice NI, which has a debt advice unit with just two people working in it, who do invaluable work, certainly in Newry, has just moved into Ballybot House, where I used to work.
755. **Mr F McCann:** Where is Ballybot House?
756. **Mr Brady:** It is in Newry, funnily enough.
757. **Mr F McCann:** Mickey worked there for 38 years.
758. **Mr Brady:** My point is that they do very good work. On another point: you mentioned people from the voluntary sector going into local offices. I am not sure whether that is a good idea, because of what, based on my experience of working in the advice sector, I call “brown envelope” syndrome. Very self-assured people who would come in to see me over the years would not open letters from the buroo. They could have contained giros; they could have been good news or bad news, but, historically, people in the North are suspicious of the statutory sector, particularly the buroo. That is just the way it is.
759. You worked in social security and so did I. A distance is needed, because, when I was in welfare rights, I was a kind of conduit between cash, being the buroo, and caring, being social services. So, you tended to get people coming in from both directions. I think that it is important to retain that kind of independence. I am not sure what the voluntary sector thinks of this at the moment, but it is just that, historically, people are suspicious. When I started in welfare rights, having just worked 100 yards up the street in the buroo, it took about six months or a year for people to accept that I was not one of “them” and was now one of “us”. It is just something to keep in mind.
760. **Mr F McCann:** I think that you are still one of them.
761. **The Chairperson:** When Mickey started, they were getting brushes for the chimney sweeps. [Laughter.]
762. **Mr Brady:** That was only for 10-year-olds.
763. **Mr Doherty:** It is a point that is well made. Although I believe that the trust and confidence that people have in the different services is considerably improving, with regard to the advice sector sitting in the office, it is something that we would look at in conjunction with the advice sector. It is more about making sure that it has access, if needs be, to our premises. Its groups are not in every area of Northern Ireland, but it is something that we will definitely look at.
764. **Mr Brady:** There may be a lot of vacant office space in local offices if things carry on the way that they are going, unfortunately.
765. **The Chairperson:** I am always curious when people say, “I am only going to ask one question”, and they then ask at least three. If people are content that we have explored this, may I thank Brian, Leonora and Angela for their briefings and for dealing with the variety of questions. This work is obviously ongoing. Thank you.
766. **Mr Doherty:** Thank you.





# 16 October 2012

## Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

## Witnesses:

Ms Martina Campbell	<i>Department for Social</i>
Ms Jane Corderoy	<i>Development</i>
Mr Colm McLaughlin	
Mr Michael Pollock	
Ms Margaret Stitt	<i>Social Security Agency</i>

767. **The Chairperson:** I welcome Michael, Martina, Margaret and Colm, who are here to brief the Committee on the clauses and to answer questions on anything that you are not sure about. I remind members that, at last week's briefing session, we completed clauses 1 to 30, which, I am told, is very good.
768. If people are satisfied with the process that we used last week, we will continue to use it. Today, we will start with clause 31. Clause 44 is the last clause of Part 1, and, hopefully, we will swiftly move on to Part 2, which will deal with working-age benefits. We are keeping a record of these discussions, which will form part of the report. That will include some correspondence to the Department. Members will be aware that we asked questions last week and we got some answers, but we will raise those questions again. A copy of that correspondence is in your folders.
769. Martina, last week, there were some questions that you were not able to respond to, and there were some that you did give quick responses to, so thanks for that. Is there anything that you want to update the Committee on now? If not, you might be able to come back to it later, but there were some outstanding matters from last week.
770. **Ms Martina Campbell (Department for Social Development):** We have pulled together the written responses to three letters from the Committee, and they need ministerial clearance. We hope that we will get all three letters to you before the end of the week.
771. **The Chairperson:** OK. That is fine.
772. **Mr F McCann:** Obviously, we are scrutinising the Bill, but does that mean that every question we ask has to get ministerial clearance before it is answered?
773. **Ms M Campbell:** Any correspondence with the Committee always goes through the Minister. That is normal procedure.
774. **The Chairperson:** We got an answer to some of the issues that we queried last Wednesday morning.
775. **Ms M Campbell:** Most of your queries were answered on the day. There was only the odd one that needed confirmation of our understanding.
776. **The Chairperson:** It is really just down to the question.
777. **Mr F McCann:** We are just asking a question, Chair.
778. **Mr Michael Pollock (Department for Social Development):** Some of the questions that were asked and answered last week were brought up in correspondence from the Committee, so it is a formal record of all the questions that were asked at the meeting.
779. **The Chairperson:** So, if we do not write to ask for the answer, we will not get a written reply. We will get a verbal reply. OK, we will move on. I remind everyone

- that this evidence session is being recorded by Hansard. Your explanatory notes are in the memorandum in tab 2 of your Bill folder. I invite you to start with clause 31. We will go through the same routine as last time. We will deal with clause 31, get the explanation of it, and then Martina will take a moment to see whether anybody needs any clarification, and we can get that.
780. **Ms M Campbell:** That is fine. If you are happy enough, we will crack on.
781. Clause 31 introduces schedule 1, which allows the Department to bring forward regulations to cover some of the more detailed arrangements for universal credit. Schedule 1 is on page 97 of the Bill and page 20 of your explanatory and financial memorandum.
782. Schedule 1 contains supplementary regulation making powers. It relates to key definitions or areas where additional flexibility is needed. In the current system, the equivalent issues are all covered by regulations already. Paragraphs 1 and 3 of schedule 1 enable regulations to deal with detailed issues around couples and joint claims; for example, so that we could convert a joint award into one or two single awards where a couple breaks up or where one half of the couple —
783. **The Chairperson:** Sorry, Martina. I think members seem to be struggling to find what is being referred to. It is tab 2 of your Bill folder.
784. **Ms M Campbell:** Sorry. The explanatory memorandum may be easier for members to understand. I think, Chair, you said that it is at tab 2.
785. **Mr Durkan:** It depends where the member put it back last week.
786. **Ms P Bradley:** I put mine back in tab 3.
787. **The Chairperson:** It is the thick, stapled one at the back of tab 2, for those who did not interfere with its position. Page 20, did you say, Martina?
788. **Ms M Campbell:** It is page 20 in my version. It starts at paragraph 115. Schedule 1 is on page 97 of the Bill.
789. **The Chairperson:** Clause 31 is on page 19 of the explanatory notes, and schedule 1 is on page 20. We are working through the explanatory notes.
790. **Ms M Campbell:** The explanatory notes are slightly easier to understand. I am sort of working between the three; I am multitasking.
791. As I was saying, schedule 1(1) and 1(3) deal with issues around couples and joint claims. Last week, we talked about a situation where one half of a couple did not accept the claimant commitment. This schedule would allow us to separate the couple out and allow the half that would accept the claimant commitment to make a claim on their own account, but we would take into account the joint earnings.
792. Schedule 1(2) provides powers for linking rules, which may be needed, as now, in situations where there are short breaks between claims and that would otherwise result in unfairness. The simpler structure of universal credit should mean that linking rules are less of a feature than they are now, but the need for them still needs to be considered.
793. Schedule 1(4) contains powers to define in regulations what counts as income and capital, including the treatment of earned and unearned income and tariff income in respect of savings. So, as now, there will be a sliding scale where the claimants have savings in excess of £6,000 up to a maximum threshold of £16,000.
794. Schedule 1(5) provides for regulations to set out the circumstances in which a claimant is to be considered responsible for a child or young person and, therefore, entitled to additional support.
795. Schedule 1(6) provides what is essentially called a reserved power to pay certain amounts of universal credit by voucher. This has been discussed as a possible way of making payments for childcare, and although it is not the preferred option, it makes sense to have that facility and flexibility in the legislation. I should say that this is not

- about food vouchers but about childcare vouchers and, possibly, vouchers for other elements. The power relates back to clause 12. It is for particular needs or circumstances, which, obviously, would not include food.
796. Schedule 1(7) allows for regulations to provide for claimants who have a right to reside in the UK under EU treaties and who would otherwise fall within clauses 19, 20 or 21. Those clauses are about work requirements and detail the claimants who are subject to no work requirements, work-focused interview only or work preparation only. It is to make sure that they fall into the group in clause 22, which is that they are subject to all work requirements.
797. Schedule 1(8) enables regulations to define the term “good reason”. That is used in various places in the Bill, especially in connection with conditionality and sanctions. We do not, as we discussed last week, intend to prescribe matters to be taken into account when determining whether a claimant has good reason, but, again, it makes sense to maintain the flexibility to do so if necessary in future. “Good reason” — I probably do this a lot — is the same as “just cause” or “good cause”. They are moving to the term “good reason”. I lapse into the use of the term “just cause” because that is what it was in my day.
798. All the detailed aspects of universal credit need to be covered, and it is appropriate to do so in regulations. Of course, as I said last week, most of the regulations in the schedule will come before the Committee in the first instance and will be subject to confirmatory procedure. That completes my explanation.
799. **Mr Brady:** Paragraph 132 of the explanatory and financial memorandum states:
- “A determination as to whether a claimant has good reason is not appealable, as is the case under the current benefits system.”*
800. Presumably, the decision on whether they accept good reason is appealable.
- It is a bit confusing. Paragraph 132 also states:
- “Paragraph 8 provides for regulations to set out the circumstances in which there is or is not to be good reason and the factors which must or must not be considered when determining whether or not a person had good reason for a particular act or omission”.*
801. The acceptance or otherwise of good reason is not appealable, but presumably that will make it further to whether the person is disallowed or sanctioned. Is that appealable?
802. **Ms M Campbell:** That is appealable.
803. **Mr Brady:** That is confusing. Why did they not just say that you can or cannot appeal? Do you get my point? One decision follows on from the other.
804. **Ms M Campbell:** We can look at that and put some more clarification in there.
805. **Mr Brady:** In terms of good English, it is confusing.
806. **Ms M Campbell:** I get your point. It is a good one. We will look at expanding that further.
807. **Mr Copeland:** I just wanted to check that we can be sure that some sort of guidance will be given regarding the reaching of those determinations so that two people, on two different days, given similar circumstances, might not come up with an acceptance and a refusal.
808. **Ms M Campbell:** Yes.
809. **Mr Copeland:** How will that be enforced?
810. **Ms M Campbell:** Guidance will be issued to staff; there will be guidance for decision-makers. We hope that the guidance for decision-makers will be shared with relevant stakeholders, but that is still to be decided. It would make sense for that guidance to be shared.
811. **Mr Copeland:** Will we ever get sight of that guidance, so that we can start to understand how determinations and decisions are taken?
812. **Ms M Campbell:** If they agree to do that, yes.

813. **Mr Copeland:** Can you ask them?

814. **Ms M Campbell:** Yes. I am awaiting an answer from them on that.

815. **The Chairperson:** We will move on to clause 32.

816. **Ms M Campbell:** Clause 32 introduces schedule 2, which is about supplementary and consequential amendments. It is about making amendments to existing legislation as a consequence of introducing universal credit. As members know, there are very many references to existing benefits in legislation. That is legislation on not only social security but in other Departments, such as in the Department of Education for free school meals, etc. All those need to be replaced with appropriate references to universal credit. Schedule 2 covers all of the legislation that we are aware of at the moment that needs to be amended. It does not cover everything. I am sure that we have missed something. Therefore, clause 33 provides us with powers to make further amendments by regulation as opposed to taking up Assembly time by doing it through primary legislation.

817. Amendments to existing social security legislation will bring universal credit within the common set of rules for the benefits system as a whole: that will involve claims, claimants, decisions and appeals. The schedule also provides for the rate of universal credit to be uprated annually and for changes to the amount of benefit as a result of uprating, changes in earnings and certain routine changes to be made without a formal decision or fresh rights of appeal. The schedule also provides, for example, for information to be shared in order to investigate fraud and error, prosecution of fraud, recovery of social fund payments and for reciprocal agreements with other countries in relation to universal credit.

818. There are also numerous references to welfare benefits and tax credits in the legislation of other Departments. This enables entitlement to certain benefits through tax credits to be used as a test

for low income. As I mentioned before, free school meals is one of the most obvious ones. A test based on universal credit as a whole will be wider than the current test, because universal credit will bring in people with earnings, as opposed to just those who are out of work and relying solely on out-of-work benefits. Therefore, you will be bringing in a wider range of people. As a result, the test for other benefits will need to be re-examined, and this provision will enable additional criteria to be attached or a power to prescribe the limitations to be applied. Therefore, it will be up to other Departments to look at that.

819. Finally, paragraph 49 of the schedule amends the State Pension Credit Act (Northern Ireland) Act 2002 to exclude couples in which one partner is of working age from claiming pension credit. That will end the anomaly that working-age people can be supported by the benefits system without any conditionality just because they have an older partner on pension credit. That concludes my explanation.

820. **The Chairperson:** Thank you, Martina. Has anyone anything to say about clause 32? Michael, did you want to go back to clause 31?

821. **Mr Copeland:** I would like clarification of the last answer about us getting sight or some knowledge of the process and the guidelines. You said, "If they agree". Who are "they"?

822. **Ms M Campbell:** We do not write the guidance. It is done by another section in the Social Security Agency, and we have asked them to share the guidance.

823. **Mr Copeland:** Will you then share it with us?

824. **Ms M Campbell:** Yes.

825. **The Chairperson:** So, clause 32 is complete.

826. **Mr Durkan:** I have a question about paragraph 146 of the explanatory and financial memorandum, which relates to couples. If one person has reached the state pension age and the other has

- not, the younger person is still required to claim universal credit, but one household payment or not nominated person. What impact will that have on other legislation involving housing or under-occupancy? The couple will not be exempt because it will go with the younger person who has not reached state pension age. Is that right?
827. **The Chairperson:** Say that again, Mark?
828. **Ms M Campbell:** It concerns under-occupancy when one person is under pension age. You want to know whether they will be exempt from under-occupancy?
829. **Mr Pollock:** No, I do not think so.
830. **Mr F McCann:** I think that it would refer to the younger person as the head of household.
831. **Mr Pollock:** We will check it out for you.
832. **Ms M Campbell:** We will come back on that after lunch, if that is OK?
833. **The Chairperson:** We will move on to clause 33.
834. **Ms M Campbell:** We are whistling through them rightly. Clause 33 builds on the previous clause and schedule 2, which amends a wide range of other Acts and orders to reflect the changes introduced by the introduction of universal credit. As I said, the task of identifying all the changes needed to pick up every reference to social security legislation across the board is no mean task. Clearly, we expect that we will not have picked them all up. This clause allows us to pick up changes identified in the future by way of regulation and allows us to make consequential, supplementary, incidental or transitional provisions. It allows us to make amendments by regulations that are not of any significant policy impact. That completes my explanation of that schedule.
835. **Mr G Campbell:** The issue has been mentioned several times, and I know that this is the standard format of change by regulation. However, if something requires to be changed by regulation and an unintended consequence of that is more fundamental than you thought at first, how might the Committee and the Assembly deal with that?
836. **Ms M Campbell:** I suppose it depends on the unintended consequence and whether it would be within social security legislation or —
837. **Mr Pollock:** Or within the broader remit of the Executive to do something on the ground.
838. **Mr G Campbell:** I have nothing in mind, but I am thinking of a situation where, at first glance, you think that a change needs to be made by regulation because it looks to be quite minimal but then, on closer examination, appears that it will affect a more significant number of people than you originally thought. What would happen then?
839. **Mr Pollock:** Ordinarily, the first set of regulations under universal credit will be confirmatory, and that means that there is a six-month cooling-off period before the end of which the regulations will be debated in the Assembly. So, we will look closely to monitor the impact of the regulations on the ground. In circumstances where regulations are moved to negative resolution, you are generally talking about fairly minor changes. The consensus would be that you would not be changing anything in the social security system and that it would be for another Department or the Executive as a whole to do something, if minded to do so, if there was an unusual consequence of a regulation that was unforeseen at the time when it was drafted.
840. **Ms M Campbell:** It should be picked up by equality screening as well.
841. **The Chairperson:** No other member wants to speak. We will move on to clause 34.
842. **Ms M Campbell:** Clause 34 abolishes various benefits and tax credits that will be replaced by universal credit. As we have said previously, the current web of benefits and tax credits is very difficult



- for claimants to understand and for us, as administrators, to explain. This can lead to errors and make fraud more difficult to detect, and, more importantly, it is very difficult for claimants to see how paid work will leave them better off. One of the fundamental aims of universal credit is to simplify the process and reduce error and to build claimant confidence by introducing a single and simplified system of support for people in and out of work. As a single payment that will be withdrawn at a single rate when a claimant has earnings, universal credit will also help claimants to see the advantage of taking a job.
843. The benefits to be abolished are administered by four different bodies, each with their own claim application procedures. The DSD is responsible in the case of income-based jobseeker's allowance (JSA), income-related employment and support allowance (ESA), and income support. The Northern Ireland Housing Executive is responsible for housing benefit. The Department of Finance and Personnel's Land and Property Services is responsible for the rates element of housing benefit, and Revenue and Customs is responsible for child tax credit and working tax credit.
844. In the case of the other benefits that this clause will abolish, universal credit will be administered by a single organisation, namely the Social Security Agency, with a single claim procedure providing a greatly improved service to claimants and lower administration costs. This clause paves the way for making that transition by providing for the abolition of help with rates under housing benefit. It also contains provisions for consequential amendments as a result of the abolition of benefits.
845. **Mr Brady:** Your comments on the reduction in fraud and error were interesting. I thought that the purpose of the Bill was to make it simpler for people to claim. Obviously, fraud and error is still subliminal in the thinking behind the Bill. That is not a criticism of what you are saying, but I think it illustrates the purpose of the Bill: rather than make it easier for people to claim and access benefits, the emphasis seems to be on reducing fraud and error, which, in fact, as we know, has been reducing here.
846. **Ms M Campbell:** It is very low.
847. **Mr Brady:** It highlights one of the differences between what happens in England and what happens here. I wanted to make that point, because you mentioned fraud and error specifically.
848. **Mr G Campbell:** I want to comment on fraud and error as well. Figures are available, and we have looked at them before. I think that it was Mickey Brady who, at a previous meeting, alluded to the fact that it was a declining problem. If we have the factual position with respect to the current scale of fraud and error, and allow a settling-in period for the first year, in which one would expect there to be teething problems, would it be possible in the second year, after everything had hopefully bedded in whatever route the Bill takes, to compare the level of fraud and error in those two years? You are saying that there should be an improvement. If we have the figures now —
849. **Mr Pollock:** That would be the rationale. There is a published figure in respect of loss. Someone can hang a pound sign on that in respect of fraud and error. It is published in the agency's accounts.
850. **Ms M Campbell:** It is in the report as well.
851. **Mr G Campbell:** Yes, but the point I am making is that most people would accept that, given the scale of the change in the first year, it is going to be difficult to compare like with like. We can allow the first year as a bedding-in year. However, in the second year, this Committee should be able to say that fraud and error amounted to x in 2011, for instance. You are saying that, as a result of the changes that we are discussing, you should be able to compare things in the second year and see an improvement.

852. **Mr Pollock:** It seems reasonable. You also have to determine what you are measuring. Are you measuring instances of fraud and error or are you measuring loss? Presumably, you are measuring both. So, you would have different comparators. You should be able to draw some reasoned conclusions over a longer period.
853. **Ms M Campbell:** We will be discussing fraud and error later. I think it is in Part 5. We will have the head of fraud policy with us then. Hopefully, he will be able to answer your questions more fully.
854. **The Chairperson:** If that is the case, are people content to leave any questions they might have on fraud and error until then? I am easy; it is up to you. If we are going to have the head of policy here, it might be useful to reserve the questions on that issue until then.
855. **Mr Douglas:** I have a more general point. This might have been answered already, so I apologise. Obviously, this legislation came through in the UK. There is the whole aspect of monitoring and evaluating the impact of the changes. What is the process, once the Bill is implemented in Northern Ireland?
856. **Ms M Campbell:** The Department for Work and Pensions (DWP) has committed to developing a programme of monitoring and evaluation, and the agency is working on developing a similar programme. The details have not been ironed out yet, because a lot of the detail still has not been ironed out in the regulations. Once that is finalised, we will come back to the Committee with the monitoring and evaluation programme.
857. **Mr Douglas:** Gregory made a very good point, because other things might go belly up somewhere along the line; there could be unforeseen circumstances.
858. **Ms M Campbell:** Later, I will talk about running pilot schemes.
859. **Mr Copeland:** This is another general point. You might feel that I am putting it into the mix in the wrong place. I am not sure if we have covered it or if it will be covered in the future. A substantial number of people, all of them retired, diligently tried to do what the welfare state suggested they did throughout their lives. They acquired occupational pensions and little pension schemes, and, as I said, a substantial number find themselves thrust into the morass of current benefits, with, in one case I have, an income of 75p above what is allowed. That 75 pence, which was acquired by diligence and by doing what they should have done for a very long time now militates against them. Will universal credit look at that injustice? This is what many people see it as. A lifetime was spent acquiring that 75p. However, all of a sudden, it is wasted. They might as well have drunk it, smoked it, or put it on horses, to be frank. Will this in any way simplify the process and overturn any of the injustice that lies there?
860. **Ms M Campbell:** If they are in receipt of an occupational pension, they are, presumably, over state pension age, so they are out of universal credit, unless the —
861. **Mr Copeland:** Not always.
862. **Ms M Campbell:** They will be out of universal credit, unless they have a younger partner. The occupational pension will be considered to be what is called unearned income, so it will be taken into account. Since the thresholds here for disregards are slightly higher a few more people should be let in, but I cannot promise. I know that there are some really tough cases out there with people being only pence over the limit, and it is heartbreaking. The system is not designed to catch all cases; it is designed to catch the majority.
863. **Mr Copeland:** I know that there are a substantial number of people who receive an occupational pension prior to pension age, as a result of the conditions of their discharge.
864. **Mr Brady:** Michael mentioned injustice. It seems to me that injustice and welfare reform go in tandem. Years ago, under the supplementary benefit

- scheme, a person who was over the limit by a small amount still had an underlying entitlement. It applied much the way that carers who are pensioners are now treated. I imagine that the policymakers would see that as a retrograde step, because it used to work in benefits 30 or 35 years ago. Then it was abolished. If you were over by £3 to £5, I think it was, you still had underlying entitlement. I am old enough to remember that. Most of you probably are not. I do not know about you, Michael. *[Laughter.]*
865. **The Chairperson:** Stop digging.
866. **Mr Brady:** That used to happen. It has not happened for a long time, and it is unlikely to happen. It would be seen as a retrograde step in the benefits system, but it worked when it was in place. It brought in the people Michael is talking about — those who are slightly above the threshold.
867. **The Chairperson:** Remember that we on this side are asking the questions; we are not giving the answers.
868. **Ms M Campbell:** I take the member's point.
869. **The Chairperson:** OK. Thank you for that. We will move swiftly to clause 35.
870. **Ms M Campbell:** Clause 35 sees housing benefit abolished, as we have talked about. Clause 35 introduces schedule 4, which provides for the addition of a housing element within pension credit. This is to protect those people who are getting pension credit but who do not qualify because they are both over state pension age. The clause is there so that there will be continuity of support for eligible pensioners' rent or housing costs.
871. As I have said, it provides for the addition of a housing element within pension credit and amends the State Pension Credit Act (Northern Ireland) 2002 to introduce the new housing credit. It will also do away with the need for pensioners to make two claims: one for pension credit and one for housing benefit. It sets out the general conditions of entitlement and provides for regulations to specify how the credit will be calculated, who will be eligible, what can be paid and the rules around income and capital.
872. The intention is that housing credit will broadly follow the current rules that apply in housing benefit, so most people will not notice any difference. For someone to be entitled to the housing credit element of pension credit, they will need to live in the UK, have reached pension credit qualifying age and be liable for housing costs that relate to the accommodation they live in.
873. The extent to which a person is liable for housing costs, what constitutes accommodation, how you treat temporary absences from home, for those people who are lucky to go to Spain for the winter, and how we calculate the amount of housing credit will also be included in the regulations. A person may be entitled to housing credit whether or not they receive the guarantee credit or savings credit elements of pension credit.
874. The schedule also allows us to specify that rates of support may differ by area. For example, different local housing allowance rates will apply in different parts of the Province.
875. In introducing the new housing credit, we will look for opportunities to streamline the benefit and align the rules where possible. That includes extending pension credit provisions to the housing credit wherever possible. That is mainly about the assessed income periods. That is pretty much it.
876. **Mr F McCann:** When all that is said, Martina, the housing credit is the same as housing benefit.
877. **Ms M Campbell:** Yes. That is it in a nutshell. I just thought I would blind you with science to see if you were listening.
878. **Mr F McCann:** You are making it easier for people to apply. Does that mean that they will automatically go on to it rather than having to apply for it?



879. **Ms M Campbell:** Those who are entitled to housing benefit at the minute will be migrated across, so they will be none the wiser. However, when new claimants come on stream and apply for their pension credit, that will take in the details of their housing costs, so it will be on one form. Hopefully, that should make it easier for pensioners.
880. **Mr F McCann:** Can we just dust down the old forms and change the name on the front of them?
881. **Ms M Campbell:** I did not say that.
882. **Mr Copeland:** If I remember correctly, the current housing benefit form includes a couple of questions that have always mystified me. The questions are “are you receiving any money as a result of Creutzfeldt-Jakob disease?” and “are you receiving any money as a consequence of compensation for being a Far Eastern prisoner of war?” For some reason, they are required to know that information. There are about seven questions, but those are the two that spring to mind. Is that likely to transfer on to the new form?
883. **Ms M Campbell:** I imagine so. Colm, do you know?
884. **Mr Colm McLaughlin (Department for Social Development):** A lot of questions on certain claim forms are designed to find out specifically the income that people are getting, because, as you know, for benefit purposes, certain income is disregarded. I do not deal with housing benefit, but perhaps those particular incomes are disregarded for housing benefit purposes.
885. **Mr Copeland:** Or “regarded”, as the case may be.
886. **Mr C McLaughlin:** The idea is to get the full picture of the income for the household.
887. **Mr Copeland:** That is the only form I have ever seen those specific questions on. I am just curious about how it would be transferred.
888. **Mr C McLaughlin:** Normally, claim forms ask for people’s income. When anything specific is asked, there is a particular reason for it. It could be because they will disregard that particular income for benefit purposes.
889. **The Chairperson:** I thought that if you were a prisoner of war, you could maybe *[Inaudible.]* Clause 35 has been covered.
890. **Ms M Campbell:** Clause 36 introduces schedule 5, which contains provisions relating to the overlapping relationship between universal credit and contributory JSA and ESA. As members will know, contributory-based benefits will still exist after universal credit comes into place, but income-related JSA and income-related ESA will be taken in with universal credit.
891. The schedule includes regulation-making powers to determine how much someone may be paid if they are entitled to universal credit and the contributory-based benefits, the treatment of earnings in those benefits, and how we will manage the relationship between the work-related conditionality and sanction regimes that apply to both benefits. Therefore, it is to try and simplify that relationship.
892. In schedule 5, universal credit is attempting to simplify the benefits landscape, but it does not replace all the existing benefits as I have already said. Paragraph 2 of the schedule allows regulations to be made where someone is entitled to universal credit and the contributory benefits. In those situations, it will be important for us to ensure that people are paid the right amount of benefit in the most straightforward way.
893. We intend to deliver new claims for the contributory benefits on the same IT system as universal credit. Under powers in this schedule, we can reduce the contributory payment where the person would be entitled to universal credit, so it is to avoid the overlapping benefit rules. From the claimants’ point of view, the amount of payment will be the same. They will not really notice any difference. It will be whichever is the higher element, whether it is the

- contributory-based benefit or universal credit, that is what the claimant will get.
894. There is provision there to allow us to make regulations so that a sanction relating to the award of universal credit can be applied to the award of a contributory benefit and vice versa, and for sanctions relating to the award of one contributory benefit to be applied to the other contributory benefit. Those powers are needed to ensure that claimants cannot avoid a sanction in cases where they move from one benefit to the other.
895. We plan to take forward the current policy that applies in JSA and ESA so that, where a sanction is applied to a contributory benefit, it does not lead to a concomitant increase in the amount of universal credit, so that the claimant does not benefit because they are sanctioned and their universal credit automatically goes up because their JSA has gone down.
896. Paragraph 4 enables claimants who are sanctioned while on a contributory benefit to be able to apply for universal credit hardship payments. Contributory benefit claimants who are sanctioned and face hardship will first have to apply for and be awarded universal credit. The sanction that applied to their contributory benefit will then be applied to their universal credit award to ensure that they do not avoid the sanction. There will be no separate contributory benefit hardship payments. That is effectively the same position as under the current JSA regime where hardship payments are reduced payments of income-based JSA.
897. Finally, paragraphs 5 and 6 of the schedule amend the rules for calculating earnings in contributory JSA and ESA so that they are consistent with the tapering arrangements in universal credit.
898. **Mr Brady:** In the explanatory and financial memorandum, it states:  
*"ESA and JSA will continue to be available as contributory benefits."*
899. When JSA was introduced, it cut the period of entitlement for the contributory benefit from roughly 312 days down to six months. That is already in place. The ESA contributory benefit will only last for a year.
900. **Ms M Campbell:** Michael will talk about that later.
901. **Mr Brady:** That is one of the things that people are not aware of. People talk about all these people who are "scroungers", but if someone who is working now and becomes sick in the morning, they will only get the benefit of 30 years' contributions paid for one year.
902. **Ms M Campbell:** That is correct.
903. **Mr Brady:** People simply are not aware of that. You are confirming that that will be the case on the universal credit.
904. **Ms M Campbell:** Yes. Michael will talk about those provisions later.
905. **Mr Copeland:** On the previous occasion, we heard that the social fund had discretionary payments and that those discretionary payments could continue to be exercised until the money runs out. Is this hardship fund subject to any limitations to what would be available? Is it ring-fenced, or will it match need?
906. **Ms M Campbell:** It will match need.
907. Clause 37 introduces schedule 6, which enables the Department to bring forward regulations to cover some of the more detailed arrangements for migration to universal credit. The clause sets out the legislative framework for the move from the existing benefits and tax credits to universal credit. The schedule makes it clear that regulations can ensure that benefit and tax credit claimants are not worse off in cash terms simply through moving to the new system. It also deals generally with the arrangements for migration. As you will appreciate, it is a huge change, involving around 500,000 existing benefit and tax credit claims, which will translate into around 300,000 universal credit awards. The reason for the difference is that, obviously, there is double counting in there, because

- the man, to use that example of one half of the couple, could be claiming jobseeker's allowance and his partner could be claiming tax credits. There would be two claims in the one house, so this would bring it down to one claim.
908. Although we would like to move people to the new system as quickly as possible, it is a major undertaking, and it is appropriate for the transition to be conducted carefully. The schedule provides some very practical powers for handling claims in a sensible and logical fashion that will ensure that the transition is as smooth as possible for the claimant and that they are basically none the wiser. Paragraph 1 of the schedule sets out a general power to make regulations and define some key terms. It brings within the scope of the regulations prescribed benefits in addition to those that are abolished by the Bill. This is necessary so that we can deal with any interactions with other benefits that people may be receiving when they transfer over.
909. Paragraphs 2 and 3 of the schedule deal first with claims procedures either side of the date on which universal credit goes live, referred to as the "appointed day". We do not want a claim to fail just because someone has claimed the wrong benefit on the wrong day, so we need to be able to treat claims for existing benefits as claims for universal credits and vice versa. There also needs to be scope to make an advance award of universal credit ahead of the appointed day and a retrospective award for an existing benefit after the appointed day. Paragraph 3 also allows for migration to universal credit to be controlled by phasing. Margaret is in charge of the migration strategy, so she will talk about that in a minute.
910. As I said, clearly, we cannot convert all of the awards in one go. It will take a number of years, between October 2013, when we go live, and, we estimate, 2017, before everyone is migrated over. During that period, existing claimants will move on to universal credit in one of two ways. The first is that, if, at any time, their circumstances change and they would have moved to a different benefit or tax credit under the current system, they will move onto universal credit at that point. Secondly, if they do not move on to universal credit as a result of a change of circumstances, they will do so in what is called natural migration, so they will be part of a planned migration that will take place between April 2014 and 2017. A key principle is that people will not be able to volunteer to move on to the new system before they are due to move, hence the provisions enabling various exclusions from universal credit. Once they go on to universal credit, they will not be able to switch back to the old benefits.
911. Paragraph 4 of schedule 6 deals with the conversion of existing awards, the processes that are involved and the amount of the award. We have given an assurance that no one will lose out as a direct result of the change to universal credit, and we will ensure that this happens by providing cash protection to households where the universal credit entitlement is less than the entitlement under the old system. That transitional protection will last for as long as there is no change of circumstances.
912. Paragraph 5 deals with the transitional treatment of work-related requirements and sanctions. Requirements and sanctions made in respect of a legacy benefit may be transferred to universal credit. However, provision is also made for sanctions temporarily not to be applied for the purposes of the transition or, in the case of work-related requirements, to be removed. The transition from the current tax credit system will need to be handled very carefully, especially because of the current delay between provisional award notice and finalisation. We are considering how best to handle that transition. Paragraph 6 of the schedule may be used to align certain tax credit rules more closely in order to facilitate that change and make it easier for the claimant. It also allows for the overpayment of tax credits to be treated as overpayment of universal credit.

913. Paragraph 7 of the schedule provides for regulations that will allow those transitional protections to operate even if there is a gap in entitlement that would otherwise mean that they could not be used.
914. That is basically it. To sum up, we are intending to use the powers in the schedule in a practical, sensible way that will smooth the transition for claimants. Chair, if you like, Margaret will say a wee bit about migration.
915. **Ms Margaret Stitt (Social Security Agency):** Thanks, Martina. I will try to keep it at a fairly high level.
916. There are three ways that you can move on to universal credit. You can make a fresh claim, you can move across under a natural migration, which I will explain in a wee minute, or you can move across under a managed migration.
917. Basically, a fresh claim can be made by anyone who would have ordinarily claimed, for example, jobseeker's allowance but who will have to make a claim for universal credit because jobseeker's allowance will no longer be available after a particular date in the process. As Martina has explained, universal credit is a household payment. So, if one member of the household who ordinarily claimed JSA moves across to universal credit and their partner is in receipt of, for example, tax credits or employment and support allowance, the whole household will move across to universal credit. So, that deals with new claims.
918. Natural migration will happen in cases where there is a change of circumstances that involves the recalculation of a benefit. For example, if another child were born into a household, there would be a claim for universal credit and the whole household would move across to universal credit.
919. The third way you can move across is through a managed migration, which Martina explained. That will happen in cases where there has not been a new claim to universal credit or a change of circumstances that has involved a recalculation of benefit. The Department has to move customers across by the final date, which, at the minute, is around October 2017. The intention is that migration will start in October 2013 and will run for a four-year period. In NI, we are still working on our launch approach and our migration approach.
920. I will say something about the GB situation just to give you an idea of what is happening there. It has agreed on a phased approach. We are likely to go with a phased approach as well, because it is safer. GB will start off fairly slowly. It has certain percentages calculated. I think that it is going to do it on a geographical basis in October 2013. It will then roll that out over a period of months. It is going to start with jobseeker's allowance and then move on to tax credits, both child tax credits and working tax credits, followed by income support, employment support allowance and housing benefit.
921. That was the migration at a very high level. I am happy to take any questions.
922. **The Chairperson:** Thanks for that, Margaret.
923. **Mr F McCann:** You broke it down into a fresh claim, managed migration and natural migration, but how will the whole process work in reality? Will people be moved across in alphabetical order? How do you choose the first claims to go across?
924. **Ms Stitt:** We have not yet worked out the detail of that. At the minute, I can tell you that GB is using a geographical approach; it has picked certain regions within what would have been fresh claims to JSA. We are still working through the process of ours.
925. **Mr F McCann:** I think that you said that any break in benefits — you mentioned a child being born — would automatically move people over to universal credit. Maybe I have just picked this up wrong. You talked about a family unit coming in under universal credit. Say there are five people: a mother, a father and three children all

- aged over 18. I take it that the three over-18s do not count?
926. **Ms Stitt:** No, they do not.
927. **Mr F McCann:** They go for individual claims.
928. **Ms Stitt:** Obviously, there is a household, and there could be different benefit units within that household. There are some exceptions, but, generally speaking, it would be mother, father and children up to the age of 18.
929. **Mr F McCann:** I take it that there will be non-dependant allowances? That will have an effect on the overall benefit.
930. **Ms Stitt:** Yes, it will. Universal credit is one payment, but, as Martina said, there are various components and elements to that. They will all come into it.
931. **Mr G Campbell:** What you said about the regional basis was very clear. As I understand it, they will start with, say, JSA in the north-west of England or wherever. I understood a phased basis to mean that, gradually, people would be migrated across, but I got the impression from your assessment of the regional basis that that meant, for example, that the north-west of England would all be transferred across. It would not see a phased basis; it would be done immediately.
932. **Ms Stitt:** There are, I think, six regions in GB, and they are going to take a small amount in each of those geographical areas and run them at the same time. So, if they decide, for example, that they will go with 20% of the workload, they will take individual caseloads in those areas that will make up the 20%. That will probably roll out for six months. So, they will take particular areas in each of the six regions all at the one time, and then, the following month, it will be another area from each of the six regions.
933. **Mr G Campbell:** That is clear enough now. However, given Northern Ireland's size, are you contemplating —
934. **Ms Stitt:** We are looking at variations. We are still developing those models at the minute.
935. **Mr G Campbell:** Is it likely that you will break down Northern Ireland on a regional basis and do the same here on a micro level?
936. **Ms Stitt:** At this point, we have not yet made any decisions on that. We are working through various options. You could do it on a geographical basis; that is just one way to do it.
937. **Mr G Campbell:** I would have thought that the scale in GB would be significantly larger than ours; about 30 times larger. Each of its six regions is probably larger than Northern Ireland.
938. **Ms Stitt:** They are; yes, indeed.
939. **Mr G Campbell:** But they are not contemplating going to a subregional level, are they?
940. **Ms Stitt:** No. Well, sorry, they are going to a subregional level in that they will take a percentage within each of those regions and those will build up. We could do the same, but it would be on a smaller scale. You have to bear in mind that the staff that we would have to deal with those would be on the same scale as the staff they have to deal with their cases.
941. **Mr Douglas:** I think it says somewhere here — I cannot find it — that universal credit can be awarded without the claimant actually applying for it. Can you give us an example of that?
942. **Ms M Campbell:** No. *[Laughter.]*
943. **Ms Stitt:** The only thing that I can think of is where we manage a migration across. That is what I think it is, but we can certainly check that point for you.
944. **Mr Pollock:** That would be when there has been a claim for an existing benefit and that is migrated across.
945. **Mr Douglas:** Would the claimant know?
946. **Ms Stitt:** There will be a publicity campaign, and so on.



947. **Ms M Campbell:** They will be notified, but they will probably not have to do anything.
948. **Mr Douglas:** It sounds too easy, does it not?
949. **Ms Stitt:** It is not easy.
950. **Ms M Campbell:** It is not.
951. **Mr G Campbell:** Famous last words.
952. **The Chairperson:** It is on a need-to-know basis, Sammy.
953. **Mr Brady:** You mentioned that it will be jobseeker's allowance initially, then tax credits, then income support, etc, and that it will be run on a phased basis. We have been told that the IT system could not cope with different changes, but presumably there will be two IT systems running in parallel.
954. **Ms Stitt:** There will be; yes.
955. **Mr Brady:** So, obviously there is a facility in the IT system to accommodate that. You will have phased benefits, so some people will get jobseeker's allowance initially and then move to universal credit but other people will still get income support, ESA and so on. How will that work?
956. **Ms Stitt:** They will run down the old system as they build up the new system, so two systems will be running at the same time.
957. **Mr Brady:** There will still be a period of about four years when there are two systems.
958. **Ms Stitt:** Yes.
959. **Mr Brady:** The impression that the Department for Work and Pensions gave us is that this IT system will be super-duper, that there will be flaws, and that it could not accommodate changes. However, it is obvious that changes will be accommodated for at least four years.
960. **Ms Stitt:** I am not sure that they are changes. What we are doing is running two systems in tandem, which we do when we introduce any new benefit.
961. **Mr Brady:** But not on the same scale as this, it has to be said.
962. **Ms Stitt:** No; absolutely not.
963. **Mr Copeland:** Martina, I want to talk about clause 38. I think that we have got that far. There is a curious term: "capability for work-related activity".
964. **Ms M Campbell:** I am about to start talking about that.
965. **Mr Copeland:** Oh, we have not got that far yet.
966. **Ms M Campbell:** No.
967. I cannot remember whether I said in relation to the last clause that we will bring regulations on migration forward to the Committee. There will be another opportunity to discuss all that.
968. Clause 38 allows us to continue to use the work-capability assessment when determining whether a claimant has limited capability for work and, if so, whether they also have limited capability for work-related activity, which would be work prep or work-focused interviews. The determination of a claimant's capability for work following a work-capability assessment determines their work-related requirements and eligibility for an additional element within universal credit. Those who are unable to work because of the effects of a disability or health condition will be entitled to a higher amount of universal credit based on their capability for work. Similar to the current system, they will be allocated to either the work-related activity group or the support group. The work-capability assessment assesses individuals' functional ability to work rather than assuming that a health condition or disability is automatically a barrier to work. We know that work is generally good for people, including disabled people and those with health conditions. So, although we remain committed to supporting those who cannot work, we want to help as many people as possible to return to work.
969. In his first independent review of the work-capability assessment,

- Professor Harrington concluded that it is the right process to use but it is not currently working as effectively as it could. We have endorsed that review fully and implemented all of the recommendations from the first report. Improving the work-capability assessment is not a static process, so Professor Harrington has undertaken a second review. Of the 23 recommendations made in that review, 12 have been fully implemented, and work is ongoing to implement the remaining 11.
970. A call for evidence for his third review was carried out between 14 August and 14 September 2012. Work is ongoing on consultation on the descriptors for customers with mental health conditions, cancer or fluctuating pain conditions. Professor Harrington will report back before the end of the year. We look forward to the outcome of that review. That concludes my explanation.
971. **Mr Copeland:** Forgive me for this, Martina, but there appears to be a sort of a change in paragraph 190, where it describes:
- “limited capability for work-related activity owing to a physical or mental condition.”*
972. The current system actually allows for a physical and/or mental condition because, in many cases, the physical condition could be variable, as could the mental condition. The combination of the two conditions limits capability for work. If the language is correct, that appears to limit it to a physical or mental condition. Is that an actual projected outcome from this or is it just the way in which it has been worded? Do you follow what I mean?
973. **Ms M Campbell:** Yes, I see what you mean, but I do not think that is the intention. The intention would be as it is now, which is to include physical and/or mental conditions. It does not have to be both.
974. **Mr Copeland:** Could you try to get that put into the language?
975. **Ms M Campbell:** We can get that changed.
976. **The Chairperson:** You are reading from the explanatory notes. Is it in the Bill?
977. **Ms M Campbell:** It would be in regulations anyway.
978. **Mr Copeland:** We have not seen those yet. It could mean a significant change for a large number of people.
979. **Ms M Campbell:** Is it “or” in the Bill as well, Colm?
980. **Mr Copeland:** Is “and/or” in it?
981. **Mr Pollock:** No, just “or”. I do not think that we would see a problem with “and/or”.
982. **Ms M Campbell:** I will have a look at lunchtime to see whether I have the DWP work-capability regulations with me and check that for you.
983. **Mr Copeland:** OK. Thank you for that.
984. **Ms M Campbell:** Clause 39 puts beyond any doubt that information collected by the Department for all aspects of universal credit is social security information. So, it is really about data-sharing, in a way. In making legislation for work-related benefits, such as income support, employment and support allowance and jobseeker's allowance, the Department recognised that it needed to obtain and use information that did not solely relate to the benefit itself. So, for example, people coming in for work-focused interviews may tell you that they have caring responsibilities that the adviser may not necessarily be aware of. So, it is about making sure that the adviser gets the whole picture.
985. The simplicity of the provision makes it clear that all information supplied when determining a person's ability and capability for work or as part of the conditionality regime is to be treated as social security information. I do not think that any of us would doubt that financial, family and home information supplied for the purposes of universal credit is social security information. However, it



- is sometimes questioned whether all of the information supplied in a claimant's everyday dealings with the Department is social security information. As I said, information collected at a work-focused interview that relates predominantly to employment or health-related information supplied during a work-capability assessment might not immediately be considered as social security information. So, the Department's powers enable it to use information based around its core interest, particularly social security. It is crucial to ensure that all information supplied during the process is considered to be owned by the Department. Without this clause, there could be doubt about how this information could be shared. It might not be possible to share the information with partners who provide professional services for work-related matters, and it might not be possible to use the information to determine the effectiveness of departmental policy or to design new policy or processes. So, that is about collecting statistical information to use in identifying the consequences of policy changes.
986. This provision is nothing new. The Department already has legislation making exactly the same provisions for income support, employment and support allowance and jobseeker's allowance. However, that legislation is specific to those benefits, so we cannot use that information, and we need to make it an even playing field. That is my explanation of that clause.
987. **The Chairperson:** OK, Martina, thank you. No members have indicated, so I am happy for us to move on to clause 40.
988. **Ms M Campbell:** Clause 40 defines what is understood as a couple for the purposes of universal credit. As I said, the couple is one of the fundamental units of the universal credit system. We intend to carry over the existing definition used for current income-related benefits, so couples are defined as a husband and wife, civil partners who are members of the same household, or two people living together as if they were spouses or civil partners. That definition hinges on the couple being members of the same household. Universal credit will be assessed against the total income and capital of both members. It will be payable to them jointly. Couples who maintain separate households and who are not merely temporarily living apart are not considered as couples and will be able to claim as individuals.
989. There may be circumstances where it is appropriate to consider two people as not being a couple, or for them to be considered part — or not part — of the same household for the purposes of universal credit. Those instances are not common. A member of a couple will only be treated as a single person in the narrow circumstances where their partner would not meet some of the basic conditions. An example is where the claimant's partner is abroad and the absence is not treated as a temporary one, or, indeed, where the claimant's partner is in prison.
990. It is essential to define couples in order to be able to assess pay and apply conditionality within this system. That completes my explanation.
991. **Mr Brady:** Flexibility is often used in relation to this matter. The definition of a couple is really two people living in the same household, and you mentioned civil partnerships. In my experience, which goes back a long time, there are people living in the same household whom the Department assumes are a couple but, in fact, they are not. It is quite difficult for them to prove that they are not actually living together. They share the same household, but they want to claim benefits separately. It becomes even more complicated when there is a couple whose marriage or partnership has broken down and, human nature being what it is, one of them does not want to move out or whatever. It is quite difficult. Will there be any difference in the approach? That has been problematic. You mentioned that it does not happen that often, but, in my experience, it happens fairly often. I just wonder whether there will

- be an approach as to how that definition of a couple may be addressed. For a lot of people, it is problematic. I have seen appeals in the past where two people are living in the same house and, because it is a man and a woman, usually, the Department assumes that they are a couple, but they are not. That can be quite difficult to prove. There is an opportunity in the definition to address that situation and have that flexibility built in. It can be difficult for people to prove that they are not a couple. There used to be legal separation, and that was accepted because people had gone through legal procedures. There is also divorce, obviously. However, people who are no longer a couple but are still in the same household may not want to claim as a single unit.
992. **Ms M Campbell:** I imagine the proposal is that the same methods of ascertaining a couple will apply, but we will take your point back and feed it through to the guidance writers.
993. **Mr Brady:** I am bringing it up at this point because there is always an assumption — wrongly, in some cases — that they are a couple. That can cause difficulty because the Department is starting from the premise that you have to prove otherwise. That can sometimes be quite difficult.
994. **Mr Douglas:** Martina, somebody raised a point with me at the weekend that I had not considered. What happens in the case of a foreign national or migrant worker who, for example, has two wives?
995. **Ms M Campbell:** I have the answer to that somewhere here. I will come back to you on that, Mr Douglas. I have the answer to that but I cannot find it at the moment. We do not recognise polygamy or multiple wives.
996. **Mr G Campbell:** Or husbands.
997. **Ms M Campbell:** Indeed. I do not think that it applies to husbands. Only the man gets the choice.
998. I have found the answer. Universal credit will not include special rules for polygamous marriages. It will treat the polygamous husband and one wife as a couple. Other spouses will have to make separate claims in their own right and will be required to satisfy the standard conditionality requirements, including residency.
999. **Mr G Campbell:** It is make your mind up time then? *[Laughter.]*
1000. **Ms M Campbell:** It certainly is.
1001. **The Chairperson:** We will move on.
1002. **Ms M Campbell:** Clause 41 is about interpretation and defines some of the key terms used in the universal credit clauses. It just brings together in one place terms used frequently throughout the Bill and, hopefully, makes the legislation easier to understand.
1003. Clause 42 allows the Department to set up and run pilot schemes for the purpose of testing the application of universal credit and the extent of the impact of its provisions. Mr Douglas asked earlier about monitoring and evaluation, and, as part of a monitoring and evaluation programme, the Department might choose to use a pilot scheme to test, for example, a different taper rate. There has been some talk in the past about regional benefit rates, and a pilot scheme could test those. However, the purpose of the pilot scheme has to satisfy one of three conditions. It has to make universal credit simpler to understand or administer; help people remain in work, obtain work or increase their pay or hours; or affect the behaviour of claimants or others. Under this clause, pilot schemes will, in the first instance, be limited to three years, although that could be extended, and they may apply only to a limited number of people, as suggested by the term “pilot”. Regulations under this clause will be subject to the affirmative resolution procedure, and members will get a chance to debate and discuss those fully.
1004. **Mr Brady:** Surely the whole notion of parity means that there should not be different regional benefit rates.

1005. **Ms M Campbell:** The coalition Government have mentioned the question of regional benefit rates frequently and, indeed, regional pay for the Civil Service. There are no plans at the moment to introduce regional benefit rates, but that clause will give the Department the power to operate a small pilot to test how that would work.
1006. **Mr Brady:** So, technically, there could be a change in parity if that were introduced. When I was in the Civil Service many years ago, there was an issue around the Imperial Civil Service, because people who worked for it and were based in Belfast got paid more.
1007. **Ms M Campbell:** They still do.
1008. **Mr Brady:** They also got time off for stress. That was a big issue because people here were, presumably, experiencing the same stress but were not getting that kind of leave or as much money. Therefore, there have been regional variations. However, you are suggesting that there may be changes both in the regional pay structure and, possibly, in the benefits, which would kind of blow the parity argument out of the water.
1009. **Ms M Campbell:** Yes, but it would be parity with the rest of the UK. People in London, for example, would have a higher rate of benefit than people in Merthyr Tydfil or wherever.
1010. **The Chairperson:** We do not need to argue the ins and outs of it. We just need to understand what the provision is supposed to do and what the clause covers. We can argue the rights and wrongs of it another time.
1011. **Mr Brady:** It was just to clarify that point.
1012. **The Chairperson:** I appreciate that, and it is important to do that.
1013. **Ms M Campbell:** It is not usual for Northern Ireland to carry out pilots because, generally, DWP does the pilots and we, generally, follow suit.
1014. **Mr Brady:** Logically, you could argue that, if parity is parity and, comparing like with like, we should have a pilot scheme.
1015. **Ms M Campbell:** Yes, but there is a great cost. Therefore, you have to take the cost of running a pilot into consideration, and the commensurate effort.
1016. **Mr Copeland:** If they are indeed considering regional rates of benefit, are they also considering regional rates of contribution?
1017. **Ms M Campbell:** No; I would not have thought so.
1018. **Mr F McCann:** I think that a pilot scheme was run in 2007 or 2008 when there were changes to housing benefit. A local housing allowance was going to be introduced here and there was some argument at that time that there were variances in other regions. If we were to run a pilot here, how would you decide where it would be held and how many people it would involve? Would you look at running a pilot scheme when the underoccupancy rules come in?
1019. **Ms M Campbell:** There are no plans to run any pilot schemes. As I said, it would be very unusual for Northern Ireland to run its own pilot, simply because of cost and commensurate effort. At the end of the day, it is a matter of the protection of the public purse.
1020. **Mr Pollock:** There is the timing as well. To run a worthwhile pilot, you have to decide what you are trying to find out and what the differences are. As Martina said, DWP has run a raft of different pilots across the UK. Unless we could point to a situation where we would learn something materially different, it would not be worth investing in a Northern Ireland-specific pilot. Indeed, we would not have the lead time to determine or discern what you would find out from it. You would have to set it up and monitor it over a period. By that time, the changes will have happened.
1021. **Mr F McCann:** We are talking about the possibility of regional variations. The impact of that would be different here than in other places. I go back

- to the local housing allowance. They actually waited a year and then tested out the local housing allowance in a pilot scheme in some places here. That was about three or four years ago. I am just trying to work out how that would impact.
1022. **Mr Pollock:** I remember something around the introduction of local housing allowance, but it predates all of us here. Colm would be the only one who would remember that, and his memory has gone. *[Laughter.]* He did not actually work on the housing side. We can look at the introduction of the local housing allowance, but I am not sure whether there was a pilot as such.
1023. **Mr F McCann:** As Mickey said, why is it in there if you are never going to use it?
1024. **Ms M Campbell:** It just gives you the flexibility. Any pilot that would be run would be brought before the Committee by virtue of the fact that regulations would have to be made to allow us to run it. It is simply to give the Department the power. It is like a couple of other instances that I talked about earlier. It is included for efficiency purposes, because otherwise we would have to bring a piece of primary legislation forward and take up Assembly time. However, if we put it in now, it is there and, although it may never be used, it gives us that flexibility and allows for efficient use of Members' time.
1025. **Mr Douglas:** Martina, there is reference to affecting the behaviour of claimants or others. This is meant to simplify the system, but I assume that it is also about sanctions.
1026. **Ms M Campbell:** Yes, it is.
1027. **Mr Douglas:** Who are the "others"?
1028. **Ms M Campbell:** "Others" could refer to the partners.
1029. **Mr Douglas:** OK.
1030. **Mr Copeland:** Going back to pilot schemes, presumably DWP carries out pilot schemes in the rest of GB, whether it is in Scotland, Wales or England.
- Presumably, it must find some value in those schemes. Does a pilot scheme give an accurate indication of the likely outcomes in Northern Ireland, given that, as we have heard, there are regional variations? Are people in Northern Ireland affected positively or adversely by information and changes that take place based on pilot schemes in the rest of GB? We know we are different here. Surely, that is the responsibility of DWP, even though the actual thing has been devolved. DWP is not running pilot schemes for the sake of it: they must be of some use and they must be capable of yielding some information.
1031. **Mr Pollock:** Any of the pilot schemes that DWP is running would be closely monitored when it comes to the population cohort that they are looking at. Any of the findings from those schemes would be extended to the UK as a whole. So, if there were a scheme running in London on housing, you would expect people in the likes of Scotland, Northern Ireland, Wales and everybody else to say, "The findings from that do not stack up because London housing costs have a premium. You cannot extrapolate and apply the findings from such a scheme directly here". The findings of the pilot schemes are closely monitored from a statistical standpoint. What population of claimants does the cohort represent? Could the findings be extrapolated from a statistically valid perspective?
1032. **Mr Copeland:** An example is disability living allowance, for which there is a much higher uptake in Northern Ireland than elsewhere in UK. There are reasons for that, given our recent history. What does DWP use the information from the schemes for? It is not doing it for the sake of it, so there must be some purpose to the pilot schemes.
1033. **Mr Pollock:** Yes.
1034. **Mr Copeland:** What is it?
1035. **Ms M Campbell:** An integral part of monitoring any benefits system or any policy is learning, evaluating and checking down the line whether the

- originally intended policy outcomes are being met and whether a little tweak to the system — as Mr Douglas said, perhaps around sanctions — is needed. Before you go to the effort of bringing in regulations or perhaps primary legislation, you test that by means of a pilot. Good policymaking is always backed up and evidence based.
1036. **Mr Copeland:** How would we achieve that outcome in Northern Ireland?
1037. **Ms M Campbell:** You would take the learning from the DWP pilot, look at its impacts, match that to the population cohort here and consider the different circumstances that are operating here. You would do that in an equality impact assessment. In housing, for example, DWP is running six demonstration projects on direct payment, including one in Scotland. We are not running similar projects here because our circumstances are obviously different. However, the Minister has commissioned a number of pieces of research.
1038. **Mr Copeland:** Our Minister?
1039. **Ms M Campbell:** Yes. Our Minister has commissioned research on housing. I think he mentioned that yesterday when he launched the housing strategy. We are expecting the results of some of that research before the end of the year. That will help to inform some more of the policy development on housing.
1040. **Mr Copeland:** So, in fact, we will take the DWP statistics that have been gathered from a pile of projects, use those for analytical purposes, but apply regional factors to them.
1041. **Ms M Campbell:** Yes. Our statisticians have a DWP model that is based on the various information that has been gathered from, for example, the family resources survey and other survey tools. We will feed all that information into a software programme, and it will churn out the Northern Ireland impact.
1042. **The Chairperson:** This is a clause that enables the Department to do that by way of regulations. The efficacy or otherwise is a discussion for another day.
1043. **Mr G Campbell:** Is there any way of accessing the conclusions that have been drawn from what has been done in GB?
1044. **Ms M Campbell:** I think that there has been an interim learning report. I will check whether that it is public. If it is not, we will certainly be happy to bring that to the Committee once it becomes public.
1045. **The Chairperson:** We will move on to clause 43.
1046. **Ms M Campbell:** Clause 43 explains how the regulation-making powers in this Part of the Bill may be exercised. It allows for regulations to make different provisions for different cases. It explains that where regulations provide for an amount, that amount may be zero. It also allows for regulations to provide for different amounts depending on whether the claimant is single or in a couple, and according to age. That is in line with the current structure for existing benefits.
1047. With your permission, Chair, I will move on to clause 44, because the clauses are related.
1048. **The Chairperson:** OK.
1049. **Ms M Campbell:** Clause 44 provides for the procedure by which the Assembly will control the making of the regulations. The universal credit regulations will, in the main, follow the more common form of control, namely negative resolution. That follows the conventional approach to delegated legislation in this area. However, we have accepted that regulations that introduce new concepts into the benefit system should be subject to confirmatory procedure in the first instance. That will apply to the first set of regulations in each of the cases identified. Those are as follows: claimant commitment; capital limits; income to be deducted; the standard allowance; the children and young person's element; the housing costs element; other needs and circumstances, such as the childcare element; the work availability requirement; claimants subject to no work-related requirements; sanctions;



- hardship payments; calculation of capital and income; migration, which I mentioned earlier; and pilot schemes.
1050. All those regulations will be brought before the Committee and will be made by confirmatory procedure in the first instance. That is because the detail of the policy will be in the regulations, and because we recognise that Members are likely to have a number of concerns about those areas. That will ensure that there is a debate six months after the regulations have been introduced, allowing for a bedding-in period. We will then know how well the regulations are working. Obviously, it will also maintain flexibility for us to amend the legislation in the future in order to respond to changes, as I said, without disproportionate demands on the Assembly and Members' time.
1051. **The Chairperson:** Are members content with that explanation of clauses 43 and 44?
1052. **Mr Brady:** You can have a debate six months after the regulations are introduced, but is it likely that they will be changed?
1053. **Ms M Campbell:** That would depend on the outcome of the debate.
1054. **Mr Brady:** Realistically, it is paying lip service. You have to be cynical about these things. I cannot imagine them changing it. If universal credit does not work, full stop, are they going to change it? I do not think so.
1055. **Mr Copeland:** If I understood you correctly, six months after the introduction of universal credit —
1056. **Ms M Campbell:** Sorry; the debate can take place up to six months after the introduction.
1057. **Mr Copeland:** Having established that this is a sort of rolling process, how many of those likely to be affected ultimately will have been affected?
1058. **Ms M Campbell:** All new claims will be affected. Then, you are into the managed migration —
1059. **Ms Stitt:** Natural migration.
1060. **Ms M Campbell:** Natural migration people. They are people who have had a change of circumstances.
1061. **Mr Copeland:** I am just wondering —
1062. **Ms M Campbell:** I do not have the numbers at this stage.
1063. **Mr Pollock:** I do not think that we could quantify it.
1064. **Mr Copeland:** Could we get those?
1065. **Ms M Campbell:** It is not finalised yet.
1066. **Ms Stitt:** We have not finalised the launch or the migration approach yet.
1067. **Ms M Campbell:** We might get that closer to the end of the Committee Stage process, although I cannot promise that.
1068. **Mr Copeland:** Might it be better to extend the six months to a longer period to give us a better notion of what the ultimate effects will be?
1069. **Ms M Campbell:** I think that the rules under Assembly procedures is that it is up to six months.
1070. **Mr Pollock:** The legislative protocol is that it is within six months of the regulations. Some of the regulations will not necessarily be commenced on D-day in respect of universal credit.
1071. **The Chairperson:** It could be a year later. The operative thing for us is that, once it is introduced, it is then subject to debate for confirmatory resolution. That is what the clause does.
1072. **Mr F McCann:** Once the changes start to be made, you could have a considerable number of people being paid at one rate, and the rest being paid at another rate. There is an unfair balance there over the four-year period that takes you from the start to the finish.
1073. **The Chairperson:** I understand that comment. It relates to the phasing in, and all of that, which clearly requires a separate discussion. As the officials

- have heard, members have concerns about how you will do that: whether it will be regionally, sub-regionally, broken up, thematically or whatever. We do not have those answers. Those are concerns, and members are right to put them on the table.
1074. **Mr Pollock:** It may help to clarify that it will be every housing benefit claimant or every JSA claimant within a region. It will not be a case of me and Colm, for example, both being on JSA or whatever but getting different rates at different times. All of those will be migrated across at the one time.
1075. **Mr F McCann:** All new claims and all claims in which there has been a change of circumstances will be paid at the universal credit rate. However, it might take the rest of the people four years to get to that stage, so there will be different rates of pay.
1076. **Mr Pollock:** My circumstances as a JSA claimant would be roughly comparable to Colm's as a JSA claimant and to someone else's as a JSA claimant. It is that population that you have to try to migrate across.
1077. **Mr F McCann:** But they would still be paid at different rates.
1078. **Mr Brady:** Can you clarify something? You mentioned the changeover starting with jobseeker's allowance and income support coming at the end. What happens to someone who is on jobseeker's allowance and income support when one is changed initially?
1079. **Ms Stitt:** When you move to universal credit, everything moves across.
1080. **Mr Brady:** That is all that I wanted clarified: you will not have to wait.
1081. **Ms Stitt:** No; it will be one universal credit payment.
1082. **The Chairperson:** Any new circumstances in the household will trigger the entirety.
1083. **Ms Stitt:** Any new circumstances that involve a recalculation of the benefit.
1084. **Mr Douglas:** Martina, you mentioned the pilot areas in the previous discussion. You mentioned sanctions and used the word "tweak". Would a tweak be subject to confirmatory resolution? Define a "tweak".
1085. **Ms M Campbell:** In the first instance, the regulations to ask for the pilot to be carried out would be subject to confirmatory resolution. Then, if the pilot worked and we decided, for example, that for the third strike in the sanction, instead of disallowing benefit for three years, or whatever, we would reduce that to one year, those regulations to amend the sanctions would be subject to negative resolution because we have already discussed the high-level policy detail. The regulations to carry out the pilot in the first instance would be subject to confirmatory resolution, but any tweak arising out of that would more than likely be made by the normal negative resolution, because it is only a small change.
1086. **The Chairperson:** It is conceivable to amend clause 44 or 43 if you so wish to make it subject to confirmatory resolution, for example. It can be amended.
1087. **Mr Douglas:** There is that option; OK. Thank you.
1088. **Ms M Campbell:** That completes my section.
1089. **The Chairperson:** Sorry, Mickey; did you want in again?
1090. **Mr Brady:** No; I am just starting to twitch. *[Laughter.]*
1091. **The Chairperson:** We have completed clause 44, which takes us to the end of Part 1.
1092. **Ms M Campbell:** That is all of the universal credit aspect.
1093. **The Chairperson:** At this very timely juncture, I propose that we suspend the meeting and come back at 1.00 pm. We will resume with Part 2, which deals with working-age benefits, starting at clause 45.

*Committee suspended.*



*On resuming —*

1094. **The Chairperson:** We are now into Part 2, which deals with working-age benefits. We will start on clause 45.
1095. **Ms M Campbell:** Chair, before you start, I will provide some clarification on the work capability assessment, which I promised I would check. In the DWP regulations that are published, the clarification is that it is bodily, mental, disease, illness or disablement or a combination of any.
1096. **The Chairperson:** Kevin, please give us a quick recap.
1097. **The Committee Clerk:** Just a quick overview of 31 to 44; the issues that have been raised, the questions asked and the answers given. Clearer wording is required in clause 31 in respect of good reason and clarity is required on grounds on which to appeal. A question was asked about whether guidance would be given in relation to good reason, and the point was made that guidance should be shared among decision-makers. The Committee asked to see the guidance when it is produced, and the Department agreed to follow this up with SSA.
1098. On clause 32, Mr Durkan raised the issue of underoccupancy. I will go back and have a look at the tape to get more detail on that. I think that the Department said that it would come back on that issue in respect of clause 32. On clause 33, Mr Campbell raised the making of statutory rules when the change was much greater than anticipated. The question was: where does that leave the Committee? The Department replied that, among other things, that should be picked up by the equality screening process.
1099. On clause 34, a key issue was raised about fraud and error. For example, would it be possible to compare fraud and error in the second year under universal credit with current rates? The Department said that that should be possible. The head of policy on fraud and error will be briefing the Committee in a few weeks on this. Monitoring

evaluation will take place as a matter of course. Also on clause 34, Mr Copeland raised the issue of a person who finds themselves over a certain eligibility threshold for a claim; about the 75p and —

1100. **Ms M Campbell:** Yes, the underlying entitlement.
1101. **The Committee Clerk:** On clause 35, confirmation was given that housing credit is the same as housing benefit.
1102. **Ms M Campbell:** Yes.
1103. **The Committee Clerk:** It was asked whether the perhaps unusual questions on the current forms would stay the same.
1104. **Ms M Campbell:** We tried to clarify that at lunchtime. We are more or less certain that the questions will be the same. Those questions will continue. We will come back on that.
1105. **The Committee Clerk:** The point was made about clause 36 that, despite potentially many years of payment, ESA will be paid for only one year. There was concern about that. There was also confirmation that the hardship fund will match need. On clause 37, there was discussion around how migration will work. For example, could it work on a regional basis here? The answer is yes, but the process has yet to be decided on. There was an acknowledgement from the Department that the current and new IT systems will operate concurrently for a while after the introduction of universal credit. Some clarity was required on when universal credit can be awarded without a claimant applying. I think that that was the question that Mr Douglas raised. I am not entirely sure if there was a —
1106. **Ms M Campbell:** I think that is where they are migrated over. There would not be a need for —
1107. **The Committee Clerk:** You have just clarified the next point in relation to clause 38, which concerns physical and mental health conditions. Clarity was asked for on clause 40 in relation to the

- definition of “couple”. That was in the case of people who maybe had been a couple —
1108. **Ms M Campbell:** It would be how it is practically ascertained.
1109. **The Committee Clerk:** It was about the approach that the Department would take to address it. You said that you would bring that back to the Department for consideration when drawing up the guidance. Clarification was provided on polygamous relationships as well.
1110. A range of issues were discussed in respect of clause 42, which concerns pilot schemes. It was mainly the relevance of GB schemes to Northern Ireland given that our circumstances are different. There was an indication that an interim learning report might be made available from DWP
1111. **Ms M Campbell:** Yes. I will check the position on that.
1112. **The Committee Clerk:** You said that you will investigate that and report back to the Committee on if and when that can be released.
1113. **The Chairperson:** OK. Are members happy to move on to clause 45?
- Members indicated assent.*
1114. **Mr Pollock:** Thanks, Chair. This, effectively, is me giving Martina a break. That said, she has done a lot of the heavy lifting in terms of introducing a lot of the things that are covered in Part 2 of the Bill, such as working-age benefits and things like claimant commitments, sanctions and hardship regimes. If you like, I will adopt the same sort of format; I will give you a brief description of the clause, and we will take questions afterwards.
1115. Clause 45 amends the Jobseekers (Northern Ireland) Order 1995 to introduce the claimant commitment for jobseeker’s allowance, which builds on the jobseeker’s agreement. Effectively, it aligns all the requirements on a claimant in one place, making it clear what claimants are required to do when they claim jobseeker’s allowances and the consequences of any failure. As for now, that includes the same sort of requirements to be available for work and to actively seek work, and specific actions that they need to take to meet those conditions.
1116. The claimant commitment will also include information that is not currently covered by the jobseeker’s agreement: information about general attendance requirements, any directions and other relevant information, and a duty to report changes of circumstances and the like. It is all about the underlying thread of personal responsibility that underpins a lot of the reforms. The commitment will be drawn up in agreement with the client adviser and the employment officer. However, the commitment contains mandatory issues, so it does not have to be agreed with the claimant. Instead, the claimant will be required to accept the commitment that is proposed by the employment officer and client adviser in order to be entitled to jobseeker’s allowance. The commitment can be altered in discussions between the client adviser and the claimant, depending on circumstances. Essentially, however, it is the same as the jobseeker’s agreement. It builds on that to smooth the transition to universal credit.
1117. **Mr Brady:** Mandatory issues are involved, so it is not a legally binding contract in that sense because, essentially, it is one-sided. I brought this up before: when people are actively seeking work, I presume that there will be guidelines for the client advisers about what that constitutes. People — this is likely to happen again — were going into work premises, saying that they needed to show that they were actively seeking work and asking for something to say that they have applied. They were then being charged. That should be factored into guidelines. It may sound vague in the sense that it might not happen, but it happened before and it is likely to happen again because employers, particularly small employers, will see the opportunity to get money for nothing. The excuse

- was that they had to spend time typing and that kind of thing; it was almost a cover charge. I know that we are not discussing that, Chair, but it is important sometimes to raise these issues while you think of them, because they are important. It happened in the past, and it is possible that it will happen again.
1118. **Mr Pollock:** That is well noted.
1119. **Mr F McCann:** Again, we raised this, and it is going back a couple of years: it is in relation to distance. If somebody in Belfast goes in and the client assessor says that there is a job in Newry, will the person be expected to travel to Newry? You know the way, in some places, they draw circles two miles out and four miles out or whatever. Will that be taken into consideration? I say that because I read somewhere in the past couple of days that there are six applicants for every job that is available, and it is getting worse. You end up with perhaps six or 10 people chasing the same job. It is a never-ending vicious circle.
1120. **Mr Pollock:** It will be whatever is considered reasonable in an individual's circumstances to show that they are available for work and actively seeking work. Regulations in the past have talked about something like 90 minutes' travel. It depends on what sort of car you are driving in that respect. That would not be unreasonable; people in our office travel from Newry and beyond every day to Belfast.
1121. **Mr F McCann:** The way I drive, it would be seen as totally unreasonable.
1122. **Mr Brady:** It would never be considered reasonable.
1123. **Mr F McCann:** Under those circumstances, if it is 90 minutes — say that it is Belfast to Derry — I take it that all expenses would be covered by the Department. Would it include the likes of food and other stuff to sustain them throughout the day? It is going to be a day-long exercise if you are travelling that distance.
1124. **Mr Pollock:** I do not know what the rules are for travel to work interviews. There could be some reimbursement in that respect.
1125. **Mr McClarty:** Surely food would not be an issue, because people have to eat anyway, immaterial of whether they travel five miles or 60 miles.
1126. **Mr F McCann:** People are paid at subsistence level here. It would be a substantial amount of money out of their already-meagre benefits to travel 90 miles to get to a job. It might be all right for someone like you, David, who could afford something like that, but we are not on benefits.
1127. **Mr McClarty:** I am not talking about the fuel. There is extra expense in fuel.
1128. **Mr F McCann:** We are talking about buses, trains —
1129. **Mr McClarty:** But food? You have to eat anyway, immaterial of where you are.
1130. **Mr Pollock:** There was some discussion, when we were going through the universal credit, about the claimant commitment. Ordinarily, it is a case of discussing with the client adviser what is deemed reasonable in their position. If you were a highly paid electrician or electronics engineer or something like that, for the first period in which you claim universal credit or benefit, or jobseeker's allowance as it is now, you would have an expectation that you would be looking for jobs in a particular area in a particular field at a particular salary rate. As you move further away from the labour market, your expectations tend to get lower in order to get work. However, the claimant commitment can be adjusted. It is a living document to take account of changes in circumstances and what is reasonable for an individual.
1131. **Mr F McCann:** I do not want to labour this, but say, for talk's sake, that I am on jobseeker's, I go in and the person says that there is a job in Derry they want me to go to. I say that I am skint; I do not have the money and I cannot afford the transport, and I do not have the money for food on the way up. They are able to

- tap into a crisis loan, but they will have to pay that back again.
1132. **Mr Pollock:** For a job interview or for the job itself?
1133. **Mr F McCann:** A job interview. This is all about job interviews and actively seeking work. Do you understand what I am saying?
1134. **Mr Pollock:** I know what you are saying, yes, and there are certain schemes on travel to work and getting expenses to go to interviews. I do not know the detail but I can certainly get that for you.
1135. **Mr F McCann:** Thanks very much, Michael.
1136. **The Chairperson:** The key issue is what support is there for someone to go to an interview for a job.
1137. **Mr F McCann:** When they are saying that it is reasonable.
1138. **The Chairperson:** I understand that. That is the issue. Ultimately, that could result in sanctions for somebody, so you want a reasonable level of support. You are asking what that is, and we will get that information.
1139. **Mr F McCann:** You could get to Cork in 90 minutes the way Mickey drives.
1140. **Mr Copeland:** Fra has very kindly taken me into exactly the question that I was going to ask. In the border counties, there may be centres of population and places of work in the North or the South that might be closer in terms of travelling distance. Does this go across the border as well? In other words, if you are sitting in a job centre in Newry, Derry/Londonderry or Strabane, and a factory across in the South is advertising, is the availability of those jobs factored into the legislation — that there is a job in Bundoran or wherever?
1141. **Mr Pollock:** There is no directional compass on the 90 minutes. It is 90 minutes' travel in whatever direction.
1142. **Mr Copeland:** So it goes across national boundaries?
1143. **Mr Pollock:** No one will restrict you from looking across the border.
1144. **Mr Copeland:** I am not so much talking about looking; I am talking about being looked for. In other words, would the employment officer — I think that is what he is called — routinely tell you that there are jobs in Buncrana?
1145. **Mr Pollock:** He might be able to advise you, Michael, but he would not necessarily have the detail on jobs that are available in the other jurisdiction.
1146. **Mr Copeland:** He would not necessarily not, either?
1147. **Mr Pollock:** No.
1148. **The Chairperson:** So they do not know until you find out.
1149. **Mr Brady:** I want to clarify something, Michael. You raised the issue of tradespeople and people having qualifications — electricians and that. Going back again, for people who were signing on it was "suitable employment". That was dispensed with so that you could, after a period of time, be offered anything. Will there be flexibility in the guidelines to deal with that? Essentially, one difficulty with people taking what they might have considered unsuitable employment was the wage rates, but some people were worse off, even with working tax credit.
1150. **Mr Pollock:** I imagine that there would be if there is a dearth in particular trades. It is reasonable to expect that, if you are in a dying profession, for want of a better term, you will try to seek employment and expand your own horizons.
1151. **Mr Brady:** I assume that there is no great rush for blacksmiths. However, is there a point at which, if you cannot find what you consider suitable employment for your particular skills, you are expected to take anything? It is already at that stage.
1152. **Mr Pollock:** I do not think that there is a set period of, for example, a month or two months.
1153. **Mr Brady:** It used to be, but —

1154. **Mr C McLaughlin:** I think that it is three months at the minute that you are allowed to apply for a job in your usual occupation, and, after that time, you have to actively seek and be available for any type of work.
1155. **Mr Brady:** It used to be six months.
1156. **The Chairperson:** OK, members, we got clarification there. Fair enough. We will move on to clause 46.
1157. **Mr Pollock:** Clause 46 allows jobs and benefits offices greater flexibility, where required, and allows claimants to participate in interviews other than the face-to-face interviews at the minute. That provision was probably touched on as we went through the universal credit in terms of future-proofing. So the provision relates to the wider government agenda of access to IT for making job applications, and so on. At present, there are no plans for jobs and benefits offices to deviate from face-to-face interviews and talking to clients at first hand. This provision would allow people to avail themselves of IT developments and technological advances. That is pretty much all that is involved in clause 46.
1158. **The Chairperson:** There are no questions, so you can move on to clause 47.
1159. **Mr Pollock:** We touched on clause 47 when going through universal credit. Effectively, it makes legislative change to reform jobseeker's allowance sanctions and hardship payments. The consequences for those who repeatedly fail to meet their responsibilities under the claimant commitment are a progression to tougher sanctions. That replaces the provision for sanctions under the Jobseeker's Order 1995. As Martina explained in reference to universal credit, there are three levels of sanctions: higher, medium and lower. As I said, it is important to point out that there is no conspiracy theory as far as sanctions are concerned. They are designed to act as a suitable deterrent. The underlying principle of individual responsibility, which is throughout welfare reform, is supported through this sanctions regime.
1160. It is also important to point out that, irrespective of the introduction of universal credit, it was always the intention to review the sanctions regime, because it was not being effective as a deterrent.
1161. The higher level sanctions would be imposed on claimants who failed to comply with the most important labour market requirements, such as applying for or taking a job. The sanction for a first failure would be three months; for a second failure, six months, and for a third failure, three years. However, there would be some exceptions, such as cases in which a failure occurs before a claimant's claim to jobseeker's allowance is made. That could occur in the case of someone leaving employment voluntarily and then claiming jobseeker's allowance. We do not expect very many claimants to be sanctioned for three years, but it is important to include that option to deter serial non-compliance.
1162. Currently, sanctions for those types of failures are generally set on a case-by-case basis and can be anything from one week to 26 weeks. The purpose of clause 47 is to clarify the whole sanction regime, including the claimant's commitment and the responsibility of individuals to comply. It provides greater visibility of the consequences of not complying with the requirements.
1163. **Mr Copeland:** Paragraph 224 in the explanatory and financial memorandum details the failures which may be sanctioned for up to this duration. One is losing a job through misconduct. Today, very many people who lose their job through misconduct appeal to the Labour Relations Agency (LRA). How are they treated during the period of the appeal?
1164. The second failure that may be sanctioned is refusing or failing to apply for or accept a job about which an employment officer has informed a claimant. A number of organisations, such as the army and the Fire and



- Rescue Service, run jobs fairs. Might there be an instance in which someone would be required to attend an army jobs fair despite being doctrinally against joining the army? Could someone be sanctioned for that?
1165. **Ms M Campbell:** No. I gave examples of when someone would be excepted from applying for jobs, and those include some religious beliefs.
1166. **Mr Copeland:** A vegetarian may not want to be employed in a butcher's shop.
1167. **Ms M Campbell:** There are conscientiously held objections, and those would have been specified in the claimant's commitment at the outset.
1168. **Mr Copeland:** What about the period between someone being dismissed through misconduct and lodging an appeal to the Labour Relations Agency? What happens while the appeal is ongoing?
1169. **Ms M Campbell:** I assume that the situation remains as it is now.
1170. **Mr C McLaughlin:** The decision-maker bases the decision on whatever evidence he or she gets from the employer about what happened. A decision would have to be made, but it could be overturned if the individual was successful at the employment tribunal.
1171. **Mr Copeland:** Could that not then be used by the employer as justification? The employer could say that x, y and z happened, and the Department might have accepted that x, y and z happened for its purposes. Could that not be used against the guy in the industrial tribunal?
1172. **Mr C McLaughlin:** The decision-maker would have to look at the two parties and at both sets of evidence, and then come to a decision on that basis, not just on the basis of the employer's evidence.
1173. **Mr Copeland:** You do not think that there is an element of prejudging the outcome of the Labour Relations Agency process?
1174. **Mr Pollock:** I do not think that it would be prejudicial to the LRA process. As Martina said, and as far as I know, the sanction remains in place until you have something to tell you otherwise. If a decision was overturned as part of an LRA decision, for instance, it could be looked at again.
1175. **Mr Brady:** My question follows on from Michael's point. One of the failures that may be sanctioned is losing a job through misconduct or leaving voluntarily. Legally, people are entitled to terms and conditions of employment, which would include *[Inaudible.]* I have another point about leaving voluntarily. Constructive dismissal is very difficult to prove, even at an industrial tribunal. Many people feel that they have been constructively dismissed but do not pursue it. Any adviser will tell you that you could have a go at making a case but that it is quite difficult. Are such situations factored in? It is important that they are looked at, particularly in relation to the terms and conditions of employment. As I said last week, an inquiry could determine that, in its opinion, there had been misconduct, but that "misconduct" might be something that the person concerned considered innocuous.
1176. My other point is that people cannot appeal the sanctions, but they could appeal the disallowance of benefit, presumably. There is a lot of discretion in that. When those guidelines are published, I would like the opportunity to see how flexible they are and what could be factored in — *[Inaudible.]*
1177. **Ms M Campbell:** Common sense.
1178. **Mr Pollock:** It is very difficult to legislate for every eventuality.
1179. **Mr Brady:** Absolutely, because each case is individual.
1180. **Mr Pollock:** The underlying rationale for the sanctions is that they are an effective deterrent and a support to the claimant commitment. They aim to encourage people to accept individual responsibility.

1181. **The Chairperson:** Paragraph 225 states that a person will be treated as not having left work voluntarily in prescribed circumstances. From where do you get the prescribed circumstances? Is that by way of regulations or guidance?
1182. **Mr C McLaughlin:** Regulations and guidance, Chair.
1183. **Mr F McCann:** I am stuck on what happens when a person who is paid off or sacked is told that he or she will be sanctioned. Let us say that this person has two or three kids. The person's spouse then says that he or she is experiencing hardship because of that sanction. From listening to what you have said, I take it that the spouse would have to make a separate claim for benefit. Given the way things are now, there could be a four-week wait for such a new claim to be assessed. So the person might want a hardship payment or a crisis loan, and it can take days for those to be processed. What happens to the family in between times? If they say that they are experiencing hardship and do not have food for their kids as the result of a sanction, is there a procedure that allows for an immediate payment, or are they told to go away while their situation is assessed and that they will be informed of the decision?
1184. **Mr Pollock:** I do not think that there are any plans to change the existing regime for hardship payments, other than proposals to make some hardship payments recoverable under jobseeker's allowance. Whatever procedures exist currently will remain.
1185. **Mr F McCann:** I have heard about a number of people who asked for a payment after being sanctioned. Say, for example, someone gets a week's sanction, by the time a decision is made on whether to give them something, the sanction period is up, so he or she has gone through a whole period without any payment. This Bill means that we could be dealing in future with people facing one, two or three years of sanctions. A person being sanctioned could have an adverse impact on the family unit.
1186. When we talked about misconduct in the past, we were told that this sort of sanction would be considered only in cases of gross misconduct. There is a big difference between misconduct and gross misconduct. The reference here is to "misconduct", not gross misconduct.
1187. **Mr C McLaughlin:** That was a reference to the work experience regulations, where the only sanction was for gross misconduct.
1188. **Mr F McCann:** It is "misconduct" in this case. A year or two ago, when we tabled a motion in the Assembly against sanctions, we were told by the Minister that they would not be used that much. Yet, the response to a question for written answer was that thousands of people had been sanctioned in the space of only a few days, or maybe a week or two. It is not that these sanctions will be applied only occasionally. The number of people already sanctioned is on record. We could be led to believe that a considerable number of people will fall foul of the sanction regime.
1189. **Mr Pollock:** As I said, it is not the objective of sanctions to punish people. The sanctions regime is part of the overall integrated process, and it is an integral process, of individuals taking responsibility for themselves in trying to move closer towards the labour market. The sanctions regime is designed to be a supportive part of that, in so far as individuals know what is expected of them through the claimant commitment. They know what they are required to do, and they are clear from discussions with their client adviser and everybody else about what the consequences are if they do not comply.
1190. **Mr F McCann:** We all know what the consequences are. Mickey has said often enough that what you term welfare reform, we class as welfare cuts. So we are playing with words. It is a punishment. People are being punished for not fulfilling the requirement of what is laid down.



1191. **The Chairperson:** OK, fair enough. That is a fair point. Did everybody get the clarification that they were looking for?
1192. **Mr Brady:** I have one final point. All the empirical evidence on sanction-led regimes indicates that they are not a deterrent.
1193. **The Chairperson:** OK. We will move on to clause 48.
1194. **Mr Pollock:** Clause 48 deals with the procedure for regulation-making powers and relates to the change from confirmatory to negative resolution procedure. We touched on this previously when going through universal credit. The natural protocol is that, under any new policy direction, regulations falling from primary legislation would be confirmatory subject to debate in the Assembly. This removes that requirement, because jobseeker's allowance was implemented in about 1995. So any changes will be fairly minor and technical in nature.
1195. **Mr Copeland:** This will probably sound very silly, but I make no apologies for it, because I am still pretty new here. What is the difference between confirmatory resolution and negative resolution?
1196. **Mr Pollock:** In a nutshell, regulations subject to negative resolution are just brought through as a matter of course. Once the Minister approves them, they can be made, laid and brought into force. If subject to confirmatory resolution, they are debated by the Committee and everybody else, but they are then subject to a debate in the Assembly within six months of coming into operation.
1197. **Mr Copeland:** So the former would remove any possibility for the Assembly or this Committee to influence the outcome?
1198. **The Chairperson:** Negative resolution means that you would have to get the Committee to intervene to put a motion to the Assembly to have the rule negated. It is like a prayer of annulment. As Michael says, regulations subject to confirmatory resolution are tabled and come into operation, and, after six months, have to be confirmed by the Assembly; otherwise they fall.
1199. **Mr Copeland:** OK. Thank you. Sorry for the question.
1200. **Mr Pollock:** Clause 49 is to be read in tandem with schedule 7 to the Bill. Clause 49 gives effect to schedule 7, which makes amendments to the existing jobseeker's allowance legislation as a consequence of the changes and measures in the Bill. This morning, Martina went through a list of consequential changes in respect of universal credit, and this is the same type of thing for jobseeker's allowance.
1201. Clause 49 provides for consequential amendments to the legislation. Amendments are essential to ensure that references are up to date. They include the sanctions and disentitlement-related provisions and the substitution of "just cause" for "good reason." Amendments are necessary to reflect the replacement of "jobseeker's agreement" by "claimant commitment" and changes to contracting out provisions. In addition to these consequential amendments, schedule 7 provides for the repeal of sections of the Jobseekers Order, which would allow for sanctions for violent conduct by claimants. We have no plans to introduce such sanctions but are confident that we have robust processes in place for taking appropriate action against claimants demonstrating violent behaviour. We feel that those processes effectively protect the staff in jobs and benefits offices.
1202. **The Chairperson:** OK. We will move on.
1203. **Mr Pollock:** Clause 50 is part of the transition from jobseeker's allowance to universal credit. Universal credit replaces income-based jobseeker's allowance. Jobseeker's allowance will still continue as a contributory-based benefit. We need to ensure that the rules and responsibilities that apply for contributory jobseeker's allowance claimants are aligned with the universal credit changes as far as possible. That is for three reasons: to ensure that all

- claimants, subject to the work search and work availability requirements, are treated in the same way as they would be under universal credit; to smooth the transition where a claimant's time-limited contributory benefit ends and they become entitled to universal credit; and to avoid unnecessary complexity in the handling of claims through the jobs and benefits offices. Clause 50, therefore, mirrors the work-related requirements and sanctions that apply comparably to claimants of universal credit.
1204. Clause 51 deals with dual entitlement. It amends a technical defect in section 1 of the Welfare Reform Act 2007 — we do not always get it right. This currently provides that a person is not entitled to employment and support allowance if they are a member of a couple entitled to a joint claim for jobseeker's allowance. The purpose of the joint claim provisions is to ensure that both members of a couple are subject to jobseeker's allowance conditionality. However, there are circumstances in which one member of a couple making a joint claim is entitled to jobseeker's allowance without meeting all of the conditions of entitlement: for example, if a member of a couple is not able to work because of ill health or disability. The policy intention is that such a person should be entitled to claim ESA while becoming or being part of a joint claim to jobseeker's allowance. However, the Department realised that the current provisions do not work as intended. Clause 51 rectifies this by ensuring that such people can make a claim for ESA while being a member of a couple entitled to a joint claim on jobseeker's allowance. This does not mean that such people will be overpaid and receive a full award for both benefits. Any employment and support allowance payable would be deducted from the income-based joint claim for JSA.
1205. **The Chairperson:** OK. Fair enough.
1206. **Mr Brady:** It is not really a change, is it? Any other income will be taken into account for income-based ESA or jobseeker's allowance anyway. It is really just tidying up.
1207. **Mr Pollock:** It is just tidying up a technical point in the 2007 Act.
1208. **The Chairperson:** We move to clause 52.
1209. **Mr Pollock:** This clause limits an award of contributory ESA for people in the work-related activity group to a maximum of 365 days. ESA for people in the work-related activity group was only ever intended to be a benefit for temporary, short-term interruptions in employment. It is considered that a limit of one year allows people time to adjust to the effects of their health condition, and the benefit provides support for them while they do so. Introducing a time limit on the entitlement of people in the work-related activity group is more consistent with the rules of contribution-based JSA, which has a limit of six months. It aligns the two, and it recognises the different nature of ESA for the purposes of the benefit.
1210. Under this provision, it would be possible for a person to requalify for a further 365 days of contributory ESA if they leave benefit for more than 12 weeks and meet the national insurance contributions in full without using the same tax year as the previous claim. This is the same as JSA currently, and it means that people who leave benefit for work can requalify if they satisfy the contribution conditions afresh. People who already receive contributory ESA in the work-related activity group when the time limit is introduced will have the period that they have already been on the benefit counted towards their 365 days of entitlement. This includes people in receipt of incapacity benefit who are reassessed and qualify for contributory ESA and are placed in the work-related activity group. They will have their ESA time limited to 365 days from the point of conversion.
1211. Clause 52 also contains provisions to apply a time limit where an existing award for severe disablement allowance is reassessed and converted into an award for ESA and the individual is in

the work-related activity group. This is considered to be the fairest approach for all claimants. The most vulnerable people in the support group, whose medical conditions mean that they have limited capability for work-related activity, are unaffected by this measure. Equally, the poorest claimants in receipt of income-based ESA will be unaffected whatever group they are assigned to. This is deemed an important step in simplifying the whole benefits system and making work pay.

1212. **Mr Brady:** In fairness, whatever way you dress it up, it is designed to ensure that more people get less benefit. Previously, if you were sick and certified as being incapable of work, you went on to indefinite contributory incapacity benefit. The change was made when jobseeker's allowance was introduced, and the benefit period went from a year to six months. People were not paying any less in contributions.

1213. My point is this: if you get contributory ESA for a year, and your partner then works for 24 hours a week or more, you will not qualify for income-based ESA, or universal credit, whatever it is changed to. Essentially, you will get the contributory benefit for a year, and, if your partner is working at the end of that year, you will not then qualify for any income-based allowance. Your partner would then, presumably, have to claim universal credit or the equivalent working tax credit. That is the reality. You can dress it up in whatever way you want in the legislation, but the policy intention is to ensure that more people do not qualify for benefit. The same thing happened with jobseeker's allowance. I just want to clarify that, because it is undeniable. There is an attempt to try to dress this up as an incentive to get people into work, but the policy intention is to cut benefit. That clause reinforces the argument.

1214. **The Chairperson:** If that is the final point on clause 52, we will move on.

1215. **Mr Pollock:** Clause 53 deals with further entitlement after time-limiting. It provides, in certain circumstances,

for a further award of contributory ESA after time-limiting of 365 days under clause 52. Where entitlement to contributory ESA has ceased as a result of time-limiting, a person may become entitled to a further award if, since that cessation, the person has not ceased to have, or to be treated as having, limited capability for work; the person satisfies the basic conditions; and the person has, or is treated as having, limited capability for work-related activity.

This means that, where a person's contributory ESA has ceased as a result of time-limiting and their health condition deteriorates to such a degree that they are placed in the support group, they will be able to requalify for an award of contributory ESA if the above conditions are satisfied. The entitlement to the award exists only for as long as the person has, or is treated as having, limited capability for work-related activity and so falls into the support group. If the person goes through a subsequent work-capability assessment and is placed in the work-related activity group, entitlement to the award arising under this section would cease. The further entitlement is to be regarded as a contributory allowance. Effectively, the clause links periods of entitlement.

1216. **Mr Brady:** Can you confirm that this applies only to contributory ESA, which means that, even though you requalify, you will still get only a year?

1217. **Mr Pollock:** Yes.

1218. **The Chairperson:** We move on to clause 54.

1219. **Mr Pollock:** This is another contentious clause, in so far as it deals with the abolition of the ESA youth condition. Clause 54 abolishes the special concessions that currently allow certain young people to qualify for contributory ESA without meeting the usual paid national insurance conditions that apply to everybody else. This measure applies to new claims only, so existing claimants will remain on contributory ESA, but this will be time-limited. This means that contributory ESA youth claimants in the work-related activity group will be subject

- to a 365-day limit for assistance. Those in the support group will be unaffected, as will anybody receiving income from ESA, whatever group they are assigned to. To qualify for contributory allowance, the normal rules are such that a person must have paid and been credited with sufficient national insurance contributions in the tax years relevant to the claim.
1220. The existing rules for young people, as set out in the Welfare Reform Act 2007, exempt certain young people from the usual paid national insurance contributions: a person between 16 and 19 years of age, or between 20 and 25 in certain prescribed circumstances, who is not in full-time education and has had limited capability for work for 196 consecutive days is entitled to contributory ESA.
1221. Clause 54 repeals that provision in the Welfare Reform Act 2007 and, from the date on which it comes into operation, prevents new claims for contributory allowance being made on the grounds of youth. After that date, people who have formally benefited from that decision would be required to meet the national insurance contribution conditions that must be met when making an ordinary contributory ESA claim. No other age group can qualify for employment and support allowance without having paid national insurance contributions. No other contributory benefit has similar type arrangements.
1222. The vast majority — at least 90% — of claimants who currently receive ESA on the grounds of youth are expected to receive income-related employment and support allowance. Those who do not have qualify for income-related ESA are likely to have capital in excess of £16,000 or a partner in full-time work who may be entitled to working tax credits. That change is another step in simplifying the benefit system ahead of the introduction of universal credit.
1223. **Mr Brady:** This clause is a very contentious one. It is worth pointing out that the severe disablement allowance was introduced for young people who would never be able to work, in the normal sense, because of a learning disability or other problems. When that was abolished, youth incapacity benefit was introduced, which waived the contribution conditions. People who have, in many cases, quite severe disabilities are now going to be sucked into this. Therefore, it is wrong to say that this is simplifying it for them: it will actually make it a lot more difficult.
1224. The intention seems to be to disenfranchise people with quite severe learning disabilities, learning difficulties, and so on, because they will now have to qualify for income-based ESA, income-based universal credit, or whatever. This affects quite a large cohort of young people who were previously treated sympathetically and had their conditions recognised. That recognition of their condition and of their ability to cope is being taken away from them. It is quite difficult for some of them to cope on a daily basis, without having to deal with this whole mix-up that is universal credit and what they may or may not be capable of.
1225. The reason that I am giving a bit of an explanation is that a lot of people are not aware of the purpose of the severe disablement allowance and the youth incapacity benefit, and the whole issue of contributions. Again, if you qualified for youth incapacity benefit, the contributions were waived indefinitely, as long as your condition persisted. That has all changed. There has been a change to the definition of “disability”. I think that that needs to be pointed out, because people are not necessarily aware of it.
1226. As I say, this is a very important and contentious clause. You are right to say that it is contentious, and that will continue to be the case, particularly for large numbers of young people. They are already getting hammered by the provision of single room rent and all that. This is an attack on youth, regardless of the way in which you want to dress it up.



1227. **Mr Pollock:** As I say, it is not deemed or presented as a cost-saving measure as such. There are no other concessions to age in any of the other —
1228. **Mr Brady:** With respect, they are not going to publicise the fact that they are hammering young disabled people, which is what they are doing. That would not go down well.
1229. **The Chairperson:** We are now getting into —
1230. **Mr Brady:** I thought that it was necessary to say that.
1231. **The Chairperson:** I appreciate that. You have outlined your understanding of the outworking of that, and Michael is not challenging that.
1232. If we are happy enough, we will move on to clause 55.
1233. **Mr Pollock:** Clause 55 — again at the danger of repeating myself — deals with the claimant commitment for employment and support allowance. Martina explained that for universal credit, and I mentioned the same type of thing earlier for jobseeker's allowance.
1234. Clause 55 introduces the claimant commitment for employment and support allowance in the period leading up to the introduction of universal credit. A claimant commitment, which is a record of a claimant's responsibilities, sets out the information, the requirements placed on a claimant and the consequences if the claimant fails to meet those requirements. It can be reviewed and updated if a claimant's circumstances change. A claimant commitment will be a condition of entitlement to employment and support allowance. It will ensure that claimants have to consider and accept their responsibilities at the beginning of the claim and when the commitment is updated for particular changes.
1235. The requirements that can be placed on a claimant — for example, to attend a medical assessment, take part in work-focused interviews, or notify about a change of circumstances — would be imposed in the normal way. Any work-related activity that the claimant is required to do would be drawn up by advisers in exactly the same way. However, the action plan would be incorporated into the claimant commitment.
1236. Beyond requiring claimants to accept a claimant commitment, the clause makes no change to the requirements that can be placed on a claimant. They may still be required to comply with their requirements as appropriate for their particular group, whether a person is *[Inaudible.]* group, the content of the claimant commitment would be expected to be pretty minimal.
1237. **The Chairperson:** Thanks you. We will move on to clause 56.
1238. **Mr Pollock:** Clause 56 deals with work experience and the like. There will be increased conditionality for employment and support allowance claimants in the work-related activity group for the introduction of work-related activity regulations. For the first time, those who are able to prepare to return to work will be required to do so when it is reasonable. Claimants will receive support to get back to work that is tailored to their own particular circumstances. We expect to use the powers flexibly so that the adviser can devise tailored action plans for each claimant. The nature and amount of work-related activity that is required can vary for each individual. However, the requirement must always be reasonable in the individual's circumstances.
1239. Clause 56 makes provision for us to make it clear that work-related activity can include work experience and work placements for employment and support claimants in the work-related activity group. It is necessary to make it expressly clear that, although it remains unreasonable to require those claimants to undertake actual work, it may be deemed reasonable — depending on an individual's circumstances, obviously — to require them to undertake work experience or a placement to meet the

- requirement to undertake work-related activity.
1240. The inclusion of clause 56 simply avoids the question of doubt over whether someone with limited capability for work can be required to undertake those activities to help them to prepare for work. We want to give advisers, both in jobs and benefits offices and jobcentres, as much flexibility as possible to require the work-related activity that they think would be most effective in moving a claimant back to work. Any activity that is required of the claimant, including work experience or placement, must be deemed as reasonable in the individual's circumstances.
1241. Advisers would work with each individual to understand his or her capabilities. Work experience and work placements help claimants to understand more about their career options and skills, increase their confidence, provide valuable work experience and make them more attractive to employers. They will not necessarily be more demanding than any other forms of work-related activity. They could take many forms and do not need to be full-time. The focus of placements would be on learning new skills and getting experience of the workplace — quite different from the more taxing demands of actual work, which would normally require a longer-term and less flexible commitment, with much higher expectations of the individual.
1242. **Mr Copeland:** Michael, does that cut across or have any bearing on the current work that is permitted under the employment and support allowance? If you have limited capability, you can work up to 16 hours a week for £99-70 a week for up to a year. If you are in the support group, you can do that almost indefinitely. Is there any inference to be drawn? If someone is, let us say, in the support group, and he or she undertakes permitted work within the terms of the current legislation, is there any likelihood that that person who is involved in that process might be called to enter into some other sort of training? Will permitted work as it is now continue under the new benefits?
1243. **Mr Pollock:** I think that it will. Colm, do you know anything about permitted work? My notion is that, because permitted work is permitted, effectively, by the client adviser and must have some added value for individuals, such as improving their skills or keeping them in touch, it could form part of —
1244. **Mr Copeland:** However, it allows people in a support group, who are not required to attend work-related interviews, to derive an income of up to £97 a week for 16 hours. They can do that forever, essentially.
1245. **Mr Pollock:** You asked some questions about permitted work last week when we were here. We are researching the answers to those questions. Therefore, we will wrap the whole thing up when we come back to you formally on those questions.
1246. **Mr Copeland:** Thank you.
1247. **Mr F McCann:** I want to raise an issue that has sort of been raised before: the ability of the client adviser to determine the level of work that a person can do. What training do advisers receive to deal with people with various illnesses? That goes back to the whole question that Mickey raised about assessing somebody who is bipolar, somebody who suffers from autism or somebody who has some other mental health difficulty.
1248. There is also a problem for people with physical health problems. Mickey has also said previously that this is not about helping people to live with their illness; rather, it is about the work that they can do with their illness. What training do the client advisers go through? Is there anything on paper that specifies the level of training required? Is there a two-week course, a six-week course or a longer course so that client advisors are able to determine how a person's illness is affected by work-related activity?
1249. **Mr Pollock:** We have already asked the question about the client advisers and

- their particular training programme, and I think that it was raised again last week. We have a response to that, which we will be formally coming back to you with in writing. It explains that client advisers undergo a fairly extensive training scheme. Presumably, that incorporates up-to-date training methodologies.
1250. I do not know whether the specifics of incapacities, particularly mental health disability, are covered by the training. Certainly, it is not in the response that we have received. We will build on that detail to see whether we can give you those sorts of assurances. The idea is that the client advisers need to possess the relevant information before they can take informed decisions on what is suitable for a claimant.
1251. **Ms M Campbell:** They also take into account the medical assessment — the work-capability assessment.
1252. **Mr F McCann:** Questions have been raised about serious flaws in the work-capability system and over how it has been handled. Therefore, I do not place a great deal of store in the system's ability to deal with the problems that I have outlined. Mickey talks of people being treated abominably when they have gone through the assessments.
1253. I would like to see something that we asked for in 2007. At that time, we were told, "Don't worry about it. There will be training so that the client advisers will be able to make those decisions." I have spoken to people who have difficulties in dealing with people who come in with illnesses, mental or otherwise, and assessing them for work. It baffles me that doctors can say that they think that someone is not capable of work, yet somebody who gets four-to-six weeks training can say, "I believe that the person is capable of work."
1254. **Mr Pollock:** Undoubtedly, as a public representative, you will get the cases where things do not work out according to plan. We need to look at particular issues around mental health to see whether there are those sorts of provisions in client adviser training.
1255. **The Chairperson:** This is a substantive point that has been raised on the record. What we will have to do eventually is say what we are going to do about these things. Are we clear that we know what this is supposed to do?
1256. **Mr F McCann:** I would like to see the type of training that is given to advisers, find out how long it is for and who provides it.
1257. **The Chairperson:** We are expecting a full response, because it is a substantive and a contentious issue.
1258. **Mr Brady:** We are not dealing with isolated cases. There are quite large numbers of cases, and this highlights the flaws in the clause.
1259. We talk about permitted work, but it was called "therapeutic allowance". The idea was that people, particularly those with mental health issues, such as depression, would be able to get some relief and get out of the house. The work would be therapeutic in the sense that it would offer rehabilitation and help towards getting them on to an even keel. I cannot imagine that those people would be allowed to continue on under this regime.
1260. **Mr Pollock:** I appreciate that. The only point that I am making is that you would hear about only those for whom it does not work out according to plan.
1261. **Mr Brady:** The point that I am making is that there are quite large numbers of them.
1262. **The Chairperson:** That is not specific. I am not going to parry you on that, but that is not necessarily the case. We are all aware of cases that do work out.
1263. **Mr Douglas:** I would like to know something. I was going to take on a young person from the Step Ahead programme, through DEL, but politicians and MLAs were not allowed to take on anybody. Will it be the same in this situation?
1264. **Mr Pollock:** Will what be the same?



1265. **Mr Douglas:** Someone with an interest in politics, for example, might want to work in my office. Could I let them work on reception to try to give the person some work experience? There may be jobs coming up in the political sector. Would we be eligible to take someone on? There was some legal question about us taking somebody on from the Step Ahead programme.
1266. **Mr Pollock:** We can perhaps talk about that outside. I cannot imagine that it would be good for anybody's health to go into politics for work experience.
1267. **Mr Brady:** It was probably thought that you would be a bad influence on them, Sammy.
1268. **Mr Douglas:** I had a young fella who had gone through a heart transplant recently. He actually died last Sunday. He was with me for a year. He was very limited, but he was able to sit at a desk, interview people and do reception. Getting him out of his house was the best thing for him, apart from anything else.
1269. **Mr Pollock:** The limitations would tend to relate to the individual's capabilities.
1270. **Mr Douglas:** Are you talking about learning difficulties?
1271. **Mr Pollock:** They would relate to their particular condition rather than to the occupation.
1272. **The Chairperson:** Sammy, you were wondering whether there would be an exclusion in place from working in politics. You are not sure, Michael; you are shaking your head. You are not aware of it.
1273. **Mr C McLaughlin:** We will check that with DEL. It might be able to give us some guidance on that.
1274. **Mr Douglas:** I suppose that the question is that if we were not allowed to take someone from the Step Ahead programme in the past but allowed to do it here, there must be anomalies.
1275. **The Chairperson:** Fair enough; it is a good question. Why would someone not be able to take up a post in your office, apart from the fact that you would work them too hard?
1276. **Mr Pollock:** Clause 57 is good news, of a type. It introduces a hardship payments regime for employment and support allowance, which did not previously exist. In context, the reform agenda announced the intention to raise the amount of sanctions that would be imposed on claimants in the work-related activity group. Sanctions apply where claimants fail to meet their responsibilities.
1277. Under the proposed new system, sanctions for that group, in most cases, would be open-ended until the claimant recomplies with requirements for a short fixed period thereafter. Although the consequences of non-compliance are made stronger, we want to improve the incentive to re-engage with the requirements. Alongside those reforms, we recognise the need to protect those who are sanctioned from falling into hardship. The clause also provides for hardship payments for employment and support allowance claimants. Many aspects of the system would be similar to the current arrangements under jobseeker's allowance. For example, in determining whether the person is, or would be, in hardship, we would continue to look at matters such as the level of resources available to the claimant's family and the risk that, without hardship payments, such essential items as food, heating and accommodation might not be available to the claimant or the family, or be available at considerably reduced levels.
1278. We now intend to set those matters out in regulations. We expect the rate of payments to be broadly similar to the current rates within jobseeker's allowance. However, unlike payments to jobseeker's allowance claimants, hardship payments under proposals in the new scheme would not be recoverable under the employment and support allowance.
1279. **Mr Brady:** Would it not be simpler not to sanction them in the first place and

- save all that money that is spent on staff having to check up —
1280. **The Chairperson:** Just ask a question or ask for clarification.
1281. **Mr Brady:** I would like clarification. Presumably, it will take a period to put the sanction into place, and the person will become aware of that. It may take a while for the hardship payment to kick in. It may take a week or two. I suppose that it goes back to Fra's point. If staff are going to investigate, how long will the person have to wait for the money that is meant to alleviate the hardship? Surely, that is the point of having it.
1282. You mentioned ESA. Are there any other recoverable benefits?
1283. **Mr Pollock:** Jobseeker's allowance.
1284. **Mr Brady:** It is only ESA that it will not be recoverable from. What is the rationale for that?
1285. **Mr Pollock:** It is possibly the fact that you are dealing with particularly vulnerable clients.
1286. **Mr Brady:** You could be dealing with vulnerable clients who are signing on.
1287. **The Chairperson:** There was a question in there around time lapse, which goes back to Fra's point.
1288. **Mr Brady:** It goes back to what Fra said the last time.
1289. **The Chairperson:** That been addressed for now. Fair enough.
1290. **Mr Pollock:** Clause 58 deals with the claimant's responsibilities for employment and support allowance. As Martina mentioned earlier, universal credit will replace income-related employment and support allowance. As with jobseeker's allowance, employment and support allowance will become a contributory benefit only.
1291. Clause 58 aligns the work-related requirements and sanctions that can be applied to claimants of contributory employment and support allowance with those for similar claimants under universal credit. That is equivalent to the changes to jobseeker's allowance made in clause 50. It replaces the current provisions for employment and support allowance. Although the clause generally mirrors universal credit provisions, the number of differences is worth noting. No employment and support allowance claimant will be required to search for or be available for work, so clause 58 does not include parallel work-search or availability requirements. As a result, the higher-level sanction cannot be applied to an employment and support allowance claimant who fails to meet his or her particular requirements.
1292. Some ESA claimants will not be subject to any work-related requirements. That will, of course, include those who are found to have limited capability for work-related activity and fall into the support group.
1293. Claimants with substantial and regular caring responsibilities, or lone parents or main carers of a child under the age of one, will not be subject to any requirements. Lone parents or main carers who have limited capability for work or are responsible for a child over the age of one and under the age of five will be subject to work-focused interview requirements openly. All other claimants who are found to have limited capability for work may be subject to work preparation for work-focused interview requirements.
1294. It is also worth making clear that, although there is no provision for hardship payments in the clause, other provisions in the Bill will ensure that employment and support allowance claimants who meet certain conditions will be able to access hardship payments through a claim for universal credit.
1295. **Mr Brady:** I want to clarify something. The Welfare Reform Act 2012 explanatory notes state:
- "Claimants receiving ESA may be subject to a sanction for an open-ended period until a compliance condition is met, for a fixed period of up to 26 weeks or a combination of both."*

1296. Does that mean that it will be open-ended indefinitely?
1297. **Mr Pollock:** It is indefinite in so far as the expectation will be that it will encourage the individual to re-engage with the service.
1298. **Mr Brady:** Presumably, if it is does not, it could last for forever and a day.
1299. **Mr Pollock:** Hopefully not.
1300. **Mr Brady:** According to how it is worded, it could, technically. You could be sanctioned for four years rather than three, if you did not comply. That is a possibility. I just wanted clarification on that.
1301. **Mr Pollock:** Clause 59 deals with entitlement of lone parents to income support. Legislation currently provides that income support must be made available to lone parents with a child under the age of seven. The clause lowers that age to five. There has been a gradual reduction in the age over a number of years. The intention now is that lone parents with children aged five or over will no longer be entitled to income support solely on the grounds of lone parenthood.
1302. Support for those lone parents will be available through jobseeker's allowance or employment and support allowance, if they meet the relevant conditions of entitlement, or through income support, if they qualify on grounds other than lone parenthood, notably if they are carers. Policies for lone parents are based on the key principle that work is the purist and most sustainable route out of poverty. The intention is to align the age at which lone parents can reasonably be expected to work with the time that their youngest child enters the education system — school.
1303. **The Chairperson:** OK, fair enough. We move on to clause 60.
1304. **Mr Pollock:** Clause 60 introduces the claimant commitment for income support. Again, that is to try to align the existing benefits with the start-up for universal credit. The claimant commitment will be a record of the claimant's responsibilities that sets out the requirements placed on them and the consequences of failing to meet them. It will be reviewed and updated as necessary, except when the claimant commitment will be a condition of entitlement for income support. That ensures that income support claimants will have to consider and understand their own responsibilities at the beginning of their claim and when the claim is upgraded. Beyond the need to accept the commitment, the clause does not change the conditions of entitlement for income support or the requirements that income support claimants must meet.
1305. **Mr Copeland:** I want to jig back to what we talked about last. Benefit payment, in some cases, can influence accessibility to preschool and playschool groups and put the ability to get a place above and beyond others. Will that change impact on people being able to access preschool and nursery groups? It is bound to.
1306. **Mr Pollock:** It depends on the conditions of the nursery. I do not know that there are hard-and-fast rules for nursery places. Do you know, Martina?
1307. **Ms M Campbell:** That is an education matter.
1308. **Mr Pollock:** It is a matter for the Department of Education.
1309. **Mr Copeland:** There is a perennial problem in east Belfast that, to the exclusion of local children, children are being placed in nursery schools on the basis that their parents are in receipt of income support.
1310. **The Chairperson:** I presume that that will fit into the category of passported benefits.
1311. **Mr Pollock:** And that is a much wider issue.
1312. **The Chairperson:** I presume that that is where that will have to be addressed.
1313. **Mr Copeland:** I am happy [*Inaudible due to mobile phone interference.*].

1314. **Ms M Campbell:** It is the Department of Education that sets the criteria, or at least the guidelines, within which each school operates. It is not us.
1315. **Mr Copeland:** The benefit is changing. Will it be used as a matter of course?
1316. **Ms M Campbell:** Yes. Any Department that uses social security benefits as a criterion or an automatic lead-in —
1317. **The Chairperson:** With respect, it is the other way around. The destination of the Department is as a result of a passported benefit, so the issue starts with this Department and the welfare reform change. It is the benefit that will determine entitlement, or not, beyond that. Therefore, Michael's question is very relevant.
1318. It does not matter what the Department of Education might do next week as a result. It will have to do that. A number of Departments will have to take a political decision. The Department of Finance, the Department of Health and the Department of Education are all currently considering what they might have to do if the Welfare Reform Bill is enacted. Those Departments will have to decide what the consequence are for them. They are not causing the problem, but they will be in receipt of it. Therefore, the problem starts here.
1319. **Ms M Campbell:** It is a moot point whether or not they are causing it. They have chosen —
1320. **The Chairperson:** It is not. It is a very important point.
1321. **Ms M Campbell:** They have chosen to use receipt of social security benefits as a means of automatic entitlement. It is not this Department that does that. That is something that each individual Department decides.
1322. You are exactly right to say that it is a matter for the Executive to consider the consequences of the changes in the Bill for individuals Departments that choose to use receipt of social security benefits as a means of deciding entitlement.
1323. **The Chairperson:** However, it is beyond the issue that you raised. There is a range of passported benefits, and it starts with the benefits system and eligibility. A Department might use the criteria of another Department. Free school meals is an example of that. However, these clauses will determine whether someone is eligible or not. That is Michael's question. That is all that we need to establish here. Whoever else has to worry about the consequences has to worry about them. We have addressed what is a likely consequence. We are trying to establish whether that is what this clause will do. Whoever has to pick up the pieces is another issue, and I am not getting into that discussion.
1324. **Mr Pollock:** Martina touched on this earlier when she talked about universal credit, which is available to both out-of-work and in-work low-income families. The population in receipt of universal credit could be a lot more than those who receive out-of-work benefits now. Therefore, in theory, low-income families could qualify for some of the passported benefits, such as preschool places.
1325. Departments are having to put their thinking caps on and consider what would be the financial consequences of their opening the door rather than saying that it must be someone who is in receipt of ESA or JSA, which means that you have x number of people. Departments are not quite sure how many people will qualify for universal credit award, so they do not have a full idea of the financial consequences for their departmental spend.
1326. **The Chairperson:** OK. I go back to the point that a Department may use this for eligibility for something else. However, the difficulty for some people — and Michael put his finger on it — is that the clause removes that entitlement. At the end of the day, that is what it does. That is the point that Michael was making.
1327. **Mr Copeland:** Essentially, yes.
1328. **Mr Brady:** At the moment, the main qualifying benefit for passported

- benefits is income support. Income support is disappearing and being subsumed into universal credit. Therefore, Departments will have to come to some new arrangement about what benefit is the qualifying benefit. That is the important issue.
1329. **Mr Pollock:** Well, that is if they even use benefits at all. They may have some other more discerning arrangement. A process has evolved over a number of years — probably decades — whereby Departments have said that if you are in receipt of incapacity benefit, income support or a supplementary benefit, you are automatically entitled to a free school uniform, free school meals or whatever. Social security benefit was usually the easiest tag to hang those things on. The Department of Education, for example, could start with a clean sheet of paper now and say that, unless you have six kids or live in a certain area, you are not entitled to free school meals. A Department could redefine the qualifying criteria for a particular passported benefit.
1330. **Mr Brady:** Or they could abolish passported benefits altogether.
1331. **Ms M Campbell:** That will be a matter for the Executive. It has been discussed in the Executive subcommittee on welfare reform.
1332. **The Chairperson:** They will pick up the tab for it, too.
1333. **Mr Pollock:** Clause 61 deals with entitlement to work. Under current legislation, there is a possibility that people who are, or have been, working illegally could access contributory jobseeker's allowance. Under current legislation for contribution, an inference can be drawn that a claimant must have entitlement to work through the requirement to be available to work. This is for clarification, to put it beyond doubt and to introduce a specific condition of entitlement that states clearly that, to become entitled to this benefit, a person must have entitlement to work.
1334. It is around residency conditions. There was never any policy intention that a person with no entitlement to work in the UK should receive out-of-work benefits. This new condition of entitlement will ensure that that situation can no longer arise.
1335. The exact same issue is covered in the clauses for employment and support allowance, which is dealt with in clause 62, and for maternity allowance and statutory payments under clause 63.
1336. **Mr Brady:** Presumably, if you have no entitlement to work, you have not made contributions. Therefore, are they looking at people who worked and paid contributions but were working illegally? Some people have their passports stamped to show that they can work but do not have recourse to public money or benefits. Does it apply to habitual residents? It is not clear. People coming to England, the North or wherever could have stamped on their passport that they are not allowed to have recourse to public funds, but they may be entitled to work, because they have a partner or some such reason. Presumably, they could work and get contributions.
1337. **Ms M Campbell:** Yes.
1338. **Mr Brady:** Would that debar them from that recourse to public funds when they eventually qualify? Under European Union legislation, contributions are transferable.
1339. **Mr C McLaughlin:** It is supposed to. The problem with immigration authorities and us is that, as you say, Mickey, people are allowed to enter a country but there should not be recourse to public funds. If they go ahead and do a job illegally and the employers give them contributions, by our social security law, they are entitled to contributory benefits, despite the fact that the immigration authorities have said that they should not have recourse to public funds.
1340. **Mr Brady:** People from some of the non-accession countries such as Albania and Romania were entitled to come in and work but did not have recourse to benefits or public funds. That is borne out by cases that I have dealt with. In one case, a Romanian baby was getting



- inoculated and, when the practice found out that Romanian people were allowed to come in and work but did not have recourse to the National Health Service, for instance, it stopped giving the baby the vaccinations. That is the kind of situation that is evolving, and it will probably happen more. Presumably, that is aimed at those cases.
1341. **Mr C McLaughlin:** Yes. If people are not legally entitled to live here, they should not be getting anything.
1342. **Mr Brady:** Obviously, they did not after the practice found out. The baby got one injection and that was it. It is abhorrent that that should happen.
1343. **The Chairperson:** Michael, did you suggest that you were doing clauses 61, 62 and 63?
1344. **Mr Pollock:** Clauses 61, 62 and 63 are all of the same policy intent. Clause 61 deals with jobseeker's allowance, clause 62 deals with employment and support allowance and clause 63 deals with maternity allowance and statutory payments. As I said, that is to regularise the position to determine who is entitled.
1345. **The Chairperson:** We have completed up to and including clause 63. We will break for 10 minutes and start at Part 3, which deals with other benefit changes.
- Committee suspended.*
- On resuming —*
1346. **The Chairperson:** We are back in play. We will move to Part 3, which concerns other benefit changes. It starts with clause 64.
1347. **Mr Pollock:** Before we move on, I want to clarify something about clause 53, which relates to further entitlement after time-limiting under ESA. If someone is moved into a support group, that is when their period of requalification for the contributory support allowance would be reinstated. It would be in place only for the period in which they are in that support group, not for a further 365 days, which we possibly said.
1348. **The Chairperson:** OK. That is understood. Thank you, Michael.
1349. **Mr Pollock:** We are moving to Part 3, which concerns other benefit changes. Jane Corderoy, who will lead on parts of this, is with us. I will be dipping and out as well. I will hand over to Jane to deal with clauses 64 to 68, which concern industrial injuries benefit.
1350. **Ms Jane Corderoy (Department for Social Development):** Clause 64 repeals the legislation that maintains a separate scheme for providing no-fault compensation for work injuries that occurred before 1948. At present, there is separate provision for state compensation to be paid for accidents and diseases picked up at work that occurred before 5 July 1948 through the Workmen's Compensation (Supplementation) Scheme 1982. The scheme is known as the pre-1948 scheme. When this provision comes into operation, existing payments and claims for no-fault compensation for work injuries will be dealt with as claims under the main industrial injuries disablement benefit scheme, regardless of when the disease or accident occurred. That change is about removing unequal treatment and ensuring that everyone who is injured through their work is treated fairly. Essentially, it provides for the pre-1948 scheme to be abolished and responsibility to be transferred to the main industrial injuries benefit scheme. It will simplify and rationalise the scheme, reducing the complexities caused by separate schemes, with the aim of making it easier for claimants to understand. No one will lose out financially. New claims under the pre-1948 schemes are now extremely unlikely. Any current claims will receive the same rate of payment as they are currently on or a slightly higher rate. The clause enables the Department to make regulations, subject to negative resolution, with the aim of ensuring that new and outstanding claims are made, decided and appealed under the same rules.
1351. **Mr Copeland:** Does that impact on reduced earnings allowance that flows

from the *[Inaudible due to mobile phone interference.]*

1352. **Ms Corderoy:** I do not think so.

1353. Clause 65 removes the lower rate of industrial injuries disablement benefit that is payable to those who are under the age of 18. That means that all successful claimants, existing and new, will, in future, be paid at the normal industrial injuries disablement benefit scheme's rate, whatever their age. At present here, there are no claims to the lesser rate of payment for people who are injured and under the age of 18, but that may not always be the case. There is no reason why payments should vary on the grounds of age; everyone who is injured through their work should be treated equally and paid on the same basis. People suffering the same effects of any injury should receive the same rate of payment, whatever their age. Claimants under 18 will, in future, receive the same rates as people aged over 18. That will simplify the administration of the scheme and remove unjustified discrimination against those who are under 18.

1354. **The Chairperson:** Are members happy enough?

*Members indicated assent.*

1355. **The Chairperson:** OK. We will move swiftly to clause 66.

1356. **Ms Corderoy:** Clause 66 makes provision to enable trainees to be paid under the main industrial injuries disablement benefit scheme. Currently, because trainees are not employed earners, as is required by the existing legislation, they are not entitled to the main scheme but are required to apply to the analogous scheme, which is designed for those very few trainees who are disabled by an accident at work while participating in certain training schemes or courses. That is provided for by the Industrial Training (Northern Ireland) Order 1984. The scheme for trainees is being abolished, and responsibility will transfer to the main industrial injuries disablement benefit scheme. Trainees will, therefore, be

treated as if they are employed earners and so will be eligible to claim under the main scheme. All claims will, in future, be made and decided using the same rules that apply to industrial injuries disablement benefit. No one here will lose out financially. Both schemes are identical, and the scheme for trainees has the same basic rules and payment rates as the main industrial injuries disablement benefit scheme. Payment levels will not need to be altered.

1357. Subsection (3) provides for regulations that are subject to negative resolution. The regulations will enable trainees to be treated equally as if they are employed earners under the same rules that apply to industrial injuries benefit. The aim of the clause and the regulations is to simplify and rationalise the scheme by reducing unnecessary complexities that are caused by running more than one scheme for the same purpose. It will make the scheme easier for claimants to understand and claim under and easier for staff to administer.

1358. **The Chairperson:** Thank you. If members are content, we will move to clause 67.

1359. **Ms Corderoy:** At present, industrial death benefit is paid to widows or widowers for industrial deaths that occurred before 10 April 1988. Claims in respect of deaths after that date are paid for under the bereavement benefit provisions. There have been no new claims for industrial death benefit in many years. Any new claims are now extremely unlikely as the death would have had to occur before April 1988, which is almost 25 years ago. Clause 67, therefore, removes the right to claim industrial death benefit. Payment will still continue on the existing caseload, so no one will have a reduction in payment. Essentially, the removal of that redundant right to claim industrial death benefit removes unnecessary legislation from the statute book.

1360. **Mr Copeland:** I wanted to check about civil partnerships. Saying widows or widowers suggests marriage, but that is being taken out of the equation. Is anything being put into the equation?



1361. **Ms Corderoy:** No, it will be replaced by bereavement benefit provision.
1362. **Mr Copeland:** Will civil partnerships be recognised for that aspect?
1363. **Ms Corderoy:** Yes.
1364. **Mr Brady:** Industrial death benefit was specific to somebody who died in the course of their work and, in some cases, could have been payable if their work involved travel to and from work. It was quite complex in that sense. With bereavement benefit, which is essentially for the surviving partner, I wonder, from a legal point of view, about a legal claim for compensation. Industrial death benefit was quite specific in that it was relatively easy to prove that the death had been directly as a result of an industrial action. Bereavement benefit is different because it really replaced the old widows' benefit, and survivors' benefit basically came into being because men, as a result of a European court case, were able to claim widowers' benefit. How might that impact? Has that been factored in or thought about?
1365. **Ms Corderoy:** I think that it has, yes. These are just technical things that are tidying it up.
1366. **Mr Brady:** It could make a difference in some ways. That particular benefit was specific for death caused by an industrial action, as opposed to bereavement benefit, which is a totally different concept. We need to clarify that.
1367. **Mr Copeland:** Will there be any changes to the perceived entitlement where, for example, a man or woman has disappeared and, after 30 or 40 years — this question is based on a real set of circumstances — the surviving partner has been informed by the Historical Enquiries Team (HET) or the police that the deceased partner is presumed to have been murdered but no death certificate has ever been issued because there is no body available? How do you establish whether there is an entitlement to that sort of benefit?
1368. **Ms Corderoy:** This Part relates solely to industrial injury.
1369. **Mr Copeland:** Is this not now going to partners? Sorry, you are right. I will ask you the same question outside because it is exercising me slightly at the minute.
1370. **Ms Corderoy:** If you ask me, I will find out.
1371. **Mr Douglas:** I have a question about deaths before the date. I knew some people who died of airway disease or an asthma-type disease before that date, and their families are still pursuing that even though it happened then. Does that mean that it just stops for them? One example involves the old Belfast Corporation. The family was trying to get records, and I know of someone who worked in Belfast Gasworks. I know that it is a lot of years ago, but some of those people are still widowers in their 80s or 90s.
1372. **Mr Copeland:** Pleural plaques and asbestosis are the same.
1373. **Ms Corderoy:** Has a death occurred because of that?
1374. **Mr Douglas:** Yes.
1375. **Ms Corderoy:** OK.
1376. **Mr Douglas:** They are trying to prove that it happened because, for example, the person worked in the gasworks.
1377. **Ms M Campbell:** They are getting normal bereavement benefits now. If that is proved, any difference in money will be paid. We can check that as well.
1378. **The Chairperson:** OK. We will move to clause 68.
1379. **Ms Corderoy:** Clause 68 abolishes the right to request an accident declaration. It has no effect on a person's right to claim industrial injuries disablement benefit in respect of that accident. To do that, it repeals article 29(2) of the Social Security (Northern Ireland) Order 1998. This provides for people to apply for an accident declaration confirming and recording that an accident has occurred without claiming industrial

- injuries disablement benefit at the same time.
1380. If an accident causes disability at a later date, it will be investigated and decided upon in the usual manner by a decision-maker at the time of the claim. All available evidence is considered in all cases at the time a claim is made. The lack of a declaration will not in any way disadvantage or affect the claim. The decision is already made in the majority of claim cases when no accident declaration exists, irrespective of when the accident occurred. It is about simplifying processes, and the provision removes the need for separate decision and storage, meaning that the claimant only has to contact the Department once.
1381. **Mr Brady:** I have a question about unforeseen aggravation. Is that encapsulated in the legislation? For example, somebody could break their arm in an industrial accident, and, 10 years later, directly as a result, they could develop arthritis, thereby restricting the use of that arm. Provisions are in place at the moment to deal with that. People can go back and, because the Department has a record of the accident, which would have checked with the employer, it is easier to prove in a sense. If you do not have an accident declaration, effectively, it may abolish the right to claim for unforeseen aggravation.
1382. **Ms Corderoy:** We are assured that employers keep records of accidents at work under section 6 of the Social Security Administration (Northern Ireland) Act 1992. That would suffice as they keep a record of all —
1383. **Mr Brady:** It is my understanding that, in the initial stages of this, the right to claim for unforeseen aggravation was to be abolished. Is it possible to get clarification on that? Obviously, there are people who are making claims now for something that happened maybe 15 or 20 years ago because, as a direct result of the original industrial injury, other conditions have developed.
1384. **Ms Corderoy:** I think the decision-maker will investigate all the evidence at the time. You are saying that would be a problem because there is no declaration, but we feel that the information would already be recorded by the employer.
1385. **Mr Brady:** Again, that will require enforcement around the employer actually recording it. The legislation will abolish the right to request an accident declaration, so you are really relying on the efficiency of the employer. With respect, that is not a cast-iron guarantee, because the employer may not do it. Over the years, I have dealt with loads of cases where people go to the employer and report an accident but it was not recorded. It will rely on enforcement. I would like clarification on that point.
1386. **The Chairperson:** We will move to clause 69.
1387. **Mr Pollock:** I will deal with clause 69. It is another nice and contentious one about housing benefit. There has been lots of discussion in Committee and elsewhere around housing changes in particular. Clause 69 introduces two particular changes. One is the uprating according to the consumer price index instead of the retail price index. That is in line with other operating changes being applied across the board to other benefits.
1388. The second is the change that affects the working age claimants who are living in a social rented sector house. Housing benefit claims will be limited to reflect household size as now happens in the private sector, though there will be no equivalent of the shared accommodation rate, which, again, the Committee will be familiar with.
1389. The local housing allowance size criteria will be used to determine whether there is underoccupation. It is a more generous measure than the bedroom standard, as, for example, it allows an extra room for adults aged between 16 and 21, as it is under the bedroom standard.
1390. There will be two different percentage reductions made to the maximum

- housing benefit available. Generally, that is the amount of eligible rent that they could claim. It is based on whether the claimant is underoccupying the property by one bedroom or two. A 14% reduction will be made for people who underoccupy by a single bedroom, and a 25% reduction for underoccupancy of two or more bedrooms.
1391. It is a new approach to housing benefit in the social sector, and it is acknowledged that it will have a significant impact on various levels, as a large number of claimants could be affected. The average amounts of reductions in housing benefits are estimated at around £11.50 a week or £15 a week based on 2013-14 prices. The details of the policy will be set out in secondary legislation through regulations.
1392. **Mr Copeland:** Michael, I will put a few possible scenarios to try to establish the reality of this. In a situation where the Housing Executive has built a downstairs bedroom to be used by a disabled person, which renders an upstairs bedroom no longer occupied, would a reduction in housing benefit apply? Secondly, would it apply in a case where a single mother or father or, indeed, a new family has access or occasional access to children from previous relationships? *[Inaudible due to mobile phone interference.]*
1393. **Ms M Campbell:** Foster carers, from memory of the last time.
1394. **Mr Copeland:** The other situation is that of a disabled person who, by reason of physical or mental disability requires someone to stay overnight to attend to their needs.
1395. **Mr Pollock:** There is provision in housing benefit legislation for a rate for an overnight carer, although it feels a bit incongruous if you are a carer and are charged with looking after someone. On separation or access to children, housing need is ordinarily based on whoever is regularly domiciled in the house.
1396. **Mr Copeland:** Does two nights every week constitute “regularly”?
1397. **Mr Pollock:** It would be the main residence. It would relate to whoever resides in the house for the majority of the time.
1398. **Mr Copeland:** Would the reduction apply to a situation where a downstairs bedroom or shower room was built for someone by the Housing Executive, thereby freeing a bedroom upstairs? Again, that would probably give rise to underoccupancy, but, in my view, there would be a justifiable cause in the circumstances.
1399. **Mr Pollock:** On the generality of the clause, we have not gone about setting out broad categories for exemptions. In due course, in GB and here, there will be the application of discretionary housing payments. For example, people with shared responsibility for children could possibly access discretionary housing payments for making up rental shortfall.
1400. **Mr Copeland:** Would the money available to satisfy the need for discretionary housing payments match the need before it ran out?
1401. **Mr Pollock:** That is still all up for grabs. The detail of how this would be applied in a particular situation in Northern Ireland in the social sector with the available housing stock is still to be thrashed out.
1402. **Mr Copeland:** Lastly, will that affect people who are of a pensionable age and in receipt of pension? A lot of pensioners find themselves in properties that their families grew up in. Possibly, their partner has died. Will they be included in this? In some cases, they could have one or two or three bedrooms empty.
1403. **Ms M Campbell:** Only where one partner is under pension age and in receipt of universal credit.
1404. **Mr Copeland:** That situation would cease when they achieve pension age?
1405. **Mr F McCann:** The clause mentions the determination of appropriate maximum. You gave a figure for what is being called the bedroom tax. Have you worked out

- how much people will lose in housing benefit by the new determination under clause 69?
1406. **Mr Pollock:** Under the operating —
1407. **Mr F McCann:** Yes. It goes back to the debate we had earlier on. People are being told that the changes are reforms, but the vast majority of the stuff that we are dealing with points to reductions. In clause 69, there is talk about liabilities to pay rent, and built into that has to be a reduction, given the way it is laid out. Will you check for me?
1408. **Mr Pollock:** I will. This Committee and the Assembly would have approved the regulations that effectively set a baseline to allow it to operate using the consumer price index. So, those baseline figures would have been set out in April last year. We will be using the consumer price index from this September to operate from next April.
1409. **Mr F McCann:** Where the clause says “Executive determination”, is it talking about the Executive here or the Housing Executive?
1410. **Mr Pollock:** The Housing Executive.
1411. **Mr F McCann:** If this has been worked on, you must be able to get a figure for the reduction in benefit.
1412. I will move onto the bedroom tax. I asked in the Assembly last week about the rooms that people call “box rooms”, which are found in most of the older Housing Executive and housing association properties and usually measure 8 feet by 10 feet. Are those rooms going to be reclassified? For many people, those rooms are large storerooms rather than bedrooms.
1413. **Mr Pollock:** That has been mentioned. I do not think that DWP has issued any particular guidelines on what constitutes a bedroom. We are looking at the issue of box rooms and what is the appropriate size for a room to count as bedroom.
1414. **Mr F McCann:** What were the two figures you mentioned for the cost of underoccupancy? You said there would be a 25% reduction in benefit for two rooms.
1415. **Mr Pollock:** A reduction of 14% for one bedroom, which is around £11.50 a week. The majority of individual claimants are likely to experience losses of less than £15.
1416. **Mr F McCann:** For two bedrooms, it is £11 a week.
1417. **The Chairperson:** It is £15 a week.
1418. **Mr F McCann:** That is £60 a month.
1419. **Mr Pollock:** Possibly, yes.
1420. **Mr F McCann:** That all boils down to the debate about the number of people who could lose their houses because they were in arrears. That is taking £60 a month from a benefit that is already stretched. In addition, people cannot necessarily move from area to area due to the legacy of the Troubles, which places a major difficulty on them. People will be getting £60 a month deducted from their benefits. What level of arrears could you build up before action is taken? The £60 a month will have a knock-on effect for people. Will you check that out for me too?
1421. **Mr Pollock:** The level of arrears you can build up?
1422. **Mr F McCann:** Yes.
1423. **Mr Pollock:** I will certainly have a wee look at that. As you know, nothing about housing is simple in Northern Ireland.
1424. **Mr F McCann:** I appreciate that.
1425. **Mr Pollock:** The Minister has his own views on direct payments, the Housing Executive and the housing stock. Those are all interlinked with this, but the general premise of the reforms, and particularly the housing benefit reforms, is to make things fairer for the taxpayer. A family on a certain level of income should not be disadvantaged. A family on benefits should not be able to afford a house better than someone’s who is getting a certain level of income.
1426. **Mr F McCann:** That goes back to the issue of it being a punishment.

1427. **The Chairperson:** That has been well flagged up and identified as an issue. However, the clause is designed to do certain things. Regardless of whether we agree with the reforms, the points have been made, so we are not going to have debate on whether they are a punishment. I accept what you said entirely.
1428. **Mr F McCann:** I have heard that upwards of 40,000 tenants will be directly affected by that. It goes back to the discretionary payments that Michael mentioned, and they are paid at the full rate for the first 13 weeks, 80% for the second 13 weeks, if you apply, and then nothing after that. So, there is no safety valve in there for the continuity of payments. For many people, all you are really doing is putting off the inevitable.
1429. **The Chairperson:** OK. The point is well made.
1430. **Mr Pollock:** We are getting considerably lower figures than the 40,000 that you are suggesting, but rest assured that we will come back and forward to Committee with further clarification.
1431. **Mr F McCann:** What figures are you getting, Michael?
1432. **Mr Pollock:** I do not have them in front of me, Fra. I cannot quote them.
1433. **The Chairperson:** That will form part of people's arguments. People will argue for or against this, but what we are trying to establish here is cut and dried, and that is the purpose of the clause as stated. People can clarify what they are not sure about. People can argue for or against the provisions, but that is another day's discussion and a separate day's work entirely. I want to steer clear of all that.
1434. **Mr Douglas:** We are still on clause 69, is that right?
1435. **The Chairperson:** Yes.
1436. **Mr Douglas:** Michael, this other paper says:
- "the Department may make regulations that limit the amount of housing benefit other than by reference to an Executive determination."*
1437. It says "may"; it does not "will". Is the flexibility there? Secondly, what does that actually mean?
1438. **Mr Pollock:** What are you reading from?
1439. **Mr Douglas:** It is 244. This big one.
1440. **The Chairperson:** Did you say 244?
1441. **Ms M Campbell:** Is it 344?
1442. **The Chairperson:** Is it 334?
1443. **Mr Douglas:** No, it is in this other paper.
1444. **The Chairperson:** Are you on the explanatory memorandum? It is on page 50, is that right, Sammy?
1445. **Ms M Campbell:** Is it 334?
1446. **Mr Douglas:** It says 244 on mine. It is Part 3, clause 69, housing benefit determination. Do you want a wee duke at this?
1447. **The Chairperson:** Share it over there, Sammy. The one we have is page 50 of the explanatory memorandum. It is 344 on page 50. It looks like you are reading a different paper.
1448. **Mr Douglas:** It is under clause 69, Chairman, on housing benefit. Do you want to leave it until later on?
1449. **Mr Pollock:** I will take a wee look at it and check with you later. It is 335 in ours. I am not sure about the detail of it. That is the standard reference grid point at the minute. I am not sure of the exact detail, but I will come back to you on it.
1450. **The Chairperson:** Are you happy to get a response later, Sammy?
1451. **Mr Douglas:** Yes.
1452. **Mr Brady:** I want to come back to a point that Michael raised. The alternative accommodation issue is for another day, but a disabled facilities grant is a legal entitlement from the Housing Executive. Will that be factored in to alternative accommodation if money has been spent? You may not



want to move, or the Housing Executive will not want you to move.

1453. **Ms M Campbell:** I will pick up on Mr Copeland's point. Where the house has been adapted and public money has been spent on it, that will all be taken into consideration. It is all about good use of public money at the end of the day and that old friend common sense.
1454. **Mr Copeland:** I refer to 337 on page 51. It is a bit complex for now, but, in the future, we could maybe get further explanation about it. The Housing Executive set the local housing allowance at the moment based on the information that is available to it. That will be transferred to the Department. What methodology will the Department use? Will it use the same figures? What will the impact be of assessing housing benefit not on what the Housing Executive says but, as it states:
- "by reference to the lower of either the CPI or the bottom 30th percentile of private sector rents."*
1455. I want to see what that means; there are a lot of words in there.
1456. **Mr Pollock:** It would be the same process. GB has rent officers; here, that work is done by the Northern Ireland Housing Executive.
1457. **Mr Copeland:** Will they do it for the Department now instead?
1458. **Mr Pollock:** That is still in the melting pot.
1459. **Ms Corderoy:** Clause 70 allows for the abolition of the discretionary part of the social fund. The social fund was introduced more than two decades ago as part of the Fowler reforms of the social security system. Since then, welfare delivery has changed significantly. Clause 70 provides for the abolition of the discretionary social fund by repealing section 134(1)(b) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992, which provides for community care grants, crisis loans and budgeting loans to be paid from the social fund. It also abolishes the Office of the Social

Fund Commissioner and allows the Department, by order, to make provision for the transfer of property rights and liabilities from the commissioner. It also makes provision for the transfer of money from the social fund into the consolidated fund.

1460. As the Committee is aware, there was a public consultation on the Department's new policy for discretionary support, and details of the proposed new scheme to replace the discretionary social fund will be brought forward in due course.
1461. Clause 70 also provides for schedule 8 to the Bill, if you want the schedules in order. The schedule amends the Social Security Administration Act 1992 as a consequence of the abolition of the discretionary social fund. Those are minor amendments to clarify or ensure continuing application of remaining powers in sections 74 and 75 of the Social Security Administration Act 1992.
1462. In summary, schedule 8 does three things. First, it clarifies that the reference to payment to meet funeral expenses are those made out of the social fund under the revised section 134 of the Contributions and Benefits (Northern Ireland) Act 1992. Secondly, it clarifies that outstanding existing social fund loans made under the GB legislation can continue to be recovered by deductions from certain benefits payable in Northern Ireland. Thirdly, the amendment to schedule 4 ensures that the Social Fund Commissioner and any staff who have been involved in the social fund will still be subject to penalties for unauthorised disclosure of personal information and data, even when they have finished working in the social fund field and the Office of the Social Fund Commissioner has been abolished.
1463. **Mr Brady:** Will the Office of the Social Fund Commissioner last for the transition into the consolidated fund, or whatever alternative to the social fund is brought in? Will it go at that stage? Is it only a transitory measure?

1464. **Ms Corderoy:** Yes. The contract has been extended until the new discretionary fund comes in. I think that they are considering how that will be independently —
1465. **Mr Brady:** I would like clarity. At last week's long and protracted debate, we were told that the social fund would lose £200 million if the Bill was not ratified by a certain date. Surely, what is in the transition period will carry through until the new consolidated fund, or whatever they will call it, comes into being.
1466. **Ms Corderoy:** When I mentioned the commissioner, I meant that the commissioner in GB has gone.
1467. **Mr Brady:** In GB or Britain, or whatever you want to call it, they have gone to the local authorities because they have the infrastructure. We do not. Presumably, the social fund will carry on until an alternative is put in place.
1468. **Ms Corderoy:** As I understand it, that cannot happen because the money and the IT operational equipment will not be there.
1469. **Mr Brady:** Surely, it is incumbent upon the Department to get the alternative into place as soon as possible. They told us that it would be our fault, when, in fact, if they do not do the business, it will be down to them.
1470. **Mr Pollock:** As part of the legislative process, the replacement scheme would be facilitated by a Government amendment at Consideration Stage that will set out the detail of how that is to be handled. That is for the Executive to agree. Once it has been agreed, it can be allocated to the block proper.
1471. **Ms M Campbell:** Regulations will be brought forward as well, but you need the primary power before we can bring the regulations forward.
1472. **Ms Corderoy:** Clause 71 extends the scope of budgeting loans from the existing social fund to include maternity and funeral expenses. At present, there are two types of social fund payment: regulated payments in the form of Sure Start maternity grants and funeral payments to meet maternity and funeral expenses, and discretionary payments in the form of budgeting loans, crisis loans or community care grants to meet other needs. The regulated payments are non-repayable and designed to help with extra costs at certain times in a person's life, such as a funeral or a new baby. Budgeting loans as part of the discretionary payments are repayable interest-free loans that are designed to help claimants to meet expenses that are difficult to budget for out of their regular benefit. Currently, payment is not available from the discretionary social fund to help people to pay for any funeral or maternity expenses. This clause will amend that.
1473. Since March 2011, the Sure Start maternity grant has been restricted to the first child in the family. That restriction recognises that families face the highest levels of expenses when a new baby is the only child in a household. Continued support for low-income families at that expensive time is provided for by the £500 grant.
1474. Extending the scope of the budgeting loan scheme to include maternity expenses will provide an alternative source of support for families having their second or subsequent child. Similarly, making budgeting loans available for funeral expenses will be helpful where the full cost of a funeral cannot be met by the funeral payment or the estate of the deceased. That may also reduce the need for some benefit recipients to turn to high-cost lenders when faced with such additional expense in times of need. It will not replace funeral payments or Sure Start maternity grants, which will be unaffected by the change.
1475. Making the change now, in advance of the introduction of universal credit, will not only help people in the interim but will ensure that wider access to assistance is carried forward to universal credit, where budgeting loans will be replaced with an advanced payment of universal credit.



1476. **Mr F McCann:** I am trying to work this out. What that actually means is that you can still get a community care grant or a non-repayable grant for a funeral payment, but, if it falls short of the required amount, you can apply for a budget loan to make up the difference.
1477. **Ms Corderoy:** Once this comes in, you will not be able to get a community care grant or crisis loan; however, you can still get the regulated help for funeral expenses or your first baby. That means that you will still be able to apply for a budgeting loan for those things that you would not have been able to apply for before.
1478. **Mr F McCann:** There will still be part of the funeral expenses that you do not have to pay back.
1479. **Ms Corderoy:** Yes.
1480. **Mr F McCann:** In most cases with people on benefit, there is a large shortfall in the amount of money that is required, so you can apply for a budget loan.
1481. **Ms Corderoy:** Yes. It exists now so that it will be in place for when it goes into universal credit. Clause 72 is a technical amendment that puts beyond doubt that the Department has control over the maximum amounts that budgeting loan applicants can borrow and how those amounts can be arrived at. To do that, the new provisions are inserted into section 136 of the Social Security Contributions and Benefits Act 1992. That section sets out the principles of the determination of the discretionary social fund.
1482. Clause 72(2) makes it clear that directions that are issued by the Department may prevent an award of a budgeting loan being made for an amount above that specified or calculated in a specified way. The provisions inserted by clause 72(3) relate to the way in which that amount may be arrived at. The maximum amount is variable. Clause 72 includes specific provision that affirms the Department's power to set a limit to be applied in all budgeting loan decisions. That will cover budgeting loans for the interim period before universal credit is fully operational.
1483. **Mr F McCann:** In respect of funeral payments and applying for a budget loan for the shortfall, does that include the purchase of a grave?
1484. **Mr C McLaughlin:** Yes. As you know, the funeral payments regulations contain a list of what you can claim for. If there is a shortfall, they can look for a budget loan.
1485. **Mr F McCann:** That is fine.
1486. **Mr Copeland:** When you have a family unit with joint claimants, is the entitlement to a budgeting loan on the basis of the two people as a joint claim, or do they have an individual entitlement?
1487. **Ms Corderoy:** It is on a sliding scale. They can get more if they are a couple or a family.
1488. **Mr Copeland:** What I mean is when one component part of a couple is axed out, does there become an availability in the other, or is it judged on the basis of them as a legal entity as a couple?
1489. **Ms Corderoy:** I will have to come back to you on that; I do not have that detail.
1490. **The Chairperson:** Does anybody have any questions on clause 72? If not, we will move on to clause 73.
1491. **Ms Corderoy:** Clause 73 repeals sections 15 to 17 of the Welfare Reform Act (Northern Ireland) 2010, which made provision for community care grants to be awarded as items rather than as cash payments. Those provisions were never commenced, and, given the intention to abolish the existing social fund scheme, the Department does not intend to use them. The repealing of community care grants provided for in the Bill makes the provisions in the 2010 Act unnecessary. The replacement discretionary support scheme is still under consideration, and proposals for that will be brought forward in due course.
1492. **Mr Pollock:** Clause 74 amends the State Pension Credit Act (Northern

- Ireland) 2002 to change the entitlement conditions for the additional amount of guarantee credit in respect of caring responsibilities and to remove the explicit link to carer's allowance in that Act. Clause 74 amends section 2 of the State Pension Credit Act 2002 to provide for an additional amount to be added to the guarantee credit where the claimant has regular and substantial caring responsibilities. It also amends section 17 of that Act to provide that the term "regular and substantial caring responsibilities" is defined in regulations. The clause changes the entitlement conditions for the additional amount for carers and enables the criteria for its award to be set out in regulations. That will enable the initial amount to be awarded where, as now, the customer or the partner is entitled to carer's allowance. It gives the flexibility to set an alternative test to award the additional amount to those who have regular and substantial caring responsibilities but who do not claim carer's allowance.
1493. The policy intention is that any new qualifying criteria specified will ensure that the same group of people as now will be entitled to the additional amount for carers. That is, those who would be entitled to carer's allowance under the current rules if they were to make a claim. Additionally, that flexibility will allow us to remove an element of irrationality in the existing rules, whereby customers must claim and establish entitlement to carer's allowance to become entitled to the additional amount for carers even when they know that they will not be paid because they are already in receipt of state pension credit.
1494. **Mr Brady:** The criteria at the moment for substantive caring responsibilities are normally defined by — *[Inaudible.]* — carer's allowance. Many people carry out the responsibilities and the 35 hours a week minimum but do not claim it, for whatever reason. Will there be some discretion in deciding on the definition of substantive caring responsibilities?
1495. **Mr Pollock:** It is to be defined in regulations.
1496. **Mr Brady:** There will be guidelines, presumably. We will look to see what those may be, because it will only apply, presumably, to people under state pension age. At the moment, a pensioner is not entitled to carer's allowance but has an underlying entitlement. That needs to be clarified.
1497. **Mr Pollock:** We will certainly look at that.
1498. **Mr Brady:** Particularly if the disabled person is under state pension age and the carer is state pension age and the premium would be included if the younger person was the claimant. *[Inaudible.]* contributions, I suppose. We need to clarify that, if possible.
1499. **Mr Pollock:** OK. I will get something for you. Clause 75 is again about state pension credit and deals with the capital limit. The clause amends the State Pension Credit Act to provide for a capital limit to be applied to state pension credit. Universal credit will replace housing benefit for working-age claimants. We are now introducing a housing credit into pension credit, which will provide support for rental costs for people over women's state pension age. There is currently no capital limit for entitlement to state pension credit. However, a claimant can only be entitled to housing benefit if they have capital below the prescribed limit, which is set at £16,000. An exception to that capital rule applies where a claimant is also in receipt of the guaranteed credit element of pension credit.
1500. In those cases, receipt of the guaranteed credit provides a passport to full support for eligible housing costs, irrespective of the level of the capital held. The aim of the change is that the existing housing benefit rules should be broadly carried across housing credit and pension credit. However, as set out, that is a complicated picture. We recognise that it is important that pension credit continues to operate in a way that is clear to customers and staff once housing credit has been incorporated.

- Making the power to introduce the capital limit that can be exercised in respect of one or all elements of pension credit allows for the possibility of simplification through alignment of the rules across pension credit.
1501. Again, this is complicated. It goes without saying that one of the main issues in the reform agenda is the need to simplify things, and this change is a fair example of that.
1502. **Mr Copeland:** I want to try to get something right in my head. I know about a specific case where a caravan that was purchased 10 years ago for £3,600 has been classified as a holiday home and a ridiculous value has been apportioned to it for the purposes of pension credit. An overpayment of pension credit has now arisen in this case, even though the caravan itself has deteriorated to such an extent that it cannot be used, but, because of the contractual agreements, the customer cannot get rid of it. I was wondering whether there is an appeal mechanism to challenge the classification of something as capital outside the value that is locked in a person's house. How is it that a caravan that is worth nothing suddenly acquires a value, which is then applied against the owner for pension credit?
1503. **Mr Pollock:** I can certainly look into that for you, Michael. As with all assets, there should be some sort of recognition of its depreciation to say that it is worth nothing now. Is there is some benefit or value ascribed to it?
1504. **Mr Copeland:** Because of the contractual arrangements, they are committed to maintaining the pitch, which is, I think, £1,300 a year, but it would cost them more than that to take the caravan away. I am just curious because it is classified as a holiday home.
1505. **Mr C McLaughlin:** Has a valuation been put on it?
1506. **Mr Copeland:** The valuation put on it by the Department was far in excess of what the thing is actually worth. I am just wondering whether there is an appeal mechanism.
1507. **Mr C McLaughlin:** There is.
1508. **Mr Copeland:** I will talk to you outside about that.
1509. **The Chairperson:** Fair enough, Michael?
1510. **Mr Copeland:** Will that be ameliorated into the new proposals. In other words, will cases such as that cease to exist?
1511. **Mr Pollock:** There is no intention to dilute any of the appeal mechanisms.
1512. **Mr Brady:** To clarify, for pension credit at the moment, there is no outer limit for capital. You lose a £1 for every —
1513. **Mr C McLaughlin:** Two pounds fifty.
1514. **Mr Brady:** Therefore a person could end up with a small amount of pension credit and still be entitled to passport benefits. What the regulation does is limit the amount of capital that you can have when claiming a state pension and brings it into line with the amount that you can have when claiming housing benefit, which is, as I say, £16,000. It is actually a cut for people on pension credit, because the outer limit will be capped.
1515. **Mr Pollock:** The idea is to simplify it, not cut it.
1516. **Mr Brady:** Again, another euphemism for “cut”.
1517. **The Chairperson:** OK. We will move on to clause 76.
1518. **Mr Pollock:** That is Part 3 finished, Chairman.
1519. **The Chairperson:** OK. Thank you. The officials who were due to deal with Part 4 are on their way. They did not get the times mixed up; they just did not think that we would have progressed so far. Given that it is 3.50 pm, I propose that, rather than have those officials come up to deal with what is a hefty section, we move on to the next section and complete it this afternoon. Part 5 on benefit cap is on page 69 of your explanatory memorandum. As I said, there is no point in bringing officials up at this late hour when you are here. We can deal with the next part of the Bill,

- which is substantial enough itself. If members are content, we will skip Part 4 and do it in the morning, and we will move now to Part 5.
1520. **Mr Pollock:** Clause 95 deals with the benefit cap and provides the power that allows us to apply a cap on the amount of welfare or benefit that a household can receive, taking account of the average earnings of working households in Great Britain. The average in Great Britain is slightly higher than that in Northern Ireland and will ensure parity across the United Kingdom.
1521. Although the measure will provide some valuable savings, it is not primarily a financial savings measure. The primary objective is to tackle the culture of welfare dependency by setting a clear limit on what people can expect to get from the benefits system.
1522. It is important that the benefits system is fair and is seen to be fair to both the individuals who are claiming from it and the taxpayers who pay for it. It is not reasonable or fair that households getting out-of-work benefits should receive greater incomes than the average weekly net wage for working households.
1523. The clause will allow us to prescribe in regulations how the cap will operate. The regulations will set out how we will calculate a household's overall entitlement to welfare benefits, the amount of any deduction to be made and the benefits that the deduction can be made from.
1524. The clause makes it clear that we will not include state pension credit or the state retirement pension in the operation of the cap.
1525. The reforms to the welfare system will ensure that the most vulnerable households will continue to be supported. Therefore, the clause will allow us to set those circumstances that we believe to be appropriate to exempt households from the impacts of the cap. That is, broadly speaking, the intention of clause 95.
1526. **Mr Durkan:** I asked whether child benefit is included in the benefit cap, and it is. How many families or households in Northern Ireland do you think the proposed cap of £500 will affect? Given that child benefit is included, is it discriminatory against large families?
1527. **Ms M Campbell:** The number of households affected is 620 by the time you take out all the exclusions, which is less than 1% of the total. The total number of households estimated to have payments in excess of the cap is 13,300. The vast majority of those households are excluded because of their receipt of the exemption benefits, such as DLA. When you strip that all out, you are left with approximately 620 households. That figure does not take account of any future socio-demographic or economic developments that may impact, so the numbers are all heavily caveated by statisticians. Of the households affected by the cap, 61% will lose up to £50 per week and a further quarter will lose between £50 and £100 per week.
1528. **Mr Durkan:** OK.
1529. **Mr Pollock:** Clause 96 is also related to the benefit cap and makes supplementary provisions. Clause 96 makes supplementary provisions to introduce the cap in clause 95. The provisions explain how we intend to use the powers in clause 95, making different provisions for different purposes. For example, the cap will affect couples and single people differently.
1530. The clause amends the Social Security Administration Act 1992 to state that we will review the level of the benefit cap each year to see whether it has retained its relationship with the level of average earnings. It also allows us to increase or decrease the level of cap following the review as considered appropriate. Finally, the clause clarifies the position for appeals against the application of the benefit cap.
1531. **Mr Copeland:** I would like clarification on the level of average earnings. Is

- that the increase or decrease in the level of average earnings or the actual level? There is already an assumption that, in some cases, people are better off on benefits than they would be in employment. Will there be a period of equalisation? In other words, if average earnings go up by 3% according to the CPI, or whatever it is, will that be reflected in an increase in the benefit?
1532. **Ms M Campbell:** Yes. It is actually advantageous to claimants in Northern Ireland because the cap is based on the GB median wage, which is higher than the Northern Ireland median wage.
1533. **Mr Copeland:** Therefore, in some respects, trying to close the differential by making people who are in work more advantaged could build in a degree of continuing variance.
1534. **Ms M Campbell:** Possibly. However, I do not think that we would want to shout about that as it is to our advantage.
1535. **Mr Copeland:** I understand that. I am just curious.
1536. **Ms M Campbell:** The benefit cap will be reviewed annually, I imagine, in line with the annual minimum wage up-rate. I think that that is done by regulations.
1537. **Mr Copeland:** This may be stupid, but I want to understand precisely what is meant by benefits: these are benefits above and beyond entitlements that people might have to other payments such as income from CMED; that is not a benefit as such.
1538. **Ms M Campbell:** There is a list of benefits that take people out of the benefit cap. We will send that to you through the Chair.
1539. **Mr Copeland:** Thank you.
1540. **Mr F McCann:** I was trying to work this out. If a family has £400 a month taken out of their budget, that will have severe consequences on their ability to survive. Is a safety valve built in to allow such families to tap into any additional resources that are available?
1541. **Mr Pollock:** The safety cap would be the things that we have talked about, such as hardship provisions —
1542. **Mr F McCann:** They will have to pay that money back.
1543. **Mr Pollock:** In some cases, yes.
1544. **Ms M Campbell:** What the agency plans to do now is identify the families that are likely to be affected and start working with them in advance of the cap coming in to help them to effect a change in their circumstances. That could be a change of house, an increase in their hours, a move to higher-paid work or whatever. However, there will be losers. There is no doubt about that, and you cannot hide it.
1545. **Mr F McCann:** Are many of those 620 working and also classed as low-earners?
1546. **Mr Pollock:** I do not think that we have any breakdown of them as yet, Fra.
1547. **Ms M Campbell:** I am not sure whether we have that.
1548. **Mr F McCann:** I heard somewhere that 37% of those affected by the shared room allowance will be low-paid people. Rather than penalising people who are not working, it seems that this too will have a mixture of people. People could be penalised just because they come from a large family.
1549. **Ms M Campbell:** The 620 households were ranked in order of their household income and split equally into five groups called quintiles. Their income was then compared to the benefit cap threshold. Those in the bottom quintile — those who have the lowest welfare income — were estimated to receive £5.91 per week in excess of the cap. Removing that excess would mean that they will lose approximately 1%.
1550. **Mr Pollock:** These are benefit recipients as opposed to people in work. The idea is that those on low income would have access to universal credit as well. In that sense, I cannot see how they would be affected.



1551. **Mr F McCann:** It has not worked for them as far as the shared room allowance is concerned. People who are entitled to housing benefit at the moment will lose out because their benefit will be cut. They will have to move out of one-bedroom apartments because they need housing benefit to supplement their rent. I am probably going off at a tangent, but I am trying to work out how many people on low pay will be affected by the cap.
1552. **Mr Pollock:** I cannot see how anybody on low income would be affected by the benefit cap.
1553. **Mr Durkan:** Is child benefit included?
1554. **The Chairperson:** OK, so, we are not 100% sure.
1555. **Mr Douglas:** This question is not related to your number 4, or whatever it is. It says that the benefit cap can be applied to a couple. Different benefits apply to couples in different ways; for example, for some benefits one member of the couple could be the claimant, while for other benefits both members must claim jointly.
1556. **Mr Pollock:** Must claim jointly?
1557. **Mr Douglas:** Yes. Will you give us an example?
1558. **Mr Pollock:** Universal credit would be a joint couple claim, as such.
1559. **Mr Douglas:** In other words, there would be one person.
1560. **Mr Pollock:** There would be one claim for the household.
1561. **Mr C McLaughlin:** JSA is the same, with joint couples.
1562. **The Chairperson:** OK, let us move to clause 97.
1563. **Mr Pollock:** Clause 97 deals with claims and awards. It amends the existing rules governing how claims for benefits may be made. Most benefit claims are governed by the rules set out in the Social Security Administration (Northern Ireland) Act 1992. Those rules determine how benefits are claimed and the ways in which they may be paid.
1564. The rules govern, for instance, the way in which a claim should be made and the information that must be supplied when making a claim. The payment rules govern issues such as the frequency and power to pay some of a claimant's benefit to a third party.
1565. In general, the existing rules will apply to universal credit and personal independence payment, which is the replacement for DLA, ensuring that the administration of the scheme will fit consistently with the administration of other benefits. This clause makes minor amendments to the provisions to deal with situations in which benefit claims may be made jointly.
1566. The clause also provides for regulations to specify the conditions that must be met before a person can receive an award of benefit in advance. This brings the Social Security Administration (Northern Ireland) Act 1992 provisions into line with the advance awards for ESA under the powers of the Welfare Reform Act (Northern Ireland) 2007.
1567. Finally, the clause expands the changes in circumstances that a claimant is required to notify; for example, where those might affect the work-related requirements that a claimant is expected to meet but do not have an immediate effect on work.
1568. **The Chairperson:** OK, thank you. We shall move to clause 98.
1569. **Mr Pollock:** Clause 98 deals with the information, and the powers to require information, relating to claims and awards. This provision replaces existing powers relating to regulations to require information or evidence relevant to claims or awards of social security benefits.
1570. Current legislation only allows that such regulations relate to existing individual claims and awards. The proposed amendment will extend the power so that information can be required in relation to potential claims and awards.

- Information on potential claims will help the Department in the development of future policy initiatives for payments.
1571. **The Chairperson:** OK, let us move to clause 99.
1572. **Mr Pollock:** Clause 99 deals with payments for and to joint claimants. It clarifies the existing power in the Social Security Administration (Northern Ireland) Act 1992 to decide who should be paid benefit and includes power for the Department to determine which person should be paid in a joint-award situation. Currently, payments of benefits are normally made to the claimant. For couples, ordinarily one partner will make the claim, with their partner's income and capital being taken into account and rates paid accordingly. The exception is joint claimants of JSA, where partners can decide between them who receives the payment. As we discussed when Martina was going through the clauses on universal credit, it will routinely be a single payment to a household, with couples who live together claiming jointly.
1573. Determining the recipient of the payment in cases with a single claimant is straightforward; the claimant receives the payment. However, where a claim is made by a couple, a decision must be made as to who will receive the payment. In most cases, it is believed that the couple should decide between themselves who should be paid the money and how the funds are then apportioned within the household. This clause provides for couples to nominate in this way. It is envisaged that this will happen in the majority of cases. However, there may be a limited number of cases in which it is not appropriate for the couple to make the decision. It may be as simple as cases in which a couple cannot or does not decide. Alternatively, it may be necessary when it is clearly in the best interests of the family for one partner rather than the other to be paid; for example, if someone has substance or alcohol abuse problems or whatever.
1574. Again, this issue was raised a few times previously and in the debate. The general intention is that a single payment under universal credit will be paid to the household.
1575. **Ms M Campbell:** It allows the flexibility for split payments.
1576. **The Chairperson:** Under what circumstances? This is one of the more contentious aspects of the Bill. If two partners decide to split the payment between them, that is their choice. Given that such flexibility is provided for, how will the Department respond if two people, by choice, want to split the payment but do not state that one of them is an alcohol abuser, or whatever?
1577. **Ms M Campbell:** Again, the decision-makers' guidance will specify the circumstances in which departmental intervention is required or where the payment can be split or paid to someone other than the person making the claim. That is why it will be important that the guidance is explicit. We can expand the explanatory note further to provide clarification on that as well.
1578. **Mr Copeland:** As you, quite rightly, said, the key to this will be the guidance. Personally, I think that this is a recipe for disaster. It is an instance in which legislation meets the real world, and I am not keen to endorse this in any way until we have seen the guidance. I do not know whether it has been developed yet, or even scoped. In my view, this provision will give rise to major difficulties.
1579. **Mr Brady:** To clarify: it gives flexibility to the Department to use discretion to pay one partner. The definition does not encompass split payment. That is a different issue.
1580. **Ms M Campbell:** It does allow for the personal allowance to be paid to one party and the balance paid to the other.
1581. **Mr Pollock:** So, that would be a split, if you like.
1582. **Mr Brady:** We will need some guidance or clarification on that. The old split



- payments provisions allowed for the single person's allowance and the rest to be paid separately.
1583. **Ms M Campbell:** I think that the legislation is fine as drafted, but we could put something more in the explanatory memorandum, which holds a lot of sway because it explains the policy intention behind the clause.
1584. **The Chairperson:** Thank you. Fair enough; we will return to that at some point. We will move on to clause 100.
1585. **Mr Pollock:** Clause 100 deals with payments on account that are currently awarded on a discretionary basis when a claim for benefit cannot be paid or determined immediately. They are provided for by regulations made under the Social Security Administration (Northern Ireland) Act 1992. Clause 100 amends that Act to extend the range of circumstances in which payments on account can be made. These changes are needed primarily as a further consequence of the ending of the discretionary social fund, which Jane touched on earlier. This clause will allow for a single system of recoverable payments known as short-term advances to replace interim payments of benefit and social fund crisis loans. Short-term advances will be available when it is not practical for a benefit claim to be made or determined immediately, for an award to be determined or paid in full immediately, or in cases of extreme need.
1586. There will be additional flexibility in the new system to take account of the fact that claimants will continue to receive universal credit while in work. For example, short-term advances will be made to prevent severe financial difficulty when a person in work who also receives universal credit does not receive their wages as a result of their employer going into administration or receivership.
1587. The clause will also allow the Department to pay in advance of benefit where it considers, in accordance with the criteria to be set out in regulations, that such payment can reasonably be expected to be recovered. These types of payments on account, to be known as budgeting advances, will replace social fund budgeting loans. The system for applying for budgeting advances will allow for online applications and automated decision-making. This will make the system simpler for claimants and significantly cheaper to administer.
1588. There will be greater transparency over the maximum amount of advances that can be made and the terms under which they will be recovered. That will support claimants to make sensible budgeting decisions and take control of their personal financial situations. Claimants will be able to borrow only what they can reasonably be expected to pay back through regular deductions from benefit. It is imperative that there is provision to enable benefit claimants to cope with short-term expenses, and when the need arises, to offer support for budgeting to those on the lowest incomes.
1589. **Mr Brady:** It seems like a switch in emphasis because it talks about living expenses that are difficult to budget for out of normal benefit income, such as fridges or cookers. In particular, replacement of a cooker breaking down would generally have been considered essential under a community care grant. The emphasis has changed. Presumably, too, the recovery aspect would encompass hardship payments, apart from the ESA that you mentioned earlier, which would be from the likes of JSA.
1590. When the social fund came in, budget loans were seen as a good idea and self-financing. The difficulty that I found, however, was that after a relatively short period, they were probably taking back huge amounts of money. I had people 15 years ago who were getting £28 deducted from their weekly benefit, putting them £28 below subsistence level. When we talk about caps, will there be a cap on the amount recoverable on a weekly basis from someone in receipt of benefit? At the moment there is not, as far as I am aware.

1591. I want to make a point about parity: historically, the recovery of payments, overpayments and other payments here has been higher than in Britain. I think even the Department would acknowledge that. Parity tends to be selective when it comes to that.
1592. **The Chairperson:** OK, so you are looking for more information at a later point?
1593. **Mr Brady:** Yes. Will there be a cap on repayments, because that is what causes hardship for people. The Department is saying, “We will give you money for an item because you are stuck” — and they talk about kids being on holiday during the summer. There is realisation or acknowledgement that school meals are so essential that families cannot afford to feed their kids during the summer. That is reality. However, if you recover too much from benefit, it goes below subsistence level. That was at the discretion of the social fund people.
1594. **The Chairperson:** OK, you can come back on that.
1595. **Mr Pollock:** Clause 101 deals with the power to require consideration of revision before appeal. It should be read in tandem with schedule 7. Clause 101 and schedule 11 relate to decision-making and appeals. They provide enabling powers to make regulations to introduce a formal reconsideration stage before a person is able to apply to an appeal tribunal.
1596. Currently, if a claimant is dissatisfied with their social security decision, they can apply for a revision of it on any grounds, normally within one month. That triggers an internal reconsideration process, at the end of which a decision notice is issued that revises or refuses to revise the original decision. If the revision is refused, the claimant has a further month in which to appeal the original decision. Alternatively, the claimant can simply appeal the decision. In those cases, the decision is routinely considered, but the reconsideration process takes place after the claimant has already decided to appeal to a tribunal.
1597. The proposed change will enable more disputes to be resolved through the internal reconsideration process. The process will allow a claimant’s decision to appeal to be informed by whether a reconsideration has provided them with a clearer justification for the original decision and a clearer explanation of it. The reconsideration process also enables new information or evidence to be taken into account that may not have been available when the original decision was made.
1598. Claimants will, therefore, be able to make a positive choice to appeal after their case has been reconsidered. That contrasts with the present position in which they have to make a positive decision to withdraw their appeal if they are content with the reconsideration process. The change does not alter a person’s right of appeal. It just requires them to go through an internal reconsideration process first. Schedule 11 makes the corresponding provision in relation to child support, recovery of benefits, housing benefit and lump sum payments in respect of diffuse Mesothelioma. That is clause 101.
1599. **Mr Brady:** Just to clarify; the explanatory and financial memorandum states:
- “In particular, regulations may provide that there is to be a right of appeal only where the Department has considered whether to revise the decision”.*
1600. What happens at the moment in a lot of cases, given that there is already a reconsideration process in place, is that people tend to appeal immediately because they believe that the reconsideration process will not go further and because of the length of time it will take to get a decision. You say that claimants will now have a further month in which to appeal but, for a lot of people, that will just add another month to the length of time that they are left waiting. The process is already in place, so I am not sure how this is going to improve the existing situation, which is not that effective.
1601. The other issue is that if someone is turned down for benefits, they may not

- get paid during the reconsideration period. If they then appeal, they may not get paid for another month.
1602. **Mr Pollock:** I think that the aim is to resolve more disputes and to do so internally through the reconsideration process.
1603. **Mr Brady:** I accept that that is the aim, but the reality is that there is already a reconsideration process in place, which does not really work. There is nothing in this legislation that will enhance what is already there. I take your point about what it is saying — that the policy objective is to make sure that more decisions are made more quickly by the Department.
1604. **Mr Pollock:** It will be quicker, and if there is additional information that was not available at the time, that could be —
1605. **Mr Brady:** I suppose the crux of the question is this: how will this differ from what is already in existence?
1606. **Mr C McLaughlin:** It is mandatory. They actually have to seek a reconsideration.
1607. **Mr Brady:** Exactly. That is my point. All it is going to do is prolong the agony.
1608. **Ms Corderoy:** As part of this, the agency is looking at the wider appeals process, in which this is included, in order to improve and define it and make it faster. Mandatory consideration is really about providing more information to a person earlier so that they can decide whether it is worth appealing.
1609. **Mr Brady:** I admire your tenacity in explaining that, but I do not necessarily understand it.
1610. **Mr Copeland:** I may have got my wires crossed entirely here. Under the current system for social fund loans, when you apply for an oven or a cooker from the social fund or a community care grant, you get a decision. You can then ask, by telephone, to have that decision looked at again. After that, you can ask for a face-to-face meeting in a social security office, and if all that fails, you can then go to the appeal stage. Are we are talking about the same thing here?
- Will the face-to-face entitlement still pertain? Will claimants be entitled to a face-to-face meeting to have a decision reviewed? Or is this nothing to do with that at all?
1611. **Mr C McLaughlin:** This is nothing to do with that.
1612. **Mr Copeland:** I got confused by the reference to a cooker, which appears to be a perennial issue.
1613. **Mr Pollock:** That was the previous clause.
1614. **Mr Copeland:** In other words, clause 100 and clause 101 relate to two totally different things, and one does not refer to the other.
1615. **Mr Pollock:** This is clause 101.
1616. **Mr Copeland:** I understand that, but clause 101 is not a progression from clause 100 apart from numerically?
1617. **Mr Pollock:** No.
1618. **The Chairperson:** OK. We will move on to clause 102.
1619. **Mr Pollock:** Clause 102 clarifies the Department's approach to legislation that enables the use of electronic communications. Currently, if the Department wishes to authorise electronic communications for business, it has to make an order under the Electronic Communications Act (Northern Ireland) 2001. That Act enables Departments to modify existing legislation, including Acts, to facilitate electronic communication and electronic storage.
1620. This clause makes it clear that regulations made under social security legislation can include the type of provision that could be made under the Electronic Communications Act (Northern Ireland) 2001. This could include, for example, provisions about the form that the electronic communication must take and the conditions under which electronic communication is allowed.
1621. Amending the existing provision in the Social Security Administration (Northern

- Ireland) Act 1992 and the Social Security (Northern Ireland) Order 1998 will enable the Department to include provision for electronic communications in regulations, rather than to have to make a separate order. In essence, this is not anything new. The clause simply allows provision to be made under social security legislation rather than electronic communications legislation. It enables a simpler, more transparent and more effective approach to introducing electronic communications into the benefits system. That is the general thrust of clause 102.
1622. **Mr Copeland:** About three months ago, there was a bit of a furore about the Government collecting cookies when people were using their computers to interface with government computers. Some regulations and changes were introduced in England. Will that will be factored in here. In other words, when someone logged on to a government website, the website was collecting information from the person's computer. About three months ago, it was a real big story on the mainland.
1623. **Mr Pollock:** It sailed right over my head.
1624. **Mr Copeland:** I will try to get the detail on that. I asked some questions about it at the time.
1625. **The Chairperson:** If you do not know anything about it, let us move on.
1626. **Mr Copeland:** I am content that we do not know anything about it. Maybe we are better not knowing.
1627. **The Chairperson:** You can come back and pop up later on with it.
1628. **Mr Brady:** I presume that electronic communications relate solely to computers and IT rather than to mobile phones. Obviously, people can access information through mobile phones. To widen this slightly, the majority of people on benefits who I deal with have pay-as-you-go phones and have great difficulty in accessing information from local offices because it costs them so much money and no provision is made. Provision is made for landlines with free phone numbers but not necessarily for mobiles. It depends, of course, on your provider. Has any of that been factored into these provisions for electronic communication?
1629. **Mr Pollock:** I do not think so, Mickey.
1630. **Mr Brady:** It really is a big issue for people. I had one case recently, for example, in which a woman tried to contact the local office and it cost her £17 of mobile phone credit of the £20 that she had left. That is unacceptable.
1631. **Mr Pollock:** Clause 103 deals with the recovery of benefit payments. It sets out when and how overpayments of benefits, payments on account, and certain hardship payments can be recovered. The introduction of universal credit provides the opportunity to introduce a more straightforward recovery regime. All overpayments of universal credit, JSA, ESA and the housing credit element of state pension credit will be recoverable, either from the person to whom it was paid or another person, who may be specified, for example, a landlord. This includes overpayments arising due to official error.
1632. Where the Department makes a mistake, claimants should not expect to have the right to keep taxpayers' money to which they are not entitled. Regulations made under this clause will specify how the amounts to be recovered will be estimated or calculated. Although most overpayments of universal credit, JSA and ESA will be deemed recoverable, in certain circumstances, the Department will decide that the overpayment, or part of it, does not have to be repaid. The circumstances in which action will be taken to recover overpayments will be governed by a code of practice to ensure consistent, considered decision-making. Where a payment is deemed recoverable — whether overpayment, payment on account or recoverable hardship payment — it will be recoverable, in the first place, from the person who actually received the money.

1633. Regulations will also allow for recovery to take place from any person who was not the intended recipient of the payment but who benefited from it. It could be, for example, an appointee who appropriates excess benefit for their own use or where a payment has been made directly to a landlord in respect of a claimant who has committed housing benefit fraud. The clause also deals with four specific methods of recovery: deduction from ongoing benefit, through court action, adjustment of benefit and deduction from earnings. That will allow a deduction from earnings to take place by the Department's authority without the necessity of obtaining a court order. The clause also enables the Department to recover court costs where there is a court judgement in the Department's favour.

1634. **Mr Brady:** Section 69 of the Social Security Administration (Northern Ireland) Act 1992 eliminated departmental error. It did not matter who was responsible, the Department could recover. Will departmental error still be part of the equation? The explanatory and financial memorandum states:

*"Subsection (6) allows for an amount paid to one member of an award which is made to persons jointly to be recovered from the other by any method (as listed in subsection (7))."*

1635. Say one partner in a couple gets a budget loan or the equivalent of a budget loan and does not tell the other person, who has absolutely no input, which does happen. That person may go off somewhere while the other person is still claiming benefit. Will both people still be treated as a couple, or will the second person be liable for the recovery from their benefit as a lone claimant? I am not sure whether this has been factored into the equation.

1636. The memorandum says "by any other method". To me, this rings alarm bells. The person who is going to carry the can might not even know that the other person made a claim. I have had cases over the years in which wives have gone out to work and husbands did not know about it. It does not happen often, but

it is reality. It does not happen often, in fairness, but it has happened. There are people who borrow money or get budgeting loans and do not tell their partners, but the partners may be liable under this legislation eventually. The phrase "by any other method" sounds fairly draconian.

1637. **Ms M Campbell:** There were some discussions about that, but I cannot remember the outcome or whether they have been concluded yet. Those things will be specified in regulations.

1638. **Mr Brady:** Could you participate in the discussion so that it comes to an equitable solution and decision?

1639. **Mr Pollock:** We are involved in the decision-making process. With respect to departmental error, I thought I had mentioned that, where the Department makes mistakes, the claimant is not expected to be able to say, "OK, I can keep that money." The amount will be recoverable.

1640. **Mr Brady:** So, it does not matter whether the person has no responsibility whatsoever for the error?

1641. **Mr Pollock:** It is a departmental error.

1642. **Mr Brady:** Years ago, they used to raise overpayments against the person.

1643. **Mr Pollock:** They used to.

1644. **Mr Brady:** It was a long time ago, obviously.

1645. **The Chairperson:** OK. We understand what the clause is supposed to be about. We move to clause 104.

1646. **Mr Pollock:** Clause 104 concerns deductions from earnings for other cases. It is a follow-on from clause 103. Clause 104 provides for the recovery of certain overpayments of benefit, including overpayments of housing benefit and recoverable social fund payments by deduction from earnings. That will be known as direct earnings attachment (DEA).

1647. Overpayments of universal credit, JSA and ESA will be recoverable by DEA by



- virtue of the provisions in clause 103. Regulations will set out the rates of deduction and will include safeguards to ensure that the deductions do not take the debtor beneath a given level of earnings. They place a duty on claimants to disclose details of their employers and require employers to make deductions and pay them to the Department. It is intended to use DEA to enforce recovery when debtors are in PAYE employment and will not come to a voluntary arrangement to pay back their debts. It is important, therefore, that, when someone refuses to meet their obligations to repay benefit debt, the Department should be able to use those powers to make recovery. Clause 105 relates to application of the Limitation (Northern Ireland) Order 1989. It clarifies the application of the statute of limitations to the recovery of benefit overpayments and social fund loans by means of deductions from a person's ongoing benefit entitlement. The statute of limitations, whilst preventing action being taken through the courts after a given period, has no application to the recovery of social security debts by deduction from benefits through social security legislation. Social security legislation rightly restricts the level of deductions that can be made from income-related benefits, and the Department operates a hardship policy whereby deductions are often reduced below the legal maximum. This means that the recovery of even moderate-sized debts can take in excess of six years.
1648. The Department's duty to protect public funds and recover overpayments and social fund loans means that it is right that it should be able to do so over an extended period. Without this, there would be higher repayment rates, which could put undue financial pressure on those repaying a debt. This measure is also retrospective, which ensures that all recoveries already made since the introduction of the limitation Order can clearly be deemed to have been made correctly. This maintains the longstanding principles in relation to recovery by deduction from benefits.
1649. **Mr Brady:** To clarify, does this mean that, following the discovery of an overpayment, the Department can take six years to recover it?
1650. **Mr Pollock:** All we are saying here is that it means that even a moderate-sized debt could take in excess of six years to be recovered.
1651. **Mr Brady:** Does it have to be paid back within six years?
1652. **Mr Pollock:** No. There is no statute of limitations on that. They could recover it over a longer period.
1653. **Mr Brady:** Why the six years? Is that an arbitrary period?
1654. **Mr Pollock:** That is just an example.
1655. **Mr Brady:** There are people who owe a lot of money that has built up for whatever reasons over the years, and it could take a lifetime to repay that.
1656. **Mr Pollock:** I could have said seven years or five years. I am just saying that it can take a fairly long time.
1657. **Mr Brady:** All I wanted to find out was whether six years was an arbitrary figure or a mandatory figure.
1658. **Mr Pollock:** The basis of the clause is that there is no statute of limitations on the Department recovering overpayments.
1659. **Mr Brady:** It can take as long as it wants.
1660. **Mr Pollock:** Yes. What they are saying is that, because of hardship provisions, they would invariably recover less than they would do normally.
1661. **Mr Brady:** What I was trying to find out was whether, if a large overpayment had to be paid within six years, larger amounts would have to be taken weekly or monthly. However, that is not the case.
1662. **Mr Pollock:** That is not the case.
1663. **Mr Brady:** OK. That is really what I wanted to check.

1664. **Ms M Campbell:** The last sentence in paragraph 543 of the explanatory and financial memorandum states:

*"it secures that the time limits do not apply".*

1665. **Mr Brady:** I had not reached that part.

1666. **Mr Douglas:** Paragraph 543 also states:

*"puts beyond doubt that the Department may recover social security overpayments ... by means other than court action."*

Have you covered that bit?

1667. **Ms M Campbell:** That would be where the Department makes recoveries by means other than court action.

1668. **Mr Pollock:** Recovery and deduction from benefit.

1669. **Mr Douglas:** So, that is what that means.

1670. **The Chairperson:** Is that OK, Sammy?

1671. **Mr Douglas:** So, you are not thinking about taking the furniture and selling it.

1672. **The Chairperson:** Let us move to clause 106. I am trying to get to clause 120 before 5.00 pm.

1673. **Mr Pollock:** Clause 106 deals with section 103(B) of the Social Security Administration (Northern Ireland) Act 1992, which covers the powers to require information relating to investigations. The section specifies from whom the Department can require information when investigating whether benefit is properly payable.

1674. Clause 106 inserts a new subsection to add a regulation-making power to prescribe persons from whom an authorised officer under existing section 103B can require information. An example of how this might be used would be to require information from those who are presently asked to provide information for tax credits, which will come in under the universal credit regime.

1675. Clause 106(b) amends the existing section 103B(2)(j) to include a new subsection stating that the persons from whom the Department may require

information includes their servants and agents. This amendment allows it to extend to a new subsection.

1676. **Mr Brady:** Does it really widen the scope as regards people from whom the Department can get information? It is a bit old-fashioned to talk about servants. I am sure that not many people on benefits have servants, and maybe not agents. It widens the scope. Is that what you are saying?

1677. **Mr Pollock:** It widens the scope, particularly with tax credits coming in under universal credit.

1678. **Mr Brady:** Presumably that would apply, because it specifically mentions the person responsible for childcare. Would that be taken if there was a registered childminder? Is it in order to access the childcare element? That is one example, I suppose.

1679. **Mr Pollock:** I do not think it is meant to be prescriptive.

1680. **Mr Brady:** None of it is meant to be prescriptive.

1681. **The Chairperson:** It will all be dealt with by way of the clauses. Do not worry about it.

1682. **Mr Pollock:** Clause 107 deals with the time limits for legal proceedings and permits the Department to issue a certificate allowing proceedings for a summary only offence to be commenced later than 12 months from the date an offence was committed if it is within the period of three months from the date on which the evidence comes to the Department's knowledge, and that evidence is, in the Department's opinion, adequate to justify a prosecution for the offence.

1683. The Department will now be able to issue a certificate to extend the period when proceedings may be commenced where a claimant is to be prosecuted for a housing benefit offence; where that benefit is administered by the Housing Executive through DFP; and where, although the 12-month period after the offence was committed has



- expired, the date is within three months of the date on which evidence came to the Department's knowledge that is sufficient to justify a prosecution.
1684. **Mr Brady:** It talks about legal procedures. Would they have to look at the legal implications? I ask that because, presumably, there are different rules of evidence for court cases. The Department says that, if it has only just found out about the situation, it can extend the period. It might take a couple of years for it to become aware of that situation. I am just wondering about the statute of limitations in relation to the legal aspect rather than the social security aspect. Is there any contradiction there? There are criminal proceedings for alleged fraud, for instance. I am wondering if there is a statute of limitations from the courts in prosecuting that kind of offence, given that the Department is extending the period for which it can do that. Maybe you could find that out.
1685. **Ms M Campbell:** I think that that is one for our colleagues in fraud.
1686. **Mr Brady:** I think those questions have to be raised, because it is something that may or may not come up in the future. Unless it is clarified, there is no point in bringing it up.
1687. **Ms M Campbell:** It is better to get clarification now than to hold things up later.
1688. **Mr Brady:** Absolutely.
1689. **The Chairperson:** Yes. We are being asked to look at a clause that may or may not be impacted on by the judicial system. The process is there, as are the standards of evidence and time frame for evidence. It is important. We will have to return to that in due course.
1690. **Mr Pollock:** Clause 108 inserts a new section relating to Housing Executive powers to prosecute housing benefit fraud. It will restrict Housing Executive powers to bring proceedings relating to housing benefit offences. It provides that the Housing Executive may not bring a prosecution for suspected benefit offences unless certain circumstances apply.
1691. Under the new section, where the Housing Executive has already started an investigation in relation to a suspected fraud of housing benefit, the Housing Executive may prosecute that offence.
1692. There is a lot of detail in that, Chair. I would feel better if you went through that clause with our fraud colleagues. Is that something that you could do?
1693. **The Chairperson:** It is also relevant to the previous clause. I think that we need to see if it is compatible with current legislation. You could argue that it is, but that is what we are trying to establish. Are members happy enough to deal with it that way?
1694. **Mr Brady:** The Department is, in a sense, the agent of the Housing Executive, because it pays the housing benefit, although it is paid through the Housing Executive. It is obviously a paper exercise. When talking about agents, there could be implications there.
1695. **Mr Douglas:** I have a general point, although this may be the wrong arena. Over the past year or so, I have noticed that hardly a week passes without one of our local newspapers mentioning housing benefit fraud or whatever. Is part of the policy to try to scare people? Has that information been leaked?
1696. **Mr Brady:** It never happens in Newry, Sammy.
1697. **Mr Durkan:** They are never caught.  
[Laughter.]
1698. **The Chairperson:** Remember Hansard.
1699. **Mr Douglas:** These people are being prosecuted. They go through all the hassle of that and then it is splashed all over the papers as well.
1700. **Ms M Campbell:** If it is a court offence, it is the court reporter who would record it.
1701. **Mr Douglas:** It is lazy journalism.

1702. **Mr Durkan:** The Department puts out press releases to name them. That is part of departmental policy.
1703. **The Chairperson:** OK. We move on to clause 109.
1704. **Ms M Campbell:** Clauses 109 to 115 all deal with fraud.
1705. **The Chairperson:** We will defer all those clauses up to and including clause 115. Are Members happy enough to do that?
- Members indicated assent.*
1706. **Mr Pollock:** Clause 116 is about information-sharing in relation to the provision of overnight care. It allows for information to be used and supplied for the purpose of ensuring that the correct amount of housing benefit is awarded in relation to people who are entitled to overnight care in their own homes, which we touched on earlier, and for the purpose of assessing awards of benefit when a person is admitted to or discharged from hospital or residential care.
1707. Claimants of certain social security benefits have their benefit awards reassessed when they go into or are discharged from hospital or residential care. Claimants are already required to report such changes. This provision will allow a relevant body to use the information itself or supply the information to the Department, the Housing Executive or the Department of Finance and Personnel for purposes relating to the payment of benefits.
1708. People who are disabled and require an overnight carer will also be able to qualify for a higher rate of housing benefit if they have an extra room that is used by a non-resident carer or team of carers. The provision will also allow Housing Executive housing benefit teams to use information from social services teams to confirm whether a person may require an overnight carer; if social services are providing the carer; and that the care has been provided.
1709. Subsection (8) defines the term “relevant body” for the purposes of clause 116 and clause 117, which deals

with information-sharing in relation to welfare services, as a health and social care trust or the Regional Health and Social Care Board.

1710. **Mr Brady:** It says that this is to ensure that the correct amount of housing benefit is paid to people entitled to overnight care. It then goes on to talk about carers and the extra housing benefit for that. There was talk of the underoccupancy aspect. It mentions a team of carers and one room. Two carers who had to come in would obviously not want to share the same room. Some carers would lie down for an hour or two and may then have to get the person up during the night to take them to the bathroom and that kind of thing. Will all that be factored in? It might not be limited to one room, as it might involve two rooms and carers of different sexes.
1711. **Mr Pollock:** I do not know that it would involve multiple rooms, but there is provision for an additional room in existing housing benefit legislation.
1712. **Mr Brady:** I suppose the point I am making is that, in certain cases, it could and should. The reality is that some people are so disabled that they need at least two overnight carers. It is all to do with health and safety in lifting and all of that. That cannot be ignored.
1713. **Mr Pollock:** I would not say never, Mickey. I am sure that there is an exception to every rule.
1714. **Mr Brady:** Can I quote you on that, Michael?
1715. **Mr Pollock:** My general understanding is that, in specific circumstances, an additional room is effectively discounted. It is available because —
1716. **Mr Brady:** I understand that. I am just saying that it may be additional rooms. You could have a three-bedroom house with the disabled person in one and a team of carers coming in during the week; that happens. So, it is not just one room that is occupied. All the bedrooms may be occupied, and, therefore, the underoccupancy aspect

- would not apply. That needs to be checked.
1717. **Ms M Campbell:** We will clarify that for you.
1718. **Mr Pollock:** Clause 117 is about information-sharing in relation to welfare services. This replaces the information-sharing gateway in section 39 of the Welfare Reform Act (Northern Ireland) 2007. It broadens the scope of data-sharing that is provided for under the existing section 39. Relevant information can be shared between the Department, the relevant bodies, the Housing Executive, and Land and Property Services. Information can be shared in relation to the provision of a welfare service and for certain rates or housing benefit purposes. This is the standard information-sharing gateway, but it is slightly broader in the Welfare Reform Bill. It relates to the discussion that we had earlier about passport benefits and the number of Departments and bodies that access social security information to facilitate delivery of some other benefit or service. That is what clause 117 facilitates.
1719. Clause 118 is the corollary of data-sharing legally; it is about the unlawful disclosure of information. Section 40 of the 2007 Welfare Reform Act makes it an offence for a person to disclose without lawful authority information supplied by virtue of section 39 of that Act. Clause 118 creates a similar unlawful disclosure provision in relation to the information that we discussed in respect of clause 117. As with all data-protection or data-sharing legislation, it is incumbent on the people who are sharing the data to specify what data is being shared, what the purpose is and what it will be used for. In that context, it is reasonably wide in so far as it embraces new data-sharing gateways with the likes of HMRC. It also has to be sufficiently broad to facilitate delivery of passported benefits such as free school meals or free school uniforms.
1720. **Mr Brady:** Can you give us an example of that unlawful disclosure? It says that staff are specifically covered. Civil servants sign up to the Official Secrets Act. What examples would there be in relation to people outside the agency?
1721. **Mr Pollock:** I cannot think of any off the top of my head, Mickey. We are not conditioned to break the law.
1722. **Mr Brady:** I could not think of any either; that is why I asked you.
1723. **Mr Pollock:** I suppose it depends on who jumps up and down. You are sharing personal information, so that data has to be protected. If I am a social security claimant, and, for some reason, you share my information with God knows who, I may have a case for redress against you.
1724. **The Chairperson:** OK; fair enough.
1725. **Mr Pollock:** Clause 119 is entitled, “Sections 116 and 118: supplementary”. Clause 119 enables regulations under clauses 116 and 117, which are about information-sharing, to make incidental, supplementary, consequential, transitional or saving provision. It also provides that all regulations under clause 116 will be subject to the negative resolution procedure. Most of this is standard in so far as information-sharing gateways have been long established in respect of social security information. It should not be anything remarkably new.
1726. **The Chairperson:** If Members are content, we will move to clause 120.
1727. **Mr Pollock:** Clause 120 is about information-sharing for social security or employment purposes. It puts data-sharing in the context of the Department for Employment and Learning. When we were starting to draft the Bill, there was quite a bit of discussion about the continued existence of that Department. So, in drafting terms, it was simpler to carry all the references in one particular clause. Clause 120 amends article 69 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and enables the Department to make regulations that allow certain persons, including the Department for Social Development, to share social security

and employment and training information with other Government Departments and their service providers, and with persons designated by an order. The regulations can also make provisions about the use of such information and its supply by such persons.

1728. **Mr Brady:** So, is it more or less in-house in that it is in the context of different Departments as opposed to outside agencies?

1729. **Mr Pollock:** Yes is the simple answer.

1730. **Mr Brady:** It will apply to the likes of the Social Security Agency, the Department for Social Development and the Department for Employment and Learning.

1731. **Mr Pollock:** And their agents or bodies.

1732. **Ms M Campbell:** And their training providers. It is to stop the Department having to continually do an order every time it changes the list of contracted providers.

1733. **Mr Brady:** It is all encompassing in that sense.

1734. **Ms M Campbell:** Yes.

1735. **The Chairperson:** That is the discussion on clause 120 finished. That is the conclusion of the discussion on Part 5, save for, I think, clauses 107 to 115 inclusive, on which we will receive a further briefing from other officials.

1736. At this stage, I propose to suspend the meeting and resume tomorrow morning at 10.00 am. I am tempted to ask people to work until 7.00 pm or 8.00 pm to finish this, but I do not think I will get too many takers.

1737. **Ms M Campbell:** We are happy to stay if you are. *[Laughter.]*

1738. **The Chairperson:** I am happy enough. I am going nowhere in a hurry, let me tell you. If members are content, we will resume tomorrow morning when we will have a short recap and work our way through to completion. Thank you very much.

1739. **Ms M Campbell:** Thank you very much.

# 17 October 2012

## Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

## Witnesses:

Mr Maurice Byrne	<i>Department for Social</i>
Ms Jane Corderoy	<i>Development</i>
Mr Mickey Kelly	
Ms Anne McCleary	
Mr Conrad McConnell	<i>Social Security Agency</i>

1740. **The Chairperson:** We move to our continued scrutiny of the Welfare Reform Bill, with the departmental briefing. We will pick up from where we were yesterday. We will go back to clauses 76 to 94 inclusive, which is on the personal independence payment (PIP), as I recall. That will be our approach this morning. After that, we will return to clauses 107 to 115, which were deferred yesterday.

1741. Without any further ado, I hand over to Anne and her colleagues. The officials will address the Bill clause by clause, and members can ask for any clarification that they require. Then, we will move on, as quickly as we possibly can, to the next clause.

1742. **Ms Anne McCleary (Department for Social Development):** Thank you very much for the opportunity to brief the Committee on the Welfare Reform Bill. I will address specifically clauses 76 to 94 and schedules 9 and 10, which deal with the personal independence payment, which, as you know, is the proposed replacement for disability living allowance (DLA) for working-age claimants.

1743. Our witnesses today are Jane Corduroy and Mickey Kelly. Mickey is from the Social Security Agency, and he will be able to deal with operational queries that members may have. I will begin with a short summary of the policy background to the new personal independence payment, and the timescale for its implementation. Jane will then give some detail on each of the clauses. Obviously, we are happy to take any comments and questions as we proceed.

1744. I begin with the background and aims. As part of the wider reform of the welfare system, from June 2013 the personal independence payment will replace disability living allowance for people aged between 16 and 64. In replacing DLA, the aim is to create a fairer, more transparent and sustainable system that is fit for the 21st century, ensuring that the personal independence payment continues to support disabled people who face the greatest barriers to participation in society. The Department has consulted with disability organisations here on the detailed design and the assessment thresholds for personal independence payment.

1745. The rationale for replacing DLA is clear. DLA was introduced in 1992 and has never been fundamentally reviewed since then. It has now become difficult to understand and complex to administer. There is no systematic process for checking that awards remain correct. I know that there are some other occasions when cases are reviewed, but there is no systematic process.

1746. In May 2012, there were 189,590 recipients of DLA in Northern Ireland — a rise of almost 25,000 since May 2005. The focus is now on ensuring that disabled people are protected and support is provided to those with the greatest need. The introduction of PIP is intended to provide support to those



- with a disability who face the greatest barriers to leading full, active and independent lives. The importance of the role that benefits such as DLA play in achieving this is recognised, and it is important to be clear that the personal independence payment will maintain the key principles of DLA. Crucially, it will continue to be a non-means-tested, non-taxable cash benefit available to people both in and out of work.
1747. The personal independence payment will be payable to those who meet the conditions that are set out in regulations. Those include: being a resident and present in Northern Ireland; having a physical or mental condition that limits a person's ability to carry out daily living or mobility activities; having had a disability for the qualifying period of three months with the prospect of remaining disabled for the next nine months, although those with a terminal illness may be entitled to benefit without having to satisfy either the qualifying period or the prospective test; and claimants being assessed on their ability to perform a series of daily living and mobility activities.
1748. There will be a more objective assessment process, with most people receiving a face-to-face consultation with a healthcare professional, which will provide a more accurate and consistent assessment of individual need. The assessment for personal independence payment will look at disabled people as individuals, and will not label them according to health condition or impairment. We are looking at each person on a case-by-case basis. It has been designed to consider an individual's personal circumstances and the impact that their impairment has on their life. The proposed assessment criteria, the weightings and entitlement thresholds, are intended to reflect and differentiate between the barriers and extra costs faced by individuals who require extra support to undertake a range of everyday tasks, taking account of physical, sensory, mental, intellectual, and cognitive impairments. The assessment will also make greater use of evidence from those who provide support to the claimant, such as a GP, consultant or specialist nurse.
1749. There are 11 key activities, fundamental to everyday life, including: preparing and cooking food; washing, bathing and grooming; dressing and undressing; communicating; planning and following a journey; and moving around. Those will all be assessed.
1750. It is important to get the assessment right, and a number of improvements have already been made as this has developed. The formal consultation on the assessment criteria, which sought views from a broad range of local disability and advice groups, was carried out between 16 January and 30 April. Departmental officials are working with the Department for Work and Pensions (DWP) to analyse the replies, and a response to the consultation is due in the autumn.
1751. There will be two components to the personal independence payment: a daily living component, and a mobility component. Awards will be made up of one or both of those components. Each component will be payable either at a standard or an enhanced rate, and that will be set out in regulations. The amount for each rate has still to be decided.
1752. There is a duty to both claimants and the taxpayer to ensure that awards stay correct throughout. All personal independence payment awards, therefore, will be reviewed at appropriate intervals. The Social Security Agency will retain responsibility for decision-making, and decisions will carry a right of appeal. The Department will be working to support people fully on an individual basis as they encounter this new benefit.
1753. I will move on to implementation. The plan is to introduce the new benefit on a gradual phased basis from June 2013. In respect of all new claims from June 2013, personal independence payment will replace disability living allowance for working-age claimants. Existing DLA

- claimants will be asked at some time between October 2013 and March 2016 whether they wish to claim personal independence payment. From October 2013, if a claimant reports a change of condition, or has a fixed award that is due to expire after February 2014, that will trigger an invitation to claim personal independence payment. Contact with all other remaining DLA customers will be on a random basis from January 2014 to March 2016. At that point, if an existing DLA customer makes a claim for personal independence payment, DLA payments will normally continue until their personal independence payment claim is decided. If they choose not to claim personal independence payment, their DLA will end.
1754. There is clearly public concern around the introduction of this benefit, but we all want to assure the Committee that aim of the personal independence payment is to ensure a fairer, more transparent assessment. It has been designed in collaboration with independent specialists from the disability, social care and health sectors. It is about simplifying processes for people, and targeting the resources at those who are in greatest need. That is what this is about. I will ask Jane to take you through the provisions on a clause-by-clause basis.
1755. **The Chairperson:** Mickey Brady wants to ask a question at this point.
1756. **Mr Brady:** I do not want to go into a lot of detail. Obviously, one of the main issues is the healthcare professionals. We have been told that the contract will be announced shortly. There has been a lot of disquiet. Tanni Grey-Thompson, who is disabled herself, has presented a report and was on the radio this morning. There is a lot of unease. Parents are saying that children with disabilities may be put into residential care.
1757. The other issue is around Atos Healthcare, particularly in Britain, where they have made a mess of the work capability assessment. In Lanarkshire in Scotland, its work has been contracted back to the National Health Service,
- which is a peculiar way of doing things: a statutory body pays a lot of money to a private organisation, which then contracts the work back to the same statutory body, or a similar one.
1758. The detail of that will be extremely important. There is a lot of unease around the whole concept of how people are going to be assessed.
1759. **Ms McCleary:** I am quite sure that as soon as that contract is let, we will advise the Committee of it.
1760. **Mr Mickey Kelly (Department for Social Development):** We have indicated that there are just a few approvals and contract issues to work through. It is anticipated that the contract will be formally signed in four to six weeks. I understand, Mickey, where you are coming from with respect to the unease about those issues.
1761. **Mr Brady:** I think that it has become more than unease. It has turned into an unmitigated disaster.
1762. Another question I must ask is about is terminal illness. In my experience, there is an issue around the DS1500 forms. Obviously, the GP, or whoever signs the DS1500, is, in many cases, reluctant to do so because the person may not know. There needs to be a better way of looking at that and how it is dealt with. There is a whole issue about trauma to the person who may or may not know how bad their condition is. There should be a sensible way of doing that.
1763. **Ms McCleary:** That is an operational issue which we can look at.
1764. **Mr M Kelly:** We are working on the specific customer journey for people with terminal illnesses, which will build on DLA, and incorporate its good points. I am happy to work through that in due course.
1765. **Mr Brady:** Just on DLA, periodic reviews were introduced in the 1990s with some fanfare. Another thing that has changed in DLA after it was reviewed, is that, initially, awards were “lifelong”, and then they were changed to “indefinite”. So



- there have been changes, and it is not as though DLA has been there since 1992, sitting on the shelf, with nothing happening to it. A lot of things have been changed.
1766. **Ms McCleary:** There have been tweaks made to DLA, but not a systemic review.
1767. **Mr Brady:** There has been case law, for example, on the distance that a person can walk. All of that has evolved over time. It is not the case that it has just been left to its own devices. Medical evidence has been a very important part of it. An impression has been given by the Government that the Social Security Agency has turned into some sort of charitable organisation, and that you can apply for DLA and you will get it, no matter what is wrong with you. DLA is a very rigorous procedure requiring medical evidence. People need to be made aware of that. Sometimes, that is all forgotten amid the black propaganda, for want of a better term.
1768. **The Chairperson:** We have listened to an introduction, so I have allowed that comment. Michael, do you want to speak? I do not want long speeches; we are taking this clause by clause.
1769. **Mr Copeland:** No. I do not do long speeches, much.
1770. As I understand it, the examining medical practitioner (EMP) should be a medical doctor. The role of the EMP particularly involves visiting, in their own homes, people who were deemed to be, for whatever reason, incapable of attending an assessment centre. The EMP is, at present, always a qualified doctor. Will that role be undertaken by what they call a “healthcare professional”?
1771. **Mr M Kelly:** The examiner or medical practitioner at the minute will be part of the new system. The new system will involve healthcare professionals, and some of those people will, potentially, be doctors and some will be other healthcare professionals in the broader sense. There is an indication and, corporately, the Department for Work and Pensions has said, that people who have had visits in their own home and who need visits will still be visited in their home, where that is available.
1772. **Mr Copeland:** How will you ensure that the EMP or the healthcare profession is relevant to the specific customer’s needs? I have heard of occasions where people whose main hindrance is mental health difficulties have presented themselves, only to be told by the healthcare professionals that that is not really their field. I know of three such cases. How can you give an assessment of someone’s physical or mental capabilities if you are not qualified? I think that one guy is taking it to the ombudsman. He was not seen by someone who was qualified to sit in judgement of his condition.
1773. **Mr M Kelly:** The issue is: what is “qualified to sit in judgement”? Because of the complex nature of people’s illnesses and those with multiple disabilities, there is an issue of whether you would ever be able to specifically match healthcare professionals exactly with customers, depending on what you perceive to be their needs. The professionals that are recruited by the provider will be fully trained, vetted and qualified. Part of the process involves us, as a Department, to sign those people off as proficient to do the assessment.
1774. **The Chairperson:** At this stage, I do not think that we can get the answers that we are looking for. We are going through the clauses.
1775. **Ms McCleary:** Just before we move on, I want to say something about the work capability assessment, which Mickey Brady referred to. To repeat what I think we have said on numerous occasions, the purpose of the work capability assessment and the PIP medical assessment are totally different, and it is important to remember that. Hopefully, lessons will be learned from other fields, whether that refers to the work capability assessment, or whatever. However, I want to stress that they are very different things.

1776. **The Chairperson:** Some members are indicating that they want to ask questions. I do not want to have a discussion around the issues. People may not agree, and will not agree, with some of the explanations. I do not agree with some of the explanations that I am getting, and I do not accept some of the explanations that I am getting, but this is not the time to have that debate. We are examining the Bill clause by clause for information.
1777. **Mr Douglas:** I just want clarification on something. Anne, you mentioned people who have a terminal illness. You used the word “may”. However, in some of the stuff that I am reading, having a long-term illness would qualify you.
1778. **Ms McCleary:** Most of the people who you would regard as having a terminal illness will be covered by it. However, the difficulty arises where you have a congenital condition that goes on for a significant time, but is not terminal as such. That is where the difference lies.
1779. **Mr F McCann:** My question is on the back of what Mickey Kelly said. Given the legacy of the conflict here, far more people suffer from psychiatric and mental health problems. Will the new way of doing things ensure that people with a psychiatric background will be visiting those people to assess them, rather than what are called, in the broadest terms, healthcare professionals?
1780. **Mr M Kelly:** The provider will gather a mix of healthcare professionals to cover a broad spectrum. It is not going to be possible to say that we will have x number of each professional for each specific thing. I cannot go into the detail of that at the minute, but that will be part of our role as we work with the provider to ensure that they have adequate personnel and specialists who are trained to take into account the circumstances in Northern Ireland.
1781. **Mr F McCann:** I hate to prolong this, but surely that would be built into any tender or contract that you would put out?
1782. **Mr M Kelly:** Part of the procurement exercise was to indicate the circumstances in Northern Ireland.
1783. **The Chairperson:** We have not closed the gaps in the understanding of how that is going to work out. We will move on to the next clause, please.
1784. **Ms Jane Corderoy (Department for Social Development):** Clause 76 introduces the personal independence payment. As Anne said, the system has become quite complex. People are unclear about who can qualify and decisions about qualification can be inconsistent and subjective. The intention is to create a sustainable system that will support disabled people to overcome the extra barriers that prevent them from leading full and active lives. PIP is intended to be a more dynamic, objectively assessed and transparent benefit, and entitlement will be based on an assessment of the impact that a person’s disability or condition has on their daily living and mobility needs. Entitlement to disability living allowance depends on the extent to which someone needs help with personal care, needs supervision or has difficulty walking. The personal independence payment will take account of changes in individual circumstances and will reflect wider changes, such as advances in aids and adaptations. Support will be focused on those who face the greatest day-to-day challenges and who are, therefore, likely to experience higher costs. It will be non-contributory and non-means-tested, and its aim is to help people live more independent lives within their local community. The personal independence payment will focus on the ability of an individual to carry out a range of activities necessary for everyday life and the extra costs arising because of that. It will be payable to people who are in work as well as those who are out of work.
1785. Tests of residence and presence will be similar to DLA and will be set out in the regulations. It is intended to introduce a habitual residence test to bring PIP in line with other non-contributory benefits, instead of the ordinarily resident

- test that applies to DLA. Entitlement to personal independence payment will be determined by considering all of the evidence, including the new assessment, which will more accurately and consistently assess and determine who will benefit most from additional support.
1786. To make sure that this is right, the assessment is being developed in collaboration with a group of independent specialists in health, social care and disability, which includes disabled people. The Department has consulted on the assessment criteria. The personal independence payment will initially replace DLA for people of working age. The experience of reassessing the working age caseload will be used to inform future decisions on the reassessment of children and for those over 65. The policy aim of PIP is that support should be targeted at those disabled and vulnerable people who face the greatest challenges in leading independent lives.
1787. **Mr Brady:** I have just one question. Will the disability working allowance be going? We have DLA and disability working allowance.
1788. **Ms McCleary:** Sorry?
1789. **Mr Brady:** Disability working allowance: is it now gone, or will it be gone?
1790. **Ms McCleary:** I am not sure, but we will check on that.
1791. **Mr Copeland:** Will it be counted as income within the confines of the cap allowance?
1792. **Ms McCleary:** No; it will be disregarded. In fact, a household where someone is in receipt of DLA or PIP will automatically be excluded from the benefit cap.
1793. **Mr Durkan:** Is that any level of PIP or DLA, even if it is the lowest?
1794. **Ms McCleary:** Yes.
1795. **The Chairperson:** Thank you. Obviously, we will return to that. We move on to clause 77.
1796. **Ms Corderoy:** Clause 77 sets out the broad entitlement conditions for the daily living component of the personal independence payment. It provides that it can be paid at one of two rates depending on an individual's ability to carry out specified activities. The process of assessing whether someone is limited or severely limited in their ability to carry out the activities will be at the heart of personal independence payment. The clause also provides that someone has to have met the required period condition before entitlement to the daily living component can start. That condition is set out later, in clauses 79 and 80. Nine activities will be assessed, which, as Anne said, are preparing food and drink, taking nutrition, managing therapy or monitoring a health condition, bathing and grooming, managing toilet needs or incontinence, dressing and undressing, communicating, engaging socially, and making financial decisions.
1797. The policy intention is that the daily living component will prioritise those individuals who face the greatest barriers to living full and independent lives, will help protect those who are most in need and will focus support on individuals who face the greatest challenges to leading full and active independent lives. Entitlement to the daily living component and to the specified rate, whether it is the standard or enhanced, will be by reference to an objective assessment, which will consider whether someone is limited or severely limited in their ability to carry out certain daily living activities. The daily living activities will be set out in the regulations. A draft has already been consulted on, and the regulations encompass a range of those everyday activities. Each of the activities will be underpinned by a number of descriptors, which will allow an assessment to be made of the claimant's capability in undertaking the activities.
1798. In terms of subordinate legislation, the clause provides for the regulations that will set out the weekly standard and enhanced rates; the activities

- that are to be regarded as daily living activities; the details of the assessment to determine whether an individual has limited or severely limited ability to carry out those daily living activities; and further restrictions that relate to the pensionable age for entitlement and terminal illness. The first set of those will be by confirmatory procedure.
1799. The clause is also subject to provisions in clause 81, which deals with terminal illness, and clause 82, which deals with people reaching pensionable age or the age of 65 if pensionable age changes.
1800. **Mr Copeland:** If I remember right, there are two rates of mobility within DLA — high and low — and three rates of care — high, middle and low. Middle care seems to have disappeared in PIP.
1801. **Ms McCleary:** There are only two.
1802. **Mr Copeland:** What is the likely impact of that in terms of entitlement? Are more of the people who are currently on the middle care rate going to themselves chinned, for want of a better word?
1803. **Ms McCleary:** We do not know what the impact will be, because all those folk have to go through the assessments. Which category an individual falls into will depend entirely on their assessment. You cannot just assume that because we are moving from three to two, half of the group that would otherwise have been in the middle component will go up to the higher category and the other half will go down to the lower category. We just do not know. It will depend on the descriptors and the number of points scored. That will determine each case.
1804. **Mr Copeland:** At what stage will we as a Committee get sight of those? All these things are critical. It is the mechanics of it.
1805. **Ms Corderoy:** They have been consulted over. DWP is going to respond to the consultation that looked at those, we hope, soon enough. When it does, we will share that with the Committee.
1806. **Mr Copeland:** Is this a UK or a GB mainland consultation?
1807. **Ms Corderoy:** We were included in it. I think that we sent a paper to the Committee in which we made the case for the people who responded directly to us in the Department for Social Development (DSD).
1808. **Mr Copeland:** So there is no individual pilot scheme being run in Northern Ireland?
1809. **The Chairperson:** If I recall correctly, the Committee did respond to that, but we can clarify that later on.
1810. **Mr Brady:** The main thing for people on middle care is that, very simply, if they live alone, they qualify for a severe disability premium. That is quite a lot; at the moment, it is about £58. So you would have to assume that, unless that premium regime is kept in place, a lot of people will be moved from enhanced to standard.
1811. **Ms McCleary:** There may well be some.
1812. **Mr Brady:** Those people are going to lose out on quite a lot of money. The severe disability premium is a fair amount of money for a person living alone, particularly given the amount of benefits they are expected to live on. At some stage, clarification will probably be needed on the impact of the premiums on universal credit.
1813. **Mr M Kelly:** I think the report that was published this morning actually looks at some of the impacts of removing the severe disability premium on universal credit as opposed to —
1814. **Mr Brady:** This will make a huge difference to a lot of people.
1815. **Ms McCleary:** There is provision in universal credit for the building blocks of fundamental benefits, including disability factors.
1816. **Mr Brady:** I suppose, with respect, that sounds good in theory, but the difference is that if you are in middle care at the moment and you live alone, you qualify. Some people who have other

- income may not get the whole severe disability premium. Then you get into passport benefits, which is a big issue.
1817. **Ms McCleary:** We will be looking at this report.
1818. **Ms Corderoy:** Mr Copeland, you talked about the different range. What this will do, in a practical sense, is reduce the combinations from 11 to eight. So people should be clearer on what sort of rate they will get from PIP compared with DLA.
1819. The other thing worth saying is that the criteria and the descriptors take more cognisance of mental health issues. You made the point that mental health is a bigger issue here. We imagine that some people will go up, as well as the fear that some will go down, because mental health will be taken more in the round in this new PIP compared with DLA.
1820. **Ms McCleary:** That was one of the changes that emerged from consultation on the descriptors.
1821. **Mr M Kelly:** To build on what Jane said, under the current rules on DLA, to get the highest rate of the care component, someone must require attention day and night. Under the new PIP rules, however, people can get the highest rate of PIP — the enhanced rate — even if they do not need attention at night. So the higher rate will be payable just for significant needs during the day. The people who will gain from that are those who have significant needs during the day but not at night and do not, therefore, qualify for the higher rate at the moment. Obviously, as you say, there may be some people at the other end. However, there is the potential for people to get higher rates of benefit.
1822. **Mr F McCann:** Anne, you mentioned that a lot of this depended on the number of points scored. How does that differ from the present assessment?
1823. **Ms McCleary:** Sorry, I am not quite with you.
1824. **Mr F McCann:** You talked about the level of benefit they would get.
1825. **Ms McCleary:** Yes, the descriptors and the points.
1826. **Mr F McCann:** It depends on the points scored. How does that differ from the present system?
1827. **Ms McCleary:** The descriptors themselves are different.
1828. **Mr F McCann:** You said earlier that the assessment that people go through, by comparison to employment and support allowance (ESA), is completely different; but the new system is points-based. Are you saying that the PIP system will be points-based also?
1829. **Ms McCleary:** Yes.
1830. **Mr M Kelly:** It will, but the descriptors in the work capability assessment are very different to what those that will be in the PIP assessment.
1831. Just to pick up on your point, Fra, in the current administration of DLA there are no points. It is a subjective judgement by a decision-maker based on a round of evidence. It will still be a decision made by a decision-maker, but the assessment will just form a part of that evidence-gathering process.
1832. **Mr F McCann:** I have to say that, if you are following some of the serious problems under ESA in England, tens and maybe hundreds of thousands of appeals have been made because of the descriptors in the system.
1833. **Mr Copeland:** I just want to check how you will ensure that the contractor — the company that is successful in tendering for this process — should it already be in possession of a contract for the other process; in other words, if Atos gets it for example — will it be able to use staff, according to availability, to deal with ESA and PIP? You said that they are quite different. If you have one person making judgements according to two different criteria, I would have thought that there could be a very serious pollution of one system by the other, if the same people are involved in both. I would have very serious issues about that. They have to be kept separate,



- and the people involved in them have to be quite separate and trained for each specific case.
1834. **Mr M Kelly:** I think that that is a point, Michael, that we will take up with the provider, when we announce the contract.
1835. **Ms McCleary:** If that is a relevant factor. It may not be.
1836. **Mr M Kelly:** We are in a position where we cannot go into any detail because of the commercial issues around the contract. It is a point that we have logged.
1837. **The Chairperson:** We cannot have long conversations about people's opinions.
1838. **Mr Durkan:** My question is about the contract as well. I know that you are limited as to what detail you can give. It is about lessons that have been learnt from the Atos/ESA debacle and the expense to the Department of so many appeals. Can there be something written into the contract around that, for whoever is successful? Rather than being target-driven, as many suspect it will be, to reduce the amount of money spent on PIP, the contractor should not be so quick to dismiss people's applications. Let the contractor incur the cost of the appeals, rather than have it fall back on the Department.
1839. **Mr M Kelly:** I must reassure members that there will not be any targeting. I know what people think. The Department and the agency will not be setting any targets in terms of getting people off disability living allowance. The contractor appointed across the water, and the work that has gone on, have been well cited. I know that members have views on some of the stuff that is coming out from Professor Harrington and his recommendations. Those will be built into part of the process as well.
1840. Once we have the announcement of the provider, the Department and the agency will have a detailed discussion with the provider about a range of issues with regard to the provision of the service. There will be, I assure you, a rigorous monitoring regime in place as well, through the provider, and also through what we do locally to ensure the quality of the work.
1841. **Mr Douglas:** I have a general point; maybe a bit of guidance from Anne or whoever. Whatever you decide about the eligibility criteria, they are going to be much more restrictive in future. To my knowledge, at this point, someone who has their legs amputated will naturally go on to DLA. Yet, in the new system, would it be right to say that they will be reassessed, even if they were born without legs? I suppose all of us — people stop us in the street and ask how this will affect them. *[Inaudible.]* What is your guidance to us? There is a list of every type of disability or illness.
1842. **Ms McCleary:** I do not think that there are very many disabilities which you can say, with any degree of confidence, you will definitely get or not get. It is not about the disability. This is about how it affects the individual person. That is the key. The exception would be those who have terminal illnesses, as we discussed. In relation to most other people, it is about how their particular condition affects them. It is therefore not possible to say any more than that.
1843. **Mr Douglas:** I understand.
1844. **Mr Durkan:** So, terminal illness is the only exception at the minute?
1845. **Ms McCleary:** Well, that is the exception in relation to special rules. However, I think that that is probably the only area where you can say that, just because somebody has X condition, they will automatically get automatically not get something. For everyone else, it just depends upon individual circumstances.
1846. **Mr Durkan:** Previously, it had been applied to some sensory conditions, such as blindness.
1847. **Ms McCleary:** Yes.
1848. **Ms Corderoy:** There had been some automatic entitlement for some conditions like that.
1849. **Mr M Kelly:** More work is still going on to finalise the assessment criteria



- following the closure of the last consultation, which might deal with some of the issues that we are faced with.
1850. **Ms McCleary:** Generally speaking, you just avoid saying “I can guarantee you X”. It is just a case of “We will have to see”.
1851. **The Chairperson:** We are going to move on to clause 78.
1852. Just before that, I will make a few general points. We have had a fair discussion so far, and I just raise this as a wee concern as to our process. There are a lot of questions around the fundamentals of PIP, and there are a lot of questions on the assessment process. It is fair to say that a number of members have raised those issues repeatedly, and rightly so, and they are on record; but I do not want to have a rehearsal of those arguments clause by clause.
1853. We will have to return to a broader political discussion on the fundamentals of these provisions, whether or not members or the Committee agree. Those are fundamental issues. As we go through the Bill clause by clause, I do not want to return to discussion on the fundamentals. Accept that there is a division of opinion; certainly, a range of concerns has been well flagged up. Let us move on. This is an explanatory process; we are getting the clauses explained. Members may ask questions to get clarification. It is not a debate or discussion of the rights or wrongs of it. Members, please do not give your opinions as to whether you like it or not.
1854. **Mr Douglas:** I apologise if I am raising stuff. There are so many things here. I forget some of the stuff, to be quite honest.
1855. **The Chairperson:** I have no intention, nor do I have the right, to try to restrict any member’s scrutiny of the Bill. We are here to give the Bill the absolute maximum scrutiny. I am just reminding members that we are getting clarification and explanation of the clauses. After that, and parallel to it, we will be taking presentations from stakeholders. Then we will return to whether we agree with any or all of those provisions and make our subjective opinions known at that point. Otherwise, we would never get through the explanation of the Bill at all.
1856. I am just recording, for members’ benefit, that we have rightly flagged up a range of very fundamental concerns about this Bill. Let us move on to clause-by-clause explanation of the Bill.
1857. **Ms Corderoy:** Clause 78 provides for the broad entitlement rules for the mobility component of the personal independence payment, with the exceptions for people who are terminally ill or of pensionable age, which we referred to before.
1858. As with entitlement to the daily living component, the intention is that support in the mobility component will be targeted at those disabled people whose health conditions or impairments impact most upon their daily lives.
1859. The mobility component of the personal independence payment can be paid at one of two rates: the standard or the enhanced. The rate paid depends upon the extent to which the ability to carry out mobility activities is limited, or severely limited, by a person’s physical or mental condition.
1860. The mobility component will only be paid to people over a prescribed age and to people with long-term health conditions or impairments. Someone has to have had their limitation to carry out mobility activities for a required period. That is set out in clause 80 of the Bill. That has to have been the case for the previous three months, and to be likely to continue to have that limitation for a further nine months.
1861. Subsection 4 provides that regulations will prescribe the activities that are to be regarded as “mobility activities”. Within the personal independence payment, mobility will be looked at in a much broader way. Entitlement to the mobility component will be assessed on both the ability to both move around and the ability to plan and follow a journey. The impact of sensory, mental, intellectual and cognitive impairments will be

- considered in the same way as physical ones.
1862. Entitlement to the mobility component will be determined by an assessment of a person's ability to get around. It is considered that the existing criteria for assessing mobility focuses too much on the physical act of getting around, and not on those other issues. To enable support to be targeted on those who need it most, the assessment will take account of the successful use of aids and adaptations, such as wheelchairs and walking aids, which can help disabled people live more independent lives. It is recognised that not all barriers to participation in society will be removed by the use of support aids. Points will usually be awarded in the assessment where aids or appliances are needed, recognising that a need has not been removed simply because an aid is being used. It will be entirely possible for people using aids to qualify for the benefit, depending on their circumstances.
1863. In most cases, the assessment will involve a face-to-face consultation with an approved healthcare professional. However, people will still be able to provide evidence of their disability, including any relevant documentation from their GP or hospital consultant.
1864. Under provisions in clause 79, regulations will provide whether a person's ability to carry out prescribed mobility activities is limited or severely limited by physical and mental conditions. As with entitlement to the daily living component, the intention is that the support and mobility component will be targeted at those disabled people whose health conditions or impairments impact most on their daily lives. As I said before, the two rates are being retained so that benefit can be paid where ability to carry out mobility activities is both limited and severely limited.
1865. Regulations will also provide detail of the weekly standard rate and the weekly enhanced rate. Subsection 7 of the clause provides that regulations be made for a person not to be entitled to the mobility component if they are unable to benefit from enhanced mobility; for example, if they are in a coma.
1866. The first set of regulations will be subject to confirmatory procedure, so they will come back to the Committee. This clause is vital in safeguarding the principle of mobility in personal independence payment, which will help to enable people with a long-term disability to lead full, active and independent lives.
1867. **Mr Brady:** I think that you have answered one of my questions, but I just want you to clarify the detail. Where it says that a person is excluded from entitlement to mobility component in circumstances in which the individual involved is unlikely to benefit from improved mobility. I would have thought that most people, if they are compos mentis or awake, will probably benefit from that. You mentioned coma, so I can understand that.
1868. The other thing is that subsections 1(a) and 2(a) provide the power to prescribe a minimum qualifying age. There is a minimum qualifying age at the moment. It is five years for children, and then I think it changed slightly. Is there going to be a minimum qualifying age?
1869. **Ms Corderoy:** At the moment, this is just dealing with the working age of 16 to 64.
1870. **Mr Brady:** So, it is not going to affect children? That is not going to be changed.
1871. **Ms Corderoy:** No.
1872. **Mr Brady:** The legislation at the moment states that a person must be able to benefit from enhanced facilities for locomotion. That is the terminology they use. This may be in the regulations, and you can let us know at a later stage, but I had a case years ago where a woman with Alzheimer's could physically put one foot in front of the other, but she would have sat down in the middle of the road because she had no concept of danger. The legislation says that there has to be arrested development of the brain. These are points that need to be

- clarified. A retired consultant psychiatrist was a member of that panel, and, when I asked him to explain whether arrested development meant physical development or mental development, he could not answer. There were bits in the legislation that were so nebulous that they could not give you any sort of answer. It may be in the regulations, but it is something that needs to be checked.
1873. **Ms McCleary:** I think it will be in the regulations, but the descriptors have been developed with considerable involvement from psychiatrists and so on, so that kind of thing should be covered.
1874. **Mr Brady:** The point that I am making is that there was language in the regulations that was so nebulous that people could not give you an answer. If someone like the person that I was representing came before them, they could not make a decision based on the regulations. That is the point that I am making. There needs to be clarification on those kinds of issues.
1875. **Ms Corderoy:** We will aim to do that. One of the things to do with the mobility component is that it should reflect that, because it is about moving around but also being able to plan and follow a journey. Therefore, it is supposed to be much broader.
1876. **The Chairperson:** OK, thank you.
1877. **Ms Corderoy:** Clause 79 outlines provisions related to the proposed assessment. Regulations will provide detail on the assessment, including entitlement to the two rates of the new benefit, which will depend on individuals being determined as having limited or severely limited ability to carry out key activities. Those will relate to either the daily living or the mobility components or both. The greatest support will go to those who are least able to carry those out.
1878. The intention behind the assessment is that it is more evidence-based and consistent. It will take into account the full impact of a person's disability. Draft assessment activities and descriptors have been consulted on, and, in the first draft, the criteria were tested on a sample of existing DLA claimants in order to understand the criteria's reliability, validity and impact. As a result of the testing, which included cases from here, the criteria were refined and improved.
1879. Nine of the 11 activities to be reassessed relate to the daily living component entitlement. The addition of communication as an activity within the daily living component allows impairments' impact on sight, hearing, speech and comprehension to be more appropriately taken into account.
1880. Two activities relate to entitlement to the mobility component. Assessing those activities together provides a broader perspective of mobility. The assessment will consider a person's ability to plan, as well as their ability to undertake a journey, giving equal weight to the mental and physical requirements for this activity.
1881. Using the best and most appropriate evidence, including that from professionals involved in the care of the individual throughout the assessment process, will be vital. It is intended that, in most cases, individuals should have face-to-face consultation with a trained, independent healthcare professional. That will allow an in-depth look at the individual's circumstances and enable a two-way discussion to take place.
1882. There will be instances where face-to-face consultation will not be appropriate; for example, individuals with the most severe impairments, or where sufficient evidence is already available. In such cases, an assessment on the basis of paper evidence only might be more appropriate. That will be considered further as the process development progresses. However, the final decision regarding an individual's entitlement to personal independence payment will remain with the Department. It is important that individuals engage with the personal independence payment assessment process to ensure that their

- voices are heard. The clause makes provision that regulations will also provide that individuals will be required to provide information or attend face-to-face consultation. Where individuals do not do so, without good reason, the Department has the power to disallow their claim to benefit. That power will be used sensitively and proportionately, taking into account individual circumstances, in particular the impact of impairments.
1883. **Mr Brady:** It says that it is likely that the first set of regulations will only address the assessment process for adults, and subsequent regulations will deal with assessment for children. Presumably, that is children who may qualify for PIP. At the moment, the legislation says that if a child is to qualify, they will require substantially more care for the care component and substantially more care and attention than a child of that age who does not have their particular problem. Do we know whether that will be part of the criteria, or will that be contained in the regulations? There has been case law on the issue of substantially more care and attention.
1884. **Ms Corderoy:** It would be in the regulations.
1885. **Mr Brady:** It is an important issue in terms of the detail of the legislation. We do not have the regulations, but it is worth bearing that in mind.
1886. **Mr Douglas:** Anybody applying for the mobility component will also have to meet the required condition in respect of the six-month timeline.
1887. **Ms Corderoy:** It has been changed. It is now three months and nine months, so it is more in keeping with DLA, but it has to be that they would imagine having it for the next nine months.
1888. **Mr Douglas:** OK.
1889. **The Chairperson:** This is a key clause, because it is an enabling one for a lot of these regulations on the issues that we talked about earlier. If everyone is happy enough, we will move on.
1890. **Ms Corderoy:** Clause 80 is linked with clauses 77 to 79 and makes provision related to what constitutes the required period condition for entitlement to either component of personal independence payment. These essential conditions are intended to distinguish between a long-term impairment or health condition, for which financial support through PIP may be appropriate, and shorter-term conditions, for which other support mechanisms exist.
1891. The required period condition is that an individual will have met the conditions of entitlement to a specific rate of the daily living or mobility component during the three months preceding the date that they become entitled. There is an expectation that they will continue to meet those conditions for a further nine months following that date. These are referred to as the qualifying period and the prospective test.
1892. The qualifying period and the prospective test are also reapplied where an award is reviewed and a higher rate of benefit is merited. This will ensure that any changes in circumstances resulting in an increase from the standard to enhanced rate are also long term. Crucially, people with a terminal illness who are expected to die within six months are excluded from the required period condition by virtue of clause 81. That enables financial support to those in the most difficult circumstances to start as soon as possible. People affected can receive enhanced rates for the daily living component immediately.
1893. Subsection (4) allows for the required period condition to be modified in certain cases; for example, those provisions could allow the qualifying period effectively to be waived where there has been a short break in entitlement. That may be because someone has been in remission from a disease or illness such as MS or leukaemia and their condition deteriorates again. The combined effect of the required period condition is that the individual will have to be or would be expected to be substantially disabled

- for a period of not less than 12 months. That definition is in keeping with the definition of long-term disability for the purposes of equality and disability legislation.
1894. Not everyone will have to wait three months after they make a claim before starting to receive personal independence payment if they have already met all or some of the qualifying period before they submit their claim. People with variable or fluctuating conditions will not be prohibited by virtue of the clause from entitlement to personal independence payment. The assessment criteria will be attuned to the needs of people with variable or fluctuating conditions and will not be a snapshot of the ability on the day that the assessment is carried out; rather, the criteria will consider a person's ability to perform activities over a broader time frame. The fact that an individual may, for example, not satisfy them on the day but would be likely to satisfy them on most others could therefore be enough to satisfy the assessment.
1895. **Mr Brady:** You talk about a period of 12 months. Again, case law would aggregate over time. From personal experience, I am dealing with cases of, for instance, sarcoidosis, which is a lung condition that flares up over a period. Therefore, in one month, somebody could have three bad weeks and one good week. Will such conditions be looked at in the regulations and the general legislation?
1896. **Ms Corderoy:** It should cover those conditions.
1897. **Mr Brady:** It is like an aggregate. If you had nine bad months out of 12, would that be considered a long-term chronic condition? It should be, because it is.
1898. **Ms Corderoy:** It should be, yes.
1899. **Mr Copeland:** Is there an automatic right to ask for a review of a decision and/or appeal a decision?
1900. **Mr M Kelly:** The same rules that the Committee discussed yesterday for mandatory reconsideration and all those things will apply to personal independence payment, and it is the same with appeal rules.
1901. **Ms Corderoy:** Clause 81 provides for special provisions to apply to claims to PIP made by or on behalf of people who are terminally ill. Those are people who find themselves in the most difficult of circumstances, and it is right that financial support be provided as quickly as possible. The special rules for terminally ill people were introduced in response to the very reasonable demand that people made. People with a terminal illness should receive financial assistance with their end-of-life needs. They are tried and tested through DLA, and will, therefore, be carried forward into personal independence payment. Clause 81 will enable terminally ill people — that is, people who have a progressive disease and are not expected to live beyond six months — to be entitled immediately to the enhanced rate of the daily living component, providing unconditional financial support without them having to demonstrate that they have any limitation on their ability to carry out daily living activities.
1902. Terminally ill people will also be able to be paid the mobility component immediately, subject to having their mobility needs assessed. The assessment of someone's mobility needs will be handled sensitively, discreetly and appropriately, and should avoid the need for a face-to-face consultation where possible. The special rules will also allow claims for personal independence payment to be made by a third party without the terminally ill person's knowledge. That is in recognition of the exceptional circumstances in which information might be kept from patients about their prognosis, either because they have clearly stated that they do not wish to be informed or because to do so may cause them serious harm. Robust procedures will be retained to ensure that terminally ill claimants are not informed of the prognosis through the actions of the



- Department. The clause is designed to support people in very difficult circumstances and to try to make the process of receiving the benefit at that time less stressful.
1903. Clause 82 sets upper age limits for claims to personal independence payment. The upper age limit is 65 years old or state pension age, whichever is higher. Therefore, a person who has reached the upper age limit will not be entitled to personal independence payment. The clause enables regulations to be made to specify exceptions to the provision. Exceptions include people who are already in receipt of personal independence payment when they reach the upper age limit, and, provided that their mobility and daily living needs continue in line with the eligibility criteria, those people will continue to receive PIP.
1904. Clause 83 introduces a new provision that affects people who come from Northern Ireland from another European Economic Area (EEA) state or Switzerland, or who claim benefit from one of those states. The purpose of the clause is to clarify which state is responsible for the payment of benefit within the EEA. People who wish to claim personal independence payment but who are insured for a similar benefit with another country will be unable to receive personal independence payment. In Northern Ireland, being insured means paying national insurance contributions under the UK scheme.
1905. Benefits in cash are normally paid according to the legislation of the EEA state where the person is insured, regardless of which state the person resides in. Currently, people who come to Northern Ireland can receive DLA at the same time as receiving payments from another state, as DLA does not have the restriction that is being proposed here.
1906. The provision will safeguard public funds, and it will be a fairer system that people will be able to understand. People arriving in this country will not, therefore, be in a more advantageous position than long-term residents. A similar provision has already been made for the disability allowance care component for attendance allowance and carer's allowance.
1907. **The Chairperson:** OK; fair enough.
1908. **Ms Corderoy:** Clause 84 confers power on the Department to make regulations to provide that the daily living component of personal independence payment is not payable where the person is a resident in a care home in circumstances in which any of the costs of any qualifying service provided for the person is already being met out of public funds. The mobility component will continue as normal.
1909. A "care home" is defined as an establishment that provides accommodation, together with nursing or personal care. Qualifying services are defined as inpatient treatment, accommodation, board, personal care and such other services as may be set out in the regulations. People with a disability who do not get any of the costs of those qualifying services paid for by the state will continue to be paid the daily living and mobility components of personal independence payment.
1910. The proposed rules mirror those for the care component of disability living allowance, which is not payable to those in care homes or similar institutions after 28 days for adults and 84 days for children. That will also help to ensure that a claimant's award is not disrupted during a period of respite care in a care home. It will ensure that the taxpayer does not pay twice for the same need.
1911. **Mr Brady:** Someone in a care home will be given care and attention, so I can see the principle. You said that the mobility component will not be affected. Relatives of those who are in residential care use that mobility component to take them out during the week and at weekends, and there was a lot of speculation that that was going to be affected. What you are saying is that the mobility component will remain the same and not be affected.



1912. **Ms McCleary:** There was considerable concern about that during the deliberations on the GB Bill and *[Inaudible.]*
1913. **Mr Brady:** I just wanted to confirm that that had not changed. Thanks.
1914. **Mr Copeland:** I think that somewhere in the region of 700-odd folk were going to be affected by the proposed changes to the special needs maintenance allowance. The nature of their domicile was slightly different: they were viewed as tenants rather than residents. You know, like the Camphill community that we visited.
1915. **The Chairperson:** Yes. Supported housing.
1916. **Mr Copeland:** Yes. For qualification for the daily living allowance, will any allowance be made for the difference between supported housing and the categories that you have discussed?
1917. **Ms Corderoy:** The clause deals only with care home residents, and I am not sure about those who live in supported housing. We will need to look at whether those in supported housing will be provided for in the regulations.
1918. **Mr Copeland:** Will you do that for us? They are getting a rough enough time as it is.
1919. **Mr Brady:** Following on from that, I know that, in the light of practice, people in supported housing but who lived in individual flats had the severe disability premium taken off them and then reinstated. That would apply in the same way. The people whom we visited have their own address and flat and are residents within a larger supported housing establishment. They do not receive the severe disability premium, because, technically, they live alone. We should perhaps flag that.
1920. **Ms Corderoy:** Clause 85 confers a power on the Department to make regulations, provided the daily living and mobility components of the personal independence payment or both are not payable in certain circumstances to inpatients of hospitals or similar institutions, where any of the costs of any qualifying services provided for the person is paid from public funds. The clause also provides that regulations will set out further detail on whether any of the costs of medical or other treatment, accommodation and related services provided for a person is considered to be qualifying services borne out of public funds. Disabled people who do not get any of the costs of those qualifying services paid for by the state will continue to be paid the daily living and mobility components of the personal independence payment.
1921. As with clause 84, which relates to care home residents, there will be an underlying entitlement to cover where an individual leaves hospital, and a 28-day run-on or continuation of entitlement to avoid interference with a claimant's award during short periods of hospitalisation. The proposed rules will mirror the existing rules for disability living allowance and will ensure that the taxpayer does not pay twice for the same need.
1922. **Ms P Bradley:** I suppose that my question also relates to care homes. You referred to the 28-day run-on period. Currently, when a person is admitted to hospital, all the agencies are notified. When the person comes out of hospital, he or she must be out of hospital 28 days. Is this the same as for DLA?
1923. **Ms Corderoy:** As far as I understand it, it will be the same.
1924. **Ms P Bradley:** Therefore, people will have to have that break from hospital for their award to continue.
1925. **Ms Corderoy:** No. I think that they will retain that underlying entitlement to it.
1926. **Ms P Bradley:** In hospital settings, you get frequent admissions, and people may be out of hospital for one or two days and then have to go back in again. When I worked in the hospital, part of my job was to point out to those patients that, because they were not out of hospital for long enough, they should notify the authorities. In my experience, very few people ever did that and

- continued to claim their award while they were in hospital, whether they were in for one week or six months. I just wanted to clarify whether patients still have to have that break of 28 days.
1927. **Ms Corderoy:** I will double-check that just to be sure.
1928. **Ms P Bradley:** It would be the same for care homes. You would need to have that.
1929. **Mr Kelly:** I think that the general overriding principle is that this will carry forward the same rules as for DLA. We just need to check that.
1930. **Ms Corderoy:** It is supposed to be for those who are in and out of hospital. Obviously, a lot of those who qualify will be in and out of hospital. It is supposed to be —
1931. **Ms P Bradley:** If they are in and out of hospital and are out for two days or two weeks, they think that they are still in the qualifying period, but they are not. They are not aware of that.
1932. **Ms McCleary:** We will have a look at that.
1933. **Ms Corderoy:** If they are in hospital for longer than 28 days, it becomes —
1934. **Ms P Bradley:** If they are in hospital for two weeks, out for one or two weeks and back in for two weeks, they have not had a break. That is a run-on period. You must be out of hospital a certain amount of time. If they are in for 28 days and then come out of hospital, that would not apply, but if they are only out of hospital for two weeks, that is not seen as a run-on period. The regulations on that are complicated for most people, and especially for those who are in receipt of that benefit.
1935. **Ms McCleary:** We will have a look at that.
1936. **Mr Brady:** It is great to hear social services taking such an interest in benefits.
1937. **Ms P Bradley:** I filled the forms in many items, Mickey.
1938. **Mr Brady:** To follow on from that, people have less of a period now. Previously, you could be in hospital for up to eight weeks and still get your DLA or attendance allowance. That was reduced, and it seems that it has been reduced again to 28 days. Can you check that?
1939. **Ms Corderoy:** Yes.
1940. **The Chairperson:** Were you thinking out loud there? I thought that you were going to come back in.
1941. **Ms Corderoy:** No. If it is OK, I would rather check it and get the answer right.
1942. **The Chairperson:** That is fine.
1943. **Ms Corderoy:** Clause 86 provides that, generally, personal independence payment is not payable when someone is in prison or legal custody. It also confers a regulation-making power to provide exceptions to that general rule.
1944. Under current legislation, recipients of disability living allowance who are imprisoned because of a criminal offence are disqualified from receiving benefit, and payment stops. If, however, they are detained in custody on remand, payment is suspended pending the outcome of the trial or sentence. Where people are detained in custody on remand, they can have arrears of their DLA paid where, at the conclusion of proceedings against them, they are found unfit to plead, not guilty or are found guilty but do not receive a custodial sentence.
1945. The rules relating to periods of detention on remand are currently common to many benefits, including incapacity benefit, carer's allowance and bereavement benefit. However, unlike those benefits, which are intended to provide income maintenance, DLA is intended to contribute towards the extra costs associated with disability. It is therefore important to ensure that the funding of those extra costs is not duplicated.
1946. With the introduction of personal independence payment, the position of those in prison has been re-evaluated, whether they are on remand or under sentence. Disabled prisoners have

- their disability-related needs met by the prison or through healthcare provided by the local health and social care trust. Accordingly, it is considered that, to avoid duplication of provision, the payment of benefits should cease when someone is placed in legal custody under any circumstances. Clause 86 provides for that. However, the Department does not propose simply to turn people's benefit off the moment that they are put on remand or sent to prison. People may need to settle some outstanding financial commitments when they are in prison, such as a higher than normal fuel bill that arises as a result of their disability. It is proposed that personal independence payment will be payable for a short period — perhaps 28 days after someone goes into prison. Providing such a period of continued benefit also has the advantage of providing some administrative simplification and helps to ensure that a person does not leave prison in overpayment, which then has to be repaid. The measure prevents duplication of provision.
1947. **Mr Douglas:** You mentioned legal custody. Does that include police stations or holding centres where people have been arrested?
1948. **Ms Corderoy:** It is anywhere where they get their needs met.
1949. Clause 87 sets out conditions for claims, awards and information for personal independence payment. It provides that payment of personal independence payment cannot be backdated beyond the date on which a claim is made or treated as being made. Awards of personal independence payment would normally be for a specified fixed period, after which a new claim must be made. Information gathered in the process of determining a claim for personal independence payment is to be treated as information relating to social security. Not backing a PIP payment beyond the date on which a claim is made or treated as being made is a practical provision that has been a feature of both disability living allowance and attendance allowance since their inception. Clearly, this provision needs to be supplemented by measures that will ensure that people who may be entitled to personal independence payment make their claim at the right time.
1950. Subsections (2) and (3) relate to the duration of awards when an entitlement to personal independence payment has been established. The aim is to introduce more regular reassessments into personal independence payments to ensure that ongoing benefit decisions reflect any changes and remain accurate. The majority of awards for personal independence payment will be limited to an appropriate fixed term. Under the current system, the majority of fixed-term awards are given for up to two years. However, there will be a greater range of award durations for personal independence payment; for example, from less than one year to three, five or 10 years, taking account of issues such as the nature of the impairment, the known progression of any condition or the effects of treatment or rehabilitation given or expected to be given. Clearly, exceptions have to be made to that default position for those with the most serious long-term and stable impairments that are unlikely to see any change. Subsection (3) provides that guidance will be issued as to when a fixed-term award would be inappropriate.
1951. Finally, subsection (4) provides that any information gathered during the processing of a claim to personal independence payment will be treated as information relating to social security. That will enable the Department to share relevant information and reduce the requirement for people to provide the same information over and over again.
1952. **Mr Brady:** Can you clarify a point? At the moment, if someone has an award and there is no end date, it is an indefinite award. Are you saying that it will be less than one year to three, five or 10 years?
1953. **Ms Corderoy:** Yes.
1954. **Mr Brady:** It will be fixed-term award, and there are no more indefinite awards?

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1955. **Ms McCleary:** There may well be some indefinite awards.
1956. **Mr M Kelly:** It is expected that there may be some instances in which there could still be a longer-term award.
1957. **Mr Brady:** Longer than 10 years, depending on the condition, obviously?
1958. **Ms McCleary:** Yes.
1959. **Mr Douglas:** I want to go back to the situation for people with a terminal illness. They go through a lot of trauma, and it may take them a couple of weeks to make a claim. Would that claim be retrospective, or is it from the actual day on which they make the claim?
1960. **Ms McCleary:** It is from the day on which they make the claim. It cannot be retrospective.
1961. **Mr Douglas:** There is no flexibility at all? None whatsoever? You can understand the situation. That person is in a dire situation, and finding out about DLA, personal independence payment or whatever is the last thing on his or her mind.
1962. **Mr Brady:** Just to clarify that point, if you apply for DLA at the moment, and you contact the office, it will note the date. Therefore, it is the date on which you make the claim, and that can be by phone. The office will put that date on the form that it sends out. It might take three months to process, but it will be effective from that date.
1963. **Mr Douglas:** People with a terminal illness would have a letter from the doctor to say that they were told on that day, although it may take two weeks for them to make a claim.
1964. **Ms McCleary:** They are likely to have a social worker involved who would presumably advise them.
1965. **Mr M Kelly:** Macmillan and some of the cancer wards in the hospitals ensure that those who are diagnosed are picked up.
1966. **Mr Brady:** There are some very diligent social workers.
1967. **The Chairperson:** We will move on with our diligent officials.
1968. **Ms Corderoy:** Clause 88 requires the Department to produce two independent reports on the personal independence payment assessment and lay those before the Assembly within two and four years of the legislation coming into operation. The ability of personal independence payment to support disabled people properly will, in a large part, depend on the successful development, implementation and operation of the assessment. The purpose of the review will be to measure that. No decision has been taken on who will undertake the reviews or how it will be conducted. What is important is that it be reviewed and that the review be carried out properly. Providing a report within two and four years of the clause coming into effect will allow time for the process and operation of the assessment to settle down, evidence to be collected and evaluation data analysed.
1969. Clause 89 allows for disability living allowance to be closed legislatively at a future point, when the entire DLA working-age caseload has moved over to personal independence payment. The reassessment of the existing working-age disability living allowance caseload and the movement of people on to personal independence payment is planned over a three-year period beginning in October 2013. Work is ongoing on the design of that process.
1970. **Mr Brady:** There was speculation that there will be under 1,000 cases processed a week. I think that you gave the figure earlier, but if there are 180,000-odd, logically, if you were doing 1,000 a week, it will take longer than three years. Reasonably, probably nowhere near that number would be processed if they were being processed properly. Therefore, you are talking about a long time. We could all be retired by then.
1971. That figure was put out by the Department, which speculated that 1,000 cases a week would be processed.
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1972. **Mr M Kelly:** No, the 1,000-a-week figure is, I think, predicated on the reassessment of the working-age caseload, which was estimated to be at the point of reassessment in June of in and around only 117,000. The figure of 1,000 is based on the 117,000 as opposed to the full 190,000.
1973. In line with the commitment, the Department will obviously have to ensure that the resources are in place for the provider and the staffing to allow those assessments to take place. Part of our challenge as a Department is to make sure that adequate resources are in place to match that timescale.
1974. **Mr Brady:** One thousand cases a week is a huge number.
1975. **Mr M Kelly:** Absolutely.
1976. **Mr Brady:** Of course, it depends on “healthcare”.
1977. **Mr M Kelly:** And availability.
1978. **The Chairperson:** But there is no specified time limit?
1979. **Mr M Kelly:** No.
1980. **Mr Brady:** It was just to clarify, Chair. The issue was in the public domain.
1981. **The Chairperson:** I appreciate that. We will move on to clause 90.
1982. **Ms Corderoy:** Clause 90 gives effect to schedule 9, which makes provision for amending existing legislation. Its purpose is twofold. First, it makes provision to ensure that personal independence payment binds with common rules for things such as claims, decisions and appeals. Secondly, it updates references to disability benefits in existing legislation to include references to personal independence payment. That will include providing that personal independence payment will be classed as a non-taxable benefit.
1983. Clause 90 works in tandem with clause 91, which provides a broad power to mop up through regulations any remaining references to disability living allowance that may have inadvertently been missed in existing legislation. That is standard practice when an entirely new benefit is legislated for.
1984. As I said, schedule 9 is given effect by clause 90. The amendments in the schedule are in consequence of the introduction of personal independence payment and can be divided into broadly two groups: first, amendments required to the Social Security Administration (Northern Ireland) Act 1992 and the Social Security (Northern Ireland) Order 1998. Those provisions relate to matters such as claims and payments, decisions and appeals and uprating relating to PIP; and, secondly, consequential amendments to a wide variety of legislation, including social security legislation that currently refers to disability living allowance to include, where appropriate, similar references to personal independence payment.
1985. **The Chairperson:** OK, happy enough? We will move on.
1986. **Ms Corderoy:** Clause 91 supplements the provisions in clause 90 and schedule 9 to apply consequential arrangements on the introduction of personal independence payment. The task of identifying all the changes that need to be made is substantial. It is clear that, notwithstanding the wide range of consequential and supplementary amendments made by clause 90 and schedule 9, not every change may have been identified. Clause 91 allows the Department to pick up through subordinate legislation any changes identified in future.
1987. **Mr Brady:** Can the appointed day for the changeover from DLA to PIP vary or is it the day on which PIP kicks in? Obviously, people will be assessed at different times.
1988. **Ms McCleary:** It will be triggered by a change in their circumstances —
1989. **Mr Brady:** Yes, and they will then go on to PIP. I am just wondering whether the day on which they go on to PIP will be the appointed day or will there be an appointed day on which PIP will kick in?
1990. **Ms McCleary:** I think that it will vary.



1991. **Mr Brady:** That is really what I am asking you. It will therefore vary from person to person almost?
1992. **Ms McCleary:** Yes. It will vary from person to person, because there will be those for whom it would be triggered by a change in circumstances that they report to the Department. For the rest, it will be done on a random basis.
1993. **Mr Brady:** Thank you very much.
1994. **Ms Corderoy:** Clause 92 gives effect to schedule 10, which makes transitional provisions related to the introduction of personal independence payment and the reassessment of individuals currently in receipt of disability living allowance. The clause and the schedule allow the Department to make regulations concerning the replacement of disability living allowance with personal independence payment.
1995. As I said, schedule 10 is given effect by clause 92 and makes provision for the introduction of personal independence payment and reassessment of individuals who are currently in receipt of disability living allowance. It allows the Department to make regulations concerning the replacement of DLA with PIP. The powers provide the flexibility that is required to manage the introduction of personal independence payment and the reassessment of existing DLA in a manner that is both administratively efficient and fair to the individuals concerned. Individuals' conditions can change gradually over time, sometimes so gradually that individuals themselves will not notice. DLA does not have a systematic process for checking regularly the accuracy of awards. There have been 155,577 recipients of indefinite disability living allowance awards. As a result, there may be people who are currently on DLA who are receiving an incorrect amount of benefit. Reassessing the DLA caseload under the new eligibility criteria for personal independence payment is necessary to ensure that all receive an accurate and up-to-date assessment of their support needs.
1996. The powers that are contained in schedule 10 allow the Department to phase in the introduction of personal independence payment and manage the flow of new claims. Regulations will also enable the Department to terminate an existing award of disability living allowance and make an award of personal independence payment in its place. Each case will be looked at individually and assessed against the new criteria for personal independence payment. Claimants may be required to provide information or have face-to-face consultation before a new award of personal independence payment can be made. As a result, each individual will have his or her particular circumstances and support needs considered individually, ensuring that everyone receives the correct amount of benefit.
1997. There are concerns about the reassessment process and what it will entail. The powers that are contained in the schedule are intended to enable the smooth transition between DLA and PIP for the individuals concerned.
1998. **The Chairperson:** OK. We are happy enough.
1999. **Ms Corderoy:** Clause 93 makes additional provision that relates to the regulation-making powers that are required for personal independence payment. Those powers are intended to give additional flexibility to the Department as personal independence payment is introduced and the extent to which it is meeting its objectives is assessed.
2000. The powers will principally enable different provision to be made for different cases or purposes that relate to entitlement to personal independence payment. For example, that will be of use for a possible requirement to vary the assessment criteria for those who are moving from childhood to early adulthood or for those who are approaching pensionable age, at which differing activities and measures of ability may be required. They will also provide for making exceptions from



- specific provisions, such as those dealing with pensioners.
2001. Subsection (1) makes clear that powers extend to the transitional arrangements and provides for discretion to be applied in certain circumstances. Finally, there is provision that the first set of regulations made to the assessment criteria, whether for working-age adults or children, or for determining the required period condition, will be done by the confirmatory procedure.
2002. **The Chairperson:** Members are happy enough. Thank you.
2003. **Ms Corderoy:** Clause 94, which is the interpretation of Part 4, is purely technical. It defines various terms that are used in that Part of the Bill. The definitions are intended to help with the interpretation of the legislation.
2004. **The Chairperson:** Thank you for that. That concludes Part 4 of the Bill. Therefore, discussion of Part 4 is complete. As I said earlier, some fundamental issues are still foremost in members' minds. They have been well flagged. I thank everybody for their diligence and discipline in trying to get our way through this.
2005. Yesterday, we reached clause 107. Members will recall that we deferred clauses 107 to 115 because of their legalistic nature. We will now resume discussion on those clauses. I propose to suspend the meeting at noon for 30 minutes for lunch. If we are happy to continue until then, we will move on to clause 107.
2006. **Ms McCleary:** Chairperson, I introduce Conrad McConnell from the Social Security Agency. He will take the Committee through clauses 107 onwards, which are on fraud and error.
2007. **The Chairperson:** As an overall observation, members had concerns and officials were not in a position to answer them. In general, people's concerns were about the legalistic nature of the clauses and how they interface with the legal system. That is why we deferred these matters for proper consideration.
2008. **Mr Conrad McConnell (Social Security Agency):** I will deal with clause 107 first. At the minute, if someone commits benefit fraud, there are various ways in which we can take that person through the courts. There are cases that can be tried either way, and cases that can be taken to the Magistrates' Court only, such as those for summary offences. The issue with summary offences is that we have to take the case within 12 months of the offence having occurred. At the minute, under the social security system, we can also take forward cases that have gone over the 12 months, if the evidence has only come to light recently. We can extend that 12-month period by a further three months. The issue is that the certificate process, as we call it at the minute, to allow that to happen does not apply to housing benefit. This clause simply allows housing benefit to come into that regime with other benefits.
2009. **The Chairperson:** OK. We will move to clause 108.
2010. **Mr McConnell:** At the minute, housing benefit fraud proceedings are taken forward by the Social Security Agency and its benefit investigation service. The Housing Executive does not take forward its own investigations. Clause 108 simply allows the Housing Executive at some point to carry out its own investigations if it desires to do so. However, there are no plans to move in that direction. The intention is that we will continue to deal with all housing benefit offences along with other benefit offences. It is simply a provision to allow it to happen at some point, but there is no intention to actually commence that clause.
2011. **The Chairperson:** Is there any understanding of what that might mean for a Housing Executive officer? Does that person become a quasi-judicial official? What does it actually mean in practice?

2012. **Mr McConnell:** It simply allows the Housing Executive to act in the way that the Social Security Agency acts in that it has powers to investigate fraud offences. It allows the Housing Executive, as an organisation, to take that power as well. It would carry out similar work to us. It simply allows that to happen in theory. In practice, we do not have any plans to not investigate housing benefit fraud. In fact, as we move to universal credit, there will be simply one benefit fraud offence anyway, which our investigation service will investigate.
2013. **Mr Copeland:** Does that have any impact on housing associations or private landlords, as they are now some of the main providers of social housing? Does it apply solely to the Housing Executive?
2014. **Mr McConnell:** It is the Housing Executive.
2015. **Mr Copeland:** Is the Housing Executive restricted to only investigating suspected fraud in the case of its own tenants, or does it have a remit for all people in receipt of housing benefit?
2016. **Mr McConnell:** I honestly cannot say. I suspect that it is all tenants. However, I would need to check with our people, who currently investigate the offence for the Housing Executive anyway. I cannot give you an answer now, but I will certainly find out.
2017. **Mr Copeland:** Given the shift in ownership of social housing from the Housing Executive to associations and private landlords, I would have thought it a bit unfair, in some respects, if Housing Executive tenants were the only ones who were caught in that net.
2018. **Mr McConnell:** I think that the primary motivation behind this is to do with housing benefit coming under universal credit, of course, and we will investigate that — as we do anyway — as part of other benefit offences. There are parts of the benefit at present, such as the rates relief element, that do not form part of social security benefits. This clause would, perhaps, give the Housing Executive power to look at that, if some sort of offence was committed. It is more about that kind of eventuality in the future rather than a change to what currently happens.
2019. **Mr Brady:** My question is about the Housing Executive's prosecution powers. Housing benefit is part of the benefits system, and it is a paper exercise when it is paid over to the Housing Executive, so it administers housing benefit; it does not actually pay it. If there was alleged or suspected fraud, it would be dealt with by special investigation officers from the Social Security Agency as opposed to the Housing Executive.
2020. **Mr McConnell:** Yes; that is right. That is what we are doing currently, and there are no plans to change that.
2021. **Mr Brady:** That should remain the same.
2022. **The Chairperson:** We will move to clause 109.
2023. **Mr McConnell:** Clause 109 relates to the offence of attempted benefit fraud. At the minute, the agency can provide what is known as an administrative penalty as an alternative to prosecution for benefit fraud. That can only be applied to offences where there has been an overpayment of money. This clause allows the agency to offer an administrative penalty as an alternative to prosecution for an offence of attempted fraud, where it did not get to the receipt of money. It is to recognise the fact that attempted fraud is a serious offence as well as actual fraud. We want the power to be able to offer the administrative penalty in those cases too. At the minute, in practice, if we have an offence of attempted fraud, we only really have one avenue for it, which is through the courts, whereas an administrative penalty might be more appropriate. Therefore, it allows us to extend our powers to do that.
2024. **Mr Copeland:** I am sorry if I sound a bit under-briefed on this issue, but are these offences that take place under civil law or under criminal law.
2025. **Mr McConnell:** They are all under criminal law.

2026. **Mr Copeland:** So, in other words, you prepare a file, and it is sent to the Public Prosecution Service (PPS).

2027. **Mr McConnell:** Absolutely, yes.

2028. **Mr Copeland:** And they apply the three tests.

2029. **Mr McConnell:** Yes, including the public interest test.

2030. **Mr F McCann:** At present, there is a period between what happens in the Social Security Agency and the time that it gets to you. I think that it is called compliance. Is that what you are talking about?

2031. **Mr McConnell:** No, it is not. To explain what compliance is —

2032. **Mr F McCann:** They offer people the opportunity to say if they have been working rather than going to court. That is what you are talking about, is it not?

2033. **Mr McConnell:** No. Compliance is very different. As you described, compliance is where officers of the agency, who are not fraud officers, go out, talk to people and uncover changes in circumstances. They allow the person the opportunity to tell us what they should have told us up to now, and we accept the fact that we need to get this sorted out and get their benefit corrected, and there is no further action beyond that point. That is purely in relation to fraud. What I am talking about is the opportunity to give people the alternative to prosecution, but there is still a sanction for benefit fraud. It is like an internal fine, if you like, but it does not involve going to court. At the minute, we cannot offer that internal administrative penalty to people where we have not actually incurred a loss of money, and it allows us to change that. Otherwise, we would end up taking to court everyone who has attempted fraud, even though it is a very small offence, because we have no other option.

2034. **Mr F McCann:** How do you determine what the sanction is going to be and the length of the financial penalty?

2035. **Mr McConnell:** There are further clauses that talk about the administrative

penalty and its size. At the minute, it is 30% of the overpayment, so, if you had an overpayment of £1,000, we would apply a £300 administrative penalty to that. That would be your penalty for having committed that offence. You would not go to court because the whole point of the penalty is that you do not go to court.

2036. **Mr F McCann:** That increases the amount of money.

2037. **Mr McConnell:** Yes, it does.

2038. **Mr Brady:** I am intrigued by the alleged fraud without an overpayment. Can you give us an example of that?

2039. **Mr McConnell:** It is attempted fraud where, for example, someone could change a bank statement or adjust their earnings to try to get benefit. It may be that we then catch that on, and I hope that we do catch that on. If we do, we can then take the person for the offence of trying to commit benefit fraud. It is a bit like shoplifting where someone is caught at the door on the way out. It is a similar issue. Someone has tried to commit an offence, but they did not quite get away with the actual benefit of what it was they wanted. However, it is still a serious attempt.

2040. **Mr Brady:** With respect, if somebody is caught shoplifting, they usually have the goods on them.

2041. **Mr McConnell:** But they have not made use of the goods.

2042. **Mr Brady:** I am not sure if that analogy would stand up in court. It is an interesting one. Essentially, there is speculation, to some degree, that the person is attempting to commit fraud without the actual proof of fraud, which usually comes by way of them having been paid benefit that they are not entitled to.

2043. **Mr McConnell:** Yes, although the fraud takes place where the facts that are reported are the wrong facts. That may lead to money being received or not, and this is about tackling the situation where it is intercepted and the money is not

- actually given out, but the attempt was made to try to get it.
2044. **Ms McCleary:** We come back to dishonest intent — the intent to defraud.
2045. **The Chairperson:** In practical terms, if someone gets an overpayment through fraud, you fine them 30% of that. Is that right?
2046. **Mr McConnell:** Yes.
2047. **The Chairperson:** What percentage of nothing do you fine someone for attempting fraud? It is a serious question. Where is the sanction level drawn from? Where is the reference point?
2048. **Mr McConnell:** We will have to work through the detail of that in the regulations. It is a valid question. At the minute, the penalty is based on the fact that you have a figure and it is a percentage of that figure. Further on, we are looking at extending the administrative penalty powers to include a minimum of £350. We have to work through the thinking of that for the regulations. At this early stage, there will be something like that £350 minimum, because there is no figure to apply a percentage to in that case.
2049. **The Chairperson:** In essence, we are being asked to agree — not now — to clause 109, which would enable the Department, by subsequent regulation, I presume, to determine that, if someone is deemed to be involved in attempted fraud, there would be some level of fine. Therefore, this is enabling that, but we do not know what that will be.
2050. **Mr McConnell:** Yes.
2051. **The Chairperson:** OK. Fair enough. We move to clause 110.
2052. **Mr McConnell:** I have just touched on this. The administrative penalty as it is at the minute is 30% of the overpayment. Through clause 110, it is intended to create the power to increase that to 50% of the overpayment or a minimum of £350. For example, if someone has an overpayment today of £100, we would apply a penalty of £30.
- This clause will give us the power to apply a minimum of £350. The purpose of this is to try to deter people from committing benefit fraud. It increases the current administrative penalty amount.
2053. **Mr Brady:** Is this the same as you were talking about before? This is the compliance matter and you pay something instead of going to court.
2054. **Mr McConnell:** Yes, exactly.
2055. **Mr Brady:** It is going up to 50%.
2056. **Mr McConnell:** Yes, it is not compliance. It is a penalty for a benefit fraud offence, but it is an alternative to court. It takes the current 30% and brings it up to 50%, and it also brings in the minimum of £350.
2057. **Mr Brady:** We are back again to subsistence levels.
2058. **Mr McConnell:** Yes.
2059. **Mr McClarty:** How do you get blood out of a stone?
2060. **The Chairperson:** The clause is designed to set the minimum at £350. We do not need to have a discussion on that. We just need to understand what it is going to do. Is everybody happy enough with that? We know what it is designed to do and what the implications will be.
2061. **Mr McConnell:** I will move to clause 111. At the minute, if someone is offered the administrative penalty as an alternative to prosecution, there is a 28-day period within which they can withdraw their agreement. If the agreement is withdrawn within the 28-day period, we would take the person to court instead. This clause reduces that period from 28 days to 14 days. It is a balance aimed at giving the person a reasonable time to consider their position. At the minute, these things drag on. Someone may not be sure and it may go on for the full month. If the person then withdraws the agreement later on, that holds up the case if it is going to court. It is trying to get a balance between moving cases through the system — good administration — and giving the person sufficient time

- to consider their position and what they want to do. It brings it back by two weeks.
2062. **The Chairperson:** OK. Do members understand that? Fair enough.
2063. **Mr McConnell:** Clause 112 is the civil penalties clause. The intention is to create the power to apply a civil penalty to people who have been negligent in their claims. It is accepting the fact that their behaviour is not worthy of a full fraud investigation, a case going to a court or an administrative penalty being imposed, but at the same time, there may be clear negligence in how the person looked after their case and did not report circumstances or failed to report something that was material to the case. It is trying to tackle that problem where people get the wrong amount of money. It is about trying to encourage people to be really careful about their circumstances and report changes on time. The amount will be set in the regulations, but, at the minute, the intention is to have a civil penalty of £50.
2064. **Mr Brady:** It goes back to the argument of misrepresentation versus failure to disclose. If you misrepresent something, you are misrepresenting something that you know. With failure to disclose, the person may not actually know what they are supposed to disclose. You cannot disclose something that you know nothing about. It is about the terminology.
2065. **Mr McConnell:** It is important to stress that this would not be applied in every case — certainly not in every case where there is an overpayment. This is about trying to disaggregate people who very deliberately commit fraud against the system. There are people, as Mr Brady has described, who genuinely make a mistake, and there are people in the middle whose circumstances may not be sufficient to show clear intent but, at the same time, it was obviously not a genuine error that they made; there was some sort of negligence involved.
2066. **Mr Brady:** I think you will find that, and it was answered yesterday, the point is that, irrespective of who makes the mistake, be it the Department or the person, the Department — under clause 69, I think — has the power to recover it. It is very one-sided.
2067. **Mr McConnell:** The intention behind it is to encourage responsibility.
2068. **The Chairperson:** Fair enough. We will move to clause 113.
2069. **Mr McConnell:** We already have what are known as the loss-of-benefit regulations in place. They are also known as the one-strike regulations, whereby we withdraw benefit from someone who is convicted of a first benefit fraud offence. That applies for a four-week period. The intention, through clause 113, is to increase that four weeks to 13 weeks for someone who receives a conviction for a first offence for fraud. So, it is strengthening the current provisions by, essentially, increasing the four weeks to 13 weeks.
2070. The clause also creates a first-offence loss of benefit for three years for someone who is convicted of a serious benefit fraud offence. That would be described as an offence that attracts a term of imprisonment of two years or there was overpayment in excess of £50,000. The intention is to tackle serious, organised benefit fraud, whereby there are large overpayments, and fairly hefty imprisonment terms can be imposed by the court on the back of that behaviour.
2071. **Mr Brady:** I suppose this is where the double whammy comes in. You are caught, get a jail sentence and, when you come out, you are sanctioned. What you are saying is that you could have a three-year sanction but you are in jail for two years and you have another year of sanction.
2072. **Mr McConnell:** Yes.
2073. **Mr Brady:** The seriousness of the offence is, obviously, reflected in the prison sentence. Is two years the sort of arbitrary sentence that they are looking at?



2074. **Mr McConnell:** Yes. If you receive a two-year —
2075. **Mr Brady:** But, when you come out, there could still be another year's sanction on you. Is that right?
2076. **Mr McConnell:** Yes, in terms of your loss of benefit. However, I would stress that, in all loss of benefits, hardship provisions also apply. There are also protections for the family and all of that.
2077. **Mr Brady:** Just on that, the family — the wife or partner and children, let us say — claims while the person is in jail. When the person comes out, they become part of the household again. Will there be a split payment? This is something that we have been discussing. Will the partner and children be paid separately and the person who committed the offence and was sentenced to jail not get anything? How is that going to work?
2078. **Mr McConnell:** I am not sure of the logistics or whether they would have to make fresh claims. I can say though, that the benefits that apply to the family, not the individual, are protected from loss of benefits and always have been.
2079. **Mr Brady:** I understand that, but when that person comes back, there would be a change of circumstances, which the partner would have to report because someone is coming back into the household. The issue is about the logistics of how that will be addressed. Will that be in the regulations?
2080. **Mr McConnell:** I am guessing it would be. I cannot say for sure at this point how exactly that would work, but I can certainly come back to you on that.
2081. **Mr Brady:** You can see one problem it throws up.
2082. **Mr McConnell:** Yes.
2083. **Mr F McCann:** It may be simple, but how do you determine what a serious offence is?
2084. **Mr McConnell:** The regulations will set out the definition of seriousness. At the minute, in GB, what is being put forward about how you would define that is what I described, which is the two-year imprisonment for a benefit fraud offence, which sets a seal in terms of seriousness, and/or a £50,000 overpayment.
2085. **Mr F McCann:** So, it is jail or a £50,000 overpayment?
2086. **Mr McConnell:** Yes.
2087. **Mr F McCann:** So, if you go into court and are given a suspended sentence for, say, a £50,000 overpayment, you come out and face a three-year loss of benefit.
2088. **Mr McConnell:** Yes, and the intention behind it all, as with all loss of benefits, is to deter people from committing benefit fraud.
2089. **Mr F McCann:** I spoke about this in the Assembly. The thing that throws me is that, if I go in and rob a bank of £500,000 and get two years, I can make a fresh claim. However, if I commit fraud against the system, I go in then get sentenced again.
2090. **Mr McConnell:** Yes, it is the same as the one-strike rule and the regulations at the minute.
2091. **Mr F McCann:** I was going to say do you not think that is unfair, but I would not put you in that position.
2092. **The Chairperson:** That was very helpful, Fra. Thank you for that. We will move to clause 114.
2093. **Mr McConnell:** Clause 114 is around the two-strike rule. It increases the loss of benefits for a second offence from 13 weeks to 26 weeks. The intention is the same as for the other loss of benefit regulations, which is to deter people from committing benefit fraud.
2094. **The Chairperson:** OK, if everyone is happy enough, we will move to clause 115.
2095. **Mr McConnell:** I think that this is the final clause in this section, and it relates to cautions. At the minute, the agency has the ability to bring someone to court through the Public Prosecution Service, to apply the administrative internal



penalty, which I mentioned, or to offer someone a caution for benefit fraud. The intention of this clause is to withdraw the caution as a means of dealing with benefit fraud, so you will have only two routes: go through the courts and prosecution or the penalty. All that is in line with DWP in GB. The intention is to reflect the seriousness of benefit fraud by removing caution as a means of dealing with it and having the internal fine or a court case.

2096. **The Chairperson:** OK. I think members are happy enough with the information so far. We have finished going through clauses 107 to 115, which concludes our deliberations on Part 5. You will be pleased to know that we have finished Parts 1, 2, 3, 4 and 5. We will restart at 12.30 pm sharp to go through Parts 6 and 7. If we do well, I will let you away a wee bit earlier. *[Laughter.]*

*Committee suspended.*

*On resuming —*

2097. **The Chairperson:** We move to Part 6 and clause 121.
2098. **Ms McCleary:** I want to introduce Maurice Byrne; he is one of my colleagues from the social security policy and legislation division on child maintenance arrangements.
2099. The current child maintenance system needs to change; it is not fit for purpose. Only half of all children benefit from effective child maintenance arrangements. The current system places too much emphasis on the state determining financial support and not enough on supporting separated and separating families to reach their own arrangements. Family-based arrangements will always be the best option for children. Research shows that children who receive support from both parents throughout their childhood tend to enjoy better outcomes in later life.
2100. The Committee will be aware of the wider reform programme that has been driven by the 2008 Act, about which officials have already spoken to the Committee. The reforms aim at

rebalancing child maintenance policy to support parents and to encourage them to work collaboratively. The clauses in the Welfare Reform Bill make only minor amendments to the 2008 Act.

2101. **Ms Corderoy:** Clause 121 supports the vision of increased parental responsibility. As Anne said, it is in the interests of the children if separating families work together to make arrangements. Such arrangements also produce better and more enduring outcomes.
2102. It is considered that, given access to the appropriate support, many child maintenance clients might be able to reach their own arrangements. Many parents are already making their own arrangements using the existing child maintenance choices service. Clause 121 makes provision that will require an applicant for statutory maintenance to enter through a gateway conversation, which will require them to take reasonable steps to come to a private arrangement. It is not about denying access to the statutory scheme; however, it will ensure that the applicant is fully aware of all the options and that he or she is directed to support that may assist them.
2103. Good relationships between ex-partners and between the non-resident parent and child are a key factor in enabling parents to make their own arrangements. The gateway process will include a discussion of the options available. If, for example, a parent considers that it might be possible to make a family-based arrangement but they need information or guidance to assist with that, they will be directed to that support.
2104. Where it is clear that a family-based arrangement will not be possible, applicants will still be able to access the statutory scheme immediately. That would include situations where a person has been unable to contact the other parent or where they were in fear of a violent ex-partner. They will be advised of the implications of such an application. In that way the clause is personalised,

and no person would be asked to take steps, which, in their circumstances, would not be regarded as reasonable. The provision will apply to all parents who are considering applying to statutory schemes for the first time, as well as to those who are using the present scheme and who wish to remain in the statutory system.

2105. **The Chairperson:** OK, Jane; thank you. Members are happy enough with that.

2106. **Ms Corderoy:** The intention behind the amendments made by clause 122 is to ensure that there is more choice about how child maintenance is paid. The clause will enable non-resident parents to choose to pay maintenance directly to the parent with care, following an application to the statutory child maintenance service and a subsequent calculation of the maintenance liability. That amends the current position in which the parent with care can insist on the statutory child maintenance service collecting the money from the non-resident parent. That will avoid further involvement through the use of the full collection service.

2107. Most non-resident parents will be permitted to elect to make a direct payment and prove to the parent with care that such payments can be made voluntarily. It is also sensible to change the legislation as per that clause to allow the non-resident parent a choice of paying maintenance directly to the parent with care, which we know as direct pay, in the event that the provision in the Child Maintenance and Other Payments Act 2008 to charge a fee for maintenance collection is brought into operation in the future. It will allow them to avoid getting into the situation in which they may have to pay fees. As long as the non-resident parent pays the maintenance due in full and on time through direct pay, the clause will allow both parents to avoid any collection charges should they be introduced here. The clause will not allow non-resident parents to avoid their responsibilities. Should the non-resident parent choose to fail to pay the parent with care in full and on time, the Department will swiftly

move the case into the full collection service, and enforcement action will be taken as appropriate to ensure that payments are made. Additionally, the clause will permit the withholding of the choice completely from non-resident parents, where it has been shown that it is unlikely that they will pay through direct pay.

2108. **Mr Brady:** Obviously the thrust is for people to make their own arrangements.

2109. **Ms Corderoy:** Yes.

2110. **Mr Brady:** That seems a sensible way of doing things. Will the Department take active steps to facilitate that? I am not sure whether that is clear in the Bill. If, say, a woman told the Department that she should get maintenance and that it was possible to come to an arrangement, will the Department consider facilitating that rather than someone coming along six months later to say that they have been trying to get maintenance payments from their ex-partner who will not pay it?

2111. **Ms Corderoy:** The whole thrust is the gateway conversation. The Department is supposed to make sure that people get the right support.

2112. **Mr Brady:** I am trying to tease out your involvement. Will the onus be left completely to the couple, or will the Department take a proactive role in facilitating the gateway conversation?

2113. **Ms McCleary:** It will facilitate it, but whether it will do more than facilitate will be up to the couple. It is not up to the Department to decide what they should do.

2114. **Mr Brady:** The Department should point out the pitfalls if they do not. That may be part of it. It is all right someone saying that they will come to the arrangement, but the Department may be in a position to say that if they do not they will be penalised in some way.

2115. **Ms McCleary:** I am fairly sure that part of the gateway conversation will be to tell a couple that they can avoid having

- to pay x amount of money if they do y. It is factual.
2116. **Ms Corderoy:** The child maintenance enforcement division is working with the voluntary and community groups that provide those services. It is also working to provide an enhanced service through the gateway conversation.
2117. **The Chairperson:** Following on from what you said, Jane, we were lobbied recently by people who are not sure whether the new arrangements will introduce another conversation and create duplication and a barrier for people to engage with the Department.
2118. **Ms Corderoy:** This comes from DWP. There is an active and sophisticated voluntary and community sector, and there are support services available. It is about getting them to work together so that there is no duplication of services, that there is much better co-ordination and that people are pointed to the right service at the right time.
2119. **The Chairperson:** Thank you.
2120. **Mr Copeland:** Jane, if I heard you right, you slipped something in there very quietly about the cost of the collection service if we decide to charge it here. Is it being charged somewhere else? What exactly does that mean?
2121. **Ms Corderoy:** That was in the command paper that we spoke about last week, in which they propose collection fee charges in GB. The proposals in that paper are that non-resident parents will be charged 20% for collection and parents with care will be charged 7%. That is out for consultation, and no decision has been taken on what will happen here.
2122. **Mr Copeland:** Is that a 27% deduction from the amount of money that will go from the parent without care to the parent with care?
2123. **Ms Corderoy:** No; it is 20% on top of the money that the non-resident parents pays. The 7% would come out of the money that the non-resident parent pays to the parent with care.
2124. **Mr Copeland:** Will we be given the chance to address some of the iniquities, for want of a better word, that apply to parents with care and parents without care in the current CMED legislation, or is it just these adjustments?
2125. **Ms Corderoy:** That would be brought in through regulations that would be brought to the Committee. At the moment, we do not have anything on that. The Minister and the Department are still considering it.
2126. **Mr Copeland:** Will we get more information in future?
2127. **Ms Corderoy:** Yes.
2128. **The Chairperson:** The clause does not relate to that.
2129. **Ms Corderoy:** No.
2130. **Mr F McCann:** Returning to the question that Alex asked, with the best will in the world, the legacy of these payments is that there has been complication after complication. If different conversations do arise, can you tweak it rather than have to seek changes to legislation?
2131. **Ms Corderoy:** The legislation is relatively high level, but conversations and work are going on to develop that. The meetings that I have been at, at which CMED has taken a lead, have been very positive and there has been very good, collaborative working. CMED understands that things may apply in England that we do not need here. It is about taking a bespoke approach to local issues. It would not require a change to the legislation to tweak that.
2132. **Mr Brady:** Last week, I raised the point that people in my constituency live within a mile of a different jurisdiction. Many non-resident partners have exploited that. England, Scotland or Wales do not have that problem in the same way that we do. Someone could make an arrangement to pay the caring parent but not, necessarily, pay anything.
2133. **Ms Corderoy:** You are right; they do not have that problem to the same extent that we do. They have cases of people

- who, for example, live in France, but we definitely have more such cases. Maurice, do you want to say something about reciprocal enforcement of maintenance orders (REMOs)?
2134. **Mr Maurice Byrne (Department for Social Development):** As I said last week, there is European legislation in place to allow parents with care to pursue maintenance from a non-resident partner [*Inaudible.*]
2135. **Mr Brady:** It is expensive.
2136. **Mr Byrne:** I cannot comment on that; I do not know. It may be a matter of their going to the court and getting an order for maintenance. That could then be pursued through the Department of Justice, which will address it on their behalf through the other member state.
2137. **The Chairperson:** That is not pertinent to this clause.
2138. **Ms Corderoy:** No; sorry. It is not.
2139. Clause 123 will allow parents to apply to the Department for an indicative calculation of what the child maintenance calculation would be under the statutory rules. That would not create a statutory legal enforceable liability and would only provide information for separating families. The calculation would be a key tool to help parents who want to work together to make their own arrangements. It will provide a calculation based on the same rules as for statutory maintenance. It will, therefore, take account of other children that a non-resident parent may be supporting and whether that parent shares the care of a qualifying child. It will also take account of the non-resident parent's gross weekly income, with that amount normally based on the most recent information held by HMRC.
2140. That supports the objective of empowering parents who are separating to make informed choices on collaborative family-based arrangements. Parents are best placed to make the arrangements that deliver the best outcomes for the children. We understand that many parents would welcome someone to help to work out how much should be paid or received to facilitate family-based arrangements.
2141. The indicative calculation differs from the statutory calculation, in that it is only intended to give the position at the time it is applied for. It will, therefore, not be adjusted for subsequent changes in income or circumstances, as it would be if it was through the statutory scheme.
2142. That service will provide information that is specific to the parent's circumstances and which might not otherwise have been available to both parents. It will enable fairer negotiations between them. Without that provision, a parent would need to apply formally for statutory maintenance in order to obtain that information, even if they did not want to involve the Department in collecting maintenance payments.
2143. **Mr Brady:** Payment in kind has been accepted in the past. It could have been a pair of shoes for a child rather than money. Will that be included in the legislation? It could be a school uniform or clothes and not necessarily money. Much of this seems to be predicated on the payment of money as opposed to payment in kind, which has been accepted in the past.
2144. **Ms Corderoy:** I am not sure. We will have to check on that and get back to you. If it is direct pay, it is whatever both parents agree to.
2145. **Mr Brady:** I just wanted to flag that up. It is worth checking it out now rather than it becoming an issue later when we may not know how to deal with it.
2146. **Ms Corderoy:** Clause 124 would enable fees, if they were introduced, to be recovered directly from the benefits payable to a non-resident parent. That is essential to ensure a consistent and fair approach to charging in the new scheme. The Department already has the power to make deductions of child maintenance directly from benefits payable to a non-resident parent. This clause also would allow such deductions to be made in respect of charges and arrears payable by non-resident parents.

- Additionally, the clause would remove the restriction in the current scheme to make such deductions from benefit only where the non-resident parent is liable for the flat rate of maintenance.
2147. As the Committee knows, the proposals to charge for the child maintenance service are provided for by the Child Maintenance Act (Northern Ireland) 2008. Clause 125 amends section 3 of the 2008 Act to clarify the scope of the regulation-making power of the Act, which can be used to make provision regarding the application, collection and enforcement of charging. In particular, it covers the matters to be taken into account in determining when fees could be waived. It also provides for a review and evaluation of the impact of charging powers 30 months after they are implemented. This was covered in the command paper that we spoke to the Committee about last week. To what extent charging will be introduced here is still being explored.
2148. **Mr F McCann:** Is there a sliding scale in the deduction of benefits depending on how much you owe? Most people are paid at subsistence level. What is the maximum amount that you can remove without it having an effect on a new family, for example?
2149. **Ms Corderoy:** I do not know what the maximum amount is. I will find out for you. As regards the sliding scale, I know that this clause is changing the arrangement. It only affected people on the flat-rate maintenance. This clause means that now, if you are on benefit but you know that you have more of an income, this will still apply to you. I will find out about the sliding scale.
2150. Clause 126 will clarify in law that arrears of child maintenance cannot be included in individual voluntary arrangements. That supports the belief that parents' obligations to support their children should be a priority and that they should not be allowed to avoid that duty by exploiting insolvency law. This clause will ensure that a non-resident parent entering into an individual voluntary arrangement continues to be liable for the full amount of outstanding child maintenance throughout and following any agreement. It is not a change in policy. There is a general principle in personal insolvency law relating to bankruptcies and debt relief orders that arrears of child maintenance are excluded from those processes. However, that is not expressly set out in legislation for individual voluntary arrangements, which has led to some legal uncertainty. The amendment confirms current policy and legislation and puts the legal position beyond doubt.
2151. **Mr Brady:** The intention may be to ensure that people do not use bankruptcy as a ploy to avoid payment. However, will individual circumstances be taken into account if someone is genuinely bankrupt, does not have recourse to any other funds and is unable to pay?
2152. **Ms Corderoy:** As I understand it — and I am in no way an expert on insolvency law — the individual voluntary arrangement is so that the person can avoid being declared bankrupt and come to an arrangement with their debtors. This is so that they cannot avoid paying their child maintenance. I imagine that individual circumstances will be taken into account.
2153. **Mr Brady:** Presumably the voluntary arrangement will not include an arrangement with the caring parent.
2154. **Ms Corderoy:** Yes, I think so.
2155. **Mr Copeland:** It is more on the policy intent of preventing people from paying what they should be paying. I asked a question, but I do not think that I got an answer to it yet about company directors paying themselves the minimum wage.
2156. **Ms McCleary:** We are investigating that. Clause 127 removes the obligation — and I stress that — for the Department via jobs and benefits offices and jobcentres to advertise certain types of jobs in the sex industry. This removal of obligation applies to jobs where the activity is intended to sexually stimulate others. It includes jobs such as lap dancers, topless barmaids and



- strippers. We believe that provisions in the clause are needed because it is absolutely wrong that the Department should advertise jobs that could support the exploitation of people. We should not encourage vulnerable people to apply for those types of jobs. It will enshrine the commitment that we made to stop jobs and benefits offices and jobcentres advertising those types of jobs. The change followed a public consultation that revealed significant public concern about jobs and benefits offices and jobcentres advertising jobs in the sex industry.
2157. The consultation also indicated that the people who worked in that industry could be vulnerable to harassment and discrimination. The ban also serves to protect people who use jobs and benefits offices and jobcentre services from taking jobs where they could experience that.
2158. **Mr Brady:** I presume that those jobs will not be regarded as alternative employment if you fail the work capability assessment.
2159. **Ms McCleary:** I could not possibly comment on that.
2160. **The Chairperson:** We do not need to go any further into that.
2161. **Mr Durkan:** Would taking the advertising out of jobcentres give protection to vulnerable people?
2162. **Ms McCleary:** You seem to be suggesting that there would be more protection for them if such jobs were advertised in jobcentres.
2163. **Mr Durkan:** I am not suggesting that. I am saying that there is a possibility.
2164. **Ms McCleary:** It is not an ideal situation whatever way you look at it. I suppose you could argue that it is better that they are advertised in jobcentres rather than in —
2165. **Mr Durkan:** Phone boxes?
2166. **Ms McCleary:** — shop windows. I do not know, but there was a commitment given to do this, and that is why we are doing it.
2167. **Mr Douglas:** I know that I will get questions about this somewhere along the line. It talks here about retail being excluded. Is that right? In England, sex objects are manufactured. I do not know of anywhere in Northern Ireland that does that, but we have sex shops here.
2168. **Ms McCleary:** It is not quite as personal when you are dealing with a sex shop.
2169. **Ms Corderoy:** The key is that it is any activity intended to stimulate others sexually. If that is what the job entails, that is the thing that is banned.
2170. **Ms McCleary:** Clause 128 is to do with reduced fees for dog licences. This clause amends the Dogs (Northern Ireland) Order 1983 to introduce reduced fees for persons in receipt of income-based benefits. Provision in the Bill updates the Dogs (Northern Ireland) Order 1983 to include certain income-related benefits for the purposes of a passported benefit and reduced dog licence fees. The benefits to which that applies are: universal credit; state pension credit; income support; housing benefit; income-based JSA; income-related ESA; and working tax credit.
2171. Clause 129 is in connection with orders of the Secretary of State under the Administration Act. Clause 129 amends section 165 of the Social Security Administration (Northern Ireland) Act 1992 by adding the Secretary of State to the list of persons and Departments that can make regulations and orders under that Act.
2172. This amendment is in relation to reciprocal agreements. The need for it has arisen from a previous consequential amendment to section 165 made by paragraph 10 of schedule 4 to the Tax Credits Act 2002, which, unintentionally, narrowed the scope of the power and prevented its exercise by the Secretary of State. Section 165, therefore, does not enable the Secretary of State to make regulations or orders by statutory rule. That was



- an unintentional oversight, so this is a correction measure, effectively.
2173. Reciprocal agreements between the UK and a number of non-EU countries assist in the satisfaction of conditions for entitlement to various benefits. International relations are an excepted matter under schedule 2(3) to the Northern Ireland Act 1998, and the power to make the necessary order rests with the Secretary of State under section 155(1) of the Social Security Administration (Northern Ireland) Act 1992.
2174. We needed to restore the original position to provide for the Secretary of State to make regulations and orders under the Act by statutory rule. The relevant provisions would cover any future order relating to reciprocal agreements, and the Northern Ireland Welfare Reform Bill is the only available vehicle to do that.
2175. **Mr Brady:** I am asking this to satisfy my own curiosity. If, for instance, parts of the Bill are approved, does the Secretary of State, under the Social Security Administration Act, have the power to overrule a decision by the Assembly relating to the provisions of the Bill and go ahead and impose something?
2176. **Ms McCleary:** That is something that I would need to come back to you on.
2177. **Mr Brady:** It is giving them powers, which, presumably, they may not have had previously. If they had, that bit would not be in the Bill. If we decided on one thing in respect of a devolved issue, he — or she; they change quite frequently, apparently — could come along and overrule it.
2178. **Ms McCleary:** We will investigate that and come back to you.
2179. **Mr Copeland:** That would come to us as a statutory rule in the normal way, in which case we could accept it or take it to a prayer of annulment.
2180. **The Chairperson:** You do not know, because we have to get an explanation. This enables the Secretary of State to make a reciprocal agreement with some other state. How does that impact here? How does it come into effect here, if he or she decided that that was what they had agreed between London and France, or wherever? How does it become enacted here? Is it by way of a statutory rule? Or, does the Secretary of State sign off on it?
2181. **Mr Douglas:** You mentioned France. What sort of examples are we talking about here?
2182. **Ms McCleary:** There are a number of reciprocal agreements with various states.
2183. **Mr Douglas:** I am talking about those that affect Northern Ireland.
2184. **Ms McCleary:** I know that our division handles a number of reciprocal arrangements in relation to the benefits system with certain countries. In another briefing, we mentioned Switzerland. I think that that was because of a reciprocal agreement. I will get you examples.
2185. **Mr Douglas:** It would be good if you could get us a few examples, because this is an important aspect.
2186. **The Chairperson:** Yes, of course it is, but the key question with clause 129 is this: what actual power does it give the Secretary of State over and above the head of a Minister and Department in the Assembly? That is what we want to determine.
2187. **Ms Corderoy:** I think that it is only to do with subordinate legislation. It would not have an impact on primary legislation.
2188. **The Chairperson:** It would be helpful to get that clarified for people.
2189. That is clause 129 and Part 6 completed.
2190. **Ms McCleary:** Clause 130 relates to the rate relief scheme. It amends article 30A of the Rates (Northern Ireland) Order 1977, which is an existing enabling power that allows DFP to make whatever regulations are necessary to maintain support schemes for domestic ratepayers. This amendment will allow that power to be extended to cover the

- replacement of the rates element of housing benefit, which will, as you know, cease to exist from 1 April 2013.
2191. The Executive have agreed to preserve the existing entitlements for up to two years and to fund any shortfall out of public expenditure for that interim period. The provision will provide the legislative cover for that holding operation, but will also provide for any new rate support scheme that may emerge beyond then. The details of any rate support scheme will be included in subordinate legislation, which will be subject to normal Assembly scrutiny.
2192. **The Chairperson:** Members are happy with that.
2193. **Ms McCleary:** Clause 131 relates to repeals. It gives effect to schedule 12, which makes provision for repeals that result from the introduction of the welfare reform measures. They are listed there. I do not know whether you want me to go through them.
2194. **The Chairperson:** I think that people can go through them themselves, unless anyone needs to have any of that explained. It is probably self-explanatory. Are members content with clause 131? OK. Thank you. We will move on to clause 132.
2195. **Ms McCleary:** Clause 132 is a general interpretation clause. I do not think that there is anything that I particularly want to say about it.
2196. Clause 133 is a commencement provision, which will provide for the coming into force of the provisions of the Bill. The provisions specified in subsection 1 will come into force on Royal Assent. The remaining provisions of the Act will be brought into force by commencement orders. Subsection 3 sets out how commencement orders can be used; for example, to appoint different days for different purposes and, in certain cases, different areas.
2197. **The Chairperson:** OK. Members are happy with that.
2198. **Ms McCleary:** Finally, clause 134 is the title of the Bill.
2199. **The Chairperson:** It is not in the explanatory notes. I do not see it in the paper. Is it in the Bill itself?
2200. **Ms McCleary:** It is on page 98.
2201. **The Chairperson:** It is blank.
2202. **Ms McCleary:** It is on page 96 of the Bill.
2203. **Mr Copeland:** I want to ask a question. I do not expect you to be able to answer it today. Perhaps, you could put it in writing to the Clerk. The financial effects of the Bill, which are listed on page 95, show anticipated projected savings, if that is the right word, of £25·37 million, £111·28 million and £181·25 million in the fiscal years from 2012 to 2015. I would like to see the formula that was applied and how those numbers were arrived at.
2204. **Ms McCleary:** Well, you will not be surprised that I cannot answer that. I will not pretend otherwise. *[Laughter.]*
2205. **Mr Copeland:** No. I would like to see the methodology and formula that were applied and the instructions that were given to reach those figures. In other words, what instructions did the people who came up with those figures actually follow?
2206. **The Chairperson:** OK. Fair enough.
2207. **Mr Durkan:** On that point, is the Department on target to realise the figure for the financial year 2012-13, by the end of which the Bill may or may not have passed through the Assembly?
2208. On one other point, paragraph 636 of the explanatory and financial memorandum, which deals with the effects of the Bill on public sector manpower, states that, basically, there is expected to be an increase in demand initially, but that there will be reduced demand on public sector manpower in the long run. Is there a business case anywhere or anything to show how much that demand and manpower will be reduced by?

2209. **Mr Brady:** So, you are creating employment by reducing employment in one sector?
2210. **Mr Durkan:** That is particularly important given that, last week, the Minister referred to the 1,500 jobs that will be lost by not passing the Bill.
2211. **The Chairperson:** Fair enough.
2212. Anne, clause 130 is in Part 6 of the Bill. In the explanatory notes, it is in Part 7.
2213. **Ms McCleary:** You just want to clarify that. Certainly, in my notes, Part 7 starts at clause 131. In the Bill, it starts at clause 131.
2214. **The Chairperson:** Obviously, the Bill is the important document. I just want to draw members' attention to the fact that clause 130 is actually in Part 6 of the Bill as opposed to Part 7. I am not sure about the relevance of that. I just wanted to make it clear for people where it sits.
2215. **Mr Copeland:** I just want to check the difference between a Bill and an Act. Most Acts are accompanied by an interpretation Act, which tells you what some of the stuff that is in the Bill means. Is there an interpretation clause, or are there interpretation clauses, available with this legislation?
2216. **Ms McCleary:** There is an interpretation Act, which is a totally separate piece of legislation. I do not even remember the year of it. There usually would be a definition section, as there is in this Bill. There is an interpretation clause at 132, which explains the various phrases used. So, there is that.
2217. **The Chairperson:** I presume, generally speaking, a Welfare Reform Bill, for example, is a Bill tabled for debate and passage, perhaps. The Welfare Reform Act is the outcome of that.
2218. **Ms McCleary:** Once it has passed Royal Assent —
2219. **The Chairperson:** It becomes an Act. We will have the Welfare Reform Act 2013, I presume.
2220. **Ms Corderoy:** The Committee asked for a paper on the Bill. That is being prepared and is in addition to the explanatory and financial memorandum and has [*Inaudible.*] mean.
2221. **The Chairperson:** We have a fair wee bit of clarification to get. We have completed all the parts clause by clause and need further explanation on some of them. We need to process that as quickly as possible because I was a wee bit unsure as to what we were going to receive by way of written correspondence from the Minister.
2222. Going back to last Wednesday, by the afternoon some clarification was provided and some was not. We were then told that we would have to wait until those were signed off by the Minister. I am confused about this and I was not sure whether that was the case. I just presume that we are working our way through this. If you come back and give us information from last week or this morning, we are happy to take that. Can we just get those issues clarified expeditiously if we can?
2223. **Ms McCleary:** We will sort out the outstanding issues as soon as possible. A couple of letters are coming officially. They were being progressed over the past couple of days and I expect them to be with you very shortly.
2224. **The Chairperson:** Are we in danger of causing a problem if we are in writing? All we are doing is trying to get clarification and that may not need to go through Ministers. Maybe some questions do, of course, but where they do not have to go through a Minister —
2225. **Ms McCleary:** Whenever we get a letter from you and we have to give a written response, it does have to go through the Minister.
2226. **The Chairperson:** Can we find a way to short-circuit that?
2227. **Ms McCleary:** We will liaise with the Committee Clerk.
2228. **The Chairperson:** OK. I just want to ask so that we can keep moving. Anne, Maurice and Jane, thank you very much for your attendance.

## 23 October 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann

### Witnesses:

Mr Kevin Higgins      *Advice NI*  
 Ms Jenny McCurry  
 Ms Sinead McKinley

2229. **The Chairperson:** I welcome the representatives from Advice NI to the table. We have Kevin Higgins, Sinead McKinley and Jenny McCurry. I remind everybody in the room that this session will be recorded by Hansard. I thank you for being here, Kevin, Sinead and Jenny. Yesterday, we had the announcement from the Minister, and I presume that you have read that and taken it on board. You have provided us with a submission. You have addressed the Committee before and elaborated quite well on your position. I will leave the floor to you.
2230. **Mr Kevin Higgins (Advice NI):** Thank you, Chair, and thank you to the Committee for the invitation. I will introduce my colleagues. Sinead McKinley is North Belfast Advice Partnership advice co-ordinator, and Jenny McCurry is a social policy student at Queen's University who is volunteering with Advice NI and doing a piece of work related to welfare reform.
2231. If it is OK with the Committee, we propose to take the following approach: I will give a very brief summary of the key aspects of the Bill from the perspective of Advice NI — when I say brief, I mean brief — and I will pass over to Sinead,

who will talk about the issues faced on the front line by advice services, what advisers are seeing and the needs of clients. I will then pass to Jenny, who will talk a little bit about the research that she is going to do for us, and then it will come back to me. We would like to focus on four things: three additional clauses that we would like to propose, and one amendment to an existing clause. We feel certain that those will not threaten parity but will demonstrate that we are trying to do our very best to mitigate what the Minister called unpalatable consequences. People have called them stronger things than that.

2232. The Assembly debated the Bill in great depth last week. I know that the Committee is, of course, familiar with the content of the Bill and, in particular, many of its shortcomings. As the Chair rightly said, the briefing paper by Advice NI sets out the parameters of where we are coming from today. I want to briefly draw the Committee's attention to a number of quite recent reports and assessments, primarily from GB, on emerging thinking on the impact of the Bill. For example, a new report by the Children's Society and others has highlighted that up to half a million families stand to lose out under universal credit. The report gives a number of examples of how that will happen, but I will take just one: 230,000 severely disabled people who do not have another adult to assist them could receive between £28 and £58 a week less due to the abolition of the severe disability premium. It does not say that they do not have health problems or anything like that; it simply says that it is an arbitrary cut and that is the amount they will lose out on.
2233. According to the Resolution Foundation, almost 1.2 million people will be affected by the in-work conditionality aspect of universal credit. In a briefing note published earlier this month,

the foundation highlighted that, under universal credit, conditionality will be extended to working people for the first time, and claimants who do not reach the earnings threshold, equivalent to a 35-hour week at national minimum wage, will be expected to increase their income through a combination of additional employment, higher wages or increased hours. The foundation estimated that that will impact on 1.2 million people. If there is to be increased conditionality, obviously the next step will be an increased risk of sanctions for not adhering to that increased conditionality. It will put a lot more people at least under the threat of increased sanctions.

2234. As for the performance of Atos Healthcare, the current provider of medical assessments for disability living allowance (DLA) and employment support allowance (ESA), the Committee will know that the National Audit Office (NAO) report that came out last week contained a number of findings, including that just 10% of the penalties triggered by poor performance had been applied. That is relevant because it all feeds into our proposed new clauses and amendment, which we think will add value to the Bill. The Chair of the Public Accounts Committee (PAC) at Westminster, Margaret Hodge, has stated that:

*"People with disabilities must be able to access the benefits to which they are entitled. The department relies on medical assessments to make sure it awards the right benefits to the right people. Getting this wrong can have devastating impacts on individuals and their families."*

2235. As we know, the people who are most likely to be negatively impacted by the Bill are those with disabilities. That is mainly where the axe is going to fall.
2236. Also with regard to those with disabilities, I want to highlight the report 'General Practitioners at the Deep End', which many of you will have seen. It involved 100 GP surgeries serving the most socio-economically deprived populations in Scotland. That work and that report underpinned a

number of British Medical Association (BMA) statements. The BMA would not, I suppose, make statements on welfare reform lightly or flippantly. These are some of the statements:

*"The idea of saving £2bn ... from the group of people in question seems to be inhumane and unreasonable".*

2237. The group of people in question are those with disabilities.

*"Evidence seems to suggest that people with serious health conditions are sometimes being declared fit for work."*

And, finally:

*"the full impact on disabled people and the associated costs to the government are being ignored".*

2238. Again, that ties in with the four suggestions we have made.

2239. That sets the context. When we look at what is happening in GB, we begin to see more clearly the emerging implications of this legislation. I suppose that that is what will happen here in the future. I invite Sinead, our co-ordinator of advice services in north Belfast, to present to you on the pressures currently faced by advice services in north Belfast.

2240. **Ms Sinead McKinley (Advice NI):**

Thank you for inviting us along. I work in north Belfast. Our six main advice providers come from a range of different backgrounds, such as community, church, ex-prisoners and citizens advice. We all work together to provide advice right across the north of the city. We have 13 full-time advice workers, and last year we dealt with 35,000 inquires. That is a lot of work and pressure. We are now doing longer hours and holding weekend surgeries, and we are stretched to full capacity. People are so worried about what is already happening in the welfare system and what is about to happen. There is an increased demand for the service. I have been doing this job for 15 years, and I really do not know how we will cope with that.



2241. One of the key issues for us is funding. We really need long-term funding. We cannot plan and review our services if we are continually worried about how we are going to pay our advice worker until the end of March next year. That is a continued strain on the sector. We are firefighting, rather than looking to the long term at how we can work in partnership with the likes of the Social Security Agency (SSA) to help people get the right information and advice.
2242. When we look at what we have at the moment, we see people continually coming back to our service, at least six times a year, whereas, before, when we had benefits like incapacity benefit, they were maybe coming in once a year. Now, they are continually coming in with questions about the new regulations attached to employment support allowance. They are more worried about their benefits. We are also seeing people with more complicated cases, with the knock-on effect that one benefit has on another. We are continually chasing progress on benefits, and there is increased demand for tribunal representation. Last year, we attended 960 appeals for 520 clients. We have an 80% success rate, so we know that tribunal representation definitely works for clients, but we cannot continue to meet the demand that is being placed on our services. It is putting a real strain on not just clients but advisors. They are taking on a lot of work, and it is putting them in a very vulnerable position. We are asking people to open up about their medical history. Last week, I had to send advisers on applied suicide intervention skills training (ASIST). That is not their role, but it is going to be their role as things progress in the next year or two.
2243. I hope that the Committee will really look at some of the pressures on our sector and that it will work in partnership with all of us to try to help people to get the right information and advice.
2244. **The Chairperson:** OK, Sinead, thank you for that.
2245. **Ms Jenny McCurry (Advice NI):** My role at Advice NI will be in supporting the policy work. I plan to write a short series of policy reports that will look at some aspects of the changes and at how best their impact might be mitigated in Northern Ireland. One particular concern is the impact the changes will have on women. We heard yesterday that the payments will be split in some circumstances, but we do not yet know when that will be. There is a serious concern that that will impact on the financial independence of women. There is also concern about the requirement to move lone parents to jobseeker's allowance (JSA) after their youngest child turns five, and about how that is going to be practical in Northern Ireland with the childcare provision we have. There is also concern about how that will impact on lone parents' ability to pursue higher education and find work of a better quality.
2246. My role will be to conduct some interviews and focus groups and to go out and talk to people. Some research has been done in GB and we have some findings from England, but it would be useful to know exactly how the changes will impact on people here. I also hope to do some focus groups with people from black and ethnic minority communities. Another big problem is that the online assessment service will only be available in English. That will also have an impact on people in Northern Ireland because this is the region of the UK where people are least likely to have access to the internet or to have ever used it. Hopefully, through going out and talking to people and looking at existing research, I will be able to find out a bit more about what is going on and how we can support people in the best way.
2247. **The Chairperson:** OK, Jenny, thank you.
2248. **Mr Higgins:** I will now get to the meat of the presentation: the four changes that we would like to see made. Number one — if you remember nothing else about the presentation after we leave this morning, we would like you to remember this — is to include a clause



in the Welfare Reform Bill that would highlight a statutory right to independent advice for those who are negatively affected by the Bill. We do not say that flippantly or lightly. The Committee will know that the Housing (Amendment) Act (Northern Ireland) 2010 came through the Committee in November 2009, and a couple of members were part of that. It places a duty on the executive — I take it that that means the Housing Executive:

*“The Executive shall secure that advice about homelessness, and the prevention of homelessness, is available free of charge to any person in Northern Ireland.”*

2249. I would argue that that is relatively minor in comparison with the Welfare Reform Bill. People in the housing field will say that it is very important, and I do not dispute that. However, what I am saying is that we should include a clause in the Bill to the effect that the Department for Social Development shall secure that independent advice about welfare reform, in particular to those negatively affected by welfare reform, is available free of charge to any person in Northern Ireland.

2250. The counterargument, if I could even go so far as to call it that, is that people may say that there are advice services at the moment, but we are clearly saying that those services are reaching capacity, and that is why Sinead is here today. We all know about the social security cuts that have come in since 2010, and we all know about the recession and people losing their jobs. We all know that tribunal representation is at capacity at the moment, and we have a raft of changes. Given all that, we think — and we can stand over this — that it makes sense to include a statutory right to independent advice. If that could be agreed, we could move on, and the questions could be about how we do it, whether it is too difficult and what the processes are. We can overcome all of that. We are here to overcome questions like that, but the starting point has to be whether we can include a statutory right to independent

advice. That is the first change, which is at the top of our list.

2251. Members will already know from constituents coming through their offices about the problems with medical assessment and the knock-on effects on ESA, DLA, and so on. People with disabilities are going to be profoundly impacted by this Bill because it replaces DLA with a personal independence payment (PIP) for those of working age and because it limits to 12 months the period for which people in the work-related activity group (WRAG) can receive contribution-based ESA. Those two things will be based on the medical assessment. The medical provider's report plays a big part in determining whether you are placed in the WRAG or whether you will continue to get DLA and the additional premiums that flow from that. What we believe would add a sharper edge is statutory scrutiny by this Committee of the medical provider's performance. At the moment, there is a contract in place between the Social Security Agency and the medical provider, and responsibility lies with the Social Security Agency to scrutinise the performance of the medical provider. We want to see something more than that. We believe that the Committee could add a sharper edge to the performance of the medical provider by providing scrutiny there.

2252. The Committee will have seen the two TV programmes at the start of August: 'Dispatches' and 'Panorama'. They must have made for very uncomfortable viewing for anybody watching them, particularly MPs and MLAs. You must have been thinking how you could change the attitude of, "We can almost do what we want. We can produce reports and pass them to the decision-maker, and, at that point, our accountability ends. We do not have to stand over those reports. We do not have to go to tribunals to stand over them or anything like that." We think that we have an opportunity here to address that issue. At the moment, from the Committee's point of view, the scrutiny of the performance is slightly at arm's

length. Let us try and see if we can bring more accountability to the performance of the medical provider. That is the second point. Again, neither of the two points threatens parity. They do not do anything that will change the level of benefits paid.

2253. The third point is around monitoring. We would like to see the Committee monitoring the impact of the implementation of welfare reform, both directly on people and indirectly on displaced expenditure. The direct impact on people is fairly straightforward. It involves, say, the numbers of people reassessed from DLA to PIP who do not make it across or who make it across at a reduced level. That is one example, and that is a direct consequence of welfare reform legislation. However, advisers are highlighting to us that the issue of displaced expenditure is equally important. There is a knock-on impact. You can make a saving on the social security spend by spending less on DLA or ESA, and that is fine, but what are the knock-on impacts? For example, in the report, 'General Practitioners at the Deep End', GPs highlighted that when people's benefits were negatively affected, it drove them to their GP. If they suffered from mental health problems, it very often caused their condition to deteriorate, so there was an impact on the health budget. There is also an impact on justice. We have already talked about how the number of tribunals has gone through the roof, and you know about the success rate of ESA appeals and all of that. That is fact at the moment. However, what will the impact be if people do not get their DLA or the amount is reduced when they move from DLA to PIP? What will happen when they argue that they are not in the right group for ESA and that they should be in the support group and should not, therefore, be affected by the 12-month limit? All that will have to be absorbed by the Justice Department. It will have to pay for the additional tribunals and extra sittings that we know will happen. Again, there would be displaced expenditure there. There might be savings in social security, but look at all the extra spend

that is displaced. Also, shortfalls will occur in the social housing sector and the private rented sector, but what is the displaced expenditure when it comes to homelessness and the Housing Executive or whatever body having to find people emergency housing? So, there should be monitoring of the impact of the implementation of welfare reform directly on individuals and indirectly on other Departments.

2254. Finally, we think that there should be an amendment to the child maintenance clause. We think that it is unfair that the parent with care is effectively penalised for having no other option but to pursue child maintenance through the statutory scheme. We say, yes, maintain the penalty, maintain that fee, but place it where it should be. If we can get a family-based agreement, that is the best way to go. If it means that we are not upsetting children and all of that, we should try and get an agreed settlement. If an agreed settlement cannot be obtained, you penalise whichever party or parent is responsible for not allowing that family-based arrangement to be put in place. So, if it is the parent with care who is blocking maintenance, you apply the penalty or the charge to them. I do not think that that will often be the case, but, if it is, so be it. If, as is more often the case, it is the non-resident parent who is obfuscating and blocking the family-based arrangement — of course, when there is relationship breakdown, communication will be at an all-time low — then discharge the penalty on the non-resident parent. Again, you are not breaking parity. You are still charging the fees, penalties, and so on, but it will be more effective, and you will be charging the person who is responsible for the penalty being imposed in the first place.
2255. Those are the four issues. We know the way the Bill is at the moment, and we think that those four things could change it. Come March or April, when Royal Assent is given, this Committee could say that it changed the Bill and that it put in place things that will mitigate its effects and help the most vulnerable in Northern Ireland but that

- do not threaten parity. We want to focus and major on those four things, and that is why we have come here today to present to the Committee.
2256. **The Chairperson:** Kevin, you are suggesting the inclusion of a new clause that would, in effect, ensure that there is statutory advice available to those who engage with the Department on this issue. It is basically about the provision of statutory advice. Is that right?
2257. **Mr Higgins:** Independent advice.
2258. **The Chairperson:** The second issue is about statutory scrutiny or enhanced scrutiny of the medical provider. Can you explain what precisely that means? Is that the process of assessment? You mentioned the medical provider, but there is an assessment process.
2259. **Mr Higgins:** It would be specifically Atos, which does the medicals at the moment for DLA and ESA; we do not yet know who the medical provider for DLA to PIP is going to be. At the moment, the Social Security Agency has the contract with Atos, the medical provider. Advisers have raised this with Advice NI, and we have raised it with the Social Security Agency. The agency will tell you that it is its responsibility to monitor that contract and to ensure and verify the performance of the medical provider. We are saying that that needs to be built upon and made more robust. We feel that the Committee should be involved in that in some way; I am not sure how, but we can work up the detail. Given the problems, which we all see, of people feeling that they did not get a fair go at the medical assessment, and given the two TV programmes I mentioned, I think that there is merit in seeing whether we can strengthen and bolster the medical provider's performance and give the Committee a role in that. If you look at the Public Accounts Committee's comments on the National Audit Office report on the shortcomings of the medical provider's work, you see that this may provide an opportunity for the Committee to have a more direct involvement in the provider's performance.
2260. **The Chairperson:** You are looking for greatly enhanced monitoring of the impacts, first, on people and, secondly, on displaced expenditure. Your last point refers to child maintenance provisions and the issue of the penalty for the parent who is not the one preventing an agreement. I just want to be clear, because I see all of those things as involving enhanced scrutiny or monitoring, with the exception of the provision of independent advice and the issue of penalising a parent.
2261. **Mr Copeland:** Kevin, you said that your existing structures are already creaking, and I know from my constituency office the scale of the hit on the ground. Can you give any indication of what you foresee being the likely increase in need from where we are now to when the legislation kicks in?
2262. **Mr Higgins:** There is information there on which calculations can be based. The Treasury document that we all know came out in 2010 referred to a 20% cut. We also know that 50 per 1,000 head of population in GB claim DLA, while in Northern Ireland it is 100 per 1,000 head of population. So, that is twice as many people. There is no doubt that there will be a differential impact here. If we use the 20% cut referred to in the Treasury document, we can estimate the number of people on DLA who will be negatively affected. They will, undoubtedly, come in for advice because the additional premiums that they get could be affected — the money itself, Motability schemes, blue badge and all of that additional support. Again, that is not to say that the person does not have a disability or a health problem; it is just that they simply do not reach whatever threshold this is set at. So, 20% is one way that we can try to estimate demand.
2263. We also know the numbers on contribution-based ESA who are placed in the work-related activity group. So, everybody who is claiming contribution-based ESA in the WRAG group will, as a result of this, see their benefits stopped after 12 months, and that is all additional demand. Undoubtedly, such people will come to advice services. We

will go through the merits of the case, and it may be that not everybody will fit the criteria. In that event, we will be open and honest and say that they do not, but many will, and that will feed through to appeal workloads. As for contribution-based ESA and the WRAG, of course people in the support group are not affected by the 12-month rule. So, that is where people will be coming from there. For those on DLA, it will be about getting onto PIP. For those on ESA, it will be about getting into the proper group, which for some people will be the support group. We know the numbers there, so we could then work up demand and estimate what the demand would be on the advice sector.

2264. **Mr Copeland:** If you have extra demand and you are creaking now, you will need extra resources. I am curious about the increase in and availability of those resources. Given the fact that we have twice the number of people on DLA, a substantial proportion of whom are receiving that benefit as a result of mental illness, do you know whether the contract between the Department for Social Development and Atos, or whoever the provider will be, will give weight to expertise and knowledge of mental illness? In my view, when it came to the ESA stuff, people who were not qualified to pass judgement on mental illness or recognise a mental illness were sitting in judgement of people who quite clearly were mentally ill. Do you know whether that was inculcated into the way in which the contract was constructed? It strikes me that, if it was not, it should have been.
2265. **Mr Higgins:** I will pass that comment on to Sinead. My one comment on that is that, undoubtedly, it will be discharged by healthcare professionals. That means that some will involve GPs and doctors but some will involve other healthcare professionals, such as nurses and so on. I suppose that our query is whether that examination will give an accurate picture. I sat in on one of the examinations a couple of weeks ago to see how it works. It lasts for 30 minutes to 45 minutes

and may not be conducted by a doctor; it may be conducted by some other healthcare professional. The information is typed into a computer because it is a computer-based system. Can that snapshot really give an accurate picture, particularly for people with mental health problems, as you rightly pointed out? I am not so sure that it can. Sinead will comment on that.

2266. **Mr Copeland:** I am sorry; just before you do that, Sinead, I have a question. There are people who suffer the consequences of physical illness or mental illness or both. They may be examined by someone who is not a doctor. The number of GPs involved in this process is a lot smaller than I had originally thought, and some of the figures on the mainland are frightening. Is it possible that someone who suffers from both physical illness and mental illness could be examined by a healthcare professional who specialises in one or the other?
2267. **Ms McKinley:** When Atos was introduced, we were told that it would bring people in so that, if you had a mental health problem, you would see a counsellor, or, if you had a back problem, you could see a surgeon. You would be examined by the relevant person, depending on your condition. That has not happened. GPs and nurses are actually doing the majority of the examinations. One of the main problems is that when people go in with a mental health problem and it is clear that they are on very high levels of medication for their mental health, that is being sidestepped. The medical professional involved is not even taking that on board and is not going back to the GP for additional information or looking at whether the patient is seeing anyone else. The whole area of mental health is being skimmed over. The majority of people who come to us in north Belfast have mental health problems, so they become more vulnerable. We are hounding GPs, which is a big problem for us, because we have GPs who are very good at giving us additional evidence, but we also have GPs who want to



- charge for additional evidence, and maybe the GP is not the right person to be giving the additional evidence. The flip side of that is that you can get a very good supporting letter from your GP but the Department will not look at it. It is about how you marry all those things together so that GPs are aware of what is being asked and so that Atos, in a sense, is aware of the criteria for the benefit. When people apply for ESA, the descriptor that they have to meet is very clearly stated on their form. When they go to the medical, it is a completely different assessment. The specific questions around the descriptors are not asked. We have to tease that out of people and give them examples of what the benefit form is asking of them. If that is not put in front of them at the medical, they are disadvantaged from the moment they go in.
2268. We have found that people who very clearly meet the criteria for benefit are not receiving it. It is an ongoing thing, and they are being put through the stress of an appeal, where they have to go in front of a panel and put their case forward. That is happening daily; at the moment, we are dealing with 20 appeals a week. A lot of people are putting their evidence in front of a panel and are being told that they are being awarded the benefit, but it is six months of worry and stress that there is no call for.
2269. **Mr Copeland:** And cost.
2270. **Ms McKinley:** And cost, yes, indeed.
2271. **Mr Douglas:** Thanks very much for your presentation. I want to follow on from Michael's point about the expansion of your work in the future. I am not quite sure whether you could do this or whether you have done it, but could you quantify how much monetary benefit that this would bring to Northern Ireland? Think of the benefit take-up campaigns; a lot of people do not claim benefit. I imagine that that will be the case with some of these measures as well. It would be helpful if you were able to quantify what this would bring for the people in Northern Ireland who are on benefits. That money goes back to Treasury if you do not claim that benefit. It is a good selling point on top of everything else.
2272. **Mr Higgins:** Good question. We do an annual membership profile report, and we get statistics. We do not do it ourselves; our members keep a tally of all the work that they do and the income that they generate. We get the information from the appeals service. It is able to tell us the numbers of people who are being represented by our members, their representatives and advisers and the success rate of all of that. The bulk of that work is related to DLA and ESA. We are able to tell very clearly. That is verifiable information. You are quite right: we delivered the benefit uptake exercise last year. I understand that the Minister will make an announcement imminently about that work. When you see the report and what the Minister says about that, you will see — again, it is verifiable information — the impact that independent advice services are having on generating additional money for people. I understand that that will be out this week.
2273. **Mr Brady:** Thanks very much, Kevin, Sinead and Jenny, for your presentation. It was very comprehensive. I suppose that I should declare an interest as an ex-independent adviser. You talked about the increase in work. Obviously, that will happen anyway because, allegedly, they are replacing a complex system with one that is supposed to be more simple. One of the points that you made, Sinead, was about online accessibility. I imagine that that will increase your workload greatly anyhow because, in my experience, people will go to advice centres before they go to the statutory organisations. Otherwise, many advice centres would not exist. You are going to have a huge increase in work.
2274. There have been all sorts of discussions over the years about mainstream funding. That simply has not happened. Maybe that is something that the Department should look at, particularly in relation to independent advice centres. That is much required. You

- raised four points. It is very important that people should have a statutory right to independent advice. That is extremely important because of the depth of knowledge that advisers have around all aspects of social security and benefits in general.
2275. Fra and I were on the Committee in the previous mandate. When the initial stages of welfare reform were being introduced in June 2007, the then Minister wanted it rushed through under accelerated passage. We were told at the time that, if we did not agree to that, people's benefit would be affected. One of the amendments that we put forward was exactly what we have been talking about. In relation to mental health, the person who examined or was dealing with the person should be an expert, such as a community psychiatric nurse, a clinical psychologist or a psychiatrist. We were told that staff would be trained and that that would not happen. As for what is happening in Britain and undoubtedly is starting to happen here, people are going to the assessments, and it is a tick-box exercise. My experience in my constituency is that people are being assessed by nurses, and sometimes doctors, but mostly nurses who, in some cases, are not clued in. I had one person who went in with a particular type of boot that he had been given by Musgrave as a compression thing because he had broken his foot very badly. The nurse did not have a clue what it was; they did not know why he had it. That is the kind of example I am talking about. It seems that the primacy of medical evidence would go a long way to alleviating that problem. If you had somebody with a mental health problem and they were dealing with a psychiatric community nurse, a psychiatrist or a psychologist, medical evidence from them should be paramount. That should take primacy. The medical provider should take note of that. People are winning appeals because that type of medical evidence is then being assessed by the decision-maker, whereas, as you rightly said, it is being ignored at the initial stages. That is very important. What are your views on that?
2276. The monitoring is important and will have a tremendous impact. You outlined that.
2277. What you said about the fees on child maintenance is fair. Ideally, people want an in-house solution, and, if that does not happen, the charges should be imposed on the person who is not prepared to do that. The point has been made that the constituency that I represent is on the border. The caring parent is often left chasing somebody who is in a different jurisdiction. That has not been factored in to any great degree, and that is important.
2278. In Lanarkshire in Scotland, Atos got a contract for work capability assessments and contracted it back to a statutory agency. By doing that, it made around £18 million. That statutory agency really should have had the contract in the first place, it might be argued.
2279. I would like to hear your views on the primacy of medical evidence and on the issue around funding.
2280. **Mr Higgins:** We are trying to get a balance in that the work is being outsourced to a private sector firm under a commercial agreement. That introduces tensions around all of this, because you have a provider trying to maximise its revenue from the contract. On the other side of that balance, real people who are having to go through this with health problems are coming into advice centres. There is a tension between service provision and the commercial drive to maximise profits. That drives the firm to consider how it can provide the service at reduced costs, and that takes you down the road of using nurses rather than always using a doctor, as would have been the case under the old medical support services way of doing things. If the Committee were sitting on the other side of the equation, it would allow the weight, strength and robustness to counteract the incentives to maximise profits that commercialism can bring into this. If you could get the Committee involved in



- some way in the service delivery end, it would be useful. It makes sense to me.
2281. The demand on the advice sector was mentioned. To get that included in the Bill is top of our shopping list. It would be a fantastic thing for the Committee to be able to stand over that and say that it got that added, because look what the advice sector can do. I include in the advice sector the Law Centre, Citizens Advice and Advice NI. It does not matter. Look what the advice sector can do in the areas of benefit uptake, tribunal representation, taking people to commissioners, and so on. Deploy that resource to try to mitigate the worst impacts of welfare reform. We have tried to highlight the fact that we are at capacity as it is, and there will have a bit of thought on how we can deploy it best. We are open to discuss that. Resources are a part of that, of course, but maybe it is about us doing things differently as well. Get it in there, and we can work on it.
2282. **Mr Brady:** I have a couple of points. The success of statutory independent advice is predicated on the fact that the independent advice sector will have proper resources and funding. Obviously, you can change to some degree what you do, but most people will agree that, right across the sector, you are doing very well in the advice that you provide. Therefore, it is really about resourcing.
2283. An issue for many years has been that there are a number of people who get a medical certificate from their GP saying that they should refrain from work and then those people go to someone who tells them that they are not actually looking at their ability to work. They are looking to see not what is wrong with them but what is what right with them. There is that anomaly, and GPs are falling back on that and saying that they are not there to decide whether a person is fit for work. Ultimately, they are, because it still says that on the certificate. All of those anomalies need to be sorted out, and that would make things easier. If you got the nuts and bolts of it right, it would be easier to follow it through. That is part of the difficulty.
2284. On the monitoring, you are right about striking that balance. However, ultimately, if someone has a particular mental health or physical problem and has a consultant, it should be the consultant who deals with them regularly, backed up by GP medical evidence. Ultimately, these decisions are made by civil servants who are not medically qualified or by so-called health professionals who are in the middle. They abdicate responsibility by telling people that they do not make the decision and that it is made by a civil servant. The point I am making about the primacy of medical evidence is that the decision-maker should have the medical evidence to strike the balance with what the health professional is saying. That is important.
2285. **Mr Higgins:** It is. We have reiterated to the Social Security Agency that decision-makers are exactly that — decision-makers. They should take their role seriously. Very often they do, but you are right. Their role is to make decisions. If there are competing elements of evidence and medical evidence, they should be weighting that accordingly, and then making what is hoped to be the right decision and getting the decision right first time.
2286. **Mr Brady:** I will finish with this point. The problem is that they do not have that balance, because the medical evidence that has been put aside at the initial stages does not filter through to them. It is only at the appeal stage. That has been going on for many years, as I have certainly seen in my experience of representing people. People were able to produce medical evidence. In some cases in the old medical support service system, people brought in X-rays, and the doctor, nurse or whoever was carrying out the examination told them not to show them to the X-rays, because they were not experts in that. It is very important that the medical evidence goes through to the decision-maker and is not ignored, which it is at the initial stage of most cases.
2287. **The Chairperson:** Mark, were you going to make a point on that?

2288. **Mr Durkan:** I was going to make a point on the medical assessment and the lack of accountability of the medical assessment providers. Obviously, the major impact is the impact that it is having on people who are being wrongly assessed, but there is a major impact on the Department, which is facing the cost of the appeals. I raised this point last week or the week before. It is about building something into the contract which states that, if a decision is overturned after appeal, the medical assessment provider foots the bill for that appeal. It would make them be a lot more scrupulous or stringent in their assessment process.
2289. **Ms P Bradley:** Thank you for your presentation. I do not want to regurgitate things that have been said. I do not disagree with most or any of what I have heard. I also worked in the advice sector; I worked for the Citizens Advice for five years. I know the problems, due to what came through the door there, and that was some years ago. I also know what is coming through the doors of my constituency office now. There are lots of issues and problems out there. I do not disagree with any of the four points that you highlighted to us today. When the Bill comes into force, I would like to think that there will be some sort of monitoring put in place around the impact that it is having. Some of us sit on the Health Committee as well. We would like to be able to see how it is going to impact on health inequalities and everything else. So I would like to think that something will be put in place for that.
2290. I am looking at the part about child maintenance. I have been down this road myself, never mind anything else. An amicable agreement between two parties immediately after a separation very rarely happens. It is some years down the line before that happens. It would be ridiculous and awful if a parent with care were penalised. Quite often, the parent with care will be left without anything. I know that; I have been there. I will certainly be arguing against someone being penalised for that.
2291. There are, and have been, many faults with medical assessments. We all recognise that. I do not think that anyone in this room does not recognise that.
2292. The statutory right to independent advice is another very good idea. I assume that the money for that would have to come from the Department. Have you put any figure on what the projected cost of that might be?
2293. **Mr Higgins:** At the moment, we are working on that and trying to estimate demand. That can be a difficult thing to do. Even estimates of the total negative monetary impact of welfare reform vary, but we have a fair idea of the numbers, specifically with DLA and ESA. We can work that up in more detail over the coming weeks and get it to the Committee. We understand that there is a bit of work to do. At the moment, at a high level, we are flagging up that it is a huge need that will be coming our way.
2294. **Ms P Bradley:** If that is something that the Department would need to take on board, it would be another factor, because I assume that it would have to be funded from this level. It is something that we would need to keep an eye on to see how much it would cost. Thank you very much.
2295. **Mr Higgins:** I totally agree. Getting the line added into the Bill would concentrate minds, and it would ensure that we put the necessary thought into it and that it was taken seriously.
2296. **Mr F McCann:** The problem with coming last is that most of your questions have been asked. I will try to think of a couple of new questions.
2297. **Ms P Bradley:** That is why I tried to get in before Fra.
2298. **Mr F McCann:** I have a couple of points, and I raised this one before with regard to previous cuts. Has the Department sat down with the advice sector to work out what resources will be required to deal with what can only be a serious increase in the amount of people going through your doors?

2299. **Mr Higgins:** I know that chief executives have met senior officials from the Social Security Agency, so I am quite certain that welfare reform has been on the agenda of those meetings. I am not sure if it has got to the point at which they are saying that they are going to make x amount of resources available. I do not think it has made as much progress as that. Our incentive for trying to get the line in is that it will hasten the journey towards knowing what we can put in place.
2300. **Mr F McCann:** I would appreciate it if you could keep us in touch with that, because it has been a matter of interest for the Committee over a period.
2301. You mentioned GPs in Scotland. A number of reports have come through from the BMA and its subcommittees coming out against Atos and the way it handles things. I think that we need to take that one stage further, because we have all dealt with complaints from constituents who have faced difficulties, not only with Atos, but with those within it who carry out the medical assessments. Have you any idea of what level of training is provided for them? Or, have you had any feedback on it? Mickey touched on it earlier. In 2007, it was one of the questions that we were pressing home. We said that there needed to be a high level of training to ensure that people were given fair representation with regard to their medical assessments.
2302. **Mr Higgins:** To be fair: a lot of the information we glean from advisers or from clients coming through the door is that, irrespective of what training there has been, the performance in the medical examination is perceived to be insufficient. I suppose that is the first thing. Beyond training, it might be the experience of some of the people who are conducting the medicals. You have to try to be fair. Can somebody with not a great deal of experience and who is quite new to the profession be expected to hit the ground running, when they might see someone for 30 minutes and have to make an accurate assessment? That client might have a combination of physical and mental health problems, or all mental health problems. Training is one thing, but we wonder whether commercialism is taking over. It is being delivered as cheaply as possible, and, perhaps, nurses are receiving bare-bone training. On the other hand, they are not providing the service that we think people need and deserve.
2303. **Mr F McCann:** What about the Department and those who have to assess the decisions by Atos.
2304. **Ms McKinley:** We have asked a few times. All that we have ever been told is that the medical support team in Atos gets two days of training. I do not know how that is presented to them relevant to the benefit. I have been to a medical as well. Take a person with mental health problems, for instance. Someone who sits behind a computer asks the individual whether they have ever self-harmed. If the individual answers no, they are asked whether they have ever thought of suicide. They are left in limbo. It does make you wonder whether those people were actually trained to cope if someone were to open up about a condition. Their training is more in line with what people do on a typical day than the criteria for benefit. It has never been married together in that way.
2305. **Mr F McCann:** I have a final question. The majority of the Bill is sanction-led. Further and serious increases of time sanctions have been proposed. Have you done anything on sanctions as they have worked up until now and how they will impact on people?
2306. **Mr Higgins:** I am not sure how effective sanctions are with regard to what they are supposed do. Are people even clear about what sanctions are supposed to do? Are they simply a penalty? What support is put in place to modify behaviour to ensure that it does not happen again? A sanction means less money coming into that household and less money going to the children, if there are children in that household. In some senses, it can be just punitive, and it can just penalise. I am not sure how effective those sanctions are, and

I am not sure that there is very much research out there that highlights how effective they are in improving behaviour, if you like.

2307. There are many clauses in the Bill, and it covers lots of things. We covered sanctions, employability and childcare, and the fact that there are no jobs out there. We ended up coming back to the four things that will not threaten parity, the fact that changes can be made, and that it will improve things for people once it becomes law. Seemingly, this is our chance to change it, and you will know more about that than me. Officials will tell you that there is not too much detail and that all the detail will be in the regulations. However, when the regulations come before the Committee, it has to either accept or reject them. There are no confirmatory regulations; there is no scope to change.
2308. Now is the time to put a Northern Ireland fingerprint on the legislation and, hopefully, what it is now will not be the same as what it will be when it receives Royal Assent. That is our goal anyway.
2309. **Mr F McCann:** I have one final thing. It was interesting that the Minister said yesterday that part of the discussions that he had with Lord Freud involved the financial institutions and banking. Obviously, everybody would need to have a bank account. I have two questions. First, I take it that bank charges would apply if people open a bank account. Secondly, does it not seem unusual that you would have to go to a financial adviser to work out how you can spend your £200 a month?
2310. **Mr Higgins:** Operationally, we are still very unclear as to how all this will work, and the online aspect has to be added in as well. Let us say that something happens to me, and I want to make my claim for universal credit today. Under the current system, I would ring up. It might take a while to get the paper claim in or whatever, but the date of my claim would be today. There is a school of thought that you will have to master the online system and you may have to open a bank account — it is not even

a bank account; it has to be an online accessible account that provides the security to allow you to proceed with the universal credit claim. That is the biggest thing. Our concern is that I would become entitled to benefit from today as I satisfy the conditions, let us say, from today, but I cannot press the green button on the universal credit online claim until, for example, four weeks down the line, and we understand that my claim to universal credit does not start until I press that button. What about the number of weeks, through no fault of my own, when I have to open the account, get online and maybe go the library because I do not have access in the house? We think that there is a big issue with the data claim and people actually lodging their universal credit claim.

2311. **Ms McKinley:** The other thing about online access to benefit is that, when people have their online account, they are going to have tasks set with their online account. We will be inundated because people will come in continually to find out the task for their benefit. If they do not complete the task, they do not get paid. It will be a big problem for us, and for the bigger community sector as well, to make sure that people have access to online services.
2312. **Mr F McCann:** I was also making another point about bank accounts. If someone opens a bank account, I take it that banking charges would apply for anything that they do in relation to whatever amount of money they get. It will dilute the amount of monthly money that people would have.
2313. **Mr Higgins:** I completely agree with that. There could also be charges, and we all know what has happened with charges. We do not know where bank accounts are going in the future. Will you have to pay for the privilege of having a bank account in the future? We do not know where that is all going.
2314. **Mr F McCann:** I thought that people already do pay.
2315. **Mr Brady:** I have a couple of points. Following on from what Fra said, there

- is the whole thing that goes back to medical evidence. You may have somebody with bipolar, or one example that I mentioned during the clause-by-clause consideration was a condition call sarcoidosis where you could be disabled for three weeks out of the month. My question was about whether that would be aggregated. What about the training given to the person who would have to assess you? If you have bipolar, you could go in on a Monday and be great, but be in bed for three weeks after that. It is that kind of level.
2316. The other thing that you mentioned, Kevin, was the severe disability premium. That, surely, will have a bigger impact here in the North because of the larger numbers of people on DLA, particularly people living alone. The severe disability premium lifts them above that subsistence level, and people will really suffer if that is lost. We already pay higher costs for electricity, gas, all the utilities and food, because everything has to be transported. To some degree, the severe disability premium lifts people out of that, although not completely, obviously. I think that that will have a huge impact here as well.
2317. Kevin, you made the point that, if you do not have online access, you would go to the library. I imagine that an awful lot of people on benefit, whether they have online access or not, would not have the ability to use it, and that is a difficulty. That is why I go back to what I said earlier: you will be even more inundated than you are now.
2318. **Mr Durkan:** There is also the fact that the libraries have had their opening hours reduced.
2319. **Mr Higgins:** The severe disability premium is a huge issue. That is why, to take it back to the beginning, people with disabilities will feel the hurt with regard to the perceived savings that were to come out of the legislation. There is the 12-month time limit for ESA, and, if you have a partner working, that is, pound for pound, a drop and there is nothing that you can do about it. You
- are right. I understand that the support group will get you the severe disability premium in future.
2320. **Mr Brady:** That is part of the issue. At the moment, you can be found to be capable and still be on DLA and get a severe disability premium. That will change, and that is one of the issues that has not been addressed.
2321. **Mr Higgins:** People will still have those health problems or whatever, and they will have not improved in any way. That should not be underestimated. The simple fact is that the goalposts have been moved. People will be confused and ask themselves what is going on because their condition has not changed and nobody is saying that it has changed, but they are left high and dry with nothing. That feeds us back into what is going to be done and who is going to help them.
2322. **The Chairperson:** OK members, thank you for your questions. Kevin, Sinead and Jenny, thank you for your presentation this morning, your submission earlier and your ongoing engagement with the Committee. It has been very helpful and informative. You have made your presentation, and you have underscored at least four key points and proposals. Obviously, we will consider them as we move further into the scrutiny of the Bill during Committee Stage. If you happy enough with the work so far, it leaves me to say thank you for being here.
2323. **Mr Higgins:** Thank you.



## 23 October 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Mark Durkan  
 Mr Fra McCann

### Witnesses:

Mr Les Allamby *Law Centre NI*

2324. **The Chairperson:** We resume our scrutiny of the Welfare Reform Bill. We have a briefing by the Law Centre, and a number of representatives have come to advise the Committee. I welcome Les Allamby.

2325. **Mr Les Allamby (Law Centre NI):** Chair and Committee, thank you very much.

2326. **The Chairperson:** Are you on your own today?

2327. **Mr Allamby:** Yes I am.

2328. **The Chairperson:** You are well able, I might add. You are very welcome, Les. Members have before them an earlier submission from the Law Centre. I remind Members that the session is recorded by Hansard. In your submission, Les, I would like you to take on board, or reflect upon, some of the comments made by the Minister yesterday, if you are in a position to do so.

2329. **Mr Allamby:** Yes, Chair. I am happy to do that. Someone described me as “not a man of few words”. Clearly, that extends to writing, as well. My apologies for presenting this paper to you at a late stage. It is a very extensive submission, which really reflects the size of the Bill.

2330. To take up your invitation, the Law Centre welcomes the flexibilities that have been negotiated by the Minister. We support them. It is a recognition of

what can be achieved when political parties, this Committee, Ministers, officials and stakeholders like the voluntary sector, all speak with the same voice, by and large, on issues.

2331. Now we need to look at some of the details. I think that the payments to landlords looks slightly more straightforward and clear to me on the initial reading of the Minister’s statement than how we are going to manage the payment fortnightly rather than monthly. I am not completely clear yet as to how big and significant a concession that is.

2332. What I mean by that is that I am still not quite clear as to which groups will be paid fortnightly, and which will be paid monthly. In Britain, the intention is to pay monthly, but there is a default mechanism to pay fortnightly. So it will be interesting to see what the difference is between Northern Ireland and Britain when the detail comes through. However, I do not want to put a wet blanket over the announcement yesterday; I think it was quite important. I think it is an achievement that should be banked by all the political parties because these are issues that pretty much everyone was at one on.

2333. On the payment of housing benefit to landlords, we have always taken the pragmatic view and I will give an example. My wife gets exasperated by me occasionally, when she finds me looking in estate agents’ windows, not to find a lovely new house for us, but to see how many properties are rented that say, “No DHSS”. I did that the other day, in Stranmillis on Sunday, when we went for a walk through the Botanic Gardens and up to Stranmillis. There, it said “19 properties in the private rented sector; no DHSS”. One had, “DHSS considered”, six had, “DHSS yes”.

2334. Putting aside the private rented sector’s landlords being rather out of touch with



- who administers social security, that gives an indication of, for example, the state of play in the private rented sector market and the housing benefit changes. I would not put that down as a scientific survey but it is the second or third time I have looked at that in the past three or four months and seen pretty much similar figures.
2335. Paying housing benefit to landlords is important because it probably at least encourages some to be open to renting to people on and off benefit. It is significant because the assumption is always made that there is one homogenous group who are on housing benefit, and, presumably, on housing credit, and another who is not. In fact, lots of people move between the two. You move in and out of work; you move in and out of housing benefit. So, "No DHSS" has all sorts of ramifications for people who were in work and are no longer in work.
2336. I welcome the concessions that have been made to the Bill and, in fairness to Lord Freud, he has genuinely engaged with politicians of all political hues and others, and that is to be welcomed.
2337. I will turn to our submission, which is a long one, reflecting the size and importance of the Bill. We had a difficulty in drafting a response because the Bill is an enabling Bill. It sets the framework but leaves very significant issues to the regulations: the rates of benefit; how the old work requirements will work; what will be the earnings disregards; the detailed rules on personal independence payment about what is a daily mobility activity and what is a daily living activity; and lots more besides. In addition, an awful lot of information will be produced in guidance and circulars that will not be in regulations. Looking at the approach in GB, there has been an attempt to move stuff that had been traditionally in regulations across to guidance. Therefore, we do not have a complete picture at the moment.
2338. The other reason we do not have a complete picture is that there are still significant issues to be decided in Britain, despite the Bill having been passed there for over six months. How will transitional protection work? How will self-employed people be treated? What are we going to do about passport benefits? What will be the arrangements for housing credit? For example, how long will the waiting period be? And a great deal more besides. So, a lot of key issues have still to be decided in Britain and some go right to the heart of the purpose of the Bill in terms of making work pay etc. You are, to some extent, working in a vacuum without all the detail to have the whole picture.
2339. I will give you a date that you may want to keep in your diaries in terms of looking out for things, because this is in the public domain. In partnership, the Department for Work and Pensions (DWP) and the Secretary of State in the summer asked the Social Security Advisory Committee to consult on the draft universal credit regulations, albeit that there were gaps in the regulations. The Committee did that and submitted its report in August. The Department has announced publicly that it will respond to the report on 5 December 2012, so we may get some information right in the middle of your deliberations about the Bill.
2340. I suspect that some of the things that they will announce that day may be quite important, so there is a sort of "watch this space", as our Bill travels through its procedures, to see what is going on in tandem with Britain. I saw some of the information that you asked for. I know the answers to some of the things you asked for. In some cases, I do not know the answers and neither does the Department here, because DWP has not got the answers as yet.
2341. That is a fairly long preamble. I will take you through our submission and outline what we think are the key issues in the Bill. I will not go through everything. We have not drafted amendments yet, but the Law Centre is very open to doing so. If you say to us, here are some areas where you would welcome, entirely without prejudice, as the lawyers say,

amendments to be drafted, we will do that. We felt that that was better than giving you a blizzard of amendments and leaving you to wade through vast amounts of paper in case there were some areas that were perhaps not what you wanted to look at in particular. If you give us an indication of what would be helpful — we understand that they may or may not become amendments that you can live with — we will do that. I hope that that is a helpful offer.

2342. I will try to do this with a page-by-page approach so that you can follow what we are saying. I am more than happy to take questions as we go along or at the end, on anything and everything.
2343. **The Chairperson:** Are members content to wait until we have had the whole presentation?
2344. **Mr F McCann:** My only question is about the advisory group. I remember that it may have looked at the issue of the single room allowance.
2345. **Mr Allamby:** I am sorry, Fra, what was that?
2346. **Mr F McCann:** The single room allowance. I am going back a while. Some of the material that I read indicated that the Government did not accept the advisory group's recommendations. I take it that you were asked to look at the Bill in its earliest stages. The group's recommendations had not been accepted, and I take it, from what you just said, that there are aspects of those recommendations, which had been unacceptable, that you will recommend again. It just seems strange that you keep getting asked. It is a very important group that includes quite a lot of good opinion-makers, but the Government asked for this information and continuously rejects it.
2347. **Mr Allamby:** In fairness, I would be taken aback if the Government accepted everything that the social security advisory committee had to say to them, because it is an advisory committee. At the same time, there are areas where they have been prepared to listen and have made changes in the past.

However, it has always been selective and I guess that the committee itself would not expect anything other than that.

2348. Interestingly, this time, the draft regulations that were published in Britain — and they were draft, but they gave a sense of the direction of travel — on some areas there was a very considerable response from organisations, much of which is in the public domain. In some of the areas, it is clear that pretty compelling issues were raised, and in some cases the issues are coming from, if you like, not just the traditional stakeholders of the voluntary sector, but small employer organisations etc, who are raising some very important detail.
2349. My sense is that officials and Ministers may pick up on some of those areas. I would be absolutely flabbergasted if everything that the committee said, they followed. I have not yet met any organisation with which I have been involved that, just because you say something, they immediately agree with it.
2350. So, I think that in December, we will, perhaps, get some sense of some changes. This is a fast-evolving situation. Even in Britain, where they have the Bill, they are still working on issues at what is a very late stage, given the timetable there. One of the reasons why I welcome pushing back the universal credit timetable is that it gives us a chance to see how the pathfinders, which come into operation in Britain in April 2013, and the first wave of universal credit, will go. I suspect that we may learn some very important lessons and may even be able to avoid some pitfalls if we move from 2014.
2351. I will start with clauses 3 and 4, which are dealt with on page 3 of our submission. These deal with the rules on entitlement. It is quite clear in the Bill, and it is the position in Britain, that where one person in a couple is over pension age and the other person is under pension age, the couple is placed on universal credit and not on pension credit. That, it seems to me, has some ramifications for the all-work

- requirements and the seeking-work commitment arrangements.
2352. As you know, women's pension age is going up and will be equalised. So, once universal credit is in, there are likely to be situations where an older member of a couple has a younger partner. You could quite conceivably have a woman aged 61 with a male partner aged 70, for example, who will be claiming universal credit and, as a couple, not pension credit. I am not clear whether a 70-year-old, for example, who may well have retired several years ago, is suddenly going to be plunged into the world of work requirements and seeking work. It does not seem to me to be the most sensible use of jobs and benefits office time, per se, but I am not clear on what is going to happen there. That is one of the things that you might want to seek some information on from the Department.
2353. You can have claimants who are wealthy 86-year-olds, with 27-year-old partners. I do not think we have many of those, but are you going to ask someone who happens to be 80, and who has a partner in their late 50s, to be looking for work?
2354. **The Chairperson:** I am not sure whether I should congratulate them or commiserate with them.
2355. **Mr Allamby:** All I can say is that you should choose a partner who is about the same age as yourself.
2356. **Mr Brady:** It is too late for some of us.
2357. **The Chairperson:** There is no romance there, Les.
2358. **Mr Brady:** I do not mean that prescriptively. I am talking about the age aspect.
2359. **Mr Allamby:** There is another issue that you might want to tease out. Clauses 3 and 4 set out regulations about when you can be absent from Northern Ireland and about when you can study and retain benefit. We are not clear yet on what those arrangements are going to be. It is probably important to see whether they are going to change from the current arrangements, because, within jobseeker's allowance (JSA), income support and employment and support allowance (ESA), we already have different arrangements for studying and retaining benefit. If you are on ESA, the rules are much more restrictive than they are if you are on JSA, but, presumably, we will have a single set of rules for universal credit. Are they going to be more restrictive, or are they going to be slightly more liberal? I think that it is probably worth asking that question of the Department now, if you have not already done so.
2360. I move now to absence from home in specific circumstances. The Department in Britain has signalled that it is going to have a two-tier system: you could be absent from home for up to one month in certain circumstances, and up to 26 weeks in other circumstances, and they will set those out in regulations. That includes payment for housing credit for up to 26 weeks when a person is in residential care or hospital. Those contrast with the current housing benefit rules, for example, which allow you an absence of 13 weeks in certain circumstances and up to 52 weeks in other circumstances. In other words, the new rules may be more generous in some cases, but less generous in others. They are going to be less generous in the situation of a person being in hospital or residential care on a temporary basis. I am not sure. I think that the 52-week rule was a fairly good rule in terms of giving people a chance to recover and find themselves in residential care. We might find ourselves with some hard cases. It is worth clarifying whether we are going to have the same rules here. I assume that we probably will.
2361. The one other thing in this clause relates to 16- and 17-year-olds. From the draft regulations in Britain, we know what the intention is, and I have set them out on page 4. In the current system, we have what I call a catch-all safety net. Sixteen and 17-year-olds, for example, coming out of care are no

longer dealt with in the social security system; they are dealt with in a separate system through health and social trust payments. However, there is a catch-all net that allows for severe hardship money to be paid to 16- and 17-year-olds. It does not look to me as if that sort of overall safety net is going to be kept, where you have a discretion, so it would be worth asking the Department about that.

2362. Clause 5 introduces the new capital rules. I understand that they will be the same as the current rules for income support, JSA and ESA. That is what the Department has signalled. In other words, the overall savings are £16,000, with a tariff income. It is a bit like a taxi meter. Savings of between £6,000 and £16,000 are assumed to generate an income. That will be quite a significant change for some claimants. Tax credits and pension credit have no upper capital limit. It is more likely to affect older workers. Let us say you are 55 and low-paid and you have done what the Government have said you should do, which is save money assiduously, and you have saved £20,000 for your old age. If you make a claim for universal credit, you will not get it, because you will be above the limit, whereas, when you were on tax credits, you would have got it. I am not clear if transitional protection will protect those who are already on tax credits. That is a question we need to ask.

2363. Let us say you are on pension credit, for example, at the moment. Again, you could have a fairly low income but you could have saved money and reached pension credit age of what is now pensionable age. Under the new arrangements, where universal credit will be paid later and later if one partner is under pensionable age, you have got a capital rule. Let me tell you why I think that is significant. If you remember, the Joseph Rowntree Foundation issued its annual monitoring poverty and social exclusion document in May. One of the differences between Northern Ireland and Britain was that pensioner poverty was going down in Britain and

rising in Northern Ireland. One of the explanations for that is that it appears that we have not got the same level of occupational pension provision that many people in Britain have, and that will be with us for some time. Therefore, when we get to pensionable age, we do not have the cushion that proportionately more people seem to have in Britain. If you take away an issue of capital rule for people above 60 or pensionable age that is not there now, it may have a further chilling impact on pensioner poverty. That is another area that needs some scrutiny.

2364. I will spare you the detail of clause 6, which probably means that members of religious orders will not get universal credit. They do not get benefits at the moment.

2365. Clauses 8 to 10 set out the rates of universal credit. We do not know what they are yet. The only intention that has been signalled is that they do not expect them to be less than what is currently paid, in general terms, but there are a couple of significant differences. One is that the new standard allowance rate of universal credit is going to be simplified for people under 25. I will spare you the details at the moment, but it looks pretty clear to me that the benefit of some people who are currently under 25 will be lower under universal credit. You probably need to ask the Department for the details and the numbers of people who will be adversely affected. If what they have said they are going to do in Britain is replicated here, a number of young people will be worse off. It will simplify the system, and there may well be transitional protection, which I will come to in due course, but it looks as if groups of people will be worse off. I think that you need to ask about that.

2366. The next area that I have included is how the self-employed will be treated. One of the new features of universal credit is what is called a deemed minimum income. At present, if you are self-employed and making no net profit, you are deemed to have no income if you are, perhaps, part-time and self-employed. When you start to make an

income, it affects your benefit. Under the new arrangements for universal credit, there will be an assumption that you are making a minimum income. Regardless of whether you do or whether your self-employment is ebbing or flowing, the assumption is that you are making a minimum income. The Government have not said what it will be. At one stage, they were talking about the possibility of it being the national minimum wage, but they seem to have resiled from that, and I think they are probably looking at something smaller than that.

2367. They have indicated that you will be given a period before the minimum income is brought into effect. So there is a recognition that, if you start a self-employed business, you do not make money from week one. My best guess, from what I understand is going on, is that it is probably going to be a period of about a year, but I do not think that that has been officially confirmed. They have said that you will be allowed one start-up every five years. Woe betide you if you start a self-employed business and it does not work and you come back with another idea in 18 months' time. It feels a bit like 'Dragon's Den', with DWP sitting round the table and no doubt Lord Freud, Iain Duncan Smith et al saying, "No. If you tried once, you are not going to get another chance to be self-employed, unless the minimum income kicks in straight away." That seems pretty harsh, because the whole purpose of this is to encourage people into work, and one way of getting people back to work is through self-employment.

2368. The other problem with a minimum income scenario is that, if you run a small business or are a single person, or if you are part of a family and you are self-employed, what happens when you fall ill and, suddenly, your income drops? You have still got the same minimum income. What happens if you go on maternity leave? Do you still have the same minimum income? We do not yet know what the arrangements are going to be. The Department has signalled, for example, that it is going

to manage the reporting on a monthly basis. Well, heaven help people who are self-employed if, every month, they have to report their income. Most people do not keep their accounts on a monthly basis; lots of people keep them quarterly, some six-monthly, and so on. That will require a level of discipline that does not reflect how self-employed organisations work in reality. It will also involve ebbs and flows on a month-to-month basis. It strikes me that it is going to create all sorts of issues around managing people's universal credit. There is a lot of work to be done around self-employment. If you look at the number of people who are in self-employment in Northern Ireland and the number who lose jobs and move into self-employment — the world of taxi-driving et al — it seems as if universal credit will, paradoxically, achieve the opposite of what was intended.

2369. Finally, you probably saw Tanni Grey-Thompson's report, which was backed by Disability Rights UK, Citizens Advice and the Children's Society. It outlined three areas where it sees people with disabilities being significantly worse off as a result of the change to universal credit. I do not need to go into the detail; it is in the paper. I know that the Department, to some extent, attempted to traduce the paper by saying that it was an exaggeration. There will be transitional protection for some of the groups that are mentioned here. The problem with transitional protection is that it will be eroded inexorably over time. So unlike, for example, public sector workers, who are having to face the austerity measures of pay freezes and so on, there is an assumption that eventually you will be paid more than you are currently being paid. Transitional protection does not work in that way. Slowly but surely, your income will drop until you are down to the level that new claimants of universal credit are at. What the Department did not say when it criticised the report was what will happen to new claimants of universal credit. What about young people with disabilities who cannot find work and who move into universal credit for the



first time? They are not going to find any transitional protection; they are going to be worse off straight away. There is a need to look at that and at the numbers of people who will be affected.

2370. Clause 11 is about housing costs, or housing credit, as it will be called. There is one important thing that I do not think people have picked up on. If you read the DWP explanatory memorandum for universal credit regulations, you can see that it makes clear that there is going to be a new “zero earnings rule” in universal credit for owner-occupiers. That means that, if you move into any form of work, you will lose help with mortgage interest. Let us say, hypothetically, that you are a lone parent who is getting help with the mortgage interest and you decide to do what the Government say you should do under universal credit, which is take a mini-job to see whether you can get into the world of work while still being able to pick up the children from school, etc. If you do, say, seven hours a week — under the zero earnings rule, you could do two hours a week — you will immediately lose all your help with mortgage interest. It seems to me that that is likely to have a chilling impact on the work incentive. You will have more generous earnings disregards, etc, but it strikes me as being a very tough rule indeed that says that, if you start any form of work, you will lose your help with your mortgage interest. Again, I think that you may want to press the Department on the rationale behind that rule.
2371. The other thing we do not know is the waiting period for housing costs. Currently, it is 13 weeks if you go onto income support, JSA or ESA, and that has been the case since January 2009. Before January 2009, you used to have to wait 26 weeks or, in most cases, 39 weeks before you got any help with your mortgage. They have not yet announced which of those they will do for universal credit. Clearly, that is quite an important issue.
2372. There is another thing to be aware of, and the Committee has probably picked up on this. At the moment, as you know,

more and more lone parents are moving to JSA as their youngest child turns seven; eventually, it will be when they turn five. If you are on income-related JSA for two years, you lose help with your mortgage interest. So, you have to find work in two years. If you do not, you lose help as an owner-occupier. If you happen to have only two years left to pay your mortgage and you are 61, it appears to be a case of, “Tough.” However, in the new arrangements, we understand that that will be transferred to universal credit, but it will now encompass a lot more people. It will no longer just be people who were on income-related JSA; it will also be people who are on income-related ESA, probably in the work-related activity group, and people who are on income support. It might pick up people who are on tax credits, etc. You may well find that a larger number of people will lose help with their mortgage interest. We need to know from the Department what other help will be available to people who lose their accommodation. That is the end of chapter 1. I will pause for breath for a second and then move onto chapter 2.

2373. Clause 14 deals with the claimant commitment. You have asked for a lot of information on that, and you might ask the Department about one other issue. I understand from DWP that both partners must sign the claimant commitment. If both partners do not sign it, you do not get benefit. There are ramifications of that. One of the advantages of doing advice work for a number of years is that I have regularly found people who, occasionally justifiably and occasionally unjustifiably, are at loggerheads with the Department and will say, “I am not signing a claimant commitment or the jobseeker’s agreement.” In the current situation, if one partner decides that, to somehow get at the other partner, they will not sign the commitment, neither partner gets any benefit and neither do the kids. If one partner has mental health problems and refuses to sign, the rest of the household does not get benefit. In our view, there ought to be prescribed conditions that say



that, if one partner signs the claimant commitment and is clearly committed to finding work and another does not for whatever reason, pay the single person rate, pay it to the person who has signed the claimant commitment and pay the amount for children. I think we could live with that. By all means, do not pay the couple rate if one member will not sign. However, the idea of saying that, unless you get your husband or wife or male or female partner to sign, you will not get any benefit at all seems to me to punish people and almost says to households, "Split up from your partner if you want to get any benefit". I am not sure that that is the most productive way forward. You might want to ask again about the claimant commitment. Let us have some sensible regulations that do not punish people who are not the cause of their own demise.

2374. Clauses 15 to 24 are the work-related requirements, and, again, you have asked for quite a lot of information about that. As you know, there are four categories you can be in. There are actually five, I suppose. The first one is that you have no requirements at all as you have just given birth and do not have to look for work — not for very long — or you are about to give birth. Then you have work-focused interviews, which are a relatively light-touch approach, and then the slightly more onerous work preparation, work search and work availability. The Department in Britain has signalled that, if you are in what is called the "all work requirements", at the moment, it is likely to be suggested that you have to show that you are spending 35 hours a week looking for work. If you are a carer or need childcare, it may be reduced. However, if you do not fall under any exemptions, you are expected to spend 35 hours a week looking for work. I will be candid with you: if I became unemployed tomorrow, I could probably spend 35 hours in the first couple of weeks looking for work. I could, no doubt, work on my CV, go to the jobs and benefits office and the library and do any number of things to prepare myself for work. I could write out to employers,

etc. If, after six weeks, I have done all that and got all that out there, could I put my hand on my heart and say that I could spend 35 hours a week looking for work? Not unless I was knocking on doors and saying, "Have you got a job?", or "Gissa job", as in the 1980s Alan Bleasdale plays. I do not know how you could spend 35 hours a week, 52 weeks a year physically looking for work. It almost sets up an impossible task. How the Department is going to enforce that and how it is going to say that there are things that you should be doing 35 hours a week, every week of every year, is a bit beyond me. However, that is what the intention is in Britain. I do not have a difficulty in saying that there is a very good training project and that you can spend 35 hours a week on training if it helps you to get work, etc, but, if you are not in that category, I do not quite know how you tell people that they have to spend 35 hours a week looking for work. It is clearly very onerous if you are in the all work requirements category. We need to know a bit more about what the operational arrangements are and how they will work.

2375. The other thing that I strongly urge you to look at is at the top of page 11 of my presentation. It is one of the nastier bits of the Bill, in that, to be quite candid, this Bill does not seem to like foreigners. I think that the Bill is bordering on the xenophobic. Look at paragraph 7 of schedule 1; it allows for regulations to provide that claimants from the EU with a right to reside who fall under the no work-related requirements, work-focused interview requirement only, etc, will be placed instead in the all work requirements category. Hypothetically, say that you are a Polish woman who has been here now for seven or eight years. You have worked for five or six years and you have had children here. Let us say that your young child has a disability. You will be expected to spend 35 hours a week looking for work. You will not be placed in any of the other requirement categories. If you have just given birth, it looks as if you will be expected to look for work 35 hours a week when

you are barely out of hospital. If, on the other hand, your next-door neighbour is in exactly the same circumstances and happens to be Irish or British, they will not be treated in the same way. Can someone tell me how that can possibly be lawful? Under the European Convention on Human Rights, a case called *Stec* states that both contributory and non-contributory benefits fall under the right to property. Article 14 of the convention states that you have a right to be free from discrimination. Treating EU migrant workers differently from indigenous local workers when it comes to looking for work is clearly discriminatory. There may be an objective justification for saying that a Polish woman who has just given birth has to look for work 35 hours a week but that somebody next door who is British or Irish does not. I cannot see an objective justification, and I urge you to talk to the lawyers and, perhaps, even the Attorney General's office to see whether they think that is lawful, because I do not think it will survive a legal challenge. In our view, it should not be enacted in this Bill. I do not think that it is being driven by officials. I think that it is being driven by politicians who have an antipathy to the EU. That is one area where I think there is scope for us to recognise that there needs to be a different approach.

2376. The other thing that is new is in clause 22, and that is that all work requirements can be imposed on claimants in work who earn below a specific threshold. If you are on tax credits at the moment and you work 16 hours a week, there is no requirement to say that, as you are only working part-time, it is about time you found full-time work. Under universal credit, if you are working 16 or 17 hours a week and your earnings are below a certain threshold, the notion is that you will be expected to still look for work on top of the part-time work you are doing, even if you have a sensible rationale for working part-time. In fairness, the Department in Britain has said that it wants to trial that before implementing it to see how it might work. So, it is not coming down the track

immediately. However, there are clear ramifications that DEL and the jobs and benefits offices are going to be biting off probably more than they can chew in getting people into work at all, and we appear to be saying that we are going to try to get them into full-time work rather than part-time work. We should probably start by trying to encourage people to get into work. My experience of most people who work part-time is that, if full-time work were out there, they would probably happily take it. They usually work part-time because that is the reality of the market that they are in, or that is the reality of the circumstances that they are in. So how much is to be gained from that? The sanctions regime will apply to people who are part-time working but who do not apply for full-time work. That does not strike me as a sensible use of resources. The reality for DEL and the jobs and benefits offices is that they are going to have to concentrate their resources where they can make most impact. If you keep bringing in things like this, all you will do is spread the resources more thinly. You will not concentrate them where you can get the most effective outcomes, and I think it is counterproductive. It is one of the areas that you might want to explore with colleagues behind me. I do not even want to look at Michael Pollock's face as he hears this list getting ever longer.

2377. The other thing is sanctions. You will not be surprised to learn that the Law Centre is not a big fan of sanctions. The level of sanctions and what the new arrangements will be are set out in a table on page 13 of our presentation. As you can see, it is a bit like a Bruce Forsyth game show: higher and lower. In this case, it is high, medium, low and lowest level. The high level is almost "Three strikes and you are out": it is three years off benefit if you offend for a third time within a certain period.
2378. There are a number of issues around sanctions. The first is whether they are proportionate, given the impact on the rest of the household including children. If, for whatever reason, I happen to fail to do something, should the rest of the

household be punished for up to three years? We think that that is too long. If we are going to live with sanctions, we do not see why we have to increase them to quite that significant level.

2379. Secondly, the regulations in Britain only allow five working days for a claimant to establish "good reason" before a sanction is applied. If we are going to increase the level of sanctions, it seems to me that it would be fair and proportionate to increase the time you have to explain why you have failed to do something. I will give you an example. Say that you did not sign on on Thursday because you had a family emergency; you were rushed to hospital or something happened to your partner or child. Let us say that that crisis lasted for the next 10 days or whatever. Then, you finally go and say, "I am really sorry that I did not sign on last Thursday. It was because my partner was involved in a car accident and ended up in hospital." Under those arrangements, you did not get back within five working days. To me, five working days seems to be a very tough time period within which to do something. You will not find five working days being imposed on the Department to do things anywhere in the social security system, yet we seem to be quite comfortable with imposing it upon claimants. I think that it should be increased to 15 working days. That allows people a bit of time to explain whatever it is that they have done and avoid the sanction. That is a recognition that, if we are going to increase the level of sanctions, we should increase the time period for people to do that. That will be in regulations, and we are keen to see that introduced.

2380. The second issue is in two clauses that I will come on to. DWP has already increased the sanction arrangements for people on JSA and ESA in advance to broadly align with universal credit. The line seems to be that we want to get into the swing of sanctions so that we align all this together. However, we are not aligning the apparent advantages of universal credit, so it feels like we are introducing the sticks in advance,

but not the carrots. With the best will in the world, if we are going to have sticks and carrots, we should introduce them at the same time. We do not have the work programme here; we will not have an equivalent until October 2013. We do not think that you should introduce sanctions or up the sanctions regime in ESA and JSA in advance. I do not think that is fair or appropriate. If we have not got the work programme and all the other advantages of better earnings disregards, etc, that should not be introduced.

2381. Clause 28 also introduces hardship payments in advance. Hardship payments are already a feature of the scheme. The difference between hardship payments under universal credit that may come in advance and the current ones is that you are going to give loans under the new system, not grants. Currently, if you reduce somebody's benefit in certain circumstances and they are in hardship and there is a sanction, it is not repayable. Under the new regime, it will be repayable. Again, that affects all members of the household, not just the person who is sanctioned. We have never been very keen on kicking somebody when they are down. This appears to me to be a bit like kicking someone when they are down. Again, we do not think that hardship payments under the new regime should be introduced in advance. We do not see why they should be loans. If you are going to reduce benefit by 40%, that is a pretty significant drop in income. You then force the person, when they come out of the sanction period, which will be a much longer period, to pay the money back. You will have families going into serious crises, and somewhere else in the system will have to pick that up, whether it is the social fund or social services. All you will do is spend money elsewhere to shore up somebody who is in crisis, so it will not save very much money and it does not make sense.

2382. We are now on chapter 3. I am not sure that the Welfare Reform Bill would make it into 'Book at Bedtime'. Clause 31

- relates to regulation-making powers. I mentioned paragraph 7 of schedule 1, which refers to how people from EU countries will be treated. I suspect that one of your questions will be whether that includes people coming from the South to the North. I think the answer is probably no, because I suspect the arrangements will protect those in the common travel area. So, it will probably be people outside these islands. I have not seen that for definite but, looking at other arrangements, that is my best guess. However, it will not protect Portuguese, German, Polish, Latvian, etc.
2383. Clause 42 relates to pilot schemes. You may wish to ask what, if any, pilot schemes we are thinking of introducing here. I am not aware of any, and that clause may be there just in case, but you might want to ask.
2384. Clause 47 relates to sanctions arrangements. That is the clause that introduces sanctions in advance for JSA. We do not see the need for an in advance introduction.
2385. Clause 52 deals with the ESA restriction of entitlement. That is one of the big-ticket items. If you are on contributory ESA for 12 months and you are in the work-related activity group, you will lose benefit. The particularly significant issue for us here is that you will lose benefit straight away if you have already been on ESA for 12 months. So, the day this is introduced, a large number of people will drop out of the system.
2386. I have not seen figures for Northern Ireland, and we probably should ask for them. However, I remember that, in the equality impact assessment in Britain, 48% of the people who will fall out of the benefit system altogether as a result of this are aged 50 or over. That is because older workers are more likely to have partners who are also in work and therefore they will not be able to go onto means-tested benefits, or older workers are more likely to have savings ready for retirement of above £16,000 and therefore will not be on means-tested benefits until they erode the savings that were supposed to be for old age.
2387. It strikes me that this one comes at a cost, and it is in the explanatory memorandum: £12 million in year 1, £52 million in year 2 and £56 million in year 3. I understand that doing something different has a pretty significant price tag attached to it. I am not sure about those figures and whether they take into account how much it would cost if you took into account the proportion of people who go onto income-related ESA or income-related JSA, which may reduce the figures. You may want to interrogate that a bit further. It is possible, I guess, that you could look at amendments that say that this should not apply to claimants over a certain age. Alternatively, you could look at having a clause that says that the clock should start ticking from the date that this comes in, so at least you would give people 12 months' notice rather than saying that claimants who have been on ESA for two years would come off it the next day. That might be more equitable.
2388. ESA in youth is, effectively, a benefit paid to young people under the age of 20 who have not made national insurance contributions and are clearly quite severely disabled. The numbers are fairly small, and the current cost is estimated at just under £400,000 a year. It seems to me that that might be one of the areas in which some of the social protection fund money might sensibly be spent, if need be. We think that ESA in youth, particularly for young people with severe disabilities, is a reasonable benefit. As far as I can see, there is no great rationale for getting rid of it other than to save money.
2389. I have already spoken about clauses 57 and 58, which allow the new sanctions regime for ESA to come into effect in advance.
2390. Clauses 61, 62 and 63 create the new requirements for claimants to have an entitlement to work for contributory benefits, including maternity allowance and statutory maternity, paternity and adoption pay. This is really aimed at people who are subject to immigration control. Again, the current rules say



- that means-tested benefits are public funds. Therefore, if you are subject to immigration control, you cannot get means-tested benefits. However, if you are here, for example, under a work visa or other arrangement and have paid your national insurance contributions, having worked legally, and are then in a dispute with the UK Border Agency (UKBA) about whether you are entitled to remain, you will not be able to access contributory benefits. If you have worked here lawfully and paid your national insurance contributions, why on earth should you not be entitled to claim those contributory benefits? This will not affect very many people, but it seems to be another of these issues in the Bill that demonstrates an obsession with people from abroad getting benefit. If someone has a partner who has worked and paid national insurance contributions, they will not be entitled to maternity benefits on the basis of his or her contributions. I cannot, for the life of me, see what this is about other than an antipathy towards people from abroad. That should not be the basis on which you legislate. Sorry, that is my rant over with on that one.
2391. One of the key clauses, clause 69, concerns housing benefit and has two elements. The first is the issue of how the levels of local housing allowance will be calculated. They will go up on the basis of the lower rate of the consumer price index (CPI) or what has happened to the 30th percentile in the private rented sector, whichever is the lower. Currently, it is based only on the 30th percentile. In April, a regulation came in to pave the way for this. In the past 15 years, average inflation on the basis of the CPI has been around 2%, and the average rent increase in the bottom 30% has been around 4%. At present, claimants are expected to look for accommodation in the bottom 30% of the market. Almost certainly, that will be inexorably eroded to become the bottom 28%, 26%, 25%, and, eventually people will be trying to find accommodation in a very small part of the private rented sector if they want to have any chance of their full rent being met. That is before all the housing benefit cuts that have already been introduced come into play. It seems to me that it is being made more and more difficult for claimants on benefit to get into the private rented sector. We will make it very difficult for people who are already in the private rented sector, have paid rent while in work, et cetera, and then fallen out of work to stay in their accommodation. It is tough enough when you lose your job. How losing your job and accommodation at the same time would help you to get back into work is beyond me. It seems to me, therefore, potentially counterproductive.
2392. The second part of clause 69 is our dear friend, the size-related element of housing credit for people of working age who live in public sector housing, or the “bedroom tax” as everybody else likes to call it. As you know, that will lead to reductions. Someone who “over-occupies” one bedroom will lose 14% of their maximum eligible housing benefit; for two bedrooms, the loss will be 25%. The draft regulations in Britain suggest very few exceptions to the rule. If someone is in what is called “supported accommodation” — the kind of accommodation that is registered, et cetera — that will not apply. Beyond that, there are very few exemptions. A foster carer, for example, who has a spare bedroom between placements, will be expected to have their housing benefit cut. Although there is no doubt that people could ask for discretionary housing payments, et cetera, why we should make life more difficult for foster carers who do the state a very considerable favour is beyond me.
2393. If, on the other hand, the rules are equivalent to those for the private sector, again, I think that there are issues of lawfulness. The bedroom tax, if you like, has existed in the private rented sector for some time. Recently, the rules were challenged on the basis that exceptions did not include people who needed a spare bedroom for full-time carers or people who had two children under 10 years of age, both with disabilities, where it was impractical for them to share a bedroom. One

child with a disability was keeping the other child up every night, so separate bedrooms were needed because of the care required by each child. The courts found that both cases were unlawful under the European Convention on Human Rights and the Human Rights Act 1998. The DWP then accepted that needing a full-time carer and an extra bedroom would become an exemption. The second challenge was because two children under 10 years of age — the particular case involved a 10-year-old and an eight-year-old — were being told to share the same bedroom even though both had disabilities. That, however, was not an exemption — do not ask me why — which gives you an example of how narrowly the exemptions are being crafted.

2394. Presumably, families in that situation are expected to ask the Housing Executive for discretionary housing payments. The Housing Executive and local authorities are being told by DWP in Britain that those exemptions and discretionary housing payments should not be paid in perpetuity, but for a period to allow claimants to do something different. Well, unless a claimant's child recovers from the disability, I am not quite sure when and on what basis that claimant will suddenly be able to get out of that situation. You are aware of many of the other concerns that the Law Centre has about this, such as how exactly the Housing Executive will be able to implement it in practice. It is another provision that comes with a rather bloodcurdling price tag with regard to the expected savings: £15 million in year one and much more thereafter. However, I am not sure whether £15 million would be saved after the discretionary housing payments have been paid or before, so I want to ask about that.
2395. I do not think that this provision should be implemented until the Housing Executive and housing associations have a credible plan for how to deal with it. It is one thing to tell people, "We will give you an alternative, and here are proposals that allow you to avoid a cut in housing benefit." However, if an

alternative cannot be offered, it seems unreasonable to start reducing people's housing benefit. If there is no offer of an alternative in the public rented sector, that is, effectively, telling people to move into the private rented sector. First, if you move into the private rented sector, it will probably not be cheaper; secondly, given all the new rules in the private rented sector, you will not get all of your housing benefit anyway; and, thirdly, you will find it very difficult to find accommodation in the private rented sector because, of course, you are looking in the bottom 30%, or 25%, or whatever it happens to be when the CPI new rules kick in.

2396. So we need to find creative ways to deal with the issue. Having been involved in discussions with Lord Freud, I know that he understands that we also have issues with single identity estates. Our housing stock is such that we do not have the deftness to say to people from the New Lodge that there is accommodation in Tiger's Bay that is more suitable to their needs, or vice versa, and so they can just move across the road. The current reality, for perfectly understandable reasons, is that, in certain estates, it would be very difficult to make that a credible option. That is not going over the top about where we are; it is the reality of life in Northern Ireland, and you all know that as well as I do.
2397. There are a number of things that we could do to make this better: we could decide to apply it only to people over a certain age; or we could make sure that the regulations include far more exemptions than in Britain. There are discussions to be had about what the clauses or amendments might look like. I recognise that simply saying that we should not implement it carries with it a very considerable price tag. I realise that this is a very challenging issue for political parties in the Assembly.
2398. We are galloping on. There is an issue about discretionary payments, and I know that you are looking closely at what the new son or daughter of the social fund will look like. It is pretty clear



- to me that, unless I am missing a trick, the existing social fund will remain after April 2013. For the life of me, I cannot see how a new scheme can be put in place, with all the consultation complete and the implementation and IT issues resolved, by April 2013. It is important that we get a timetable and a sense of when that will be in place.
2399. The personal independence payment (PIP) is another difficult one. In our submission, we flagged up some of the changes from disability living allowance (DLA) to PIP that are not clear. To qualify for DLA, a person must have had a particular form of ill health or disability for three months previous to an application for benefit and be likely to have it for six months afterwards. To qualify for PIP, the periods will be three months before and nine months afterwards, which is a slightly adverse increase.
2400. Under DLA, when a claimant's condition has deteriorated and the claimant makes a new claim within 12 months of a previous one, he or she does not have to serve the three-month waiting period. People who have fluctuating conditions that worsen again within 12 months do not have to undergo another three-month wait. Under DLA, that was allowed if a condition worsened within two years. So the period in which the fluctuating condition can come back has been halved. Rheumatoid arthritis is a very good example: some people can go into remission but it then comes back very severely. Under PIP, if the condition happens to come back 18 months after the claimant was in remission, he or she must serve another three-month waiting period. I cannot see any rationale for that other than saving money.
2401. A new residence and presence test is being introduced. The old one was held to be unlawful by the European Court of Justice. The detail is not in the Bill, but we understand from the Department that, under the new test, claimants will have to have been in the UK for two of the past three years. Again, that is clearly aimed at telling migrant workers that it will be harder for them to pass that test. A migrant worker might have been here for 18 months when they suffered an accident at work, and they would have been likely to qualify for DLA. Why should they have to have been here for at least two of the past three years? The test is primarily aimed at people from abroad, and, interestingly, another example of a particular obsession on the part of Ministers.
2402. The provision on PIP and prisoners is an improvement. I will give you the rationale for that. PIP will be paid for 28 days to prisoners or people held on remand who are already on PIP. Currently, DLA stops on the day of imprisonment or being placed on remand. The reason for giving PIP for up to 28 days is that there are loads of overpayments of DLA to people who move into prison for short periods. Given the time taken to recover that money, it is more sensible to pay PIP for 28 days before recovering any overpayment, because many of the overpayments to people who go in to prison are small. Currently, under DLA, if someone is held on remand but then not sentenced to imprisonment because the charges are dropped, the conviction quashed, or it is clear that they should not have been held on remand at all and that the authorities had the wrong person, benefit is paid back when the individual comes off remand, which can be a very long period. However, under PIP, the person's benefit will not be paid back. So if there is a miscarriage of justice and the individual happens to be disabled, that is just tough. I guess the rationale is that they will get all the support that they need for their disability when in prison. Well, unless prison conditions have changed since the last time I visited any HMPS establishment, I have my doubts. However, on principle, if you wrongly lock up somebody who has a disability and is entitled to benefit, and you then release them and recognise your error, frankly, it seems to me that you ought to restore the benefit. The rules, however, say otherwise.
2403. Finally, the rules on temporary absence from the UK will be made tougher. They will allow entitlement to PIP for only four

weeks, or up to 26 weeks if a claimant goes abroad for treatment. Under DLA, temporary absences of up to 26 weeks do not normally affect entitlement. I have heard that the Government might ameliorate that by making it eight rather than four weeks. Again, to my mind, that is one of those areas where, when you compare the amount of money saved with the difficulties created, it is probably not worth it.

2404. In Part 5, clause 95 deals with the benefit cap. You know our views on the benefit cap — they are on the record. We now know how much it is intended to save in years 1 and 2. I would be fascinated to know what those figures are based on and how many people DWP think will be affected. Last week, DWP issued figures on whom it thinks will be affected by the benefit cap in England, Scotland and Wales. It would be very helpful if the Department here issued something similar so that we could get a feel for who will be affected. In other words, we want to know how many children the Department thinks that people will have, what proportion of parents will be lone parents and what the proportion will be in England, Scotland and Wales. We need more figures.
2405. My view is that we should consider amending the clause on the benefit cap. It should state that, if you are receiving carer's allowance and looking after somebody full time; are on a widow's or bereavement benefit; or have worked long enough to pay contributory-based ESA, those benefits should exempt you from the cap. That would at least ameliorate the impact, although I would prefer no benefit cap. I think that we should extend the current exemptions from just DLA, attendance allowance, war widow's and widower's pensions, the support component of ESA and industrial injuries benefits to those other benefits. The Law Centre urges such an amendment.
2406. There are issues with the recovery of overpayments. Under the current rules, the Department can recover an overpayment if someone misrepresents

their circumstances, accidentally or otherwise, or fails to disclose something. If a person does something wrong that causes an overpayment, the Department can recover it. Under the new rules, it does not matter how the overpayment arises; the Department will recover it. So even if the overpayment is the Department's fault, and the person affected has not contributed to that, it will still be able to recover the money. In fairness, that is what HMRC can do with tax credits at present, although it has a code of practice on when it will and will not recover. The Department is talking about having some guidance on this. However, I think that, before the legislation is enacted, we need to see under exactly which circumstances the Department will and will not recover overpayments. As the Bill stands, the Department will have carte blanche to recover overpayments, even when the overpayment is clearly its fault and the claimant has not contributed to that in any way. It is worth noting that the clauses also give very considerable additional powers to recover the money by going to employers without, as happens at present, going through the court. In addition, if an employer does not co-operate and comply with the court order, they will face a criminal sanction. I do not know whether small employers realise that this is coming down the track, but I do not suppose that they will be overly keen when they hear about it. Interestingly, there will also be an administrative charge. So if you get an overpayment that has to be recovered, you will also pay for your employer to take it out your wages. The sum being proposed in the regulations is not that significant, but it is there. All of these provisions are quite new, and this is probably not one that people have majored in.

2407. Penalties for benefit fraud will increase considerably. The Law Centre does not condone fraud. We recognise that there are criminal sanctions for fraud and that that is appropriate. This provision, however, disproportionately ramps up the penalties. If, for example, something is not disclosed and it turns out that

- there is no overpayment — nothing has been gained from the non-disclosure — the proposal is to introduce a new penalty. It will state that a minimum amount of £350 can be paid to avoid prosecution. The period for which the person will also be off benefit, which is up to four weeks, means that they could find themselves, despite not having taken any money off the state in benefit, facing a £350 penalty plus four weeks off benefit. The cooling-off period is being reduced from 28 days to 14 days. As set out in my submission, there will be increased rules for sanctions if more than one offence is committed within a certain period, etc. A new civil penalty for incorrect statements and failure to disclose information will be introduced — that £50 penalty was introduced in Britain on 1 October. Interestingly, although HMRC has these powers, it very rarely uses them. When we look at DWP's anticipated income from civil penalties, it appears that it intends use them to a far greater extent than HMRC. You might want to ask the Department for Social Development (DSD) about how often it intends to use civil penalties and how much it thinks that it will raise from them. If you believe DWP, civil penalties will be handed out with about the same alacrity as parking tickets on market day in any town near you.
2408. We have a concern about clause 130, but not about the clause itself. I am still unclear on something, and perhaps the Committee is as well, so I would welcome clarification. In Britain, as part of the localism agenda, council tax benefit has been moved from central government. Local authorities have been told that they can implement their own council tax benefit scheme. However, to do that, they have 10% less to spend than central government had. In other words, local authorities have to do it more cheaply. The argument is that, somehow, money can be saved through local implementation. I am not clear whether our rate rebate scheme will have to be 10% less generous. I have heard various answers to my questions. I am not sure whether we will reduce our rate rebate scheme or how we will deal with the apparent issue of where that 10% saving will be made. As I understand it, if such a saving were to be made here, it could be as much as £10 million, so we need to know what is happening with the rate rebate scheme.
2409. I am sorry that that was such a lengthy narration — I am a man of not few words. I am more than happy to answer any questions.
2410. **The Chairperson:** Les, thank you. That was very helpful and explanatory on a whole range of issues. It added to your previous presentations to us. All have been very helpful in shaping the minds of members.
2411. **Mr Brady:** Thanks, Les. That was extremely comprehensive, and you covered most of the issues that I wanted to ask about. There is just the matter of financial conditions. As you said, currently, the pension credit cap is open-ended. Obviously, there is then a sliding scale when £1 is lost for every £250 or £500. Those who qualify for only a very small amount can get a passported benefit, but that will be affected by the introduction of universal credit, which will rule out fairly large numbers of older people.
2412. The waiting period for universal credit needs to be clarified. They may opt for 39 weeks' help with a mortgage, but my experience of that was that it affected a lot of people very adversely. In many cases, it led to people having to give up their houses or to repossession.
2413. In the claimant commitment, is one partner signing the equivalent of a split payment?
2414. **Mr Allamby:** Yes.
2415. **Mr Brady:** If accepted, that could be factored in. Someone may have mental health problems. Years ago, I had a case of a man who was a paranoid schizophrenic. He spent all day in bed and all night up in the attic tramping about and keeping everybody else awake, refusing to have anything to do with anybody, so his wife had to find out what benefits they might be entitled to.

- In a sense, she was totally isolated from him. Those cases do happen, and they are probably more commonplace than most people think.
2416. The other issue, which you also covered, is the requirement to look for work for 35 hours a week, which is completely ridiculous. People will be fired up about that, particularly at the moment. Statistics from the Department show that there are 5·8 applicants for every available job. There was an item on the radio last week about Kilkeel, where 446 people are signing on, but only nine jobs are available. I am sure that the remaining 437 will not necessarily want to spend 35 hours looking for jobs that are simply not available.
2417. The xenophobia that you highlighted is just the Bill carrying on Tory policy from Peter Lilley in 1995, when the concept of habitual residence was introduced. That also affects people who are not necessarily foreign nationals; it could affect somebody who was born here, lived here for 20 years, went to work in America or Australia and then came back and had to show that they were habitually resident. The case law on that is arbitrary: some offices accept that someone is here for two weeks; others say that people have to be here for three months and show all sorts of proof. Those issues need to be clarified.
2418. Last week, we asked the officials about sanctions. What happens when a person who is convicted of fraud and spends two years in jail, but has had sanctions of three years imposed, leaves jail facing another complete year without benefit? If hardship payments are to be recovered, that leaves the individual in an almost impossible position. What happens to the partner and children? Who then becomes the claimant? If the person is back in the household and the two are living together as a couple, they would normally have to claim as a couple. If the partner was looking for work, surely both would have to sign the claimant commitment. All sorts of issues need to be resolved.
2419. Another concern is the erosion of benefits for young people. Severe disablement allowance has already been abolished. In my experience, the young people who were getting severe disablement allowance had quite severe learning difficulties. When that allowance was abolished, there was young person's incapacity benefit, for which the contribution conditions were waived. Now, those young people will have to be absorbed into the pool and, presumably, have to make themselves available, or show whether they are capable. It is worse than we thought, to be honest with you. I mean, Jesus, I was depressed enough —
2420. **Ms P Bradley:** You are now really depressed, Mickey.
2421. **Mr Brady:** — and I mean that in the nicest possible way. I think that we are all really depressed after that. You covered some issues that had been raised before, but provided more detail. It is certainly not a pleasant picture that you paint. There are a lot of answers that may or may not come back. Irrespective of the statement yesterday, the Department seems to be wedded to the whole concept of “welfare reform”.
2422. **Mr Allamby:** One of my ambitions in life is, one day, to come to the Social Development Committee and leave it more cheery than when I start. However, I have yet to realise that ambition.  
[Laughter.]
2423. **The Chairperson:** You might need to consider bringing a box of mulled wine or something. [Laughter.]
2424. **Mr Allamby:** It may take that.
2425. **The Chairperson:** Members are open to offers.
2426. **Mr Allamby:** You are quite right about the waiting period for mortgage interest. One of the arguments that I have heard advanced by DWP is that, because they have mortgage interest to pay, owner-occupiers have a real incentive to get back to work. If they have to wait even 13 weeks, never mind 39 weeks, they



will really be wanting to get back into work.

2427. That is fine, well and good. The problem is that, given the number of jobs out there and the number of people looking for them, even the most assiduous person, who has lost his or her job but who wants to find work tomorrow, will find it hard to get a job straight away. That is the case even if people are flexible and willing to work unsociable hours, and so on. Some people who are homeowners will, if the period changes to 39 weeks, which equates to nine months without having the mortgage paid, find that really difficult to deal with. If you have worked for 20 years and have built up savings, you might well be able to manage it. You might if you have insurance. However, for people who are unemployed, the insurance market has suffered because of various other things that have happened with insurance products, and I think that that will affect some people very adversely.

2428. You mentioned the idea about the EU stuff. We have had lots of examples of UK and Irish nationals returning to Northern Ireland who have fallen foul, for at least a period, of the habitual residence test. We have had everything: people who have come back, either temporarily or permanently, to look after parents who are seriously ill; people who had gone abroad but whose marriage has broken down and who have decided to come back to Northern Ireland; and people who have decided to come back to Northern Ireland for whatever reason. Unless there is something in the regulations that makes exceptions for those people, some will find it tough to get into the universal credit system when they first come back — even if they are coming back for reasons that will probably save the government money. If you come back to look after your mother or father who is now terminally ill, for a year or whatever, it is pretty harsh to say that there will be a period before we will give you any benefit, even though you are probably saving us a very considerable sum of

money by doing that. Yes, we need to look at what the regulations will contain.

2429. As to fraud, yesterday I understood that we were going to have an “intelligent approach” to the issues. We would have retribution on the one hand and rehabilitation on the other. However, the Bill seems to be a bit stronger on retribution, and I do not see much on rehabilitation. If you remove benefit for up to three years in some circumstances, it strikes me that you are probably removing it from people who have been punished once, and probably quite rightly. If you make it almost impossible for them to go back to their family without them losing all their income and having to work through all that, you are saying to the family that it must split from the person, which is presumably not going to be very good for rehabilitation. I suspect that most prisoners will find it easier to make their way back into society if they have family support. Or you push families into the fiction of pretending that separation has occurred when it has not. That is not a very attractive proposition, either for the state or the family. It does not seem to me to be, to use the Prime Minister’s words, an “intelligent approach” to the issues.

2430. **Mr Brady:** I will raise just one other thing that I meant to mention, Les. When people fall below a specific threshold — let us say that they are in part-time work — they will have to go into the work capability stuff. I am sorry, but I mean that they will have to be actively seeking work — whatever the terminology is. When officials told us about universal credit and the tapers, they said that it was designed to encourage people to move in and out of part-time work. Essentially, however, they are saying in this that people will be penalised if they go below a certain amount. As you say, if you have a part-time job and are doing the required minimum hours, you will still get some tax credit.

2431. **Mr Allamby:** As I understand it, the threshold will not be hours as such but earnings. In other words, if you are in very lucrative part-time work that gets

you out of universal credit, that is fine — you can do that part-time work. I do not think that it has really been formulated how that will work for a part-time worker on universal credit. That is why the Government want to do pilots, and they have said that they are not going to introduce it straight away. They are going to run some pilots, and I am not sure where those are at. The powers are in this Bill, and were in the Bill in Britain, to say that, just because you are doing 17 and a half hours a week, it does not mean that you will not be expected to look for work. You are not going to be expected to look for work for 35 hours a week, but, in theory, I guess that you should be looking for work in the other 17 and a half hours.

2432. **Mr Brady:** The difficulty with pilot schemes is that one might be run in the south-east of England, where more full-time or part-time employment may be available. The results of that scheme could be favourable or more encouraging, and its results could be imposed here. That happened in the previous mandate where pilots were run on certain issues. That is not parity, because parity compares like to like. In our area, we have the highest unemployment figures since 1997. If there is to be a pilot scheme, it has to be equitable, in that it has to be run here to reflect local circumstances. Unfortunately, that did not happen previously. I assume that the British Government have no intention of doing it here at the moment.
2433. **Mr Allamby:** If I were DEL, I would be looking at this aghast. DEL will have its work cut out. It has large numbers of people migrating from incapacity benefit to employment and support allowance who, for the first time, will come into the work-related activity group. That is already happening. Therefore, there is already a new cohort of people whom you will be working with who are, to use the terminology used, a long way from the labour market. There is intensive work to do with that group. There are increasing numbers of unemployed people. Increasingly, DEL will have to engage with both the husband and wife or the male and female partner in looking for work. On top of that, DEL is taking on the challenge of people who are in work part-time and working with them to find full-time work. It looks as though the average person in a jobs and benefits office through DEL will be spending more than 35 hours a week dealing with this, because it is an enormous undertaking.
2434. Our view has always been that you should use what limited resources you have — DEL will tell you that its resources are limited in a jobs and benefits office — where you can the most effective outcomes. It seems to me that that means, without writing anyone off, working with people who have 40 years of their working life left rather than with people who have five years of their working life left. At the moment, I do not get any sense that any of that is being considered.
2435. We should have a lighter-touch arrangement on sanctions and on what you have to do to look for work for someone who is 60, for example, than for someone who is 20. Should the same level of resources be spent to encourage or help back into work a person who is 60 and in poor health when the time that that person will spend in work will be relatively limited compared with that of someone who is 20? It is a tough call, but, if you have limited resources, you have to make those tough calls.
2436. **Mr Brady:** It is not that long ago that, when they reached the age of 50, people did not have to sign on. Now, people with a younger partner will have to be absorbed into that market, if you like. They could be in their late sixties. The example that you gave was of someone who is 71. That adds another tier to the people who may be considered.
2437. **Mr Allamby:** Absolutely.
2438. **Mr Copeland:** Thank you, Les, for an interesting afternoon.
2439. **Mr Brady:** Depressing.



2440. **Mr Copeland:** It is very depressing, because I can picture someone whom I know in every category that you raised. What is waiting for them is not particularly pleasant.
2441. Les, you may be aware of concerns in some quarters, if not all, regarding the compliance with human rights legislation and, particularly, equality. You may also be aware of the findings in the report of the joint Lords and Commons Committee, which highlighted concerns. Are you sighted on the level of discussions that have taken place between the relevant commissions here and the Department to ensure that we are not in the process of enshrining or recommending something in law that will subsequently be open to successful challenge?
2442. **Mr Allamby:** I am not. I know that the Human Rights Commission has commissioned a piece of work. It may have been published, but I am not sure. It commissioned that piece of work to look at the human rights implications of the Welfare Reform Bill. I am not sure whether it is in the public domain; I just know that the work has been done.
2443. I know that the Human Rights Commission was looking at producing a submission for you, so, if one is not with you, I am pretty sure that you will be getting it. I am not sure what is happening on the Equality Commission side.
2444. There are a number of things in the Bill, and I will put them into two categories. There are potential human rights challenges, the strongest of which relates to the idea that EU migrants have to be in the all-work requirement, regardless of their circumstances. I would much rather be arguing our case than arguing the Department's case.
2445. There are other potential legal challenges out there, and I have mentioned them. There is the potential to challenge the ESA reduction straight away if you have been on 52 weeks, for example. I will put my hand on my heart and say that that would be a much tougher case to win. There are potential challenges to some of the housing issues, such as the size-related element, particularly if the Housing Executive and housing associations have not got credible alternatives to offer people. There are legal challenges there. Again, I will put my hand on my heart and say that there are arguments that the Department can make.
2446. Therefore, there are some areas in which it would be very difficult to call. There are other areas in which, I think, the Department will find it a struggle to win a legal argument. That is why it might be worth getting some of your in-house advice and possibly exploring with the Human Rights Commission, for example, whether it thinks that there are issues, particularly with migrant workers.
2447. I am a lawyer. I know what lawyers will attempt to do, in most areas. If you ask lawyers whether they can argue against something, they will sometimes say that there is absolutely no argument, but, on most things, they will say that there is a credible argument. In some cases, they will have a credible argument, but, in others, there will be a struggle to provide one. I do not know how you would quantify the costs that would be saved. If migrant workers fall into the all-work requirement, as local workers, they should be subject to the same conditions. However, if they do not, because they are a full-time carer, have just given birth or are doing any of the other things that arise, they should be treated the same as anybody else.
2448. **Mr Copeland:** There should be parity.
2449. **Mr Allamby:** Yes. Parity appears to apply only —
2450. **Mr Copeland:** There is selective parity.
2451. **Mr Allamby:** Yes. There does not seem to be parity across the European Union, but that is probably going a bit far, even by my standards.
2452. **The Chairperson:** There are no more questions, but I have a couple of points to make. This is timely, given your last

point. Next Tuesday, we will hear from the Equality Commission and the Human Rights Commission, among a number of other stakeholders. We will be taking advice and evidence from both of those organisations. We intend to look at some of the, if you like, legalese points that you raised. We will likely take advice from Assembly Legal Services. That will be available to us.

2453. Les, we have taken note of your contribution today, your submission and your responses to Committee members' questions. I thank you for your comprehensive presentation. As always, it was very informative and provided an expert point of view. I thank you, and I thank members for diligently pursuing your presentation. No doubt, we will take your views on board. Obviously, you know the process that we are involved in. This is the Bill's Committee Stage, and it will be followed by Consideration Stage. This is part of the evidence-gathering, which will continue. Our schedule dictates that we are due to finalise our report by 27 November.
2454. **Mr Allamby:** Thank you. If you are feeling overly euphoric and need to be brought back down to earth, I will come back to talk to you at any stage.
2455. **Mr Brady:** That is not going to happen before 27 November anyway.



## 23 October 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Michael Copeland  
 Mr Mark Durkan  
 Mr Fra McCann

### Witnesses:

Ms Sharon Burnett	<i>Causeway Women's Aid</i>
Ms Bronagh Hinds	<i>DemocraShe</i>
Ms Marie Cavanagh	<i>Gingerbread NI</i>
Ms Lynn Carvill	<i>Women's Resource and Development Agency</i>

2456. **The Chairperson:** Good morning. I formally welcome Lynn Carvill, who is representing the Women's Resource and Development Agency (WRDA); Bronagh Hinds; Marie Cavanagh; and Sharon Burnett. We are familiar with most of you as we have engaged with you before. Thank you for coming this morning. I invite you to present to the Committee. You know we are at Committee Stage. Last week, we had an explanation from the Department about the content of the Bill. Members have tried to satisfy themselves with the content of the Bill and its intentions, clause by clause. We are now involved in engaging with a range of stakeholders, some of whom we have heard from before. That has been very helpful for the Committee's understanding in the past year or so. Without any further ado, please brief the Committee as you see fit, bearing in mind the fact that we had some announcements in the Assembly yesterday from the Minister. I presume that you are aware of that and may have considered it.

2457. **Ms Lynn Carvill (Women's Resource and Development Agency):** Thank you very much for having us here to speak to you today. We have gone through the

hours and hours of debate that took place on welfare reform. We have also gone through the DSD evidence from the session that you had with the civil servants, and the Minister's statements and answers to questions yesterday. We were quite off the hoof yesterday afternoon trying to bring those into our session today. We have prepared a paper and are going to go through some of the issues outlined in the paper, and then maybe you can ask some questions around those issues.

2458. The evidence that we are giving today should be read alongside the paper that we presented to the Committee on 20 June, in which we outlined how welfare reform sacrifices women. I have noticed that the paper is not included as part of the evidence. It is not in the Hansard report, so it is perhaps important that we put that in again.

2459. This welfare reform reduces women's capacity to work, economic autonomy, 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.

2460. Yesterday, the Minister for Social Development 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. Those 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.

2461. We are disappointed at how little account has been taken of women's needs and circumstances, and we urge the Committee for Social Development to press for further progress on that and to make sure that the flexibility permitted in the legislation is not narrowed in regulations and guidelines or by an unresponsive IT system. You will see in our paper that we have listed some of the key issues, which I am not going to read out, because we are going to be talking about them further down the line.
2462. The processes for adopting legislation and regulations lack coherence and transparency, which may lead to failure to make fair and good arrangements. It is our view that it is essential to obtain acceptable cast-iron commitments and statements of intent on the application of the law and regulations in certain areas before agreeing to pass the Bill. I am now going to pass over to Bronagh.
2463. **Ms Bronagh Hinds (DemocraShe):** I want to speak to you about our central issue, on which we have seen little movement. I even refer to the question about split payments, but, nevertheless, we do not see the movement that we need to see. This refers to clauses 2 to 5 and clauses 97 to 99, which, I note, you did not get through with the DSD officials. In fact, you were only focusing up to clause 40, but there are some critical elements in other clauses of the Bill that relate to welfare reform.
2464. Clauses 2 to 5 provide that couples must make a joint claim for universal credit and that both claimants must meet the basic conditions and jointly meet the financial conditions. Regulations may provide for exceptions to the basic conditions in clause 4, but there is no exception provided for financial conditions in clause 5. The question therefore arises as to what happens on relationship breakdown before that breakdown is formalised or recognised, when, at that time, presumably, single or split 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 that?
2465. Clause 97 amends section 5 of the Administration Act to allow for joint claims by enabling one person to make a joint claim on behalf of another. The main applicant, as it has been called, is most likely to be male, and he is likely not just to make the claim but to receive the single universal credit payment unless there is intervention to regulate otherwise. If that is allowed to become normal practice, it would be a backward step to the old male head-of-household model, which will have consequences, as we know from past experience. We had that model for many years. Women in couples will lose all direct financial support and economic independence. There are also additional worrying duplications for children and abused women.
2466. Under clause 99, payments can be regulated differently, if we have read the Bill correctly. In amending section 5 of the Social Security Administration Act 1992, clause 99 provides the Department for Social Development:
- "in the case of a benefit awarded to persons jointly, 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."*
2467. Despite those powers, the Minister announced that there will be a single household payment for the majority of claimants, with flexibility for split payment only when necessary in a limited set of circumstances laid down in the guidelines. I refer to the Minister's statement and the DSD advice to this Committee two weeks ago, which were the same. He declared:
- "If we can avoid split payments, so much the better."*

2468. That 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 payments and come forward to present a case if there is a need to do so"*

2469. does not appreciate women's reduced access to income, including vulnerable women suffering financial and other domestic abuse.

2470. There should be a cast-iron commitment or 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 because it is likely that the main earner will be male but, on occasion, it may be the other partner, and (ii) as a split payment where neither person in the couple is working. Our interpretation of clause 99 is that it would allow that.

2471. 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, who is normally the man. The UK Government — not us; we are not saying this — acknowledged that they have reduced rewards for the second earner and weakened women's incentive to work. It actually takes more money from them because of the way the taper works for the second earner. That was not brought to your attention.

2472. The fact is that women are more likely to have no earned income of their own. When they work, their income will normally be less than their partners and they will not receive the single universal credit payment unless there is intervention to redirect that income to them. This is extremely serious. We urge the Committee to press the Minister to implement our proposal on who to pay universal credit to.

2473. **Our approach will resolve several problems:** it will provide the right economic arrangements in which the interests of the child are safeguarded best; it will not transfer all financial resources from the purse to the wallet, leaving women unequal and vulnerable without any independent means of support; 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; it will assist in overcoming the financial abuse of women that is part of domestic violence and abuse; and 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 the male main applicant to whom the payment will be made.

2474. Women's organisations have been asked for advice on how to identify those who are vulnerable to domestic abuse, and I note that the Minister made the same statement in the Assembly yesterday about consultation with stakeholders. We welcome that, but something has to be understood. Although it has not been made explicit, we have, presumably, been asked to do that to form an exception group for single payment. I want to be extremely clear: that is to fundamentally misunderstand domestic violence. You cannot identify a victim of domestic violence in that way. Domestic violence is rooted in inequality and power. Financial control and financial abuse is one component of domestic violence. Secrecy, including among those who are affected keeping it to themselves because of shame, is another factor. The only safe and effective way to provide for abused women, many of whom you will not know about to identify, is to provide access to income for all women.

2475. **Ms Sharon Burnett (Causeway Women's Aid):** The next issue that we want to raise is about the frequency of payments, which is very important to us. Clause 7 gives the Department discretionary powers over assessment



and payment periods. The Minister confirmed yesterday that, where necessary, bimonthly payments will be made in place of a single monthly payment. Officials told the Committee for Social Development two weeks ago that while flexibility is built in, departure from the normal practice of monthly payment will happen only in exceptional circumstances. That is, again, where exceptional circumstances come up time and time again.

2476. We welcome the proposed consultation on payment periods. However, 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 ask you to look at that. 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. In our view, that is not a sufficient assessment. Women have reported the importance of weekly child tax credits, which saved them in the lean weeks between fortnightly payments of benefits. Flexibility should not be restricted to a few, and we ask the Committee to obtain the Minister's commitment to inclusivity in flexible payment regulations and guidance.
2477. Clause 11 deals with housing. We note the Minister's commitment to automatic payment of the universal credit housing element to landlords unless the claimant opts out. Refuges rely on direct payments of housing benefit to support victims of domestic violence, and we appreciate that the arrangement announced by the Minister will assist refuges to sustain their service. The decision on automatic housing benefit demonstrates that policy variations and operational flexibility can be accommodated within a shared welfare system.
2478. The best interests of the child should be taken into account when implementing the shared room rate up to the age of 35. That 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 of privacy, safety and security, and we request that the Committee secures a commitment and statement of intent on those shared room rates from the Minister. Women and children are often forced to leave their house due to domestic abuse, and we ask the Committee to seek regulations capable of declaring the house to be under-occupied and moving the abuser out so that the woman and child, or children, can be returned.

2479. Everything that we are discussing today has to be seen in the round and in the context of all the changes to the social fund, the move to a discretionary support scheme and the significant likelihood that there will be reduced access to funds to enable women to leave abusive relationships as a result.
2480. **Ms Marie Cavanagh (Gingerbread NI):** I will speak on clauses 13 to 25, which are on work-related requirements. The issue that I want to raise is about the best interests of the child. A claimant who is a responsible carer for a child faces work-related conditions set according to the age of the child, starting with no work conditions for lone parents or nominated carers with a child under the age of one year. Those with a child aged 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 and is recognised as being very poor for younger and older children. Cuts have already reduced financial support for childcare for those on lower incomes.
2481. Conditionality and sanctions are extended 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

- benefits are already working. In effect, the benefits are 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 full time but earning below the minimum wage, officials made it clear to this Committee that responsibility will lie with claimants to find better paid work or to increase their hours. Essentially, that will mean approaching employers to ask for higher wages or increased hours. That approach will increase pressure on women to juggle work, childcare and domestic responsibilities. Juggling those issues is already commonplace for many working women.
2482. The Welfare Reform Act (Northern Ireland) 2010 stipulates that the best interests of the child must be taken into account when drawing up job-seeker arrangements for lone parents. We urge the Committee to make sure that the best interests of the child principle is continued for lone parents into the universal credit arena and press the Minister to extend the same principle to child carers in couple households. The principle should be included in the claimant commitments. That is necessary given the low availability of childcare provision in this jurisdiction.
2483. In light of the 10% cut in child tax credits, which support working parents with childcare, we repeat our June 2012 request to the Social Development Committee to ask the Executive to cost the option for restoring the 10% cut in child tax credit in Northern Ireland and meet the costs of the 10% shortfall for lone parents and all low income families.
2484. With regard to the evidence from the DSD officials, much relies on personal advisers and the relationships between them and claimants. Personal advisers should be trained. Their training should include gender awareness, and they should be made aware of section 75 responsibilities as part of that. Very often, the service that the claimant is gets at the front office depends on the amount of information the personal adviser has and, more importantly, the experience of that personal adviser in the legislation and the regulations.
2485. I want to mention something at this stage that is not included in this paper, and it is directly related to lone parents. It is the issue of child maintenance, which the Bill incorporates. We raise the issue of the demand for payment related to the assessments for child maintenance and the impact that that is likely to have on families.
2486. Extrapolating some of the proposals in the Bill would indicate that a non-custodial parent earning a moderate income of around £20,000 may be expected to pay up to £150 a year for assessment and collection. Given the Executive's commitment to the relief of child poverty, that money would be better spent on children rather than being brought back into the coffers of the child maintenance and enforcement division. We also argue that the custodial parent should not be required to make any payment when it comes to assessments being made. In saying that, we then argue that those issues should be looked at and amended before the Bill's provisions are finalised.
2487. **Ms Carvill:** I am just going to talk quickly about sanctions under clauses 26 and 27.
2488. Given the harsher sanctions attached universal credit, we asked the 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 Northern 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 that the legislation permits that, and to obtain a commitment or statement of intent from the Minister

- that he will include it in regulations for sanctions.
2489. Where sanctions are applied to the main applicant, which is likely to be the male, there should be no gap in payment to the woman or children in the family. Our earlier proposal for the Department to use powers under clause 99 to pay universal credit to the second earner or the carer, or to split the payments according to the financial circumstances explained previously, would avoid any of this.
2490. **Ms Hinds:** To conclude our presentation, as Lynn identified at the beginning, we have listed the key issues which is a summary of the issues that we have gone through with the Committee and provided the rationale.
2491. However, we want to return to the issue of process. We believe that regulations are an essential part of welfare reform, yet the legislation is scheduled to go through the Assembly without either the regulations having been prepared, or cast-iron agreement on exactly what would be permitted within their scope.
2492. We believe that this creates a dangerous framework for dealing with some of these issues. We urge the Committee to press for progress on women and children in the welfare reform legislation and regulations. We urge you to ensure that the flexibility in the legislation is not narrowed in regulations and guidelines, or by an unresponsive IT system, as we said earlier.
2493. We also want to come back to the point about fair treatment of women, and women's access to financial, support because this Bill is in danger of removing absolutely all finances from women and putting them a very dangerous position. We call for a cast-iron commitment and statement of intent before the passage of the Bill, in order to have a default position to pay universal credit, as we said, to the second earner or carer in the household, where the main earner is working, or as a split payment where neither person is working.
2494. It is clear that there are two kinds of regulation in the Bill. I do not know whether the Committee is very clear about that, because it appeared to us that the DSD officials kept saying that this would be done by confirmation resolution. In fact, the Bill contains both mandatory or "must" resolutions, and "may" resolutions, which are more permissive; and I am not sure whether DSD referred to one or both. It was not clear.
2495. It means that it may be difficult for MLAs to change regulations after this legislation is in place. I think that that has been the case before. Therefore, it is important that we understand what is going to be in the scope of the regulations, if the regulations are not drafted and there is not enough time to draft them. There must indeed be some outline of that and some cast-iron commitments and statement of intent on the application of law and regulation in the areas that we have brought to your attention before you vote the Bill through.
2496. What we are saying is that there are different ways that you can handle this. I know that there has been a debate on whether you should vote for the legislation; then there is the question of how far you can get on regulation or the content of regulation; and there is a third position, about getting further cast-iron guarantees to go further on some of the points that we have identified — if, indeed, it is not possible to regulate on them before the legislation has passed.
2497. We are extremely concerned about the impact of this legislation on women and children.
2498. **The Chairperson:** Thank you all for your presentation.
2499. I will make a couple of quick observations. The Committee went through all the clauses with the Department. We completed that process, although there are still some questions to be addressed fully. We completed that work; we deferred a number of clauses and we will come

back to them. We completed the process for all the clauses.

2500. The difficulty that the Committee will have to grapple with in due course is that this is, essentially, enabling legislation, which means that we do not have many of the regulations. We will be able to refer to Westminster regulations, but those are not the regulations for here. They may well be similar. It remains to be seen.

2501. Members are fully aware that, when they are voting for a Bill, a lot of the regulations will come a year or a year-and-a-half down the line. We are very aware of that. In a recent debate in the Assembly, I highlighted that we had firm commitments from previous Ministers on regulations that would follow, which, basically, amounted to nothing. I am not being judgmental on the Ministers, but, at the end of the day, if it is provided for in primary legislation, that will largely govern the regulations. We have to grapple with the fact that what we support in the Bill will work its way through by way of regulations at a later stage. There will be parameters around that.

2502. I presume that a lot of Members will try to do likewise, but we will seek commitments and assurances. Some of them may amount to nothing, although Members will be free to take that course and take your advice. They certainly will take your advice on board. I am just making that general point.

2503. My understanding of the Minister's statement yesterday is that direct payments will now be the default position, which you are arguing for. I think that we have all probably argued for that. That is a good thing. The split payment and the regularity of payments are, in principle, conceded, if you like, but those will be dealt with by way of a programme board and consultations, etc, as to how precisely the mechanics will work themselves out. You have tabled a number of formal suggestions as to how that may be done. Others have also put forward similar ideas, but they are not always the same. In principle, that has been agreed, but it is

not the default position. Again, people will have to see how it works out in the time ahead, which is why people have given qualified welcomes. All that will take its course. I am just making those general observations.

2504. **Mr Brady:** Thanks very much for the presentation. I have a number of points to raise; you can correct me if am wrong in what I say about any of them. I am sorry that I missed the beginning of your submission. You are advocating single household payments to the main carer or second carer. The Minister made a statement yesterday. Split payments are quite a blunt instrument. Do you see that as one way of addressing the issue? He talked about exceptions. Will fortnightly payments by default be a better way of addressing this? Exceptions could be made for monthly or weekly payments, depending on the individual circumstances.

2505. You have stated that if the legislation went through it would increase women's dependency. Do you see that as possibly increasing domestic violence because of the utter dependency of women in that situation? There could be underlying domestic violence, but women, in the context of the current intention, would be disenfranchised to a large degree because they would not get the money that they are entitled to. Section 75 includes an obligation to protect the interest of particular groups such as women and children. You have addressed that to some degree.

2506. There is an issue around the main carer. It may have been used before in the tax credit system, so it might not be that difficult to transfer it across. I wonder what your thoughts are on that. Obviously, there are a number of other questions. There is no childcare provision in any sense; the legislation is simply not here. You could argue that the strategy is not here either. Those will be exceptions. You have talked about children under three, and it was mentioned that there seems to be some anomaly concerning children under five. That needs to be clarified, but, ultimately, the issue is about sanctions.

We were told during the previous mandate that lone parents would not be sanctioned if they could show that there was no available childcare. In my experience in my constituency office, it started out like that, but then sanctions started to creep in. Welfare reform — so-called — is about punishing people if they do not adhere to particular criteria. Undoubtedly, lone parents in particular are vulnerable to sanctions. We have been told that, if someone is jailed for two years for social security fraud, and there is a three-year sanction on their benefit, they will still have to do another year without benefit when they come out. How does that impact on their partner and family? If that is the main carer, what you are saying is that there will be a fairly seamless transition. That does not seem to have been addressed. It is the nuts and bolts and the logistics of it. The regulations have been referred to, but we do not yet have the ones that will apply here. Those things need to be sorted out before all that is put in place. I wonder what your thoughts are on that. There was a lot there to take in, but they are points that need to be addressed.

2507. **Ms Burnett:** I was trying to take notes, so I will start us off. You talked about how we suggested that payments being made would potentially be a blunt instrument. Although I am here representing Women's Aid, I am also here trying my best to be part of a larger women's sector. It is about trying to make sure that whatever we do has a positive impact on all women who will be affected by welfare reform. The other issue, very clearly for women who are victims of domestic violence, is that, when we look at things that say "in particular circumstances" or "in exceptional circumstances", the real worry for us is how that will be judged. How will women be able to present their victimhood to access universal credit or any benefits? Are we going to sit in rooms and say, "Well, you will not have your non-molestation order until next Tuesday. Actually, it is only an interim non-molestation order; we will wait for another month for a full non-molestation order. Have you got a police report?

Have you got a report from a hospital?" It is completely inappropriate to ask any woman to do those things. Doing that type of thing puts them in a far riskier position. It puts those who are administering all of the benefits in an extremely difficult position. It does not recognise absolutely where there is psychological and financial abuse — where there is not a bruise or a broken arm but the abuse is as real and can be as damaging. I get what you are saying about a blunt instrument, but we look at women as a whole and try to make sure that we do not go down the path of saying, "Here are your list of injuries. Here is the piece of paper that proves you are a victim of domestic violence." That is why we are very clear on that.

2508. I think that you then asked questions about the main carer.
2509. **Ms Carvill:** I picked up on a couple of things. It is really about who universal credit is paid to. I see that, in some ways, there is controversy around that. What has really blown my mind in some ways, especially after the statement yesterday, is that we have been consistently calling for universal credit to be paid to the second earner in the household to ensure that money goes to two people or to the main carer. Already, however, our Minister has jumped to the position of saying, "Well, we are not going to look at that, but we will split the payments." He is happy to retain the position in which one payment will be paid to the male earner in the household as a default. My mind is completely blown by that. There is a lot that is wrong with welfare reform, but simplicity in the benefits system is very good. It seems that this is a perfect opportunity to rebalance some things. One way of doing that is to make sure that people in a household have access to income. Bronagh gave the list of five reasons why; I have not heard any reasons why not. That is still not being talked about, so I would like to put that out there. We probably have a lot more work to do in that regard.
2510. I will pick up on the issue of the frequency of payments. Since the launch



of our report 'Women on the Edge?', we know, from speaking to women, lone parents and low-income families, that they really struggle. What is the issue with giving them the choice? When I signed up for tax credits, I could have received them weekly, fortnightly or monthly. It was up to me to decide what was best. All I had to do was tick a box. That goes into the computer, and it is paid that way. What is the issue? Why does there have to be a default system that says that you will be paid in this way? It does not make any sense.

2511. Part of the Welfare Reform Bill is about choice, as you choose who gets the universal credit in the household. However, it contradicts itself in respect of frequency of payment, because that is not about choice. That would be very simple. Universal credit is a little bit more difficult to grasp, but the reasons and rationale behind who it is paid to are really important and simple.
2512. **Mr Brady:** There are two points. Iain Duncan Smith's rationale is that it will get people used to being salaried in non-existent jobs. You make a very valid point about universal credit being difficult to grasp. Surely the whole point of universal credit is to make it simpler so that we can all understand it. All of the other 30 benefits will go into the ether, and we will have one that we can all understand. You and I both know that that is simply not going to happen.
2513. They are making what was a complex system in many ways even more complex because of the tapers and all of that. I would like someone to sit down and explain to me how you go in one end badly off and come out the other end necessarily better off. You then have to change your whole attitude to work in the sense that you may work part-time, you may work three days a week, you may work two the next and all that kind of thing. I have not grasped this yet either, so we are all in the same boat at the moment.
2514. **Ms Cavanagh:** I will comment on childcare provision. Mickey, you were very clear about that issue. The 2010 Act very clearly identifies best interests of the child. In legislation, there is relief for lone parents in respect of work-focused interviews and so forth. One of the points that we raise in the paper that we presented is that that should be carried through seamlessly into universal credit. At the moment, it is not in it. The difficulty is that, if we do not get it in, it will be a matter of interpretation. That goes back to the point that you made a minute or two ago about sanctions. Even though the 2010 Act has that provision, we can see that sanctions, while not prolific, are certainly increasing. If it is left to discretion, sanctions will inevitably become the default mode. More work needs to be done in that area.
2515. There is another issue that is also particularly relevant to your point, Mickey. The fact that sanctions were not looked at initially and have started to grow has a impact on training for personal advisers, which is another point that we raised. It often depends on who you get at front of house, how experienced they are, the length of time that they have been working in that area and the amount of training that they have had in the legislation and regulations. That will have a big impact on how things are dealt with.
2516. Another issue is that, as everybody knows, we have a problem with childcare provision. There is not sufficient provision to meet need. Even if, as we hope, we will have the jobs that will make work pay, there are still not sufficient childcare places to enable all the families who will need that provision to take up those jobs.
2517. Those are all things that we need to think about. They are extraneous to the actual Welfare Reform Bill, but they are imperative if we want to be able to implement any of it correctly and to the advantage of the claimant.
2518. **Mr Brady:** I will just make one final point, which is about affordable childcare. Historically and traditionally, children here were looked after by members of their extended family. When



- I was in Welfare Rights in Newry about 12 years ago, we did a survey that found that Newry and Mourne had the worst childcare provision in western Europe. I think that we had five registered childminders for a population of about 90,000 people.
2519. In England, there is legislation that states that the local authority has to provide childcare. They already have the infrastructure, because they provide housing, social services and all of that. There is no comparison with here. To become a registered childminder, you have to look after another child who is not related to you. That needs to be addressed. If a granny is looking after her grandchild, she will not want to take responsibility for someone else's. There are all of those issues. It is as if one size fits all, but it does not.
2520. **Ms Hinds:** We cannot start sanctioning lone parents or other carers whom people require to fulfil certain conditions after their child is one and, then, after their child is three or five, when the childcare is not actually there for them to do that.
2521. **Mr Brady:** Bronagh, that comes back to Marie's point that it depends who you deal with. You may be dealing with someone who is sympathetic or you may —
2522. **Ms Hinds:** Yes. However, our concern is that although there was protection under the 2010 legislation, there is no protection yet in this legislation. Given the increase in sanctions, we need to roll that protection for lone parents forward into this legislation. We need to extend it to other carers until we get ourselves sorted out.
2523. **Mr Brady:** It should not come down to the subjective opinion of somebody who is sitting across the table from you. How people are treated, in that sense, should be very clearly defined.
2524. **Ms Cavanagh:** To my mind as well, it is imperative to get protection into the legislation. That goes back to the point that Bronagh made about process. If it is not there and regulations come out without, at least, some modicum of protection in them, we will not have an option to change it. That will be the simple fact of the matter. Therefore, we need to make that move now with the Bill and in the formulation of the Act, ultimately.
2525. **Ms Hinds:** That is a different position from the issue — if we have read the legislation correctly — of to whom that payment is paid. We would ask you not to mix up or generally ally the issues of monthly payments and to whom payments are paid. Our understanding — we asked you to check it out — is that clause 99 would give us permission to regulate what we have asked for. It is within the gift. We understand that the legislation permits it.
2526. Why we proposed two different methods is exactly because women, as well as men, should have their income, not only in cases of domestic violence where they need to have a financial way of getting out, but because it is only fair, proper and equal that they should have it. Therefore, whether the main earner is a man or a woman, the second earner should be given the universal-credit benefit in order to have balanced income in the household. Where neither is an earner, the payment should be split properly. Perhaps, somebody who cares for children would get a bit more. However, it should be split fairly equally. That is why we made that proposal. It is important to be fair to women and men.
2527. **Mr Brady:** I will finish on this point. As regards an equal split, the fact is that, in most cases, the woman is the person who most looks after the children and the household and who makes the financial decisions in a "normal" relationship. There are cases where, if there are gambling or drink problems, the person with the problem could possibly get a payment as a single-person's allowance and the rest would go to the main carer who is, in most cases, the woman. All of the logistics of that have to be worked out. However, you are quite right. The first decision has to be made that there is a facility for people to make an informed choice in the context of their

- own households, because there will be so much diversity. When you start that and sort it out, the decision on who will get the actual money and how often it is paid comes after that, in a sense. If the wrong person gets it, it does not matter whether it is paid monthly, weekly or fortnightly, somebody in the household will suffer — usually the woman and children.
2528. **Ms Hinds:** The Department can decide who the payment is made to. It could make the default the other way round.
2529. **Mr Brady:** The facility is there.
2530. **The Chairperson:** That is understood. We understand that point, which has been usefully made again.
2531. **Ms P Bradley:** Thank you. I always look forward to hearing from you. For me, as a female, it brings me back down to earth to remember where I come from and the things that I have been through in my life to get to where I am today. I am very grateful to you for coming here today. All that you have mentioned has highlighted to me again that gender inequalities still exist. They need to be addressed.
2532. The most important thing, which Mickey brought up at the very end of that discussion, is choice. Through welfare reform, we are trying to help people to make choices to go back to work and do all of those things. However, what is missing in a lot of this is empowerment. We are not empowering people by denying them choices on how they receive their benefits. I believe that we need a much more precise commitment from the Minister as to how the split payment and the monthly payment will work.
2533. Lynn mentioned tax credits, and I remember that you had to tick a box to indicate whether you wanted that paid weekly, fortnightly or monthly. Why are we not empowering people to make decisions? If we want to empower people to go back into the workforce and build better lives for themselves, which, we are told, is the ethos behind this, why are we not empowering people and telling them that they have the right to make decisions as to how they want to receive this?
2534. The domestic violence issue is a big one, whether the victim is a man or woman. We know from experience that for anyone who is suffering domestic violence, whether male or female, financial abuse is a major factor, so that is a big reason. I have clause 99 here in front of me, and there is something in that that could be looked at.
2535. I really appreciate your coming here. You are hard-hitters, and that is what we need to hear. We need to hear the plain and simple truth, and you need to bring us back to the reality that these are the communities we live in and these are the people we work with. These are the people coming in and out of our offices, and we need to do what is best for them. We need to protect the vulnerable. We need to remember that and keep that at the forefront. Thank you again, this has been a very worthwhile session for me.
2536. **Mr F McCann:** Again, Mickey has touched on most of what I wanted to say. The whole concept of universal credit is built on a false premise — an availability of work. There is no availability of work, and there is not going to be an availability of work for many years.
2537. The issue that I believe will have a major impact is underoccupancy. Have you done anything on that? We live in a world where there is an increasing number of one-parent households living in a two-bedroom or three-bedroom house. They are going to be penalised. Have you done any research into the impact that that will have, especially on women?
2538. **Ms Cavanagh:** The housing sector has been looking at that particular issue fairly closely. From our point of view, underoccupancy is not so much an issue for the parent with care because, generally speaking and notwithstanding that our housing stock is generally three-bedroom stock, there is not underoccupancy for the

- parent with custody of children. Our difficulty arises for the non-custodial parent, where we want to encourage good contact between both parents. The paper mentioned the rule around single-room occupancy for the under-35s. That directly impacts on lone fathers or non-custodial fathers, or non-custodial mothers in some cases, where they are going to be forced into houses of multiple occupation. Where do the best interests of the child fall in that instance? On the one hand, we have demands for parents to take responsibility for children, and research would indicate that good contact is productive for children. On the other hand, we are going to have people who will not be able to get contact simply because they do not have the accommodation to allow either day visits or overnight visits in safety, or in what can be guaranteed safety. That is the single-room issue.
2539. The underoccupancy issue will come into play where you have smaller households in larger houses; that will create a problem in housing mobility. I think it is a fairly foregone conclusion that our housing stock is not fit for purpose in that regard, and the demand for people to move into smaller accommodation, if that is what is required, is not necessarily going to be an option. Those are the issues that we need to look at in the Bill, and the housing sector certainly will be making presentations on that issue.
2540. **Mr F McCann:** You are right in everything that you say. The single-room allowance is only starting to have an impact across the board. There is an argument about transitional payments or discretionary payments, as they are called, as they are only meant to tide you over for so long before it is stopped. I deal with housing quite a lot, certainly in the west of the city, and one of the big arguments is about young people being offered three-bedroom houses because they are in areas where people may not want houses. They could be penalised for that in a short time. We are also living with the legacy of the conflict in
- that it is not easy for people to move into different areas. We have raised some of that.
2541. Last week, it was said that 520 families will be directly impacted by the cap on benefits. I think that, if one family is impacted, it is one family too many. It was also said that over 13,000 families who are on DLA may also be impacted when they switch over from DLA to PIP. Have you done anything on that?
2542. **Ms Cavanagh:** The welfare reform group has been looking at all of those issues, and, obviously, there are specialist organisations in each field. Principally, the people who will suffer the worst impact of the benefit cap are people who have adult disability in the family or, importantly, child disability in the family. Obviously, if there are two or three members of the family who are entitled to disability premiums, it will not take too long to rack up the amount to the benefit cap. My understanding of the legislation is that some provision will be made for that, but you will have to speak to some of the disability sector organisations to get a clear idea of the likely impact of that. We have been led to believe that the legislation will contain exemptions where there is significant disability in families. Again, that needs to be checked out more clearly with the organisations that work in that field.
2543. **Ms Burnett:** On your first question about underoccupancy, I know that the Council for the Homeless raised issues about the disjoint between the common selection scheme and payment of housing benefit. I am sure that, at some point, you will have written submissions from that organisation or have its representatives in this room. It said that, under the common selection scheme, you will be able to access houses that are far larger than housing benefit will pay for. It will be able to give you significantly more detail than I am able to go into.
2544. One of the significant issues for Women's Aid is underoccupancy and the subsequent reduction of money going into the household. When women leave

relationships, that is the point at which they are at most risk of serious harm or homicide, so it is an extremely risky time for women to go through. As I am sure you are aware, we have introduced Multi-Agency Risk Assessment Conference (MARAC) processes throughout Northern Ireland to try to ameliorate that. However, the issue for us is that, when a woman leaves, she is already at significant risk. Now the house that she and her children have left will be an underoccupied house and the partner who remains there will have a financial hit on his pocket as well. That will give added reason for the perpetrator of domestic violence to cajole, threaten and abuse the person who has left the house. That will definitely have a direct impact on the levels of domestic violence in the future.

2545. **Mr F McCann:** One of the other points that is being raised is that most of the old Housing Executive and housing association stock have what is called a box room of 6 feet by 10 feet. We have asked that that be excluded as a room for the purposes of housing benefit, because it has a direct impact on people moving in.
2546. **Ms Hinds:** Chairman, can I ask you about the whole issue of the framework of the process? We are trying to find a way of squaring the circle where people want to move ahead with the legislation. First, we are concerned about whether the legislation contains everything that will be required, and we have identified things that are not in the legislation such as rolling forward the protection for lone parents and extending it to carers.
2547. Secondly, there is interpretation of parts of the legislation. In some areas, we think that it does permit things that we want, but, so far, we have not heard the political will to interpret that to deliver what we think is essential. This is a matter of equality for women, but it is also a matter of severe vulnerability. There is getting that requirement.
2548. Thirdly, you said that statements of intent are not strong enough. Essentially, we are not wedded to any of those three. We want something that is effective and gets us the result on those issues that we need.
2549. **The Chairperson:** Speaking as the Chair of the Committee as opposed to a partisan politician, we are now formally in Committee Stage. Therefore, as I said at the start of the meeting, we held an explanatory session with the Department, just so that everybody around the table is clear on what the Bill is supposed to do; whether they agree with it is irrelevant. What we first had to do was work out whether we knew what we were talking about and make sure that we knew what the Bill is designed to do. Members have asked, “How will that work out?”, “Will this be the implication of that?”, and so on. So, there has been a very robust examination of the Bill’s intent. As I say, members have sought to clarify the outworking of that, and I think that that has been well covered.
2550. There are still some issues that we need a bit of clarification on. That will obviously help members to work out their position. When we were going through some of the clauses, the Department outlined the intent of those clauses, and we had a discussion around the table. We were then verbally advised, “That actually means this”, “Those are the criteria and the guidelines”, “That is how it will work”, and “That will be dealt with by way of regulation or by way of confirmative resolution”. Something written by the Department at this point will be done by way of negative resolution or confirmatory resolution. That is a political decision that will be taken by the Department and the Minister. That is the stated position of the Department at this time. I suppose that there will be another argument on that.
2551. The Committee will obviously have to satisfy itself that it fully understands the Bill and its implications and that, through engagement with stakeholders and in conjunction with parties and members around the table, it knows what the views and mandates are, and so on and so forth. The evidence-gathering sessions, which will be



- extensive, the discussions with the Department and the commitments from the Minister will be factored in to the Committee's final report, which will be published on 27 November. So, by 27 November, the Committee will have gone through all the evidence-gathering sessions. We are still tweaking the forward work programme for the next number of weeks. So, the Committee will take evidence, and, by 27 November, it will sign off on a report that will go to the Assembly. That report may involve some amendments to the Bill or a narrative from the Committee. The Committee might say, "We are not happy about this but —". For example, as you know, the Minister yesterday outlined a process for looking at universal credit and the mechanics of split payments, regular payments and so on. That may work out and resolve the issues that you raised this morning and which a lot of members have raised. That may end in a good result, and I hope that that is the case.
2552. We have been told that David Freud is coming over here to engage directly with the Minister, the Department and the rest of us in the Executive on the whole issue of housing benefit and so on, and on how all that might work out. That is good, because there is a focus of attention on that. It does not guarantee a particular outcome, but it represents at least a formal, more direct engagement. I think that we will all welcome that.
2553. I am not going to be judgemental. I am simply saying that we, as a Committee, may want to get commitments, and we will welcome people making political commitments to do something. All I am saying is that when you sign off on legislation, the Minister responsible for that legislation could be away by the next week. That Minister may have had the best intentions in the world, but that may not carry through. We know that from having recently dealt with landlord registration, for example. During the last mandate — I was not on the Committee then, but the record will show this to be the case — members had some concerns and wanted landlord registration to go further, and they were told that they could deal with that in the regulations. However, the Bill was passed, and when we got the regulations here in the past two or three months, we were told, "Sorry, the primary legislation does not allow you to go that far".
2554. **Ms Hinds:** Can you influence regulations when it comes to the regulation stage?
2555. **The Chairperson:** You can vote for or against the regulations. However, you are then told that the regulations must be in line with the primary legislation or that they must maintain parity. So you get into all those arguments. All I am saying is that members need to know that primary legislation sets the scene for upcoming regulations. So when members eventually vote, they need to fully understand that, however they vote, the regulations flowing from primary legislation are governed by the primary legislation.
2556. **Ms Hinds:** I understand.
2557. **The Chairperson:** There may be flexibilities in all that. You asked about the process. We are at Committee Stage and are taking all the evidence. For example, we will have the Housing Executive in on Thursday, and, next Wednesday, the Chartered Institute of Housing, the Federation of Housing Associations, the Housing Rights Service and the Council for the Homeless will be here to discuss the wider issues of housing. We have series of other evidence sessions, some of which are, in a way, generic and some of which are more specific. All of that will be very helpful to us as members. As Paula said earlier, it is very important to hear from people, particularly people who are working on specific issues, because you can then roll your sleeves up and get into the detail because they are, in a way, experts in the field. By 27 November, it will be up to this Committee to report to the Assembly. That report may contain amendments to the Bill, and amendments may be accepted by the Department. During

discussions with the Department, we will ask whether it is prepared to adopt that as an amendment. It may well do so.

2558. **Ms Hinds:** I want to make clear that our preferred position is that the Bill creates the permission to allow this. If the primary legislation were to say to whom the payment is to be made, that would be even better. We assume that that is not likely to happen, but we think that the Bill permits it, and, therefore, it needs to be regulated. Our preferred approach is that there are amendments to the Bill. Our next approach is for the regulations to make full use of what the Bill allows to be done and not to narrow it to special or exceptional circumstances. Our third position is the statement of intent. We want to make that clear because we totally appreciate and understand, from having done other legislative stuff, that that is the way to best protect what we need to deliver here.

2559. **The Chairperson:** That is not a problem. I do not want, in my role as Chair, to be in any way negative about anybody's statement of intent. If we can get statements of intent from Ministers and so on, not only Ministers here, we will want to build on that and try to make them reality. I am not trying to gainsay the motivation behind any of that but am simply saying that, ultimately, when you sign off on the Bill, you need to understand what you are signing off on. From my point of view, the default mechanism of paying money directly to landlords is a good thing. I would prefer other things to be the default mechanism and you then work out the special circumstances after that and can opt out. We will all have that discussion. I certainly want the default mechanism to apply to a range of other issues, and you have identified some of them.

2560. Given the principle of the essence of the statement from the Minister yesterday on universal credit and the work to be done on that, theoretically, before the Bill is passed, you could have that written in to the legislation. That is doable, in my view, because the work that will go ahead will hopefully determine that. The statement yesterday

talked about the programme board looking at the mechanics of that and going out to consultation. The Department may come back and say, "We are amending the Bill accordingly", and we might all be happy. Hopefully that will be the case.

2561. The detailed scrutiny that we are going through now is very important. We have benefited, as Paula said, from engaging with a range of people, including yourselves, in the past. It has been very helpful — especially for me, in chairing this Committee in the past year or more — to acclimatise and inform ourselves about the ins and outs of how all this is worked out. Probably everybody around the table deals with those issues in their constituency offices more or less daily anyhow.
2562. Thank you, Sharon, Bronagh, Lynn and Marie for your presentation this morning and for indulging us with your expertise. I am sure that we will engage again.





## 25 October 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann

### Witnesses:

	<i>Northern Ireland</i>
Ms Iris Elliott	<i>Association for Mental Health</i>

2563. **The Chairperson:** I welcome Iris Elliott from the Northern Ireland Association for Mental Health (NIAMH). The association has provided a briefing paper to the Committee.
2564. **Ms Iris Elliott (Northern Ireland Association for Mental Health):** I thank the Committee for giving me the opportunity to present the views of NIAMH on welfare reform. We have submitted written evidence to the Committee, and we circulated a briefing on mental health and welfare reform to MLAs on the day of the Bill's Second Stage. Rather than repeating the points that were made in the submission and briefing, I will highlight five key themes in our representations to date.
2565. The first is the importance of ensuring that evidence on which decisions are made is timely and based on independent expert mental health opinion that is provided by professionals and services that have an established relationship with the individual. Second is the importance of ensuring access to independent advice and representation. Third is the importance of ensuring that the first stage of the sanctions regime is to provide access to independent advice and representation for the individual to assist him or her to compile their evidence. Fourth is the

importance of supporting the individual's pace of mental health recovery by removing arbitrary time limits from the contributory employment and support allowance (ESA) work-related activity group (WRAG) and introducing provision for the individual to requalify for ESA, either the support group or the WRAG, if his or mental health deteriorates. Finally is the importance of supporting the individual's recovery of their mental health by introducing discretionary provision on the frequency of the personal independence payment (PIP) review and the requirement of being consistently unwell three months prior to and nine months following the prospective test for assessment. Underpinning these specific recommendations for amendments is our overarching concern that the Bill requires a human rights review for its compliance with the European Convention on Human Rights to maximise the potential protections for individuals who experience mental ill health.

2566. NIAMH is the longest established and largest mental health charity in Northern Ireland. We provide community-based mental health services through Beacon in every constituency across Northern Ireland. Through Carecall, we provide access to counselling and psychological therapies and mental health and well-being programmes, mainly focused on workplace and educational settings. This presentation is infused with this organisational expertise and examples of the experiences of individual service users who we call members. However, we note that there are many individuals who are not engaged with services. We consider this to be a particularly vulnerable group who must be informed about welfare reform through an effective public information campaign and supported with independent advice and representation.

2567. At the outset, I want to underline that we at NIAMH are committed to a recovery ethos in the services that we provide. We know that individuals do recover their mental health and, with support, can reduce the frequency and severity of relapses. Engagement in meaningful activity, including volunteering, caring, education and training, and employment can be important milestones in the recovery journey. However, this journey is, at its heart, an individual experience and does not always sit easily with a rigid social security system of time-limited benefits, assessments and review procedures and sanctions. We welcome the fact that there is widespread recognition that welfare reform will have specific and significant impacts on persons who experience mental ill health and that there is cross-party support for action to address this. Furthermore, we welcome Minister McCausland's assertion at Second Stage that the first principle of the welfare reform agenda is to "protect the vulnerable".

2568. On behalf of NIAMH, I acknowledge and welcome the valuable changes to the operation of welfare reform that Minister McCausland announced earlier this week. As a member of the Northern Ireland Welfare Reform Group, we at NIAMH welcome progress on those issues that are of common concern.

2569. There is recognition that welfare reform will have a much greater impact on mental health issues in Northern Ireland because of first, the prevalence of mental ill health due to the conflict, and secondly, the severity of mental ill health related to the high levels of post-traumatic stress disorder (PTSD). The relationship between mental health and the conflict is illustrated by research into our day support services that reported this year. That research demonstrated that 91% of our members were raised in Northern Ireland, and of that, 36.5% reported some or a lot of political violence in their neighbourhood, and 39.5% reported having personally suffered some or a lot as a result of the conflict. The reported impacts of the

conflict included having to move due to intimidation, which affected 16.7%; 10.9% personally experienced damage to their home as the result of a bomb; 7.7% experienced personal injury as a result of cross-community violence; and 19.3% had family or friends injured in cross-community violence.

2570. We consider the relationship between mental health and the conflict to be particularly relevant when looking to the protections that are afforded by the human rights provisions under the Northern Ireland Act 1998. This prevalence of mental ill health is reflected in the significantly higher levels of claims in Northern Ireland for benefits such as DLA. Northern Ireland has double the proportion of its population in receipt of DLA than is the case in Britain, and 23% of DLA recipients in Northern Ireland have mental health issues, compared with 17% in Britain. That profile is reflected in our members' reliance on social security. In our Beacon housing support service, research in 2012 found that 75% of residents were in receipt of DLA. In our Beacon day services, research in 2012 found that 95.8% of members are in receipt of state benefits, including 79% on DLA.

2571. The high rates of mental ill health and the consequent high number of benefit claims are characteristics of contemporary Northern Ireland society. Significant investment in community mental health services, as well as actions to address the broader determinants of mental ill health, may impact those prevalence rates. Nevertheless, welfare reform will not alter the levels of mental ill health or the need for social security for that vulnerable group. However, if not sensitively implemented, there is a risk of removing necessary social protections and consequently destabilising an individual's mental health and stalling or reversing their mental health recovery.

2572. We are seeing such negative impacts already, even in early contact with the changes. For example, a 58-year-old woman who lives in one of our 24-

hour supported housing schemes in Belfast received a letter calling her for a work-focused interview, outlining that she would have to attend a series of interviews with a personal adviser. She has a diagnosis of bipolar disorder and complex physical difficulties, including a double mastectomy and chronic obstructive pulmonary disease. She has the propensity to self-harm by scratching at various locations on her body, usually at a low level. After receiving the letter, the frequency and intensity of that self-harm has increased to the point where the wounds are open and sores have developed. Assistance and reassurance from her GP and our service have done little to reduce the impact of simply receiving that letter.

2573. Anticipatory fear of welfare reform has led to acute distress. When I visited one of our day support services in mid-Ulster, as soon as I started to speak about welfare reform, one woman became so distressed and fearful at the thought that I was there to take away her benefits there and then that she had to leave the room and be supported by staff. In contrast, during the same session, another woman asserted: “It is OK, Iris; welfare reform is nothing to do with me. I have asked my social security office over and over if I am OK on DLA, and they said that it is OK — I am on it for life.” That underlines our recommendation that an effective public information campaign needs to be put in place.

2574. Anxiety about welfare reform is causing people to withdraw from activities that support their recovery. The fear of being judged fit for work, despite being mentally unwell, is being felt across our services. Some members have reduced or stopped volunteering and are reluctant to be involved in public activities, such as welcoming the Olympic torch into Enniskillen and participating in a graduation ceremony, ironically for a live-and-learn programme on welfare benefits that the Big Lottery funded and that was run in partnership between NIAMH, CIB and the Open College Network. As well

as being concerned about the costs of welfare reform to the individual, our experience to date has highlighted what could be called the hidden costs of welfare reform, which will result in a displacement of expenditure to the mental health sector and the advice sector. Those hidden costs include supporting individuals whose mental health deteriorates, building the capability of mental health staff on welfare benefits and providing evidence for assessments, reviews and appeals, as well as engaging in social security advocacy.

2575. I will illustrate those costs with the example of a 46-year-old man who lives in one of our 24-hour supported housing schemes in Belfast. He has been diagnosed with psychosis and has an acquired brain injury and epilepsy, which are conditions that have significantly impaired his functioning and mental capacity. His mother is his legal guardian and deals with his finances. From October 2011 to September 2012, both our service and the statutory mental health service made representations that he was not fit to attend a work-focused interview. However, no amount of evidence or advocacy over the calendar year could persuade the social security system that he could not participate in an assessment of his capability of work-related activity. At the end of the process, the Beacon housing service’s manager attended the ESA appeal, and the case was settled in our member’s favour.

2576. I want to move on to the specific recommendations in NIAMH’s submission. In the first section, we look at the human rights review of the Bill. We are conscious that there has been debate this week, both in the Assembly and the Committee, on whether to progress a human rights review of the Bill. As the section on human rights includes detailed legal analysis of the issues in the Bill, the relevant provisions under the Northern Ireland Act and the contextual international framework, I will limit myself to the following remarks.

2577. We concur with Minister McCausland that the first principle of welfare reform must be to protect the vulnerable. We have asked ourselves how we can make that principle a reality. What resources are available to us to safeguard individuals who experience mental ill health? We have referred to the high levels of mental ill health in Northern Ireland and said that they are the legacy of the conflict. The Northern Ireland Act and its human rights provisions represent a consensus by political leaders to address the legacy of the conflict. Traditionally, human rights have focused on civil and political rights in Northern Ireland. However, welfare reform reorientates us to look at the protections that are afforded under socio-economic rights and the obligations of the state, particularly under article 8 of the European Convention on Human Rights regarding the right to respect for private and family life.

2578. To clarify the meaning of article 8 protections for persons who experience mental ill health, we note the judgement of the European Court of Human Rights in the case of *Bensaid v. UK* in 2001, which stated:

*"Mental health must also be regarded as a crucial part of private life associated with the aspect of moral integrity. Article 8 protects a right to identity and personal development, and the right to establish and develop relationships with other human beings and the outside world. The preservation of mental stability is in that context an indispensable precondition to effective enjoyment of the right to respect for private life."*

2579. Mental ill health is experienced by all sections of our society, and we at NIAMH believe that mental ill health creates a shared space in which we can meet to discuss the conflict and its impacts.

2580. In realising the Executive's commitments to the Delivering Social Change agenda, we think that there is a need for all Government Departments to issue legislation that progressively realises the human rights of persons with disabilities, including persons who experience mental ill health. Clearly, that includes the Department for Social

Development (DSD) and the Welfare Reform Bill.

2581. We note that the Office of the First Minister and deputy First Minister (OFMDFM) has consulted on, and is expected to produce, a disability strategy and action plan this year that will progress the implementation of the UN Convention on the Rights of Persons with Disabilities in line with UK obligations. Our note of caution is that we consider it challenging, if not impossible, to understand the full outworking of the legislation and its potential impacts on human rights without the timely publication of the secondary legislation and draft regulations.

2582. The second section of our submission deal with amendments to the Welfare Reform Bill. I will speak together to those subsections that cover evidence, sanctions and advice and representation. I aim to simply highlight that those sections in our submission have common themes.

2583. The first theme is the statutory requirement to ensure that the cases of persons who experience mental health are considered on the best available independent mental health evidence and that the statutory right to access independent advice and representation is available at all stages, including the sanctions stage. Those recommendations are informed by our experience of the introduction of the employment and support allowance, particularly the lack of mental health expertise among assessors, decision-makers and appeals personnel; the failure to proactively seek independent mental health evidence in a timely manner; the focus on mental health evidence that is provided by generic medical professionals rather than mental health professionals or service providers with an established relationship with the individual; the success at appeal stage of overturning decisions based on assessment when there is appropriate evidence and representation; and the human and financial costs of the above inefficiencies in the welfare reform



- system and the distress and delay that they cause.
2584. We have identified where we think those issues could be addressed in specific sections of the legislation, and they cross-cut a number of different sections. We have tried not to be too repetitive but to highlight where they are.
2585. We are seeking the removal of the time limit of 365 days for the contributory ESA work-related activity group. In agreement with the debate in the House of Lords, which we cite in our submission, we consider that time limit to be arbitrary, unfair, stressful and without an evidence base. It is contrary to the ethos of supporting an individual to recover their mental health. For fluctuating conditions, it is unfair to require an individual to recover within a one-year period and to not make provision for them to requalify through the WRAG or, indeed, the support group, should their mental health deteriorate. We are very concerned that the time limit will prematurely move individuals out of a necessary benefit that they have contributed to.
2586. Our view is that the arbitrary rotating assessment period for PIP and the requirement of the so-called perspective test, whereby an individual is consistently unwell three months prior to and nine months after the assessment, do not reflect the fluctuating character of mental ill health and work against an individual's attempt to stabilise and recover their mental health. Our knowledge of the potentially distressing experience of assessment, decision-making and appeals under the employment and support allowance causes us to be concerned about the impact of having to be in a perpetual cycle with those procedures. That is why we are strongly recommending a discretionary provision on the level of the disability in the test and the frequency of review.
2587. In conclusion, we are asking the Committee to consider our overarching concern about the Bill and to progress a human rights review of it and the draft regulations. We ask the Committee to consider our five section-specific amendments on evidence, sanctions, independent advice and representation, the contributory ESA WRAG group, and the PIP assessment and review.
2588. Beyond those specific legislative changes, we note that we raised a number of process issues about the implementation of the legislation, which we asked the Committee to consider. Those were: publishing the draft regulations, as well as their passage by affirmative resolution; resourcing an effective public information campaign for vulnerable groups; acting to address concerns about the digital-by-default approach; showing leadership as political representatives by the use of non-stigmatising language; and considering how procurement can be monitored and reviewed on an ongoing basis.
2589. We appreciate that all parties are concerned that we are short of the time that will allow us to progress welfare reform legislation and that there are well-rehearsed consequences if we do not do so. However, time needs to be made to ensure that all opportunities are maximised to protect vulnerable groups in keeping with the first principle of welfare reform, as articulated by Minister McCausland.
2590. Finally, we think that it would be valuable to consider the establishment of an expert group to provide advice on mental health and welfare reform.
2591. Thank you again for this opportunity to contribute to the Committee's scrutiny of the legislation. We hope that our evidence is useful and that we can continue to be a resource to you and your work.
2592. **The Chairperson:** OK, Iris. Thank you very much for that comprehensive contribution that you made in addition to your written submission.
2593. **Mr Brady:** Thanks very much for a very comprehensive submission, Iris. I have a couple of points to make. You made a lot of very good points, but there is one in particular that I can empathise with. It is about the misunderstanding



- in the social security system that an individual's GP and mental health team are the best qualified to give evidence. As you say, if a person's condition has stabilised but fluctuates from day to day, people in the voluntary sector, such as you, may be in a better position to help them. The other thing is that independent advice from the voluntary sector should be a mandatory inclusion. That is very important.
2594. Back in 2007, when the initial stages of welfare reform were coming through, particularly work capability assessments and job-focused interviews, we argued that an interview with someone who has mental health issues should be done by a specialist in that area, whether that is a psychiatrist, a clinical psychologist or a community psychiatric nurse. We were told at that time that staff would get training, but that has never materialised.
2595. If a client claims universal credit, both parties involved have to sign the claimant commitment. If there is a mental health issue and one person refuses to sign the commitment, the couple and their family might be prevented from getting benefit, certainly in the initial stages, until that is clarified. Another issue is with people attending interviews. You said that there should be a specialist advocate for mental health. I know that an autism champion is supposed to be attached to each office, which seems sensible. Although you may have an advocate with a specialism, I think that it is incumbent on the Department to ensure that the person on the other side of the counter has some specialist knowledge, particularly concerning conditions like bipolar disorder or chronic clinical depression. Somebody with bipolar disorder might be fine today but not for the next month. So, it is about trying to pick that out and aggregating the person's condition over time.
2596. The other point is the one-year time limit for ESA and people's being reassessed if their condition worsens and they go back on to that benefit. If I may discuss good practice in the South, many years ago, if someone had mental health problems and went off benefit, they were given three years to find out whether they had stabilised or whether they could carry on with work. If they came back within three years, they went back on the same level of benefit. Here, that applied for only one year or slightly less. So, that example from the South is a demonstration of good practice that could maybe be looked at.
2597. A lot of universal credit is predicated on the notion that people will be going online and so forth. In the section of your submission entitled 'Digital by Default', you said that you have done assessments that indicate that the vast majority of people who use your centres do not have access to computers or the internet. That highlights the reason to have staff in local offices in particular, and, of course, for the specialist advocate being included even more in that kind of legislation. I wonder what your thoughts are on that.
2598. The other point to consider is permitted work, which used to be the therapeutic alliance. We are not sure how that is going to work. That provision was particularly for people with mental health problems whose doctor felt that it would be beneficial. They were not working in the normal sense, but it would be beneficial to get them out of the house and to be involved. It really concerned their gradual rehabilitation from their condition. Has any information been forthcoming to you about that kind of situation? I am sorry to bombard you.
2599. **Ms I Elliott:** I would expect nothing else from somebody who used to be an advice worker. Thank you very much for your really informed comments and questions. I will try to work through a few of them. Our submission is based on the reality that some form of welfare reform legislation is going to pass. That is why we have tried to identify very specific actions that the Committee could recommend, across the entire the legislation, protective mechanisms for people who have mental health difficulties. That is also the reason that we are particularly focusing on the whole area of independent advice and

representation. Part of that is predicated on the fact that we have very good relationships with independent advice organisations. We feel that they have been crucial for the staff and users of our services in understanding how to negotiate the welfare reform system. Evidence indicates that, when people have representation, they have much higher levels of success in receiving benefits or winning appeals. One of the strongest characteristics of mental ill health is that you feel very alone and isolated. I always think that it is very important for people with mental health difficulties to have somebody on that welfare reform journey with them. That is why we emphasise that people not only in our services but outside services completely need somebody to be with them on the journey through welfare reform.

2600. A number of the points that you identified are issues for regulations. I am sure that we are not the only organisation to say that we are very concerned that we do not have draft regulations. The intention to pass the regulations by negative resolution, rather than having the scope through affirmative resolution for some scrutiny, is a huge source of concern for us, because we feel that a lot of the detail is in the regulations.
2601. You mentioned a written basis for assessment. We would like good clarity in the regulations about how we can move people who have significant mental health difficulties, long-established relationships with services and a very good evidence base for their condition, needs and vulnerability into a paper scrutiny of their application and review. We have certainly had evidence of a distressing, lengthy detrimental process of face-to-face encounters. We have instances, for example, in some of our east Belfast services, of people who have made the transition from incapacity benefit to ESA with absolutely no difficulty whatsoever. The written evidence has been taken and respected, and there has actually been almost no difficulty with that. I can compare that

with one of the services that I described in south Belfast, where we had a year of social security advocacy on such a transition. Looking at how the written evidence can be used could be really valuable for people with a mental health difficulty. Again, however, this is about the regulations.

2602. We have also raised with colleagues in the Civil Service the detailed design of PIP and ESA and why it is not possible for people who have expertise in mental health to undertake the assessments and the decision-making by looking at what is presented to them. It should also be possible for the people who are making decisions to know, through their expertise, that we need to go after further evidence from services, including the voluntary sector. We are repeatedly being told that that is too difficult. I spoke about this earlier, but, given the statistics about the prevalence of mental health issues in Northern Ireland, we simply do not understand why it is not possible to identify claimants who, for example, are moving from DLA to PIP and who have mental health difficulties, to book them in for assessment and to have mental health experts available. There are examples of members of our services who have got into a great state of distress anticipating having to attend for assessment, and they have then turned up at the ESA assessment centre to be told that it does not have the expertise to see them and that they will have to be given another appointment. I see members nodding their heads at that, and I know that that is the sort of issue that is also coming through in constituency work.
2603. I do not really have information about permitted work. I think that that is something that really needs to be part of the public information campaign. One of the reasons why we have difficulty with people withdrawing from voluntary activity, any kind of public activity or some forms of part-time work is because they are so terrified at this stage that, if they are seen to be functioning in any way, their benefits will

- be taken off them. So, it would be really helpful to have that clarified.
2604. **Mr Brady:** I have two points to finish on. We argue that medical evidence should have primacy, but it has to be relevant to the person's condition and demonstrate the most up-to-date position on both their mental and physical health. Quite rightly, the medical evidence is often available only at tribunals. It would save all that hassle and trauma, particularly for people with mental health issues, if that relevant information were readily available. They should not have to go through all that, because decisions could be made. As you rightly say, they should be made by someone who has specialist knowledge.
2605. The other point that I will make is that you rightly ask MLAs not to use language that stigmatises people or that might be inflammatory towards people, particularly those with mental health issues. However, quite large sections of the media are already doing that on the whole issue of welfare reform. I think that, in fairness, we are aware that we should not, but, unfortunately, quite large sections of the media have been instrumental in stigmatising people already. That applies not just to people with mental health problems but to those on benefit in general.
2606. **Mr Copeland:** Iris, I should probably declare an interest. I think that my wife, Sonia, has attended a number of training courses in the WAVE trauma centre over the past couple of years. I think that I picked her up at one.
2607. In my experience, mental health conditions are conditions that are generally diagnosed by the apparent behaviour of the constituent. In many cases, more than one thing is present. The most complex case that I have is a cocktail of conditions, some of which is diagnosed and some of which is suspected, including schizophrenia, bipolar disorder, attention deficit disorder (ADD), attention deficit hyperactivity disorder (ADHD), personality disorder, mild-spectrum autism and low-end learning difficulties. In your professional view, is it possible that one doctor, one individual or one healthcare professional could be so competent that they could pass a judgement on the basis of the planned test on that person's ability to function in the real world?
2608. **Ms I Elliott:** That is a very good question. There is a very real challenge for individuals who present with a complex range of issues.
2609. **Mr Copeland:** Is that the norm? It is the norm that I see, in that there seems to be more than two or three issues. However, it is perhaps just an interpretation of symptoms; I do not know.
2610. **Ms I Elliott:** There is a huge variety of presentations or issues in the field of mental health. I am sure that our colleagues in Mencap would say that some people have what is called a dual diagnosis of both an intellectual disability and a mental health condition. I think that it is very challenging for someone to have the ability to assess somebody with that degree of complexity of need. I think that that goes to the need for people to have somebody with them who can advocate and support them, to ensure that the information is as complete as possible and to bring any written evidence to that initial assessment.
2611. One thing that I will stress is that we are trying to move away from the assessment of an individual as a series of medical diagnoses or conditions to looking at how the person presenting is able to participate in the world. Although somebody may have a number of complex conditions, it is more about how their skills in everyday living are affected and what support they require from the social security system to enable them to participate in society. If you take the case that you used from your constituency work, you will see that that might concern a series of issues about a person's ability to communicate. Now, that might be sourced in a number of medical diagnoses, but there might be more to look at, such as the person's ability to communicate, their ability to look after themselves and their ability to eat or to attend to personal hygiene,

- for example, as well as their ability to participate in social relationships and to engage in employment and education. That would be very much in keeping with the human rights approach that is advocated in the UN Convention on the Rights of Persons with Disabilities, through which we are trying to move away from a medical approach to understanding people's disability to looking at a social model of disability that concerns people's ability to participate in society. It is challenging, but that is all the more reason to have people who have some degree of competence in that field, rather than to have somebody who is a general nurse or doctor.
2612. **Mr Douglas:** Thank you for your presentation, Iris. There was a hugely successful event in the Long Gallery earlier this week, where we all had our photos up on the wall. That was a good opportunity to raise the profile of the problems and the stigma that we talked about.
2613. Your briefing mentions Beacon day services research. My family has been involved with Beacon and had an excellent response. It was very helpful. You said that, in 2012, nearly 96% of the members of those day services were in receipt of benefits. So, we are talking about a huge number of people who are in receipt of benefit and have mental health problems who use your centres. Over the past few hours, we have been talking about sanctions from the Housing Executive, which will have to evict people who do not pay. We also talked about sanctions that will have an impact on the likes of young people, which the members who spoke previously discussed, and children in a household where there will be sanctions. What will the impact on your members be? I am thinking of people who have acute depression who some mornings just cannot get out of bed, or other people who have agoraphobia and cannot go out. What will be the impact of the new welfare reforms on your members?
2614. **Ms I Elliott:** To return to my comments about this almost anticipatory fear that people are experiencing, we are already seeing that happening through their becoming quite distressed and unwell.
2615. It is useful to use the analogy of the Beacon centre, because the assessments seem to be coming in waves. So, if one or two people experience, for example, the changeover from incapacity benefit to ESA, it then goes like a wave around our services. When I visited some services, people were relatively calm because they had not experienced the assessment. However, among staff where it had happened, there were high levels of upset and concern.
2616. We are trying to approach this issue by really thinking through the kind of information that we need to give to people, so that they will understand the changes that are happening, what the process will look like, and how we can support them in it. It is going to be important that people are as informed and assured as possible. Likewise, staff must be supportive, but there must also be support from the peer group.
2617. We gave detailed figures about our services because welfare reform will affect our members. They comprise the group that this issue will massively impact, and you can see that from their 90%-plus reliance on state benefits. There will be a range of different impacts that will cause fear and distress. We have a lot of experience of people who have gone through the assessment process. A man in our south Belfast service described it as losing a year and a half of his life. He went through a distressing assessment process embodying all the things that people talk about — somebody rushing through the assessment on a computer, not making eye contact, not giving him time to talk and not explaining what they meant. Subsequently, he got zero points and then had a long and very anxious wait for his appeal. Although people were supportive, he found the appeal hearing very distressing again. He was then brought back to full points. He said to me that that year and a half finished a couple of weeks before Christmas, and he just took a deep breath. Then, a



- couple of weeks later, he got called for his DLA review, and he is now back into the same process again.
2618. So, we are seeing people's mental health deteriorating. We are finding that they are destabilising and are not engaging in the activities necessary for their recovery.
2619. My role is to lobby for changes. Locally, mental health services are trying to create supports and information for people to try to assist them. That takes me back to why we think that it is really important that people have independent advice and representation, which, at some level, will balance things. We say that particularly in respect of sanctions, because you can see that the language in the legislation is very much about people not engaging with the various procedures under the benefits system, "without reasonable cause", or "voluntarily" deciding that they are not going to "engage". Somebody with a serious mental health problem will not be doing that "without reasonable cause" or choosing to do that "voluntarily". They may not even understand what they have been called to engage with. They are very unwell. Depression is a good example. Somebody with depression may not even open their post for months at a time, and, because of the sanctions, they can quite rapidly go through losing benefits for three months or six months and then longer.
2620. I know that the provision of independent advice and representation will need investment, but I think that it is how we will have early intervention, so that things do not get a lot worse.
2621. **Mr F McCann:** I have a couple of questions, the first of which I have posed to a number of witnesses. Your presentation was comprehensive and the information in it was great. It is one of the first submissions that we have received that lays down some amendments that could be proposed, which is helpful.
2622. I asked the Children's Commissioner whether, given the obvious impact that this will have on tens of thousands of people, and certainly on those suffering from mental health problems, whether consideration has been given to taking legal action against the DWP or the DSD to try and force changes in some aspects of the Bill?
2623. I think that we discussed three amendments with the Human Rights Commission; and the Equality Commission is due here next week. We tried to set up an ad hoc Committee to look at the human rights implications and the same with equality, but it was defeated on both occasions. Have you considered taking legal action or bringing in the Human Rights Commission to advise you on the best way to proceed? Obviously, it is not happy that all this has been fulfilled.
2624. I said this morning that I am also a member of the Committee for Employment and Learning. I asked senior people a question at that Committee's meeting yesterday. When this process starts to take shape, thousands of people will be migrated into one of their work focus groups. Will those groups be able to cope with that? Does DEL have staff with the experience to deal with people who have mental health issues? They were shocked at first, but they then came out with the obvious departmental answer and said: "We believe that we will be able to cope with it." I do not know whether a discussion has taken place between the two Departments, but I do not think that they realise what is coming. The other question is about the role of the decision-makers and client advisers who are dealing with people with mental health issues. What level of training will they get to allow them to make a decision that affects people with mental health problems?
2625. **Ms I Elliott:** Thanks for your question. Your first question was about whether we had considered taking legal action. Now that the welfare reform legislation is in operation in Britain, there have been decisions to take judicial review based on different cases. We are looking at those cases with interest.

2626. Our decision to include a whole section in our submission on legal analysis was very much to look at where we can provide advice, through evidence, to suggest where we think the Government are vulnerable if the legislation passes without specific changes due to the obligations under the 1998 Act and the requirements for legislation to comply with the ECHR. That is why we flagged those issues.
2627. We will look at the legislation we get on the other side of all the debates and, in particular, the regulations. At the moment, we are taking that position to try to provide the best available information, including a legal analysis, to colleagues in the Assembly and in Departments, but noting that judicial reviews have been taken in other parts of the UK because of the welfare reform legislation. Our submission highlights the types of cases that we are already seeing in our services. We will look at different strategies, but we prefer to have some earlier intervention to stop those difficulties at an early stage.
2628. You asked about cross-departmental discussion and work. Part of our earlier briefing concerned the need for other Committees, not only the Social Development Committee, and the Assembly to be aware of welfare reform. We talked about the displaced expenditure issue and the impact on people's mental health. We think that it should be a concern for the Health Committee as to whether it is anticipating the impact that welfare reform will have on health services.
2629. DEL is another good example, and some of the consultation documents on the new employment programme, Steps 2 Success, name welfare reform as an issue whose impact needs to be anticipated. In our submission to DEL on Steps 2 Success and in meetings with colleagues in the Department, we have been raising that issue. People will be coming through, particularly, ESA and into a work-related activity group and moving on to jobseeker's allowance quite quickly — prematurely, in our view — and they may not be able to engage in the existing programmes.
2630. Our beacon members need something akin to a pre-work programme, because they do not even have the social skills, work skills, communication skills or interpersonal skills to manage being in employment. That is an important area for consideration.
2631. In our presentation, we mentioned the Government's Delivering Social Change agenda. We see welfare reform as one of the cross-cutting issues, about which all Departments need to consider how they are going to prepare.
2632. Going back to Mickey's point about training for the decision-makers who will sit with the papers on the other side of the counter and make the decisions, there is a real need for training in mental health across the social security system. With welfare reform, in particular, we are going to push people into certain parts of the social security system where they have never been before. Colleagues who work in the Social Security Agency are now engaging with people with significant mental health problems. They will never have done that before and they really need some training and support around that.
2633. **Mr F McCann:** One of the things that we were told when we raised this question is that the Department is taking advice from groups in the mental health sector and others. Have you been approached to provide advice or training to any of the decision-makers?
2634. **Ms I Elliott:** We have offered. We are meeting with the DSD in the next few weeks to try to have a detailed conversation about welfare reform, the issues of training, the step-by-step customer journey and where we feel there needs to be mitigating activities, training and capacity-building for staff who will administer the system.
2635. One of the difficulties for us is that some of the work will be done by people employed in the public sector and some will be done by private contractors. We raised this issue with colleagues



- in the Social Security Agency when we discussed the need for training for staff. The sense that we have been given about the public procurement contracts is that those workers cannot be required to engage in mental health training. That is a real issue. We have raised the issue about procurement, but what is actually in those procurement contracts about the competence of people who will operate welfare reform?
2636. **Mr F McCann:** I have one last comment on sanctions. I listened to a programme this morning in which residents from a village in north Wales told of their experiences in dealing with the system. One of the things they discussed were the sanctions. You are right. What happened was that people, who did not know they were under a sanction, took the short sanction on the chin and walked away. Most of it was because, as far as the Department there was concerned, they had not fulfilled the requirements of seeking work.
2637. **Mr Brady:** I have two points. I sit on the Health Committee, and you are right: there are so many overarching issues and they have to be raised with the Minister.
2638. The other thing that we sometimes forget — it does not apply to these cosmopolitan Belfast and Derry MLAs — but in my constituency —
2639. **Mr F McCann:** Mickey's constituency is semi-rural.
2640. **Mr Brady:** According to Fra, 30% of West Belfast is rural —
2641. **Mr F McCann:** It is 27%.
2642. **Mr Brady:** In my constituency, we have a big rural hinterland. My experience in the advice sector is that mental health issues are an even bigger stigma for a lot of people who live in rural areas. I have represented people in tribunals who, had they sought specialist mental health treatment, would probably not have had to go through what they did. They felt that if their neighbours knew they were getting that kind of treatment they would think that they were completely mad and all of that. Sometimes that is forgotten.
2643. You confirmed that we have a higher rate of mental health issues compared to Britain. However, we also have quite large numbers of people with those issues in rural areas. They are not always picked up on and they do not always go for the required treatment. Sometimes they will acquiesce to the system and get help. I think that this is sometimes forgotten.
2644. In my experience in the advice sector, from 1997 to 2007, the number of young people who presented with mental health problems, in particular, just got larger and larger. Some of them were as young as 16, and they had really severe clinical or reactive depression and all sorts of other things. In rural areas, they do not necessarily always look for the help, and their parents do not always seek that kind of health because of the nature of the illness.
2645. **Ms I Elliott:** Your comments really highlight the need for the Health Committee or the health sector to look at the impact of welfare reform. Some of the issues you raise are about rural mental health and people feeling stigmatised and being isolated.
2646. Looking at the Transforming Your Care agenda, I think that the other issue is that mental health services are not often appropriate for rural areas. One of the things that NIAMH wants to do is to develop what we call services without walls, so that rather than requiring people to come into a centre in a town or city, we will provide what we call floating support and support people in their local areas or in their homes.
2647. There is a real concern for us about those who are not in mental health services. That probably includes a lot of people in rural areas, or, as you say, younger people, who do not feel that the services that are provided are appropriate for their age group.
2648. **Mr Brady:** You are right about the services without walls. I have gone to meetings with the trust in the mental

health department of Daisy Hill Hospital, because there is an administration department upstairs. As you walk through the waiting area, people who know you try to avoid eye contact. They are there with family members or for treatment. They do not want people who know them to see them. That needs to be addressed.

2649. **Ms I Elliott:** Absolutely.

2650. **Mr Brady:** There are areas that deal specifically with mental health. People know about those and, sometimes, the stigma is reinforced.

2651. **The Chairperson:** OK. Members, thank you. Iris, you are obviously happy with the session this afternoon. You have provided us with written material and spoke, as members said, quite comprehensively. Thank you for that, and for your help and support to the Committee in its deliberations.

2652. Just to make you aware, the Bill is in Committee Stage, and the Committee is due to report on 27 November. Thank you once again for providing us with a lot of food for thought and very specific and direct information that will help us.



# 25 October 2012

## Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

## Witnesses:

Mrs Patricia Lewsley-Mooney	<i>Northern Ireland Commissioner for Children and Young People</i>
Ms Colette McIlvanna	<i>Office of the Northern Ireland Commissioner for Children and Young People</i>
Ms Goretti Horgan	<i>University of Ulster</i>

2653. **The Chairperson:** We will now have a briefing from the Commissioner for Children and Young People. With us are Patricia Lewsley-Mooney, Colette McIlvanna and Dr Goretti Horgan. You are very welcome. We appreciate the fact that you have, once again, taken the time out to come and brief the Committee. You have presented a paper, which is in members' packs. The Floor is yours.

2654. **Mrs Patricia Lewsley-Mooney (Northern Ireland Commissioner for Children and Young People):** I thank the Committee for the opportunity to come before you and present our evidence on the Welfare Reform Bill. I want to introduce Dr Goretti Horgan from the University of Ulster and Colette McIlvanna, who is part of my legal and casework team. I will give a brief presentation and then take any question members might like to ask.

2655. As you will be aware, under the legislation set out by the Assembly that created my office, I have a duty

to keep under review the adequacy and effectiveness of law practice and services relating to the rights and best interests of children and young people. In determining how to carry out the functions of my office, my paramount consideration is the rights of the child. It is my duty to remind the Assembly of its commitment to the United Nations Convention on the Rights of the Child, or the UNCRC as we commonly know it.

2656. Any reform to the welfare system is recognised as having a particular impact on the lives of children and young people. The Welfare Reform Bill is accepted as having the furthest reaching consequences for children and young people. Children's rights should be considered at an early stage to ensure that they are embedded in policy and legislation. The UNCRC should be the starting point when considering any law, policy or decision in determining the impact on children's rights. It is with that in mind that I have called for the Bill and the subsequent regulations that will hold the detail of the practical application of the Bill, to be scrutinised against the standards set out in the UNCRC. I will renew that call to the Committee later in my presentation.

2657. You will have seen my written briefing to the Committee along with the evidence in my two reports on welfare reform, which assess its impact on children and the question of parity. I listened with great interest to the Minister's statement to the House on Monday, and I want to begin by welcoming four significant aspects of his statement.

2658. First, the issue of the regularity and timing of payments to families has been of concern to me and others who work with and support families. I welcome the confirmation from the Minister that he has negotiated a concession to allow for operational flexibility on that issue, which will allow the IT systems

- to be developed to split a payment for a family into two smaller payments, rather than the single full monthly payment. That will, no doubt, assist vulnerable claimants who find budgeting difficult, and it will, in turn, benefit the children in their families.
2659. Although I welcome that, I am concerned that the Minister has asked his officials to develop a set of guidelines for determining the circumstances when a universal credit payment should be made on a twice-monthly basis and consult with public and voluntary sector representatives. I believe that the choice of payment options should lie with the claimant, who should be able to choose whether to accept the default position of a monthly payment or opt into the option of having fortnightly payments, without having to meet any additional set criteria. I believe that that will protect the most vulnerable claimants and their children. To require them to meet a set of criteria when there is no risk to parity on the issue simply complicates the matter unnecessarily and could serve to stigmatise claimants further.
2660. Secondly, I welcome the Minister's confirmation that he has negotiated flexibility regarding who in the family can receive the benefit. The original proposal was that the universal credit would be paid to the main claimant, which, in most households, is likely to be the male and which could have resulted in a breach of children's rights under the UNCRC. Research has shown that when money goes directly to the mother, it is more likely to be spent on children than when it goes to the father. Therefore, I ask that, when the Minister is looking at the implementation of that operational flexibility, he makes sure that the child element of the benefit is paid directly to the primary carer of the children. I believe that that will better serve the rights and lives of children.
2661. Thirdly, I welcome the flexibility on direct payments to landlords. The issue of changes in the housing elements of benefits has the potential to have a vast impact on the lives of children. The issues of segregated housing in Northern Ireland, the definition and application of the rules on underoccupancy and the impact of the new rules on children with disabilities cannot be underestimated.
2662. Along with the Children's Commissioners in the other UK jurisdictions, I met with Lord Freud in September and he told us of the research he was conducting into the Northern Ireland housing situation. I note that Lord Freud will visit Northern Ireland in November. We have written to ask whether we can meet him when he is here to raise that issue and the other matters I raised with him in September.
2663. Finally, the Minister confirmed that the implementation date for universal credit will be April 2014, which is six months after the implementation in the rest of GB. Hopefully, that will mean that Northern Ireland can benefit from lessons learned in other jurisdictions as they roll out welfare reform in October 2013. That is, again, to be welcomed.
2664. However, notwithstanding those concessions, a lot of work remains to be done to ensure that the Bill meets the standards outlined in the UN Convention. The issue of the benefit cap and the impact that will have on larger families remains. It has been remarked that I have raised a warning that the benefit cap will be like social engineering and will force families to have fewer children. I was, in fact, warning that the benefit cap will punish larger families. In addition, as Members know all too well, a lack of childcare infrastructure in Northern Ireland also hampers our families in seeking work or increasing their hours of work. Childcare provision here is among the lowest in Europe.
2665. The proposed conditions and sanctions have the capacity to cause breaches of children's rights. Even with the Westminster commitment to continue to pay the child element of benefits to sanctioned parents, that does not go far enough to protect the rights and best interests of children in sanctioned families, as the removal of any income

- from a household budget will have an severe impact on the children living in it.
2666. The social fund and the availability of crisis funding for families has long been a mechanism that has assisted families in urgent hardship. If the social fund is not replaced by a ring-fenced alternative that is protected in the Northern Ireland Budget as an emergency fund for families, I feel that it will result in a failure to provide the best interests of a child in accordance with article 3 of the UNCRC. It is also likely to result in a breach of other articles, including the right to enjoy the highest attainable standard of health under article 24.
2667. I am deeply concerned that, in the proposals, claimants who seek emergency funding and who have a certain level of debt or rental arrears will be refused assistance. It is the families that are already at breaking point who will be most in need of emergency crisis funding. Therefore, I call on the Assembly and the Committee to make sure that enough money is allocated to meet the basic material needs of children, and that the money that is available for crisis funding is ring-fenced and not made conditional on the solvency of the claimant.
2668. I also want to advise the Committee of the many potential problems that I and others foresee for children with disabilities as a result of the change from disability living allowance (DLA) to personal independence payments (PIPs). Due to the high rates of disability and ill-health in Northern Ireland, many children may suffer from a decrease in their family's income due to the changes.
2669. As you may be aware, my remit extends to young people up to the age of 21 who are disabled. Around 5,000 of those young people aged between 16 and 20 currently receive DLA. The mobility element of DLA, in particular, is vital for the additional transport costs of many of these disabled young people. So, this could result in the reduction of a young person's independence, if changes as currently envisaged are implemented.
2670. The rights of disabled children or the children of disabled parents are under threat. The Assembly and the Committee, through scrutiny of the Bill and the regulations, has the power to protect the rights of those children and young people under a varying number of articles, which are set out in the submission that you have already received. I call on you to make sure that those rights are respected.
2671. I previously called for the setting up of an expert group to examine the work capability assessments (WCA) being carried out in regard to the new assessments for PIPs. We suggest that that expert group should include psychiatrists who work with people with post-traumatic stress disorder (PTSD) due to the legacy of the conflict, as well as paediatricians and other experts in childhood disability.
2672. Through my engagement with other agencies and families, I have heard concerns about the transition from DLA to PIP, and I am aware that there is concern that recipients of DLA are not aware that they will, in fact, have to apply for PIP, as it is a new benefit and will not automatically be an opportunity for transition to the new system.
2673. Further concerns have been expressed about the procedure that will ensure claimants are invited to apply for PIP and the associated time frames for applications. Clearly, the advice sector in Northern Ireland, along with MLAs' constituency clinics, will feel the effects of that, with an increase in claimants needing assistance. We understand that some MLAs have already reported that their constituency offices have been inundated for advice. I call for funding to be made available to the advice sector to meet this need. Perhaps many members around this table may wish to seek training for their constituency staff as the effects of welfare reform bite.
2674. The regulations that will follow the Bill will shed further light on how it will impact on children and young people. I urge the Assembly and the Committee to make sure that the Bill complies with



children's rights and that the regulations are scrutinised against the standards set out in the UNCRC. It is not enough for the Bill and the regulations to be human rights-compliant, they must be UNCRC-proofed too in order to uphold the rights of some of the most vulnerable members of our society.

2675. I acknowledge that in all reform there are, to put it bluntly, winners and losers. I fear that the real losers will be the most vulnerable in our society. So, when you sit in your constituency offices tomorrow, I hope that you will pause for a moment and reflect on how the Welfare Reform Bill, in its current state, will hit the most vulnerable of your constituents and, most importantly, their children.

2676. **The Chairperson:** Thank you very much for that. As you said, members already have your written submission.

2677. **Mr Brady:** Thanks very much for the presentation. I have to say that I have been pausing and reflecting since 2007, when the initial stages of welfare reform were introduced and, it has to be said, given accelerated passage, because of threats that people's benefits would be stopped. That is a point worth making.

2678. In relation to children, nothing in this so-called welfare reform legislation will really be of any benefit to families. I have a couple of issues. First, for tax credits, the disability premium for a child will be halved from £58 to approximately £27. The rationale for that is that it will be spread wider. Surely that means that they are taking away from the most needy and vulnerable.

2679. There are a couple of other things. ESA for young people is important, given that severe disablement allowance has been abolished. It was targeted at young people who would never be able to work in the normal sense. In my experience, most of those people have learning disabilities or other disabilities. They are now going to be sucked into this "employment pool" — I say that because there are no jobs. Young people are already being exploited in

my constituency, where some stores get them in on schemes — one particular place has eight — and people who work there are going part-time or are being let go. That has to be considered as well, but I am sure that you do not need me to tell you about it.

2680. I want to talk about lone parents and childcare issues. You are quite right; about 12 years ago, when I was involved in welfare rights in my constituency, a survey indicated that Newry and Mourne had the worst childcare provision in western Europe as regards registered childminders. I know that this is a complex issue, but have you thought about addressing the issue of the childcare element and registered childminders? Historically, children would have been looked after by members of the extended family, but if members register as childminders they have to take other children on board. Have you thought about that aspect of it?

2681. I know that there are social services and child protection issues involved, but there is no reason why a granny or a sister cannot go through the protection of children and vulnerable adults (POCVA) check or whatever. I have not heard that being addressed, I have to say.

2682. The other issue is to do with the availability of childcare for a lone parent with a one-year-old. We were told before that — it happened initially and then did not happen afterwards — that lone parents would not be sanctioned because of the lack of childcare. That was my experience in the constituency office. However, what happens if such sanctions are put in place.

2683. There is another issue around universal credit and looking for work — the job search. Apparently, you have to be looking for a job for 35 hours a week. That is the equivalent of working full-time. You would nearly want to get paid for looking for a job, considering the time involved. I am not being facetious when I say this. It is crazy.

2684. In your report, you mentioned the issue of raising the hours of childcare

- provision from 16 to 24. The other thing that will impact on children is the ESA contributory for one year, at the end of which, if your partner is working and there is no income-based ESA, children in that family will be affected, because, apparently, it is all going to be subsumed into universal credit. You go in at one end really badly off and, apparently, you come out the other end in great shape. No one has been able to explain the mechanics of that.
2685. I wonder what your thoughts are.
2686. **Mrs Lewsley-Mooney:** There are quite a few things there, and I would like the others to come in on them, too. Perhaps I will start with the childcare issues.
2687. We have been raising that issue for a long time. First, neither the Assembly nor the Executive have produced a childcare strategy, which is a great need. We do not have the childcare infrastructure here, and that is one of the issues that I raised with Lord Freud when I met him in September. I have had conversations with the Minister and his advisers have told me that he is going to provide 70% of childcare costs. That has dropped from 80% for a start. That is OK; he can give 100% of the costs, but if there is no provision in the area how do they deal with that?
2688. For me, the issue of the ability of an extended family to facilitate that centres particularly on women who are in part-time employment and who rely specifically on family members to mind their children for that 16 hours. What will happen here is that they are now going to have to find an extra eight hours' work. That is eight hours' of childcare that they are going to have to find. Very often, the person who is minding the children is on benefit. If that person now is going to be in a position where they are going to have to find employment, the person who is working part-time is going to be hit twice. There needs to be a huge recognition of that.
2689. I know that there are some Department for Employment and Learning (DEL) training programmes that will allow family members to provide the childcare for that short space of time without it affecting benefit or otherwise. That needs to be looked at, and we need to know whether it can be extended.
2690. There are issues concerning disabled young people in particular. Some families will lose up to £1,400 a year or more. I ask the Committee to look at the cost benefit analysis of that. If such families lose £1,400 a year out of their budget, with a child who is disabled, what is the impact of that on the child's need for further help and support through health and social services, doctor's appointments, medication and all that, never mind the stress that it is going to put on the parents.
2691. **Mr Brady:** Displaced cost is one issue that we mentioned. It is not just a loss to the family; it is a loss to our local economy. People spend benefit where they live. We need to address that.
2692. **Mrs Lewsley-Mooney:** Goretti will talk about ESA or universal credit.
2693. **Ms Goretti Horgan (University of Ulster):** It is important for the Committee to emphasise to the rest of the Assembly the extent to which all those things are linked. You made a point about the contribution-based ESA and the fact that it will be limited to a year. That means that some families will lose £100 a week almost overnight, and that will be people who very often have paid national insurance contributions for decades. Some will be grandparents, because an overwhelming number tend to be in the older age group. Those same grandparents may be helping with childcare for their daughters or sons who live somewhere nearby in an underoccupied house, and they are getting moved out. We talk about lone parents but an awful lot of married young parents depend on their parents for childcare given how little childcare there is across the region.
2694. So, all of those things interact, and the question of displaced costs, which you mentioned, needs to be flagged up to the Department for Social Development

- (DSD) officials and the Minister so that you can say to them that they really need to think about how much it will cost if they do implement them. That cost will be to the block grant. More children may come into the care system, for example. Patricia talked about the £1,400 that a lot of families with disabled children are likely to lose. Families with disabled children are very likely to be in fuel poverty, and have to keep the heating on an awful lot more if they have a child who is not mobile. If they do not have that level of heat, the child will be in hospital with pneumonia, which leads to costs for the health service.
2695. The huge levels of displaced costs involved need to be considered. I realise that this is very far away from contribution-based ESA, but it seems as if there is a drive at Westminster to get rid of anything to do with national insurance. That is a shame because that made the difference between the workhouse and the system that we have today.
2696. **Mr Copeland:** Once again — I have said it twice today already unfortunately — I am sorry that I missed the early part of your presentation, but I have read it with interest. Patricia, in your capacity as the Northern Ireland Commissioner for Children and Young People, have you been approached directly by the Department as part of its process to assess the impact that the reforms will have on children and young people?
2697. **Mrs Lewsley-Mooney:** Yes, we had ongoing discussions with departmental officials after one of our meetings with the Minister. Again, it was very much a case of, “This is what is happening”, and we are arguing about what we can do to get that changed to secure operational flexibilities and other flexibilities to alleviate some of the hardship. We have the argument around the cost-benefit analysis, but officials will say, “I am being told to do this and I have to implement it.”
2698. **Mr Copeland:** I do not want to put words in your mouth, but would you say that you were presented more or less with a fait accompli?
2699. **Mrs Lewsley-Mooney:** Something like that.
2700. **Mr Copeland:** Secondly, we hear a lot about a number of strategies, but we do not tend to hear much about them after much time. You can call it child poverty or family poverty, but it is basically poverty. Have you any notion or gut feeling about the effect that the reforms will have on child poverty?
2701. **Mrs Lewsley-Mooney:** My feeling is that it will raise the levels of child poverty. It will certainly not reduce them.
2702. **Mr Copeland:** Marginally or greatly?
2703. **Mrs Lewsley-Mooney:** Greatly. Look at some of the statistics in the report that Goretti did: somewhere in the region of 6,500 children could be affected by one of the benefits, and that is only the one that we talk about. We could also talk about children with disabilities and children who are affected because of the childcare issue. So, the number could be greater. The Minister says that 10,000 children will be taken out of poverty through universal credit, but that is dependent on whether a parent can get a job. We heard about the number of jobs that have gone here: over 750 from FG Wilson and the others that have gone over the last number of months. There is also the whole issue of placing sanctions on parents if they cannot find work, which could be because they cannot find childcare. There will be a knock-on effect from that.
2704. I do not think that we will see a huge decrease in our child poverty figures at all in the next few years after this reform is implemented. In fact, I think we will see an increase. The Assembly has signed up to a poverty Act — it is supposed to produce an action plan that we still have not seen. It will be interesting to see what that action plan says when the welfare reform goes ahead.
2705. **Mr Copeland:** Lastly, among the most vulnerable groups of young people are those who are in short-term or long-term care or short-term or long-term fostering. Have you given any thought to the way the Housing Executive, for example, would treat a couple with a child who are

- applying and have a history of fostering in the short term?
2706. **Mrs Lewsley-Mooney:** We asked that question, even of Lord Freud. We asked him to consider foster care and even kinship care with regard to the tax on housing benefit. We said that such people should be exempt.
2707. There is also an issue for parents who have two children, one of whom has a disability; they are now supposed to share the same room, so if they have a three-bedroom house, they should now only need a two-bedroom one, even though the child with a disability may disrupt everybody's sleep. It will be worse for the child who is in the same room, and that could pull that child's health down as well, which has cost implications for the National Health Service.
2708. **Mr Copeland:** I also note your request that the expert group that you were talking about setting up involves psychiatrists. Are you content with the current contract as it is on offer? The only thing we can look at is the Atos cutback with regard to ESA, where the level of medical expertise is, in my view, seriously unreflective of the type of cases that they come across. Child psychiatry is a different field from psychiatry. Do you believe that, in order for this system to be discharged justly and fairly, child psychiatrists should also be available, and that people with such disabilities should be seen by people who are medically qualified to judge their conditions as opposed to ticking boxes on a computer screen?
2709. **Mrs Lewsley-Mooney:** I agree with that, and I would go further by saying that, before any assessment is made, any medical practitioner who is in the life of a child or an adult should be taken into consideration rather than somebody who will meet somebody for one day and decide, based on that initial conversation or assessment, to make a lifelong decision for that young person or even for an adult.
2710. **Mr Copeland:** It strikes me that young people are slightly different. In many cases, these are young people who have difficulties communicating, and I cannot for the life of me see how the system will be enacted in any way that remotely approaches the need.
2711. **Ms Horgan:** DLA is continuing for children at the moment, so we are talking about only —
2712. **Mr Copeland:** For a small group.
2713. **Ms Horgan:** We are really talking only about people of working age, but, as Patricia said, the impact that the change from DLA to personal independence payment will have for their parents is what is worrying us at the minute. As a region, we are emerging from conflict. I heard the Minister talking about the welcome attempt to bring mental health issues into the assessment for PIP in England, but they do not have PTSD, except perhaps for soldiers coming back from Afghanistan and Iraq. Overwhelmingly, our population has very high levels of PTSD, and that —
2714. **Mr Copeland:** I just wanted to come back at you on that last point that DLA may be paid to a parent in respect of a child. Is that on the basis of the impact of the condition on the child or the impact on the parent?
2715. **Mrs Lewsley-Mooney:** No, it is solely on the child. That remains the same.
2716. **Mr Douglas:** Thank you, Patricia, Goretti and Colette, for coming. Patricia, your briefing says:
- “the Westminster commitment to continue to pay the ‘child element’ of benefits to ‘sanctioned’ parents will not go far enough”.*
2717. We had the Housing Executive in here earlier and their representatives talked about sanctions as well. Everyone is talking about sanctions, evictions and the trauma that that involves. Can you elaborate a bit more on that? You say that it does not go far enough. What should it be? Or how can we help in this situation?

2718. **Mrs Lewsley-Mooney:** The issue here is that, if a parent is sanctioned, they say that the child benefit element of that will be protected. However, that element can be a minimal amount of the overall amount that goes into the household. So, while the child element is given to the parent, that money will still go to pay the rent, heating or electricity. It will not go directly to feed the child. Therefore, we are saying that the sanction will have a ripple effect on the children and the family as a whole. How the sanction is brought into play, and how it is played out needs to be looked at. If there are children in the household, we think that sanctions really should not happen, rather than it should happen but as a last resort.
2719. **Mr Douglas:** I have a final question. Your submission also states:
- "The numbers who receive 'Youth ESA' are small enough to cost relatively little".*
2720. Have you costed it? If the Assembly decided to do something along those lines, how much would it cost? Have you done any work done on that, Goretti?
2721. **Ms Horgan:** We have not. We just looked at the numbers involved, and they are quite small.
2722. **Mr Brady:** The figure given for that was about 390,000.
2723. I have two more points. The first relates to passported benefits. Many children rely on school meals as their only proper meal of the day. It is very unclear how those are going to be worked out through universal credit.
2724. The other thing is about the change from DLA to PIP. You have a remit for disabled children up to 21 years of age. Presumably, when such children hit 16, under the current legislation, they become claimants in their own right. We are unclear —
2725. **Mrs Lewsley-Mooney:** That is only in some circumstances. It is for mild learning disability, but for severe learning disability, it is 18 or 19. That transition from education into adult —
2726. **Mr Brady:** Yes, but I am thinking of 21 years of age, because it is unclear at what stage such children will be reassessed as adults. I have dealt with cases where Down's syndrome children got two-year awards, as though they would wake up some Monday morning and not have Down's syndrome. It is crazy. However, other Down's syndrome children got lifetime or indefinite awards, which are not going to happen anymore. So I just wonder what will happen as such children reach adulthood. It is very unclear. This is enabling legislation and, presumably, the regulations will come sometime, God knows when. That is when you will have the nuts and bolts of this. There are inherent difficulties ahead, apart from just the Bill that we are scrutinising.
2727. **Mrs Lewsley-Mooney:** That is what we are trying to outline. Some of the difficulties are not visible on the face of this. There are going to be huge problems around the regulations and guidelines, how they are developed, what assessments are put in and how that is done. You are right. Even young people with severe learning disabilities, who are 18 and at school today, do not lose that tomorrow because they are 19 and in adult services. They still have those.
2728. We have just done a huge report on transitions. Very often, on entering adult services, children lose quite a number of the services and support that they were getting while they were in the education system, so there is going to be more pressure on families and those young people in order to live in the future.
2729. **Mr Brady:** I will just finish off by saying that, in his statement on Monday, the Minister talked about Freud coming over in November to assess the impact. I am not sure how he can assess the impact if it has not yet happened. We were told that all this has to be in place, otherwise we lose the timescale. However, now we are told that, instead of October next year, we can put it back to April 2014.
2730. **Mrs Lewsley-Mooney:** There are lots of ways around this if you want to find them. That is probably one way



that was found. For me, the particular issue around housing is the cap or tax on housing benefit and how it will affect families. What will the impact be on children if families have to be evicted? We met the Minister recently and he said that he was using the fact of how few houses were now being repossessed as an indication of the slowdown of everything. I am saying that I really would not use that as an indication because the families who I meet are making the roof over their heads the priority. They are not eating or heating. That is why there has been a huge increase in the number of food banks. It is the families who have been in employment, lost their jobs and know how traumatic it would be if they had to move their children out of their homes into hostels, bed and breakfasts or wherever else. They are trying to keep the roof over their head — particularly people who are in low-income households. Of course, when some of those benefits kick in and they lose money from their household, it will become more difficult. Obviously, banks have become wiser; it is better to get some money off them than none. So I would not take the lower number of house repossessions as an indication that things are getting better. If you speak to families who are going through that hardship, they will tell you that it is getting worse, not better.

2731. **Mr Brady:** On that point, Advice NI has a debt advice centre in Newry. They have just moved into Ballybot House, where I used to work. If you talk to a worker there, you will be told that they are inundated. They are able to give advice along the lines of what you are saying: to avoid repossession. However, people are losing out on something else. The passported benefits need to be clarified in the meantime.

2732. **Mrs Lewsley-Mooney:** Very much so.

2733. **Mr Brady:** There is the particular issue of school meals. Although it is through education, someone has to have a qualifying benefit in order to get them. Therein lies a major problem.

2734. **Ms Colette McIlvanna (Office of the Northern Ireland Commissioner for Children and Young People):** That will also impact on access to justice because a lot of legal aid, especially for children's cases, would be contingent on passport benefits. Therefore, not only this Committee, but the Committee for Justice may need to have input into that.

2735. **Mr Durkan:** Thanks for the presentation, ladies. A lot of stuff has been covered. I will focus on one area, which is the benefit cap. I have, probably, raised that issue here ad nauseam. Given that child benefit is included in the benefit cap and that that will have a direct detrimental impact on children here, we should look at some sort of amendment that will exclude child benefit from it, particularly if we consider the noises that are coming from Iain Duncan Smith today that child-related benefit may now be restricted to and capped at two children. I would like to hear more of your thoughts on that.

2736. **Mrs Lewsley-Mooney:** We have an issue with its being frozen for three years and, of course, with George Osborne's announcement a few weeks ago that the Government will look at families who are on benefit and have a far larger number of children, as well as the fact that, if you have any more than two children, you will not get any more money for them. Therefore, there are many knock-on implications, not only for child benefit, but for the childcare allowance and all of that. So, a lot of those issues will have a ripple effect on that one thing.

2737. **Ms Horgan:** It is clearly a particular issue for Northern Ireland because we have larger families. That is generally not the case for people who are on benefits; our working families are larger. What happens if somebody loses their job? There is an assumption that certain families just have children and live on benefits their entire lives. They actually forget that people move in and out of work. How many former FG Wilson workers, for example, have more than five children in their family? Will we tell them that, after years of paying their national insurance, they will not get any



- benefit at all for some of their children? So, I think that you are right: it would be good for you to put up a fight to get child benefit, at any rate, excluded, although it has to be said, of course, that the House of Lords did that and it got sent back. There is the issue of how much it would cost. I know that you have to take all of that into account. However, something has to be done, otherwise, we are sending out a very bad message to families.
2738. **Mr Durkan:** I am just looking at the numbers, Goretti. The submission states:
- "6,500 children in Northern Ireland will see their families lose money as a result of the benefit cap".*
2739. How did you reach that figure? I asked departmental officials how many families would be affected. I think that they said that it would be 260.
2740. **Mrs Lewsley-Mooney:** Those figures actually came from the Department. When we asked officials — Goretti can verify this — they were talking about 1,500 families with five children or more. We worked out that 1,500 by five gives you 6,500. The figure is probably more than that because some families have more than five children.
2741. **Mr McClarty:** It is 7,500.
2742. **Ms Horgan:** It is actually about 1,150 children or something like that, but they were DSD's own figures.
2743. **Mr Durkan:** I think the most recent figure they gave here excluded child benefit, even though the cap will include child benefit.
2744. **Mr F McCann:** Thanks for the presentation. It was interesting. A number of the presentations that we have had since we started the scrutiny have had the same strong message about the impact that the welfare reform is going to have on families and people. It was interesting to listen to Iain Duncan Smith on the radio this morning. I think you are right, Patricia. When he speaks of people having children when they cannot afford them, it is about social engineering. I think it is disgusting that you can only have children if you are rich enough to be able to afford them. That needs to be tackled.
2745. One of the things that concerns and baffles me is that there has not been the same type of protest as some of the huge protests that have taken place in England. I can only put it down to the British Government's attempt to criminalise those who are anything. On a certain TV programme that he was on last week, Alex touched on the fact that very few people out there actually realise that, if they are in work and happen to fall into sickness, they will only get benefit at a higher rate for a year. I think that is lost on people out there. More and more people who lose their jobs will fall foul of that. It is all right for people saying now that they understand why it is being introduced, but if they have a change of circumstances, they will be impacted upon.
2746. The presentation that we got from the Housing Executive was interesting. It has estimated that 26,168 people will be impacted upon by underoccupancy. That obviously begs the question: is it geared up to be able to deal with that? The answer is no. That needs to be taken into consideration.
2747. Over the past few weeks, we have had two amendments discussed in the Assembly and then defeated, and one at this Committee. Two of them were in and around human rights and equality. I know that you referred to the UN charter. Have you considered taking legal action — there are probably other groups that have — on the grounds that the implementation of the Bill will seriously impact on the rights of families and children?
2748. **Mrs Lewsley-Mooney:** At present, we are working with the Equality Commission. I will let Colette answer that one.
2749. **Ms McIlvanna:** As Patricia said, we are working with the Equality Commission in relation to that. I will go back to one of your earlier points about the lack of information. It is accepted that the Bill is an enabling Bill and, as Patricia said in

her presentation, the devil is going to be in the detail of the regulations. Unless and until we see the regulations and the outworkings, people on the street are not necessarily going to know the impact. That is a concern, especially in regard to families who may think that, as you say, they are in work, things seem to be OK and it might affect someone else. You do not know what is coming down the track for you. That is one of the big things that we are calling for in relation to the regulations. They must be scrutinised to be sure that they comply with human rights and the UNCRC, especially with the best interests of the child being the paramount consideration in respect of those.

2750. **Mrs Lewsley-Mooney:** One of the issues for us — some of you may look at it when the review of our legislation comes before you — is that I do not have victim status, so I cannot take a case on behalf of all of the children who will be affected by it. I have to go out and find an individual child. That is something that we are working on at the moment.
2751. It is also important, when you are talking about the benefits and the whole issue of having to move from incapacity benefit or DLA to PIP, that people understand that they have to reapply and that they do not automatically move from one to the other. It is going to be very difficult, particularly for people who have mental health issues, to fill in those forms and be constrained to a certain amount of time to do so. The stress of that, again, will have a knock-on effect on their mental health. If they do not get them filled in on time, they will not get any money. What impact will that have on children? How many of the 26,000-plus families who you talked about have more than two children? So, you are talking about a much larger number of people being affected by this.
2752. **Mr F McCann:** This morning, two other things that were raised were the legacy of the conflict and housing — people not being able to move. When the Department went through the clauses with us last week, it was interesting that its officials quoted that they had identified 520 families who would be affected by the cap on benefit. However, the big “but” was that there are over 13,000 families with members in receipt of DLA who they think could automatically fall into this. It will have a huge impact. When we take the benefit cap, the cuts in housing benefit and all the other stuff that is coming down the road, the impact will be huge.
2753. **Mrs Lewsley-Mooney:** That was our worry around the passport to benefits; around taking the money that children got for free school meals and giving it back into the household. If you are going to lose money for housing and for something else, that money would be used for stuff other meals. All of us around this table know that a free school meal was often the main meal of the day for children, particularly when it came to the end of the week or the fortnight when benefits were being paid the next morning and there was no food in the house on a Wednesday night. Taking away the opportunity for such children to get at least one decent meal a day will have a long-term effect on those children's health and educational attainment.
2754. **Mr Brady:** I have a couple of points to make. Both parties have to sign the claimant commitment. If one does not sign, they do not get their benefit. That may happen because of the claimant's mental health, because they had a run-in with somebody in the buroo or it could be a personal thing.
2755. Fra mentioned that the media campaign. In Britain and here, if you listen to some of the stuff, you hear people on benefits being castigated. It amazes me that the state is abdicating its duty of care to children. There is no other way of describing it. We are being told on the radio, in print news and the rest of it that the Social Security Agency is some kind of philanthropic organisation that gives money out of charity. What about the duty of care that the state has? What happened to the Beveridge report? What happened to the welfare state? All of that seems to be going down the Swanee. As Fra said, when

the poll tax came in, there was huge opposition because it affected everyone, particularly the middle classes because people were going to get penalised for the size of their house. There has not been that reaction with welfare reform because the media in particular have, for want of a better word, vilified people on benefit. In my long experience of working in benefits, that is not be the case; I have never met anybody who loves being on benefit. It was not their ambition to spend the rest of their life on income support. It does not work like that.

2756. **Mrs Lewsley-Mooney:** I agree, and the media portrayal is that there are all these people on benefit. We know that the majority of people in Northern Ireland who will be affected by this are couples and families who are on low-income wages. They are out working and trying to make a living.

2757. **Mr Brady:** The statistics that we have for the single room rent for under-35s show that 37% of those people are working, so they are on low pay purely and simply because we live in a low-pay economy.

2758. **Mrs Lewsley-Mooney:** For us, the other housing issue is multiple occupancy, and particularly its child protection implications.

2759. **The Chairperson:** A last point from me for you and your colleagues, Patricia, concerns the discussions that you said you had Minister Freud and with the Minister and his Department here. You said that there has been a lot of talk about parity, and there has been, but, in my view, there has been a lot less understanding of it. Your submission questions:

*"Whether statutory provisions require parity".*

2760. I presume that that is meant to raise the issue of whether they actually mean "parity", are parity or are relevant to parity. Even after my meeting with David Freud yesterday, I am no clearer on what "parity" is supposed to be. It is something that has to be fully tested. In any of your discussions thus far, and in looking at the Bill, have you been able to

determine whether any of its provisions meet the test of parity, are relevant to the issue of parity, or do you detect any possible change?

2761. **Mrs Lewsley-Mooney:** The only change is the —

2762. **The Chairperson:** I do not mean by way of concessions.

2763. **Mrs Lewsley-Mooney:** No, but flexible operations is the only one that we have been able to see.

2764. **The Chairperson:** I am just saying that I do not like the word "concession", because I do not accept that it is a concession. Some of the provisions, in my opinion, do not cost money and are more policy issues or administrative issues. In any of your discussions, have you detected any of the suggested changes that you would make that the Minister or the Department would consider not to be a breach of parity?

2765. **Mrs Lewsley-Mooney:** No.

2766. **The Chairperson:** Fair enough. No other members wish to comment. Colette, Patricia, and Goretti, I thank you once again for your diligence in bringing these matters to our attention. Thank you for helping us to consider the Bill. For the record: this is the Committee Stage of the Bill, and we are due to complete our report by and on 27 November. For that reason, we are having evidence-gathering sessions three days a week. Thank for very much for your contribution.

2767. **Mrs Lewsley-Mooney:** Thank you very much.

## 25 October 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

### Witnesses:

Mr Pat Durkin  
 Ms Dolores Ferran *Northern Ireland*  
 Mr Gerry Flynn *Housing Executive*  
 Ms Fiona Neilan

2768. **The Chairperson:** I welcome Gerry Flynn, Dolores Ferran, Fiona Neilan and Pat Durkin of the Housing Executive. Thank you very much for coming here this morning. We are very pleased to have you.
2769. **Mr F McCann:** Is there a written presentation?
2770. **The Chairperson:** The presentation is on its way round.
2771. **Mr Gerry Flynn (Northern Ireland Housing Executive):** Chair, I apologise for our lateness. We have with us copies of our briefing. Because of our lateness in finishing it, we have not had an opportunity to have it formally cleared through the Department. We have made comments, clause by clause, against the Bill's provisions, and I have brought a summary of our views on the big issues, and what we are trying to do to mitigate the impact of this on our tenants.
2772. I have copies of our presentation for members.
2773. I will quickly take members through the summary. My colleagues, who are steeped in our work on welfare reform, can contribute. We are happy to take questions from members and deal with any issues of detail that may arise.
2774. We welcome the opportunity to make a submission to the Committee. This Bill is an important piece of legislation for Northern Ireland. It will significantly change the welfare system and have a significant impact on social housing across Northern Ireland.
2775. We are well aware, as are Members, that the Bill deals with: the creation of universal credit; replacement of the disability living allowance (DLA) with personal independence payments (PIPs); reform of the social fund and housing benefit; benefit caps — which we are all well aware of — and conditionality of sanction powers.
2776. This submission deals in the main with the impact of the changes to housing benefit in the social sector, but it also refers to impacts and other changes contained in the Bill. As to recent developments, we welcome the concessions which Minister McCausland has recently obtained on behalf of Northern Ireland, particularly in the arena of direct payment and the method by which that payment will be made to individuals. Members are aware of our concerns about individuals getting access to monthly payments in arrears, which will result in their having to make arrangements, potentially, for paying rent right across the social sector. So we welcome those interventions
2777. In terms of the relationship between the Department and ourselves, the Minister has asked the Housing Executive to act on two fronts: one is that, as a regional housing authority, we should comment on the impact of welfare reform; and another is to comment as a landlord managing 90,000 tenancies. To that effect, we have worked very closely with the Department in putting together working groups to examine the various strands of the welfare

- reform review. On the basis of that, we have carried out a detailed analysis of the potential impacts on applicants looking for housing, our tenants and the business activities that we manage as an organisation. To that extent, we have worked closely with our colleagues in the housing association movement, who have to deal with similar issues in managing social tenancies.
2778. I will deal with the key issues for our organisation. The Bill is known as a piece of enabling legislation. Much of the detail that will come out of it will be in regulations. We would require and request that when regulations are drafted, we get an opportunity to comment on them in detail because they will impact on how we deliver this.
2779. A big issue with regard to the Bill is underoccupation. I have provided data for members. As you can see, in the main, we have around 26,000 tenancies with the potential to underoccupy either one or two bedrooms. The impact on those individuals, as you will see – bearing in mind that they are people who, in the main, are on benefits – is that they will have to find between £7 and £15 a week out of their universal credit allowances to cover the shortfall in their rental payments.
2780. So, we are doing a lot of analysis. We have piloted that and my colleagues might want to talk about that in more detail later. We have done a lot of analysis to see what the impact will be locally on the people who live in our housing stock, what impact that might have and the mitigations that we would have in place to try to deal with those issues. When you look at the make-up of Housing Executive stock, you see that although we have 90,000 properties, somewhere between 10,000 and 12,000 of those are targeted at one-bed accommodation. So, we have around 26,000 underoccupying tenancies. If everybody presented at our door tomorrow morning looking for accommodation that is appropriate to their needs, we would have a major issue to try to deal with that. We would not have the supply to match their needs.
2781. With regard to vulnerabilities, significant changes will arise as a result of personal independence payments in the Bill. I have quoted the chapter there. They will impact directly on how people manage their family income. Although other disability related benefits are not intended to be used for housing costs, you can understand that any reduction in housing allowances to cover rental costs will have to be met from the payments that they get for other issues. The additional costs of living with disability have been well documented. The administration and targeting of a range of services, including disability facility grants, for which eligibility would be determined by passporting individuals through access to the system, could prove challenging to us in ensuring that individuals match up to the rules.
2782. Although older people are exempt from the changes, it is difficult to see at this stage — I know that the data that we have collected provides only indicators — how people in the disability sector may not be impacted adversely by that. I know that it is early days. The proof of that will come as we gather hard-nosed data. Therefore, if you are of working age, you are directly impacted. However, if you are of working age and you have a disability, there is potential that your group may be impacted adversely. The proof of that will come out through the detailed research that we carry out.
2783. We are still waiting for details on households that are affected by the benefit cap, which will be implemented through deduction from awarded housing benefit. When that is available, we will be in a better position to come back with more information.
2784. I will make a point about sanctions. There is a penalty in the Bill that relates to people's providing false information. We need to be very careful about how we manage that as regards whether people have provided false information deliberately, negligently or simply because they were confused about the information that they were asked to provide. As we move forward, that part of the Bill needs closer examination.



2785. I would like to make a final general point before I close. In our initial responses to managing the impacts of welfare reform, we set up our own working groups. We produced internally a document called a “social welfare action plan”, which looks at the sorts of things that we would have to do as a major social landlord in Northern Ireland to mitigate the impact of that. Part of that includes a lot of significant research on tenant profiling, the level of underoccupation and the level and type of individual who applies for accommodation in Northern Ireland. So, we are doing a lot of research on those issues.
2786. We are trying to gather information about the extent to which young singles are on our waiting list. Up until last week, we have also done a lot of work on the potential impact of direct payments and how that would be managed. The Minister’s intervention could certainly mitigate that.
2787. We also need to look at the make-up of the newbuild programme and whether we have sufficient one-bed accommodation built into that to cater for potential demands that are coming down the track. We also have to review the nature of the building form itself. I mentioned the mismatch between the nature of the housing stock and the requirements of people who are looking for accommodation. We certainly need to look at issues with regard to houses of multiple occupancy (HMOs).
2788. One big aspect of our work will be looking at the review of the housing selection scheme, on which we have worked very closely with the Department, and, in particular, the rules on how people access bed spaces and the mismatch between that and the current housing benefit rules. So, we are also doing a lot of work on that.
2789. We are also trying to promote, through technology — my colleagues may want to talk about that — the impact of direct exchanges and how people can potentially swap for accommodation that is more suitable to their needs. We have looked extensively at the impact of universal credit as it comes down the track, bearing in mind that we have statutory responsibility for processing housing benefit payments and a significant workforce currently employed in doing that.
2790. We also need to develop some significant work on the potential for a review of a new rates scheme in Northern Ireland, which is currently impacted through the management of housing benefit. As a result of the changes coming up in how we manage bed spaces, it might be incumbent on us as we move forward to look at how the current rent scheme of the Housing Executive is structured.
2791. Finally, underpinning all of that, it is incumbent on us, as a manager of major stock in Northern Ireland, to get simple, precise information and advice out to the wider public on how we move forward and manage changes that are coming down the track. Underpinning that, we hope to develop a fairly comprehensive communication strategy to deal with those issues.
2792. Those are the sorts of things that we are dealing with at a very high level. I am quite happy to take questions from members.
2793. **The Chairperson:** Before I bring in other members, I want to be clear on this point: you produced a table in your summary identifying 26,168 tenants who will be impacted by the underoccupancy rules, 7,000 of whom are underoccupying by more than one — *[Inaudible.]* You said that, if all of those people who will be impacted by that were to present themselves for alternative accommodation, you would have a serious challenge to address that. Does that mean that you would not be able to address it, or it would be a serious challenge to address it?
2794. **Mr Flynn:** If they all presented tomorrow morning, the evidence shows that we would not have the accommodation for them. If all of those people who are underoccupying presented at the front door of the Housing Executive in the



- morning, could we, within a week or so, move them to suitable accommodation? The answer to that is no, we could not.
2795. **The Chairperson:** OK. I appreciate that.
2796. **Mr Brady:** Thanks for the presentation. I have just a couple of questions. On underoccupancy, you mentioned a figure of 26,000. We are constantly told that the whole premise of universal credit is to get people back to work. Do you have any stats on how many of those 26,000 are actually in work? With the single-room rent — *[Inaudible.]* — I think 37% of those people affected were actually working, so it is not just about people who are not working. It is also about people who are on low income, and we live in a low-income economy. Will you check that out and get back to us?
2797. **Mr Flynn:** I will get back to you, but I do not have that data at this stage. It is an important question.
2798. **Mr Brady:** That is fine. It is an important question, because it skews the rationale to a certain degree.
2799. The other thing relates to the disabled facilities grant. They are saying that, under the universal credit, it is going to be more difficult to identify the criteria. If someone is in receipt of DLA or attendance allowance then it makes it much easier. A lot of people are going to be affected by that move by being taken off DLA and not necessarily going on to receive a personal independence payment. That is a challenge for you.
2800. The other thing about underoccupancy is that you mentioned the house not being available. Apart from the way housing works in different areas, where people are reluctant to move, one of the criteria in certain areas if you have a disability is that you move near family and friends for support. That may well be badly affected if, for instance, the only single-room accommodation is 10 miles away. I do not think all of that has been factored in. I am sure you probably have thought about it. Those are a couple of issues that I just wanted to raise.
2801. **Mr Copeland:** Hi Gerry, and welcome to your team. There are a couple of issues that I want to clarify at the start.
2802. Of the 26,000-odd citizens or families who will be affected, each one is currently in possession of a tenancy offered to them on the basis of reasonable accommodation by the Housing Executive, and each one of them could well ask why you are now putting them into a property that they cannot afford to live in.
2803. Secondly, I have seen some Housing Executive properties classed as having three bedrooms when the third bedroom is not really a bedroom and was never intended to be a bedroom. Is there any opportunity to reclassify what constitutes a bedroom and perhaps ameliorate that in some way?
2804. Lastly, what about a case in which underoccupancy is created by the provision of a downstairs disabled bedroom to facilitate a disabled person, thus freeing a bedroom upstairs? Will that person, who has already gone through the trauma of all that, be affected? What about overnight stays, particularly with reference to parents without care, and the requirement of some people to have on a regular basis someone to stay with them due to some sort of stress or trauma? Will any of that be allowed for in the context of the legislation?
2805. **Mr Flynn:** You touch on a range of very —
2806. **Mr Copeland:** They are all quite similar.
2807. **Mr Flynn:** They are all very challenging. We are not on our own; every local authority across the United Kingdom is faced with the same issues about how to deal with working practice that applied in the past, such as where we provided an extra room for someone who had access to children at a weekend. Under the benefit rules, they would be hit and would have their benefits reduced. We have promoted in areas in which it has been difficult to let accommodation that was much bigger than the needs of the families on the basis that we do not want to

- blight the area; we want to have the properties occupied. All of those are real issues for us. We do not have the solutions. We are working through options and evaluating whether it is possible to change the building form to accommodate the people who live there and ensure that you are not creating any inequalities in the system, so that somebody who happens to be on housing benefit does not have their rent reduced because of something that we do to amend the property while somebody who works and pays their way has to pay a different level of rent. There are issues with the equality dimensions of this. We are working through them; we are trying to gather as much data as we can. That is why I said earlier that we may have to look at the rules of the housing selection scheme. We may have to look at the construct of the rent scheme, which has been known to us and has worked for quite a long time, to deal with this. All those policy changes would have to be widely consulted on and formally approved by the Department and back in here through the Assembly.
2808. **Mr Copeland:** The issue, in some ways, is that, for us to take an informed decision, we need to know that before we can judge the effect of this. Is it likely that we will be in possession of that information in time to do that?
2809. **Mr Flynn:** Yes. Our research is pretty well advanced —
2810. **Ms Dolores Ferran (Northern Ireland Housing Executive):** Yes.
2811. **Mr Flynn:** — in respect of the information that we are gathering.
2812. **Mr Copeland:** Could I also ask, tongue in cheek and knowing the constituency that I come from, if the Department or the Government place a financial penalty on those who are underoccupied, will they consider placing a financial premium on those who are over-occupied?
2813. **Mr Flynn:** That is the other side of the coin. We have data on the level at which our accommodation is over-occupied. That is why, in many respects, we are trying to use all the tools that are available to us to try to get a better match with the accommodation that we have through the tenant exchange scheme.
2814. If people know that they are underoccupying and somebody else down the street is over-occupied, we are trying to create a situation in which people will willingly swap accommodation. That has not happened in the past because people get used to where they are living. However, the financial penalties that are potentially coming down the track open the door to seeing a greater level of exchanges.
2815. A big issue that we will have to face coming down the track is that, if you fine people who are underoccupying, and they get their benefits reduced and have an inability to pay their way, we, like all the other social landlords, are going to be faced with hard decisions about the action that we will take with those individuals. It is different for someone who just refuses to pay and has the wherewithal; we have evicted those people in the past. There are big social issues. Are we going to take hard-nosed action against individuals who just cannot pay as opposed to those who refuse to pay?
2816. **Mr Copeland:** On the basis of that, do you feel that this Westminster legislation is not particularly compassionate, if that is the right word? Legislation is seldom compassionate, but this did not pay particular attention to Northern Ireland. There are pressures here, given the polarisation, in many cases, of your properties, which, quite simply, are not taken into account by the legislation. Although it is not your view to prejudice a Minister, should we make the case that that aspect requires some degree of re-examination?
2817. **Mr Flynn:** Certainly. I do not want to speak for the Minister, but he is looking forward to meeting Lord Freud. He will try to make the case that Northern Ireland is different. I fully understand the issue about parity with the rest of the United Kingdom and the cost to the Northern Ireland block if we do

- something different, but if we could do something that allows us to work within the rules with different sets of procedures, that is something that we would like to see.
2818. **Mr Copeland:** It depends, in some ways, on whether you view parity as a simple financial computation or whether it is parity of outcome. Although the financial parity may exist, the parity of outcome will be dramatically different in Northern Ireland.
2819. **Mr Flynn:** We need to be mindful that any change that we look to put in place in Northern Ireland does not cost the Northern Ireland block. If we take it out of one pot, it has to be found somewhere else. That is the issue.
2820. **Ms Ferran:** It might be useful if Fiona adds a little bit. We are doing what we call a pathfinder in Lurgan and Portadown. That involves going out and talking to households and tenants who are underoccupying currently to see how they are going to cope with the potential changes.
2821. **Mr Copeland:** Would that be what you call a pilot scheme?
2822. **Mr Flynn:** Yes.
2823. **Ms Fiona Neilan (Northern Ireland Housing Executive):** It is indeed. We have about 1,100 underoccupied tenants, according to the size-restriction rules, in that district. We are doing that pilot scheme to talk to as many of those as possible. That involves face-to-face interviews and discussion about how they will be affected, a calculation of the likely financial impact and their shortfall in rent.
2824. There will also be discussions about what they are likely to do and whether they would prefer to stay and try to pay the shortfall or whether they are likely to be willing to move. Less than 10% are saying that they would prefer to move at this stage. For anyone who indicated that, we are discussing options for transferring and, as Gerry mentioned, the direct exchange. There are — *[Inaudible.]* — on board with the new — *[Inaudible.]* — exchange scheme now that is going to be up and running.
2825. We are also talking about offering some budgeting advice and referrals to other agencies to get some help with budgeting and talking about ways to pay rent. That will be important, as will be discussing our rent card, direct debits and other housing options, such as transferring to another area, etc. That is a very useful exercise. It has given us a lot of information. It shows that an overwhelming number of tenants would like to stay where they are.
2826. **Mr Copeland:** I wish that some of the other areas of the Department involved were as keen to carry out pilot schemes. We had a discussion a couple of days ago about it. I think they are sleepwalking on a minefield.
2827. **Mr Flynn:** We are also tracking the pathfinder pilots in the UK. Some of the new changes are up and running, and we will track closely what they are dealing with because we all face the same challenges.
2828. **Mr Copeland:** Although Northern Ireland has an added layer of challenges.
2829. **Mr Flynn:** I accept that.
2830. **Mr F McCann:** I have a quick question. In terms of the 26,168 people on housing benefit who it will affect, is that people on full housing benefit or people at all ranges? Does it take in, as Mickey said, low pay?
2831. **Mr Pat Durkin (Northern Ireland Housing Executive):** That takes in everybody who is on housing benefit. Some of those would be on part benefit. They have not gone down to that level at this stage.
2832. **Mr F McCann:** Could that be broken down? It is crucial. Mickey is right: what is lost in here also is the fact that a sizeable amount of people are also on low pay. Sometimes, we are given the impression that all the people who are on housing benefit are scroungers, but many people are also working. Many people suffer from severe disabilities.

- A breakdown of that would be useful, because it is crucial.
2833. The Minister and some from the Department said that the increases in discretionary payments will take care of what has happened. Sometimes, however, exactly what a discretion payment is and how long it lasts for is lost on people. It is a short-term fix for a long-term solution. After a short time, people will feel the full impact of what is happening. You can stop me if I am wrong. I take it that people will be paid for the first 13 weeks at the full rate and 80% for the second 13 weeks. There was some confusion about whether people would be paid at all after the second 13 weeks.
2834. **Mr P Durkin:** It will depend on the numbers who apply and the extent of our budget. That is the overriding factor that we have to apply. If we do not have the money available to pay them, we will not be able to pay them. At present, when we put on a discretionary claim, it is for 26 weeks. At the end of that period the tenant is entitled to ask again for a further payment period, but there is no guarantee of how much they will get or for how long they will get it after that because it is seen as a short-term solution, as you said.
2835. We cannot guarantee it indefinitely, otherwise there would not be enough funding left for new people to come into the scheme. We have to make case-by-case determinations as to how long we can pay a claim for and how much we pay out.
2836. There is no guarantee that, when we make an award, it will cover all the shortfall even at the first time of applying. We have to judge the budget and the demand and try to make sure that we live within our budget.
2837. **Mr F McCann:** I thought that the 26-week period was broken down into two different 13-week cycles.
2838. **Mr P Durkin:** No, not at the moment.
2839. **Mr F McCann:** When did that come in? I was talking to people about six weeks ago and the information that I got from housing benefit was that it was 13 weeks at the full rate and 80% for the next 13 weeks.
2840. **Mr P Durkin:** No. Our policy at the moment is a 26-week award. It is purely to provide some degree of stability for tenants and give them a chance to find alternative accommodation. If you were limited to 13 weeks, it is a very short period for someone to have to up sticks, find somewhere new and move. We decided that —
2841. **Mr Flynn:** If you want, I will forward a note to cover that, if it helps.
2842. **Mr F McCann:** The point is that it is a short-term fix.
2843. **Mr P Durkin:** It is.
2844. **Mr F McCann:** People will feel the full weight of the cut in housing benefit after a short period. You are right; it depends on the amount of money that is available and whether there is the ability to pay. The discretion lies with whoever to determine whether a claim can be given.
2845. I wonder whether you have taken into consideration the legacy of the conflict that we live with, especially in some of the big urban areas where it may be dangerous. Just recently, we heard on the news about cases of intimidation where people have been put out of houses and are afraid to go into certain areas. Was that taken into consideration when you drew up your report or submission?
2846. **Mr Flynn:** We have rules for dealing with intimidation and how people get pointed.
2847. **Mr F McCann:** Let me give you an example. There are parts of north Belfast where quite a number of houses are lying empty. Some areas are overcrowded, so if people from those areas went to you tomorrow to say that they wanted to move into those houses, would you be in a position to move them?
2848. **Mr Flynn:** Well, those are things that would have to be discussed in the round. We would deal with the circumstances as they presented themselves.

2849. **Mr F McCann:** Yes, but if you do not do it they can still be penalised for underoccupancy.
2850. **Mr Flynn:** The nub of the issue is that if someone presents looking for accommodation of a certain kind and we do not have it, and we are making them an offer, it is about the action that we are going to take as a reasonable landlord in making reasonable offers to those individuals. That is one of the issues that we have to try to deal with.
2851. As I said earlier, if everyone who is underoccupying presented, could we offer them accommodation directly appropriate to their needs in the morning? The answer is no; we could not deal with them all. Some of the work that we are currently doing —
2852. **Ms Ferran:** We are currently looking at issues in low-demand areas. We have different solutions where there is high demand, for example, where if you have a three-bedroom house you could let it. However, if we cannot let in a low-demand area, it is better to have a house let than have it empty. If someone is underoccupying, how are we going to compensate for the loss that that person might experience under the new regulations.
2853. **Mr F McCann:** On top of that, the point is that there are areas, certainly in Belfast and perhaps Derry, where houses may be empty, which people cannot move into. Is that being worked into your considerations?
2854. **Mr Flynn:** Setting aside the issue of the impact of welfare reform, we have been doing a lot of work, considering that there are over 20,000 people in housing stress on our waiting list, to ensure that our accommodation is used to its maximum. Our level of voids has reduced significantly over the past period of time and we will continue to look at that.
2855. **Mr F McCann:** Have you started any process that identifies future newbuild to meet the needs?
2856. **Ms Ferran:** Yes. We have been actively talking to housing associations this year about acquiring smaller properties such as one-bed apartments. That has not been terribly successful, but we now have a target of having 200 units in the programme for next year in that target market. It will take a while for those to come through into the supply. We are also looking at converting some of our houses. There is potential to convert some into an apartment upstairs and a bedsit below. Whether it is economical to do so is another question, but we are looking at the feasibility of all that.
2857. **Mr F McCann:** How would that work in areas of high demand? How would you match that?
2858. **Ms Ferran:** High demand is probably not a factor, because we can let the house anyway. The difference in rent between a three-bed house and a converted bedsit with a one-bedroom apartment does not make it a good investment to spend £30,000 on conversion.
2859. **Mr F McCann:** Although it might be different elsewhere, in areas such as west and north Belfast, most of those on the waiting list and staying in hostels are young families and one-parent families. How will you deal with that when building 200 houses or flats to meet the need?
2860. **Mr Flynn:** I do not have all the facts with me, but it is fair to say that the waiting list contains a significant number of young families. An increasing chunk of our waiting list is made up of singles looking for appropriate accommodation. Schemes from some of our local offices have brought back into use void one-bed properties that were not popular. The impending change means that they are now popular, and we are starting on work to bring some of those properties back into stock.
2861. **Ms Ferran:** In Belfast, 48% of those in housing stress are single.
2862. **Mr F McCann:** May we have a copy of that information?



2863. **Mr Flynn:** Yes. I will provide one note to cover a couple of issues.
2864. **The Chairperson:** Fra was getting at what is one of the elephants in the room. Gerry, you said earlier that there is a particular problem that exists not just in urban areas, although it is probably more stark in some urban areas, particularly Belfast. I agree entirely that you do not want to allow houses to lie empty and blight an area. By the same token, people might need additional accommodation in a neighbouring district, maybe one street away, but would not be allowed to live there. That issue has to be grappled with, because that is us trying to manage sectarianism in basic, simple terms. That is an elephant in the room that we have to address.
2865. **Mr Campbell:** It was a very useful presentation. I was very interested in the Lurgan survey, which found that only 10% would prefer to move. I do not know what type of questions were asked but, presuming that the survey was within the past couple of months, most people being surveyed about changes as a result of welfare reform were probably thinking that it would not affect them immediately but might do so some way down the line. Although the survey is useful, and I glad that you conducted it, it would be even more helpful if another one were to be carried out when the changes are imminent, because somebody's view about a change next year, the year after or some time in the future will be different to their answer closer to the time. If you were to carry out another survey and ask for people's views when they know that the change is about to happen in the next month or two, you may well get a radically different figure than the 10% from this survey. It might become 25%. I do not know what the figure would be, but a survey at that stage would be even more useful. Do you plan to do that closer to the time?
2866. **Ms Ferran:** Yes, we have planned further communications, and, from January, we plan to roll out communication with everybody who is underoccupying and offer them a face-to-face visit if there are vulnerabilities or if they need more information.
2867. **Mr Campbell:** A number of members have asked about the table in your submission, and I am not 100% clear on that either. It shows that a total of 26,000 people are underoccupying. Below the table, you state:
- "This represents around 60% of all NIHE tenants of Working Age claiming Housing Benefit."*
2868. I am not clear on what that means. Does it mean that 60% of all 90,000 Housing Executive tenants who are of working age claim housing benefit? Are 60% of the 26,000 eligible to claim housing benefit?
2869. **Mr Flynn:** No. The general breakdown is that over 70% of our tenants are on housing benefit.
2870. **Mr Campbell:** Of all your tenants?
2871. **Mr Flynn:** Yes. Say we have 90,000 tenants, about 64,000 or 65,000 of those are currently on housing benefit.
2872. **Mr Campbell:** Yes, but what percentage of the 26,000 are getting housing benefit?
2873. **Mr P Durkin:** All 26,000 are on benefit.
2874. **Mr Campbell:** They are all underoccupiers, but are they all on housing benefit?
2875. **Mr P Durkin:** They are all housing benefit claimants.
2876. **Mr Campbell:** Of any kind?
2877. **Mr Flynn:** Yes.
2878. **Mr Campbell:** Right. That means that approximately 60,000-odd other tenants are protected.
2879. **Mr Flynn:** They are protected because they are not of working age or because they are able to pay their way. They are exclusive of the rules. We are trying to grapple with underoccupation. So we ask ourselves who will be affected and can we get their addresses. Anecdotally, our information shows that about 26,000 will be affected. We really have to try to deal with them. Part of that was picking a sample



- area, Lurgan, and asking what the real issues are for those households. We believe that 26,000 people would be directly impacted if the change came in tomorrow morning. Their benefits would be reduced by the amount applied to one or two bedrooms.
2880. **Mr Campbell:** That is helpful. Do you plan pilots other than in Lurgan to see whether that was reflective?
2881. **Ms Ferran:** As you can imagine, it is quite a time-consuming task. If the legislation goes as planned, it will come into force in April next year, so we do not really have time to go out and visit every single person. There will be a lot of telephone contact and visits to people who have greater needs than can be dealt with over the telephone.
2882. **Mr Campbell:** My last question is about sanctions. Again, I have full sympathy with you here. Presumably, a number of people, and I do not know whether that number will be large or small, will give false information. Your problem, as you outlined, is how to distinguish between those deliberately giving false information and those doing so inadvertently. If most of the people who give false information are assessed or designated as having done so inadvertently, how difficult will that be to manage?
2883. **Mr P Durkin:** It will be a subjective decision. There is no suggestion of fraud necessarily. It may well be that some people did not tell us on time that their circumstances had changed. We will have to decide whether that was due to their negligence or because something else happening in their lives meant they just did not get round to telling us. We would have to get to the bottom of that level of information in every case if we were to decide to apply a penalty in one case but not in another. It would be a very complex addition to an already complex decision-making process. Determining whether an overpayment should attract a penalty could add 50% to the time taken to decide whether there had been an overpayment in the first place. That would be a major addition to our work and have a major impact on the person who, for whatever reason, had not told us in time that their circumstances had changed or, possibly, had not provided us with the full range of information required.
2884. **Mr Campbell:** I appreciate fully all the time constraints involved, but the point that I am trying to get at is this: if a significant number of people are assessed as having either inadvertently given wrong information, or if, as is reasonable to assume, some mitigation is taken into account, the end result will be that you have spent a great deal of time for little result. Taking all mitigating factors into account would mean few or no sanctions.
2885. **Mr P Durkin:** That is right. There would be no end result of all the work up to that point.
2886. **Mr Campbell:** I am on your side on that. What is the solution, other than not going down that route?
2887. **Mr P Durkin:** The regulation is discretionary and states that the Department “may” act.
2888. **Mr Campbell:** Do you pursue it or not?
2889. **Mr P Durkin:** The choice can be made not to pursue it. It is in the legislation, but the Department may decide that the regulation is not one that it wants necessarily to pursue in every case.
2890. **Mr Flynn:** Under the current housing benefit regime, people do not provide us with the necessary information because they do not understand what is required. The view is that, if they did not understand the rules and failed to provide the information, they were paid benefit that they were not entitled to. That is a pretty harsh approach. Housing benefit is fairly complicated.
2891. As we move to the introduction of universal credit, the expectation is that individuals will eventually make applications online of their own volition. You can understand the difficulties that will be faced by staff processing applications for universal credit, which

- is a composite of all the benefits in one payment. The problems that we struggle with every day of the week in processing applications will be added to.
2892. There are two issues: training for staff who process cases and the information that we get out to people in a simple format. It is easy to talk about that, but it is not so easy to do. As some of our studies have shown, despite all the press coverage, discussion and media awareness, an amazing number of people do not know what universal credit is about. They do not understand. That may be a failing of ours: we are a public service, and we need to be better at getting the message out in a simpler and more readily understood fashion. It is alarming that, as close as we are to the introduction of the legislation, people do not really understand that, for example, if they underoccupy a property, their benefits will be cut by £5, £6 or £7 a week. So it is incumbent on us all, as officers in the public service and as officials, to try to get that message out in as many forms as possible.
2893. **The Chairperson:** For us as legislators, it is all very well for somebody to tell us that they might not act anyway, but we have to agree legislation that sets out what can be done. You rightly pointed out that this is enabling legislation. If I am asked to support legislation that sets out what the rule will be, it is no good telling me, "Well, we are not really going to do that anyway". If I pass the legislation, I have already enabled it. That is a matter for us to decide on in due course.
2894. The legislation already provides for penalties to be levied, and so on, if people give information that is wrong, inadvertently or otherwise. The legislation will specify how much giving the wrong information will cost, even if it is done innocently.
2895. **Ms Ferran:** That is in clause 112.
2896. **The Chairperson:** When you take that into the benefit arena, people will be paying through the nose, whether they have made a genuine mistake or not.
- Of course, that does not reverse the sanctions from the Department.
2897. **Mr Douglas:** I thank Gerry and the rest of the team for their presentation. I want to go back to my colleague Gregory's point about people being evicted. At a recent conference in east Belfast, that was the one issue that people became agitated about. They said that the number of people being evicted due to underoccupancy, a reduction in benefits or whatever, would increase. What is the situation with evictions? Do you have any predictions for the potential increase in evictions?
2898. **Mr Flynn:** We currently take a very hard line. If people who have the wherewithal do not pay, we evict them. We will take a hard line when advertising that. So it is incumbent on you, if you get a tenancy from us, a housing association or someone in the private rented sector, to pay your rent. If you do not pay your rent, you lose your home. If you lose your home in those circumstances, you do not qualify for help as someone who is homeless because you are intentionally homeless, and we do not have any responsibility to help you.
2899. This is slightly different, as we may find individuals who do not have access to the wherewithal and have had their benefits cut. If the proportion of their universal credit left to cover their housing costs does not meet the need, we will be faced with a real choice. We have not made any decisions about this yet, and I do not want to pre-empt what might go to our board and through the Department. The first case of eviction because of underoccupancy might involve someone who simply does not have the money and has a young family. Think of the press coverage and the political flak that we would get, but we have a set of rules and public money to manage, so it is about striking that balance.
2900. There are figures being bandied about for the rent arrears of all those affected in the first year. If everybody refused to pay, our rent arrears could go up by between £12 million and £15 million

- in the first year. The issue for us is whether to continue to try to manage those tenancies and collect what we can. Do we keep a record of the debt until such times as they are able to pay, or do we take a hard-nosed approach and evict. However, if we evict because of an inability to pay, they are not intentionally homeless. That decision has to be taken separately. If they are not intentionally homeless, they can call at a different Housing Executive door and apply to be treated as homeless. We would then be responsible for finding them temporary accommodation and would have to put them up in a temporary placement, the cost of which would be far greater than the average rent that we charge. It is a vicious circle. We have not reached a conclusion, but I do not want anyone to be under any misapprehension: if people do not pay their way deliberately, we will evict them. I imagine that you would expect us to say that, because 20,000 people are queuing to get a property from us and our social tenancy colleagues. If people who have a property do not value it, it is important for us to take action.
2901. **Mr Douglas:** The other side of the coin is people who will not pay. Let me give you an example: I am sure that there are seasonal spikes, where you have —
2902. **Ms Ferran:** Christmas?
2903. **Mr Douglas:** Yes, Christmas, Easter, Halloween or whatever. Also, at back-to-school time, people will pay for their families' needs but deliberately not pay rent. If I were in that situation, I would do the same. I would look after my family rather than paying my rent. Will such people be in the category that you just described?
2904. **Mr Flynn:** We have been at this a long time, and we know the patterns of payment behaviour. We know that there are spikes in individual tenancies, and we know that they always come back and enter into agreements. The issue for us is to demonstrate that we are managing the debt, taking appropriate action and getting people back into agreements as quickly as possible.
2905. Our information shows us that, particularly in new tenancies, if people do not get into the way of paying and get beyond the four-to-six week period, they develop a mindset of, "We will never be able to pay this; the debt is too great." The average rent is £50 per week. People think that, if they go beyond £300 in debt, they will never be able to pay it, and so they just stop paying. However, if we get in early and get people on to a payment plan, it is OK.
2906. It is the same as any debt. You must give people hope that they can get to the end of it. That is why we are doing a lot of work on tenancy counselling and trying to work with the Department of Enterprise, Trade and Investment (DETI) to address the problem of the loan sharks who are rife in estates and giving "advice" and "support" to people. They say that they will help people out, but the rates that people have to pay for that "help" are very high. Someone owing £100 one week can suddenly owe thousands of pounds. I am sure that you are all well aware of that. It is incumbent on us to try to get advice, assistance and support to those people. There is potential for that type of debt to increase. It is incumbent on us to manage that and to have a social conscience as we do so.
2907. **Mr Douglas:** I have a final question. Obviously, this is a daunting task for you. You said this morning that you face huge challenges. One thinks of the whole future of the Housing Executive and of all the structures aligned with it. This morning, I reflected on the task for your staff in retraining and getting up to date with all the legislation.
2908. This morning's previous set of witnesses was from WAVE. They asked whether we could do something for them. Our question to you is this: what can the Committee do to help you? I think that you will come back to us with suggestions for the regulations. As you said in your report, the Minister has been very helpful in his work with Lord Freud, and so on. It would be good if you came back and said to us, "These are the specific areas in which we need help."

2909. **Mr Flynn:** The Minister is right that one of the biggest concerns that we face is direct payment. I do not have the exact figures, but we collect something like £225 million or £230 million a year in housing benefit. We were suddenly faced with having to knock doors and collect that money, which would have been a massive task. It would have been a return to the rent collectors that we employed in the late 1970s.
2910. Equally, many people, including public and community representatives, tell us that they do not want the responsibility of having to think about paying us their rent. If a way can be found to collect rent out of their universal credit payment, that would be fine with them. Suddenly faced with hard decisions about Christmas, back-to-school time, and so on, many will decide not to pay their rent. If they do not pay their rent, however, they will not have a home. I think that the intervention on the direct payment has significantly taken the fear away from us. It has been the same for housing associations, which would have been faced with the same challenge of collecting rent and putting arrangements in place. Some of the pilot schemes in England have got people to sign up to direct debits, so people get their universal credit payment paid into their bank account, and they are virtually walking with them to ask them to sign up to a mandate that will take £50 or £60 out of that. That is the way it is being done in those schemes in England, and that is among the things that we would have had to consider. The evidence will be when we start to roll that out. It is one intervention that will have helped all social landlords.
2911. **Mr Brady:** Gregory made a point about civil penalties and sanctions. The same problem has existed over the years with social security, whether because of misrepresentation or failure to disclose. Those are the sorts of criteria. You cannot disclose something that you do not know, but you can misrepresent something, so there is a difference.
2912. I have a question for Fiona on the pathfinder pilot schemes. I heard or read somewhere that people might be encouraged to take in lodgers to solve the underoccupancy problem. The difficulty is that, if you do that and they pay rent and you are on a means-tested benefit, you will lose that amount from your benefit, so I am not sure of the rationale or logic. Has that been suggested?
2913. **Ms Neilan:** It is an option for people to consider, and some may think that it is a viable option for them. Obviously, it will be up to the individual to decide how it will impact on their benefits.
2914. **Mr Brady:** That needs to be explained to people. That is extremely important.
2915. **Ms Neilan:** There are some plans — maybe Pat would know better — about the change to benefits.
2916. **Mr P Durkin:** Some discussions are going on about disregarding the income from a lodger from the calculation of the tenant's benefit. It has not come through yet, but the scenario that you are painting has been accepted as one that is not the desired outcome here, and steps are being taken to deal with that.
2917. **Mr Brady:** That is creating a new cohort, if you like, of people who, rather than going into bedsits or somewhere, will become part of a household, in a sense. It is a kind of social engineering, apart from anything else. You are parachuting people in on families.
2918. **Ms Neilan:** Yes, absolutely. It may not be the option for many people, but it is certainly one option. In looking at good practice and at how other local authorities are putting out a range of options that are open to people, this is one of the options that has been identified, but I recognise that it will not be an option that will be useful for everyone to consider. Some people may be able to think about it.
2919. We are also doing other things to look at, for example, the selection scheme, about relaxing the rules around the creation of joint tenancy, whereby, if someone is currently in their home, they may wish to create a joint tenancy with



- another individual to share the burden of underoccupancy. That is one of a number of things that we are looking at in the proposals to change our housing selection scheme to realign with housing benefit rules regarding underoccupancy. We are looking at ways to ensure that the new housing that we are allocating does not result in underoccupancy and also at ways to ensure that tenants who are currently in underoccupied properties are supported and maybe given more priority and assistance under the housing selection scheme if they wish to downsize. Creation of joint tenancies is one of those things that we are building in.
2920. **Mr Brady:** Pat mentioned the disregard. That would be fine if the income were all disregarded, but if there is a shortfall, there is no underoccupancy. I presume that, in normal circumstances, the lodger, becoming part of the household, would have to be fed and would, possibly, use extra facilities. Presumably, a reasonable amount would be charged. I am not sure whether that would be encompassed in the disregard. To me, it complicates an already complex and complicated system, even with the administration of something such as that. There will be displaced costs. These things do not seem to have been thought out to any great degree.
2921. **Mr Flynn:** It is like all of the aspects. We have put everything on the table to try to work through it and come up with a solution. It is like anything that you start from new: lots of things go on the table but do not stay on the table. We would not rule anything out at this stage, because, if we are trying to create a situation where we are helping people, it is incumbent on us to look at all of the options.
2922. **Mr M Durkan:** Thank you for the presentation, and I am sorry that I had to nip out there. We will all share your relief at the flexibilities that have been afforded, particularly around direct payments. You mentioned your team processing housing benefits. What impact will this have on them? What role will they have to play in the administration of the direct payments? In general, what implications will the Bill have for your work?
2923. **Mr Flynn:** The decisions on the management and administration of universal credit have not been finalised. Until those decisions are made, we will not really be in a position to comment. Suffice to say, we have about 400 staff working on housing benefit and benefit-related work. Some of those people might still be working on it. The challenge of moving back to providing people with advice, assistance and tenancy-counselling will be huge. Our view is that work will be created in and around that.
2924. It is like everything else; it is about having finite resources to manage this. As with any other public body, there is a cap on our resources. You have to live within your means. Those are real challenges coming down the track. As soon as the decisions are made on how the future of universal credit will be managed, we will know exactly what we are dealing with and will respond accordingly.
2925. **Mr M Durkan:** You spoke about a lack of knowledge on the streets about the impact of the Welfare Reform Bill. I agree wholeheartedly with you on that. There are people who will suffer as a consequence of this new underoccupancy legislation but who are oblivious to it. However, I meet more and more people who will be exempt, such as pensioners, who are panicking about it. Are you doing anything to ease those people's fears?
2926. **Mr Flynn:** That is part of our communication strategy. We have had evidence of that as well. People contact us and ask, "Will I have to move?" On the one hand, it is because people are suddenly getting an understanding of all of this. On the other hand, we need to be self-critical sometimes. If elderly people are coming to us with those questions, we need to ask: what have we not done to help them? We need to step back and look at the information that is given to people and how we get

that information out to people. Through the housing community network, we have a fairly comprehensive network. We have contacts in every single estate. We need to find better ways of getting a simpler message out. If that is not in written format, it may be done through running clinics or going to community halls in the evenings to tell people clearly who is affected and who is not. That is something that we need to address.

2927. **Mr Copeland:** I have been doing some work on homelessness. On Saturday evening/Sunday morning, I will be going out with the Welcome Organisation to look at what it does to try to ameliorate homelessness. It seems to me that, somewhere down the line, there will be, or could be, a potential growth in the number of people who are homeless. On the evening that I spoke to Sandra Moore, which was about the middle of last week, there were three beds available in the city of Belfast for people who are homeless. Have you factored in the likely peak that this will lead to and considered whether or not the current provision needs to be increased to accommodate that peak?

2928. **Mr Flynn:** What a question. We have a statutory responsibility to deal with homelessness. We have a fairly extensive portfolio of accommodation to deal with families and single people who present. We have the approvals to acquire private rented accommodation to deal with pressure spikes that arise. We have fairly searching standards to make sure that people meet the standards.

2929. **Mr Copeland:** That could be viewed as being more expensive than the situation that pertains at the minute.

2930. **Mr Flynn:** It could be. There is always a danger, Michael. It is about striking a balance. If you think that you will have x number of people homeless, you can build more hostels or enter into more arrangements with voluntary groups to build more hostels. However, the demand might not materialise. You can also have a flexible regime in which you can respond quickly to a short-

term spike in demand. That is about access to and working with the private rented sector. We have moved away from building hard-and-fast hostels. We have stopped doing that with our voluntary partners. We have tried to use the private rented sector. To date, we have been able to work with the private rented sector to provide sufficient accommodation; we will keep that under review.

2931. **Mr Copeland:** It is fair to say that the profile of those presenting as homeless may change dramatically. It is traumatic — I do not mean that in a way that is detrimental to you — for people who suddenly find themselves without a home.

2932. **Mr Flynn:** A by-product is that, in working with our voluntary sector partners who provide homeless services for us, we need to step back and look at the thresholds that they use for taking people into their accommodation. We need to step back and say, “These people are homeless. There should not be categories of homelessness. If you are homeless, you have a need for accommodation.” We should all step back and work to that mantra. It is also about getting the best use of the accommodation that we have available to us.

2933. **Mr Copeland:** I come back to the profile. A lot of the people who find themselves homeless now are people with difficulties. Drink, drugs or a whole raft of other things may be involved. However, in the future, you could be looking at low-paid working families, which is a totally different demographic to that which the sector has been used to dealing with. If you put someone from that demographic into that world as it exists now, the outcomes would be very expensive in both financial and emotional terms.

2934. **Ms Ferran:** Pat can correct me if I am wrong, but I think that, if you stay in a hostel for more than three months, you are exempt from the underoccupation rules. So, it can be a perverse incentive.

2935. **Mr Copeland:** Sorry; explain that.



2936. **Mr P Durkin:** If a person aged under 35 who is affected by the shared-room accommodation rule has been in hostel accommodation for more than three months, they are exempt from it. Therefore, they could move from a hostel into a one-bedroom flat.
2937. **Mr Copeland:** For what period of time will that that exemption pertain?
2938. **Mr P Durkin:** There is no end to it at the moment.
2939. **Mr Flynn:** That is when you reflect back on the decision that you make in respect of families who just cannot afford to pay their way and suddenly find themselves homeless. Are we actually going to put those people into a position where they become homeless? We would then have to find them suitable accommodation. Those are the factors that you need to weigh up when you are making decisions about who to take hard-nosed action against. Will it be those who cannot pay or those who refuse to pay?
2940. **Mr Copeland:** I suppose there is no chance of keeping the house for them for the three months so that they get the tenancy changeover —
2941. **Mr Flynn:** We are mindful of the issues.
2942. **Mr F McCann:** Gerry, my understanding is that over half the people who declare themselves homeless are young singles and that they are usually deemed not to be acceptable as homeless. There is little chance of those people spending three months in a hostel before they go into the shared-room arrangement. So, you are talking about a very small number of people in the broad scheme of things.
2943. As regards being able to handle what could be a serious increase, my understanding is that one fifth of the Housing Executive's workforce will be lost over the next wee while. How will that impact on your ability to deal with any rise in homelessness?
2944. I know that there are some exemptions in respect of supported housing. However, I think that people in supported housing are unsure exactly what those exemptions are. How will they be impacted by an underoccupancy rule?
2945. What about people who have had disability adaptations made to their home? In some of the cases of housing adaptations that I am dealing with, the children have grown up, and the house is underoccupied. How do you deal with stuff like that?
2946. **Ms Neilan:** The figures for singles in statutory homelessness that I have to hand are that, at the end of September, we had just over 12,000 statutory homeless applicants on our waiting list. Of those, about 4,500 were singles.
2947. **Mr F McCann:** They were not directed. We were told that, under the provision, you cannot house them. They are left to their own devices, so they are not in hostels for three months. They do not fall under the rule that you just spoke about.
2948. **Mr P Durkin:** That rule will apply to people who have self-referred to a number of the homeless accommodations.
2949. **Mr F McCann:** It is a very, very small number of people.
2950. **Mr Flynn:** You made a point about the resources. We have to live within —
2951. **Mr F McCann:** That was a comment more than a question.
2952. **Mr Flynn:** We all have to live within our means. In many respects, it is about finding smarter ways of doing things.
2953. **Mr F McCann:** And supported housing?
2954. **Mr P Durkin:** Supported accommodation will not be impacted by the underoccupation rules. In fact, housing costs for supported accommodation are being held outside universal credit altogether, as we understand it. We do not see that the welfare reform changes, as they stand, will have any impact on that sector.
2955. **Mr F McCann:** And disability adaptations?
2956. **Mr P Durkin:** Part of the increase in discretionary budget that we are getting is specifically to cater for that

- type of case, so that is one that we will be looking at. If they are now underoccupying then yes, they would be affected by the change in legislation, but we would be looking to use our discretionary budget to ease the financial burden placed upon them.
2957. **Mr F McCann:** It must be a never-ending pot of money.
2958. **Mr P Durkin:** It is being increased.
2959. **Mr F McCann:** The question is there. It is discretionary, so it is only a short-term solution. I get a bit annoyed — not at you — at the fact that, when people are talking about the solution to this, they often refer back to discretionary payments. People need to make it clear what those payments are. They are short-term; they will not deal with the long-term effect of what is happening.
2960. **Mr Copeland:** I just want to clarify with Fiona whether the 12,000-odd figure referred to the number of applicants or applications.
2961. **Ms Neilan:** That is the number of those awarded statutory homeless status. Having presented, they have been —
2962. **Mr Copeland:** Yes, but is every one of those applications for one applicant, or could there be two, three or more people?
2963. **Ms Ferran:** No, there are families.
2964. **Mr Flynn:** Some of those might be families of four or five people.
2965. **Ms Neilan:** The 12,000 figure refers to households, of which over 4,500 are single persons.
2966. **Mr Copeland:** So that leaves 8,000, or it could be 20,000. That is what I am driving at.
2967. **Mr Flynn:** It could be.
2968. **Mr F McCann:** Are those last year's figures?
2969. **Ms Neilan:** No, they are the figures at the end of September.
2970. **Mr F McCann:** So I take it that it will probably hit 20,000 by the start of the next housing year.
2971. **Mr Copeland:** Which could be 30,000 or 40,000 people.
2972. **The Chairperson:** We are getting into speculation. No other members have indicated that they want to speak, and I think we have had a fair bit of discussion. Gerry, are you and your colleagues happy enough that you have presented your argument and made your points?
2973. **Mr Flynn:** Yes, we were quite happy to come back on the detailed comments by the clauses through the Department, which will provide a formal briefing, so I said that today I would come for a general discussion.
2974. **The Chairperson:** I am sure that you are aware that we are in Committee Stage and are due to complete our report by 27 November. We take on board the points that you have put to us, both in writing in your submission and in the contribution you have made today. Thanks very much for your presence today and your help to us in our deliberations.



## 25 October 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

### Witnesses:

Ms Annette Creelman     *WAVE Trauma Centre*  
 Ms Amanda Deans  
 Mr Stuart Magee  
 Ms Philomena  
 McCaughey

2975. **The Chairperson:** I welcome Annette Creelman, Amanda Deans, Stuart Magee and Philomena McCaughey from WAVE. Thank you for being here this morning and for taking the time to make a submission. There are a number of specific issues that you want to draw our attention to, so the floor is yours.
2976. **Ms Annette Creelman (WAVE Trauma Centre):** Thank you, Chair. I am the welfare advice worker with WAVE Trauma Centre. I am accompanied by my colleagues Amanda, Stuart and Philomena, who are also welfare rights workers. WAVE Trauma Centre welcomes the opportunity to contribute to the Committee's consideration of the Welfare Reform Bill. WAVE Trauma Centre is a cross-community charity that supports and helps those who have been injured, bereaved or traumatised as a result of the Northern Ireland Troubles. We have five centres operating in Belfast, Armagh, Ballymoney, Omagh and Derry/Londonderry.
2977. Among the services we offer to our clients is welfare advice. We deal with a vulnerable client group, most of whom have been physically or psychologically injured, long term, as a result of the Troubles. Many rely on sickness and disability benefits and live in low-income households. That is why welfare reform is so important to our members.
2978. I am aware that the Committee is scrutinising the Bill, clause by clause, and that you are hearing evidence from other stakeholders on various parts of the Bill. My previous submission to the Committee focused on the effects of time-limiting contribution-based employment and support allowance (ESA) for those placed in the work-related activity group (WRAG), particularly for the over 50s, and our concerns about the eligibility criteria for the personal independence payment (PIP), which is set to replace disability living allowance (DLA).
2979. We would like to focus on some key points that we hope will mitigate some of the effects of the Bill. First, we want to look at clause 52, which deals with a time limit for contributory ESA. That is the biggest issue among our membership. Many of our clients have been on long-term incapacity benefit and have undergone migration to ESA. This has been an extremely stressful time for them.
2980. The cessation of contributory ESA for those placed in the work-related activity group has implications for those who have other forms of income or savings, as they may not qualify for income-based ESA. Those who do qualify for income-based ESA may find that they are worse off if they receive other income such as industrial injuries benefit, which would be deducted from income-based ESA. Others may live with a partner who works or may have a small occupational pension that may exclude them from means-tested benefit. We fear that the sudden loss of that income will cause many low-income households to plunge

- into financial hardship, particularly with rising food, fuel and utility bills.
2981. Despite waiting for an ESA appeal for up to six months and winning their case, an individual will find that their payment comes to an abrupt end, not because their condition has improved but because of this legislation. In my experience at WAVE, the majority of the clients that I have dealt with who claim long-term incapacity benefit have been over 50. Due to injury and disability, many have spent many years out of the labour market and lack up-to-date skills. They typically suffer from both physical and mental ill health.
2982. The proportion of people over 50 without any educational qualifications is nearly double that for those in their 20s. The idea that ESA should be a temporary benefit, pending a claimant's return to work as soon as possible, will prove very difficult for that group, who will be competing for work with healthy and skilled young people, graduates, lone parents and those recently made redundant. They are unlikely to be an employer's first choice. Many of our clients will face a withdrawal of state assistance overnight when the legislation is enacted, regardless of how long they have worked or paid national insurance contributions. Many may experience financial hardship, and even risk losing their homes, before they reach retirement age.
2983. Long-term claimants of incapacity benefit who are migrating to ESA will require longer periods of rehabilitation than those who have more recently left the labour market due to ill health and claimed ESA in the past year. We propose that those people are permitted a longer period on benefits and that more resources are put into training and condition management for that specific group. The one-year cut-off period is arbitrary and contradicts the Government's own research on the difficulties facing those who have been out of the labour market for long periods due to ill health.
2984. We ask the Committee to consider introducing an exemption for those who have reached a certain age, in recognition of the difficulties they will face in finding employment, particularly victims and survivors of the Troubles. To that end, it may be helpful for the Committee to obtain statistical data from the Department on how many long-term incapacity benefit claimants over 50, over 55 and over 60 have migrated over to the work-related activity group and succeeded in obtaining employment through Pathways to Work and the assistance provided by the jobs and benefits office. That may be helpful to define a cut-off age. I will now hand you over to my colleague Stuart.
2985. **Mr Stuart Magee (WAVE Trauma Centre):** Following on from what Annette was saying about the time-limiting of contribution-based ESA, one of the practical steps the Committee could scrutinise is the way in which the decision-making process to place claimants in the support group is implemented. Members will be aware that it has been increasingly difficult since March 2011 for claimants of employment and support allowance to meet the criteria of the support group. Therefore, there is a lack of expectation on them to conduct work-related activity. That will become more important with the introduction of the time-limiting. As members will be aware, those placed in the support group rather than the work-related activity group will be exempt from the time-limiting and will continue to receive their benefits.
2986. The process for making that decision is a technical one, and it is added on to the end of the assessment for limiting capability for work. It is also a decision that many claimants do not really understand, and it is not very well explained to them. If claimants have already gone through an appeal process, many will not challenge the decision, because they are relieved to have got the benefit in the first place. The other reason they generally will not challenge the decision is that there is a small monetary difference of around £5

a week. However, that will become more important, because, after a year, that difference increases from £5 a week to £100 a week. Therefore, we envisage increasing numbers of appeals on those decisions, as well as on the previous decisions about whether someone meets the criteria of the benefit rather than just that of the support group.

2987. We suggest that the Committee recommends to the Department that there is mandatory explanation that someone has been placed in the work-related activity group and the implications at the outset for the time-limiting of their claim to 365 days. If they do not challenge it at that stage, which can be three months into the claim, they cannot go back at the end of the 12 months and challenge it. We feel that there are many people in the work-related activity group who should not be. They are not capable of conducting work-related activity, and, therefore, should properly be placed in a support group. They may not be aware of the changes coming down the road towards them, but we feel that they should be made aware of them.

2988. The Department could take a practical step in relation to the support group. At the end of the 365-day time limit, they should make it apparent to claimants that, if their condition deteriorates to such an extent that they should be placed in a support group, they can then go back and have a reassessment. If they were placed in that support group, their benefit would be reinstated, and they would receive the full amount again.

2989. In our opinion, that step probably would not be that difficult to implement. It would be beneficial to very many chronically ill and severely disabled people, and it would make a major difference under household budgets.

2990. The second point that I would like to deal with concerns clauses 55 to 58, and particularly the sanctions and strengthening of the existing sanction regime afforded to the Department. Clauses 55 to 58 give the Department considerably more power to set claimant

commitments, which are a major part of the Welfare Reform Bill, as well as sanctions for failure to meet those claimant commitments.

2991. In reality, we have found from our members that, because of the pressures put on jobs and benefits offices with dealing with the unemployed rather than with claimants of ESA, people are not really being asked to do all that much in terms of work-related activity anyway. The Government in GB have indicated that it is their aspiration to increase this type of activity, in particular through the work programme. They are targeting people who have been claimants of ESA and looking to try to get them back into work. There are practical difficulties with that, in so far as Northern Ireland is experiencing some of the most hostile labour market conditions for very many years. If implemented, we would be worried that many chronically and seriously ill people in the work-related activity group are going to be asked to conduct activity of which they are not capable.

2992. The other issue that we see with those clauses is that they confer on the Department very wide-ranging powers — in fact, they confer on the Department all the power to decide what work-related activity the person is capable of. That is often going to be in the hands of a civil servant, who may have access to only limited medical information about the person, and may not fully understand their condition. If the sanctions regime is attached to that, there is a real concern for us that people who are ill and are incapable of such activities will be sanctioned. That reform will impact severely on the most vulnerable people, through no fault of their own. That concludes my part of the presentation. I will hand you over to Amanda, who is going to take you through some of our concerns around personal independence payment.

2993. **Ms Amanda Deans (WAVE Trauma Centre):** Thank you. The third point that we would like to make today concerns part 4 of the Bill, which is the abolition of disability living allowance



- and the introduction of the personal independence payment. That is a major worry for our clients, because many qualify for this benefit due to physical or psychological injury.
2994. There are two main issues here: the criteria, and the actual assessment. We have deep concerns about the criteria for this benefit, particularly the draft descriptors, but we are aware that this is a matter for a separate consultation.
2995. In regard to the assessments, we are very concerned that there may be a repeat of the mistakes that have been seen with the assessment for ESA. There are good economic reasons for that. The Government are paying private contractors millions of pounds to carry out a service that is not satisfactory. That would not be permitted in the private sector.
2996. We understand that the contract for the assessment for personal independence payment in Northern Ireland has not yet been awarded, so there is still an opportunity to build in some clauses to ensure that there is no repeat of what we have seen with ESA. The process of assessment must be person-centred because it concerns some of the most vulnerable people in our society. To that end, we feel that it should be mandatory for the medical assessors to obtain up-to-date reports from GPs, particularly where the application for personal independence payment reveals that the claimant is undergoing hospital treatment or is under the care of a consultant in the past 12 months. That would help to inform the medical assessor and would provide the decision-maker from the Department with a separate piece of evidence. Unfortunately, under the current system for ESA, it is extremely rare for that to occur. We hope that the Committee will make that recommendation.
2997. The Committee will also be aware that the Chair of the Public Accounts Committee has heavily criticised the Department for Work and Pensions contract with Atos Healthcare. We also ask the Committee to include something in legislation around compulsory monitoring of the performance of the medical assessors. Atos uses a variety of health practitioners to carry out work capability assessments. There have been numerous criticisms of those reports produced by nurses.
2998. I would like to contribute something from my personal experience of representing people at tribunals in the Causeway area. The frustration is felt not just by the claimant, who is caused additional stress and anxiety; it is felt by the legally qualified member on the tribunal and the GP whom the claimant turns to when they are disallowed. For many clients who proceed to appeal, it seems to be an exercise that could be avoided — and an expensive one at that.
2999. It would be of interest to see how many of these types of assessments end up at appeal and are overturned — cases where a properly qualified doctor or clinician relevant to the particular disability carries out an assessment. A monitoring exercise will be helpful to evaluate that. It is of particular concern that, recently, the charity Benefits and Work reported that bids by Atos for the personal independence payment assessments reveal that most of the health professionals will be physiotherapists or nurses, not necessarily doctors.
3000. It is believed that Atos will have to assess well over one million claimants for personal independence payment — some on paper only — of whom at least a quarter are likely to have mental health conditions or learning difficulties. Yet the majority of health professionals involved will be private sector physiotherapists or nurses with limited knowledge or experience of dealing with these conditions.
3001. In Scotland and Northern Ireland, Atos plans to use 500 physiotherapists, 200 nurses, 40 occupational therapists and 10 doctors. The NHS will provide 36% of the service. Atos says that that mix of health professionals was based on a number of considerations, including the cost differentials between the types of

- health professionals and the desire for the work among different types of health professionals. There is no mention of how many, if any, of the nurses will be specialist mental health nurses.
3002. **Ms Creelman:** Finally, we would like to draw the Committee's attention to clause 87, which concerns the duration of awards for PIP. We hope that this clause will be utilised when someone's medical condition cannot change so that they will not be reassessed needlessly. Many of those with serious and long-term injuries find it frustrating and degrading to have to justify why they are in receipt of disability benefits and have to repeat again and again what happened to them. We ask the Committee to use its powers to ensure that that will not be the case for those with long-term injuries as a result of the Troubles, where it is clear that there will be no improvement in their condition.
3003. **The Chairperson:** Thank you very much. I have a question about medical evidence. You have dealt with some of this. We have heard arguments over who pays for medical evidence on behalf of the claimant. Does your organisation have a view on that? Should that cost fall to the taxpayer, to Atos or to the claimant? Do you have a view on who should pick up the cost for the provision of that evidence?
3004. **Ms Creelman:** The fact that many of the assessments are wrong and are overturned at appeal is an indication that Atos is not carrying out proper, detailed assessments of people's health conditions for ESA. The Government are paying Atos millions of pounds for these contracts. The cases subsequently have to go through the Department for review and appeal, which takes up civil servants' time, and through the Appeals Service, which is very costly. We feel that it is unfair that that cost should also be borne by the taxpayer. The taxpayer has already paid once in giving the contract to Atos to do the job. Our point is that, in the private sector, it would not be tolerated if a company were not carrying out its contract properly.
3005. **The Chairperson:** Thanks for that; that is helpful.
3006. **Mr Brady:** Thanks very much for your presentation. You raised a number of issues that I would not disagree with in any shape or form. The idea of limiting ESA to a year is not aimed at encouraging people to get back to work; it is about cutting benefits. That happened in 1996 when unemployment benefit changed to jobseeker's allowance, and it was reduced from a year to six months. That has been going on for a long time.
3007. In relation to exemptions and migration, people have two hurdles. First, you have to get through the work capability assessment. You have given some examples, and I have come across a number of examples where people were just not clued into what was wrong with the person. That is a big issue.
3008. On the age issue, the Department for Social Development (DSD) obviously has the statistics for over-50s, over-55s, and over-60s, and the decision-making process of the work-related activity group. The difficulty with the claimant commitment is that both partners have to sign it. If one of them refuses — and that person may have mental health or trauma problems — that nullifies the benefit for both people.
3009. You mentioned that, at the moment, people in particular categories are not being forced to look for work. However, legislation will state that people have to look for work 35 hours a week. There is the whole issue of the cost that employers may charge people for letters that state they have been looking for work and all that that will involve. There are a number of issues that you may want to comment on.
3010. Sanctions will be really draconian. Any research that has been done on sanctions shows very clearly that they are no deterrent. That is a fact. People can argue about that all they want, but the statistics are there.
3011. We do not know who will get the contract for the personal independence payment.

- In Scotland, Atos has the contract. In Lanarkshire, they have re-contracted it back to the health service. So you have a private provider contracting back to a statutory provider that probably should have been doing it in the first place.
3012. My colleagues on the Committee and I would argue that medical evidence should have primacy. There are so many cases in which the proper medical evidence is not seen until the appeal. I did a lot of appeals when I worked in the voluntary sector. People brought in X-rays but were told, "We cannot read that, because we are not qualified." Yet, as you say, there will be only 10 doctors. They are also talking about processing 1,000 cases a week in the transfer from DLA to PIP
3013. Back in 2007, when these changes started to come through, we argued about the qualifications that these so-called health professionals have. You might have a nurse with absolutely no experience in mental health, or a physiotherapist who has even less. How are they going to be able to assess someone with bipolar disorder or chronic, clinical or reactive depression? There are so many different things. Consider people who are in certain categories of conditions. In England, Atos has already found 32 people who were terminally ill to be fit for work, and they consequently died within a relatively short period. That is the kind of thing that we are up against. Obviously, the primacy of medical evidence is very important.
3014. We are talking about displaced costs as well. The majority of people who fail the test will appeal. I am sure that you will be inundated with even more appeals, and, therefore, it will cost more in the long run. So it has a knock-on effect for the Department of Justice, because appeals are now done through the Court Service.
3015. All of that is happening. Everything that you have said makes sense. The idea is to limit ESA. However, your partner might be working the prescribed hours on the minimum wage. We do not yet know how it is all going to work in respect of childcare, universal credit and the tapers. That is undoubtedly going to impact on people. Will you comment on some of those points?
3016. **Ms Creelman:** We are concerned because not only will people be hit with losing their ESA and possibly their DLA, they will be hit by cuts in housing benefit. This is all happening very quickly and within a very short period. We are concerned about the impact of all of this. It is not just one or two things that are happening. A lot of things are happening within a very tight period.
3017. People in our group are not going to be an employer's first choice. A 60-year-old is now expected to go out and look for a job because the retirement age has gone up to 66. They will be left with a drop in their household income of £400 a week. That is a lot of money, particularly for people who are coming towards the end of their mortgage, who have shortfall in an endowment, or who have children at university. It will not only be people on the income-based ESA who will be affected. It will also be low-income households that are just above the level of income-based benefit. That is a big concern for us.
3018. **Mr Brady:** There is another point on that issue. If, for example, the male partner in a couple is five, six or 10 years older, the younger person will have to claim universal credit. That brings the older person into a completely different context and into the alleged work market. That will be another big issue.
3019. **Ms Creelman:** It will have an impact on savings that may have been set aside.
3020. **Mr Brady:** Yes, because pension credit is open-ended. Even if you got only a small amount of pension credit, it brought in the passported benefits. There is the whole issue of disability premiums and how they will work. The disabled child premium for those on tax credits will be halved from £58 to £28.
3021. **Ms Creelman:** The transitional protection that is supposed to be offered to claimants who are moving to universal

- credit is very fragile. It will easily be lost if there is any sort of change whatsoever. You are talking about a very substantial loss of money if someone loses the severe disability premium, for example. That is a big concern.
3022. **ESA** is the big issue that our clients are bringing before us. It is a about a shortfall in rent for those in the private-rented sector. Our concern is that, whereas there have been people who have had difficulties purchasing heating oil and whatever, the introduction of the Welfare Reform Bill will mean that people will have a problem just keeping a roof over their head.
3023. **Mr Brady:** I want to ask you one final question about underoccupancy. You mentioned older people. There is no doubt that underoccupancy rules will affect older people whose family have grown up and left and may come back to visit at weekends. If there is one bedroom being used but two that are not occupied, the housing benefit will be cut by up to 25%. That is another big issue that I am sure will impact on a number of your clients.
3024. **Ms Creelman:** Yes, it will impact, in particular, on older victims and survivors who are still in their house. Their children may have left home, and they have the security of having settled in their community. When you have come through something horrific in your life, stability is key. The last thing that you want is to be forced to move home. That is particularly the case if, for example, you have a support network or you have a mental health problem but have family members living nearby. It will cause an awful lot of difficulties. The Bill is huge, and the more you look at it, the more concerned you become at every aspect of it. It is a bit like a set of dominoes: if one benefit stops, there will be a knock-on effect. The knock-on effect of all the different regulations coming into force at the same time is a huge cause of concern for our members.
3025. **Mr Campbell:** Thanks for the presentation. I want to concentrate on two aspects of the **ESA** issue that you raised, and I have considerable sympathy with both. One is the age issue and the fact that most survivors of the Troubles are in a particular age bracket. You seem to be concentrating on around the 50-year-old mark. I appreciate that everything has to have some sort of arbitrary nature, but, if the Committee were looking at that, how would you defend that position if a 48-year-old person equally claimed to be a survivor who was affected as much as the 51-year-old, who is entitled when they are not?
3026. **Ms Creelman:** We know that the Committee and the Assembly are constrained by parity. There will probably have to be some cut-off point. We would welcome it if the Committee could put a case for victims and survivors to get some sort of treatment and have a longer period to allow them to rehabilitate. More effort should be put into that because those injured in the Troubles have been very much forgotten about, and people are continually contacting our centre for counselling and support even at this late stage. For a lot of people, things are triggered in later life, and they seek help. We want it for everyone, but we are also aware, when looking at the Bill, of the constraints. However, we welcome anything that the Committee could do for the vulnerable group that we represent.
3027. **Mr Campbell:** My other point is about the bigger political issue, and you touched on it there for a second. You will be aware of the political minefield in defining a victim/survivor of the Troubles in a wider context. If that were introduced in the **ESA** context, can you see the difficulty that might emerge if, for example, people who describe themselves as a victim or survivor but, in fact, may been a perpetrator would qualify for what might be regarded as more favourable treatment than somebody else who perhaps is not regarded as a survivor or victim but who just falls into the category of trying to apply for assistance and help?
3028. **Ms Creelman:** We are a cross-community charity, and we deal with all victims and survivors. We are focusing



- on the needs of someone who has a disability and the hardship that will possibly be caused because of the introduction of the reforms. We have not specifically looked at the issue that you raise.
3029. **Mr Magee:** There is some precedent for criteria for financial assistance for victims and survivors through the Northern Ireland Memorial Fund. If the Committee wanted to look at some sort of criteria along those lines, we might argue that the criteria included there as a definition for financial assistance could be transplanted over fairly easily. However, I know that individual members have their own opinions on that.
3030. **Mr Copeland:** Apologies for not being in for the start of your presentation. I want to talk about post-traumatic stress disorder (PTSD). Conditions such as that are usually directly attributable to the Troubles. I know from sad personal experience that there can be an awful time delay between the incident and the emergence of a condition. In our case, it was 27 years, and nightmares then became fairly regular. Do you think that these proposals favour or are against those who suffer from Troubles-related conditions, particularly post-traumatic stress disorder? Secondly, and this is probably more for the Committee to consider than the witnesses, the number of general practitioners employed by Atos came to my attention a few days ago, and it is scandalous, to be frank. Most people going to a capability-for-work assessment will have one fairly vital piece of evidence, and that is a sick line from their doctor stating that they are not fit for work. Then, an individual, who may or may not be qualified to the same level as their GP, suddenly draws a line through that and says that it does not matter. In a number of cases, particularly of those affected by PTSD and mental health issues, some such decisions have led to appeals that I attended, and I attend a fair number of them. I have seen a doctor at the appeal abandon it on the grounds that to proceed would prejudice the health of the person being examined.
3031. At the contract tendering stage, was there any requirement on Atos to not just type the answers into a computer, which is apparently what they do, but to ensure that what they have done — by having such a small proportion of GPs, who are more expensive — is not a way of maximising the contract value? Is Atos applying a commercial decision to something that should be above commerciality? Have you any indication of the number of companies that have tendered for the Northern Ireland contract or how tightly tied down that contract is?
3032. **Ms Creelman:** I am sorry; we do not have that information but we can certainly find it out.
3033. **The Chairperson:** Those are questions that the Department might answer.
3034. **Mr Copeland:** Can we establish that, because I think that it is fundamental. I thought that it was 50 GPs, but the figure that you quoted was 10. Is that in the whole of GB?
3035. Mr Magee: I think that the 10 related to Lanarkshire, where the contract that was awarded went back to the NHS.
3036. **Mr Copeland:** If someone has a piece of medical evidence from their GP, and someone who is not a GP places themselves above that, I personally cannot see how that is not open to some sort of review. Are you content that, on the far side of this — and this is sort of related to ESA — that the provision that we have here for the identification and treatment of PTSD, particularly in ex-military personnel, is adequate and fitting?
3037. **Ms Creelman:** No. We find that the descriptors for ESA and the second draft descriptors for PIP do not seem to take on board the symptoms of post-traumatic stress disorder. We raised that with the victims' commissioners last year, and it is a cause for concern. The Minister at Westminster recently made a statement in which he suggested that there is a responsibility on claimants to supply evidence at the outset of their assessment. Our experience is that

- people do not really understand ESA. They are confused by the descriptors and they need assistance in even filling in the forms. They think that getting medical evidence may just amount to getting a quick note from their GP. They are not aware that the specific questions and evidence needed have to tackle the actual descriptors that will be considered by an appeal tribunal. Some people have literacy problems and do not understand these complex regulations. So I think that it is unfair to expect people who are already sick and disabled to have to run to doctors when they feel that they are a burden. Many of the claimants have to pay for obtaining the medical letters out of their already low benefit. I think that the responsibility at the outset to obtain such evidence really should be back with Atos or whoever the contractor is.
3038. **Mr Copeland:** Chair, can we try to see those contracts to make sure that Atos is discharging the contract, wherever it is doing so, properly?
3039. **The Chairperson:** That issue is one that is more between the Committee and the Department.
3040. **Mr Brady:** I just want to make a quick point about the GPs. In Scotland and at its conference in Liverpool, their governing body, the British Medical Association, condemned the work capability assessment. That may be a factor in this.
3041. **Ms Creelman:** That is in my first submission to the Committee.
3042. **Mr Douglas:** Thank you for your presentation and for your briefing paper, which is very helpful. The paper mentions that many of the people who you work with were injured during the 1970s and 1980s. What is the age breakdown? How many people will this impact on? I am talking about people who are in their 50s and 60s.
3043. **Ms Creelman:** The difficulty is that, although statistics have been kept on the people who were killed in the Troubles, statistics have not been kept on people who were injured. At WAVE,
- we have an injured group, and we have recently commissioned research. Again, even the researcher found that it is difficult to find accurate numbers on the number of people who were injured. The Northern Ireland Memorial Fund's database might be helpful. For instance, we know that around 400 injured people qualify for the high-rate care component of DLA. There is a difficulty there. Given that 53% of the deaths in the Troubles were civilians, it is probably fair to say that a large proportion of the people who were injured were also civilians.
3044. **Mr Douglas:** My colleague Gregory raised a point about a cut-off point. You asked about people who are in their 50s and 60s. Have you looked at this from a legal point of view on discrimination or ageism? Would that cause major problems with equality legislation, for example?
3045. **Ms Creelman:** I am not really sure. The difficulty is that, although there is age discrimination legislation and the Disability Discrimination Act, you have to take a realistic viewpoint about someone who is 60 with a disability competing for a job with someone who is younger and highly skilled. It may be helpful to have that legislation in place, particularly if there is a very buoyant market in which employers are looking for a lot of workers. At the minute, the job market is oversubscribed with well qualified people. We cannot forget that it will be harder for people who are older with a disability to obtain a job.
3046. **Mr F McCann:** I will try to be brief. I am also a member of the Committee for Employment and Learning, and, yesterday, we posed a number of questions during our discussion on the new work programme. We said that the migration of a huge number of people from incapacity ESA straight into one of the working groups had not been taken into consideration. I asked whether the Department for Employment and Learning will be able to cope with the migration. The indication initially seemed to be that it will not, and the officials then said that they believe that they will be able to cope. It is a short



- time away from this being implemented, and the people who are supposed to provide the backup for it are unsure about whether they will be able to cope with it. I do not think that many of them have sat down to look at how you deal with quite a number of people — it could be a number of a thousand or more or less than that. The fact remains that the vast majority of people on DLA and ESA benefits are on them for mental health reasons. If they go across, they will be assessed, first, by people who may have been brought in to take up the overflow and, secondly, by decision-makers who have very limited experience. You do excellent work, and, in that work, have you come across anything on paper that tells you the level of training that decision-makers in the Department get on assessing people with various types of illnesses, especially people with mental health problems?
3047. **Mr Magee:** To be fair to some of the decision-makers in the Department, I think that they are not being given the opportunity to make the right decisions in a lot of cases, because they simply do not have access to the right information about someone's condition. A lot of our members suffer physical and mental health problems, and a range of people could be treating them. If a decision-maker does not have access to that information and is given a scant report from Atos, they are not really given the opportunity to make the right decision. That flaw in decision-making is carried right through to appeal, and you only get the chance to put that right there. Someone will normally come for advice only once they have been turned down, and the decision has already been made at that point.
3048. In reference to some of your points about the work programme and things like that, the frank answer is that we do not know how DEL and DSD are going to cope with the work programme. What we do have is a recent example from 2008 of the introduction of a benefit, ESA, and the attached work programme. Anyone who has worked in the advice sector since that time knows the endemic problems that were caused by that in respect of initial claimants in 2008 and the people who were migrated over.
3049. Part of the work capability assessment was the work-focused health-related assessment (WFHRA), which was supposed to entail an assessment by a healthcare professional about how you can improve your chances of going back into work and the types of work you can do once you are found not fit for work. That was dropped for two years, and the deemed wisdom in the advice sector was that we would probably never see it come back. However, it is coming back through these proposals. The answer, in our opinion, is that we do not think that DEL has the resources to implement all the proposals in the Bill.
3050. **Ms Deans:** I will just add to that, Stuart. This may answer some of what you have put to us. In respect of ESA and the assessment, I think there is evidence that the Department is under pressure, especially the decision-making service. On numerous occasions, I have seen cases where the GP has actually been contacted by the Department. The Department has good systems in place when it uses them. They can contact a GP by sending an ESA113, which replaced the AB113. That is a questionnaire that is sent to the GP. You do not often see it in a set of appeal papers, but I have seen one that a GP has completed indicating severe mental health problems, low mood and difficulties with maybe six or seven activities. That, obviously, indicates that the client is severely disabled. However, after that has arrived at the Department, that person has still been required to attend an assessment where they have been assessed by a nurse and awarded zero points, and has then had to go to a tribunal. To my mind, that indicates not that the decision-makers are not doing their jobs but that they are under so much pressure they have overlooked that vital piece of medical evidence, and have gone straight to the Atos report and disallowed the benefit.
3051. **Mr F McCann:** I think that that again raises the question that Mickey raised

about the primacy of medical evidence in all cases.

3052. **Ms Deans:** Absolutely.

3053. **Mr F McCann:** Over the past couple of weeks, there has been a debate in the Committee about reports by the Human Rights Commission and by the Equality Commission, both of which are in front of us next week. They have voiced concerns about the direction that the Bill is going in. Sammy raised a question about legal action. I do not know whether you have been in touch with either group to raise the questions that you have raised here about the impact of the Bill, especially on ESA, and about how the switch from DLA to PIP will impact on the people you represent. Have you been in touch with the Equality Commission about section 75 considerations? Have you been in touch with the Human Rights Commission to see whether the Bill breaches human rights in respect of how it deals with people?

3054. **Ms Creelman:** To date, no, but that is certainly something that we will look into. I definitely think that it is a good idea.

3055. **The Chairperson:** Thank you. No other Members wish to speak. If the witnesses are happy that they have made their presentation — and they have helpfully and kindly provided us with a written submission — I thank them. I take it that they are content with the evidence session so far.

3056. Just to make you aware, this is the Committee Stage of the Bill. Our schedule allows three days a week for dealing with this and we are due to complete our report on 27 November. Obviously, as we move through the evidence gathering sessions, we will take note of all that we have heard and deliberate on it, according to members' views. Then the Bill will go into the Assembly for further debate and discussion.

3057. Thank you very much your contribution to this work.



## 29 October 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

### Witnesses:

Rev Adrian Dorrian	<i>Church of Ireland</i>
Mr Mervyn McCullough	
Rev Donald Ker	<i>Methodist Church in Ireland</i>
Mr Lindsay Conway	<i>Presbyterian Church in Ireland</i>
Rt Rev Dr Roy Patton	
Fr Tim Bartlett	<i>The Catholic Church</i>

3058. **The Chairperson:** I formally welcome the four Church representatives, the Reverend Roy Patton, the Reverend Donald Ker, Father Tim Bartlett and the Reverend Adrian Dorrian. Mervyn McCullough and Lindsay Conway are also in the room, and you are all very welcome. We have received your written submission. Thank you for providing us with that in advance and for your attendance. You will be aware that the Welfare Reform Bill is at Committee Stage, and we have until 27 November to complete our report, which will then go to the Assembly. It is up to the Committee to consider all of the evidence that it can between now and then. We have already spent several days taking evidence from the Department and a range of stakeholders. Thank you for assisting us in our consideration of the Bill. I know that you have made a number of contributions to this debate in recent years. I will let you address the Committee in whichever way you decide.

Normally, we take presentations first and then members ask questions if they wish to clarify anything.

3059. **Rt Rev Dr Roy Patton (Presbyterian Church in Ireland):** Good morning everyone. We appreciate this opportunity to meet you, and we appreciate your warm words of welcome. I am the Moderator of the Presbyterian Church. Father Tim Bartlett is here to represent the Catholic Church, Reverend Adrian Dorrian represents the Church of Ireland and Donald Ker represents the Methodist Church in Ireland. Lindsay Conway works with the Presbyterian Church, and Mervyn McCullough represents the Irish Council of Churches and has a broad sweep of understanding of the Church situation in Ireland. I am sure that I do not really need to take up time by going through the paper that you have already received from us, but let me make a number of introductory comments.

3060. It will not come as news to you that welfare and caring is at the heart of the Church's DNA. From the very beginning, the Christian Church has always been concerned for the welfare of the community and the care of individuals. This, for us, is not a peripheral issue, and it is not an issue that does not have significance. We are passionately concerned about it, and, in that sense, we feel very engaged with it and are stakeholders in this process. We do not want to simply respond or react to the issue of welfare reform. We really want to engage with it, because it has an impact on our work at ground level with individuals and in the communities that we serve. Whatever government does, at whatever level, the Churches have always been there. They are there now and will be there irrespective of what takes place in the days to come. We are very interested, are passionately involved and are stakeholders in this process.

3061. We do not come late to the table on this process. We have been very involved and engaged with this from the very beginning. You will see from our paper that we have had significant and important meetings with Lord Freud. The four Church leaders also sponsored a meeting that took place in the Presbyterian Church's Assembly Buildings in Belfast. That was a positive forum and a positive engagement. At that level, we have been involved with the discussion. We are encouraged to note that some of the issues that were raised were taken account of. We are happy to recognise, for example, that payments made to landlords and that kind of issue has been talked through and, as I understand it, amendments have been made. That is really good.
3062. We welcome welfare reform, but we are concerned about how it will roll out and how it will impact upon people in the community, especially the weakest and most vulnerable. We see how it works; we are not in some kind of ivory tower. This is not an academic issue for us, and we are not removed from it. In pastoral ministry, our clergy and people who are engaged in our churches will engage with people day after day and see how this works out in practice.
3063. Without repeating what is in front of you in our paper, that is all that I want to say by way of introduction. I will invite the others to make a contribution.
3064. **Fr Tim Bartlett (The Catholic Church):** Thank you all very much for having us here this morning. Eighteen months or two years ago, the four Church leaders made a visit to Lord Freud as soon as it was brought to their attention that welfare reform was about to take place and the various factors that it was going to embrace. That was a sign of the depth of the concern among the faith constituency that is represented by the Irish Council of Churches and all of the Churches, particularly, as the Moderator said, because of the impact on the vulnerable. We are very grateful that you have invited us into this conversation now that the legislation is at this stage.
3065. By way of introduction, I want to convey to you a couple of things in particular. I want to convey the amount of confusion and the level of absolute fear that exists among the most vulnerable people in our society. I know that many, if not all, of you are very aware of it. However, I can tell you that we, as clergy, are extremely aware of it. There is literal fear. Part of that fear comes from not knowing clearly what is intended. Even though a lot of it will be very hard and very difficult news for people, I appeal to you, as politicians, to please start telling people as quickly as possible what they need to plan for, what they need to expect and what, with respect, the Westminster Government are imposing on them. I appreciate that that is largely outside of your control.
3066. A key concern is a fact to which insufficient attention is drawn: approximately £0.5 billion is about to be withdrawn from the most vulnerable people in this part of the island. That is not just any £0.5 billion that people could save, hold back or whatever. That is £0.5 billion that is spent by people every year because they are vulnerable. They do not save it or hold onto it – they need every penny of it. So, there is, therefore, the economic impact. It is a point that we made very firmly to Lord Freud. It is a situation of economic decline and trauma as well as other cutbacks. The Institute for Fiscal Studies in London has said that Northern Ireland will be the region of the United Kingdom most affected by the cuts. That is a huge problem that I think we need to be more honest about.
3067. As others will point out, there is an equation between addressing that through work and an economy that is in decline, with no evidence that work is evolving or that the private sector is developing. There is a complete and horrifying mismatch here. I know that you all share that view.
3068. In agreeing with my colleagues, I want to focus on my mantra about this. Nobody wants the lifeboat of welfare to become a lifestyle. However, in Northern Ireland, that lifeboat has over 120,000

- children in it, and the water is already lapping over the sides. You have — unfortunately, but for understandable economic reasons — had to be bound into the concept of parity. You are, therefore, limited in what you can do. However, the appeal that I make to you, which is shared by the Churches, is to accelerate and prioritise as urgently as possible whatever you are doing to address child poverty. I know that you are trying to do something. It would be a terrible indictment of this society if we do not do something to address that particular aspect.
3069. That is all I want to say by way of introduction. There is confusion, so please address that confusion. There is fear, and that fear will manifest itself, and has done so already, in increasing mental health problems, suicides, despair, etc. We, as Churches, will pick up some of that with voluntary and other organisations. However, if there is something that you can do outside of parity through the child poverty strategy that is effective and that really helps to catch some of those children who will start sinking in that boat, please do it. That is my appeal to you this morning.
3070. **Rev Donald Ker (Methodist Church in Ireland):** I recognise that there are some things that are beyond the control of the Executive and the Assembly. However, there may be some things that still sit within your control. One of those may be the method by which people are assessed for personal independence payments (PIPs), as they are now known. I suspect that you are as concerned as we are about the way in which that seems to be working out at the moment.
3071. The old disability living allowance (DLA) forms, which are 40-pages long and so on, are known to be complex. If I may speak personally, my wife is a retired social worker and is being trained today, within a church organisation, in how to help other people address that form. So, on the one hand, that approach is over complex. However, on the other hand, human beings are complex sometimes. Therefore, the very simple assessment that has taken place up to now does not seem to match, for instance, some of the mental difficulties that people have in moving from total dependence on benefit back into the workplace. We want to encourage people into the workplace. Of course, it would be good if there was more work in the workplace for people to do. That is also perhaps a strong focus for the Committee, the Assembly and the Executive.
3072. It is quite clear that the method of assessment for PIPs is not fit for the purpose for which it was designed. We encourage you to seek, if you can, to address that issue in Northern Ireland in a way that is somewhat different to the way in which it seems to have been addressed across the water, simply because of the complexity of people themselves. If there are ways in which people can be taken gently out of benefit dependency and into the disciplines and demands of work, we want that to happen. However, it does not happen as easily as is assumed at the moment. That is all that I want to put in at this point.
3073. **Rev Adrian Dorrian (Church of Ireland):** I would also like to say how grateful we are to you for your engagement with us as representatives of the Churches and how encouraged we are by it. While we all agree that we want more people to get into work where they are able, the reality is that the system has to work for those who require benefits. As Father Tim said, we in Northern Ireland are potentially more vulnerable than the rest of the UK in a number of areas. There is a much higher prevalence of fuel poverty and extreme fuel poverty in Northern Ireland. In respect of social housing, the housing stock is simply not fit for purpose for those who need space for temporary carers, those who live on their own and, in particular, those who are under 25. Something that I hear an awful lot as I work with young people and students is a fear, which is tied in with bigger issues of tuition fees and what jobs are out there in the first place, about the cutting of housing benefit for those who are under 25.



3074. I will not go into great detail now. I will simply say that, in those areas where Northern Ireland might find itself more vulnerable, we encourage you, as a Committee and as politicians who represent us, to continue to do good things to close the gap between Northern Ireland and the rest of the UK. The two areas that I will mention in particular are social housing and fuel poverty.
3075. **Rt Rev Dr Roy Patton:** The issue is spread right across our society. It is interesting, for example, that two food banks have recently been developed in the north Down and Bangor area, in which I minister. It is perceived to be a more affluent area, so that shows that the economic situation cuts right across communities.
3076. **The Chairperson:** Thank you, gentlemen. As I said earlier, you have provided us with a written submission. I want to assure you that members have already raised probably everything that is in your submission. We have had quite a bit of discussion. Your submission is an important reminder, and you have further added to that through your personal contributions this morning.
3077. Have you any specifics in mind as regards the conditionality requirements on lone parents? You addressed that issue in your submission. We will eventually have to grapple with what we can seek to do. You rightly mention parity, but we are not entirely sure what parity confines us to. That is something that we are going to have to test as the Committee continues. Through the whole process of this legislation, there will probably be a lot of discussion about parity. It is also about how the system is administered. Most people assume that parity is about pounds, shillings and pence or levels of benefit. However, I was with David Freud at a meeting last week in London, and I still argue that there is a lot of scope around the issue of parity. It needs to be properly explored by the Committee. To my mind, it is not at all clear where the limits might be in all cases. It is not just about money; it is about the conditionality of people. For example, in your submission you talk about lone parents.
3078. Without further ado, I open up the discussion to members.
3079. **Mr Brady:** Thank you very much for your presentation. I read through your paper with interest. We have met the Churches, and I certainly commend them for the work that they have been doing, not just recently but for a long time.
3080. Most people consider that the Bill is not an attack on poverty: it is an attack on the poor. If we start from that premise, the ideology behind it becomes clear.
3081. It is interesting that you mentioned Beveridge, because he was of a different time. I think his influence started in 1942, and the welfare state came into being in 1948. After the war, there was virtually full employment in Britain, and that was the case through to Macmillan, who announced that you:
- "have never had it so good."*
3082. Unfortunately, things have changed. At the moment, there are 115,000 people unemployed in the North but only 5,000 vacancies.
3083. As I drove down this morning, I heard a report on the radio about a recent survey and an in-depth study about the amount of money that people who work need to maintain a reasonable lifestyle. They need about £7·20 an hour. About three weeks ago, the minimum wage went up by 11p to £6·19. So, according to this report, people are being paid £1 an hour below that. Interestingly again, it said that, here in the North, people will be affected much more severely. That is an indication of the problems that we face.
3084. Also, Father Bartlett talked about the fear and confusion. I have attended a lot of meetings on welfare reform across the North, and I would say that such a fear is not just in nationalist/republican communities, it is also in some unionist/loyalist communities. Certainly, there is a consensus that this is going

- to affect everyone. That is obviously very important to bear in mind.
3085. The other thing you mentioned specifically is the assessment for PIP. That contract has not yet been awarded, apparently. At least, that is what we have been told. ATOS has the contract in Britain. ATOS made a complete mess of it and continues to do so. It has been described by the British Medical Association as “not fit for purpose”. So that is one thing that we will have to look at, obviously.
3086. As to the food banks, there was a debate in the Assembly a couple of weeks ago about the upsurge in the number of food banks. In your paper, you said that it is an indication that the system is under strain. However, going back to Beveridge, the whole issue around supplementary benefit was that it was to be a safety net. You talked about the lifeboat not becoming a lifestyle. Unfortunately, policies over the years have turned that lifeboat into a lifestyle. We have generational unemployment through no fault of the people. I have been working with people on benefits for over 30 years, and I have never met anyone who willingly wants to be in that situation.
3087. We commend the premise of universal credit and welfare reform in getting people back to work. However, there is no work there. We have the highest unemployment figures since 1997. That is the reality.
3088. As to the influence that we can have, you have picked out one of people’s main fears: the numbers of people on DLA who are going to be reassessed. Since so many people are going to be reassessed, less time will be given to claims. At present, there is an indefinite award; that will now be restricted to about five years, or possibly to two, three and five years. All of those things are happening.
3089. It is incumbent upon all of us to get that message out. I know, from talking to the Churches previously and from your paper, that you have been doing that. It is important to carry on. Parity seems to be a moveable feast. On many occasions, we have come across selective parity, usually where it impinges more on people here. For instance, if the Assembly decided to give everyone £10 less from their benefit a week the money would go straight back to the British Treasury. If we decided to give them £10 a week more, then we would have to find the extra money. So, parity is not comparing like with like. What happens and what has happened is that universal credit and, welfare reform in particular, are predicated on what is happening in the south-east of England.
3090. Adrian, you mentioned working with young people. Thirty-seven percent of under-35s who are being moved to single-room rent have been working. There is the notion that the reforms will affect only people who are on benefit, but they will affect everyone. The number of people who are on working-tax credit, which, again, will be affected by universal credit, is very large. It encompasses a whole range of people, not just the unemployed. In your paper, you termed them the working poor. It will encompass all of those people. It does not paint a very pretty picture in that sense, and, as I said, it is incumbent on all of us to see what we can do.
3091. I know that you have met Lord Freud. I attended the meeting that you had with Owen Paterson, and there was not much forthcoming from that. What it did was to highlight the concern and give people an idea of what was in front of them. We need to keep getting that message out. Thank you.
3092. **Mr Copeland:** Thank you, gentlemen, for your presentation. I suppose that, in some ways, I should declare an interest as a member of the Church of Ireland who is married to a Methodist with a Roman Catholic step-grandmother from the Liberties in Dublin.
3093. **Rev Donald Ker:** We will pray for you, if that is helpful.

3094. **Mr Copeland:** I rather suspect that the time for praying is long gone.
3095. **The Chairperson:** We heard the start of this story last week, and it lasted for 45 minutes.
3096. **Rt Rev Dr Roy Patton:** My colleague says that you are not a Presbyterian.
3097. **Mr Copeland:** I know, but my grandmother would very much resent that comment.
3098. There is not a single word that you have said that everyone around this table is not patently aware of. If I seem a little troubled today, it is because I am. I spent the early part of Saturday evening and the early hours of Sunday morning in the company of the Welcome Organisation for homeless people in the city of Belfast. Throughout that expedition, which included the Salvation Army hostel, the police and the SOS bus, I saw an underside to my city, in which I have lived all my life, that I simply did not know existed. We came across Methodists, Presbyterians, Roman Catholics and members of the Church of Ireland in their capacity as part of those Churches trying to do what they can. What troubles me is that we can barely cope with the situation as it is, where single people need single or shared accommodation, which is not there. Many of those people are under 35 and will come under the shared accommodation category.
3099. My awful fear — and in many ways, it is unspoken — is that we will, by necessity, be forced to take actions that will run contrary to the consciences of practically everyone around this table. In effect, it will bring misery to a substantial number of people. I have to ask: are you co-ordinated, and are you aware, as you must be, of the likely impact of this, and what steps can we take as a Committee to support or enhance the support that we already give those organisations that work in your own groups to at least try to ameliorate some of this sorrow that is heading towards us? The work of people, particularly at the Welcome Organisation centre at Divis, but, more

importantly, the volunteers who came from everywhere and were driving around, left me inspired, but it left me feeling very troubled that they have to do what they do. They do derive support from government. Have you any counter measures, corporately or individually, that you can foresee that will need additional assistance that can offset some of the likely outcomes of the legislation, should it be accepted?

3100. **Rev Donald Ker:** Frankly, that is a difficult one. We do not want to be simply in the role of rescuing the vulnerable people who have fallen through the net. However, in many cases, that is the role that we have, and that is precisely what you saw on Saturday night. How do you provide housing and support for under-25s? For people who have been in the care systems, there are systems of supported housing after that. For instance, at the Belfast Central Mission, where I had some responsibility, we were quite involved with that, and that is only part of it. Obviously, hostels such as the Salvation Army hostel and so on tie in in the same way.
3101. Preventing these kinds of casualties takes finances that we currently do not have. One of the other things that the Churches are always doing is trying to work to provide healthy homes and family structures, but that does not happen in every case, so we are troubled by the people who are falling out of that. Others might have further things to say, but the only other thing that I want to say at this point is that we want to assure you that we continue to walk alongside. It is clear that the members of the Committee know what some of the circumstances are like for the people who are most vulnerable in society. That gives us hope, because we are aware of that too. The truth is that we are struggling to come up with a solution that will counteract all of this.
3102. **Rev Adrian Dorrian:** I think that that is fair. I imagine that, from your experience on Saturday night, Michael, you will have observed that where we, as Churches, find ourselves at the coalface alongside

others, things work best when there is a functional relationship with government agencies. So, food banks work because the GP or social services are telling the organisers where the people who have need are. It is not that we do not know where the need is, but it gives it that air of co-operation and cover. That is one small way that things could be developed: simply making sure that those partnerships, if that is the right word, are viewed as being viable from both sides of the conversation.

3103. **Fr Bartlett:** I endorse this. As we move into collectively addressing this dramatic situation, it has never been more critical that those partnerships and engagements between you and civic society, including the Churches, is accelerated and enhanced and that we all together assess this as it is being implemented and work together. There is no shortage of genius in Northern Ireland, and there must be many ways to skin a cat. If we are united in our concern about addressing the needs of the most vulnerable people in our society in light of all of this — thank God, it looks like everyone is — then we need our collective genius. There must be creative ways of trying to do something to address some of these issues that we may not have even worked out yet.
3104. For example, I do not know where this goes, but there is something in my mind about the confluence of the economic situation that we are in, particularly in relation to property, landlords and banks. I have spoken to a number of landlords who invested in cheap property during the Troubles and have a lot of small and, in many respects, inhumane apartments. They are worrying that they will have to oust people from them because the benefits will be cut and all of the rest of it. They are not interested in being patient. You need to get those kinds of people in here and ask them what they are going to do and about what their social and moral responsibility is. You need to get the banks and others in. I do not know what the solution is, but this is a time to be

incredibly creative, pool our genius and build up the partnerships that this new Assembly — thanks be to God — has the capacity to do at this moment in our history.

3105. **Mr Copeland:** What struck me was the way in which my preconceptions were wrong. I thought that money would be an urgent need, but most people said that money was not a problem because they could beg or busk or because others would give them money. I thought that food would be a problem, but it is not, because the bins are full and people give them sandwiches. Hot food is a problem on occasions. Their real problem seemed to be shelter and some way to tackle what is, essentially, loneliness. Most of them had worked previously and were not the victims of drink or drug difficulties. That was not what had led them there. They may well become —
3106. **Fr Bartlett:** By the way, those people also deserve our care and attention [*Inaudible.*] .
3107. **Mr Copeland:** I fully understand. I am trying to put to you my own personal preconception of people who find themselves in that position, and the reasons why they find themselves so. For example, given my background, kicking a policeman is not something one does. If you kick a policeman, you get arrested, taken to court and sent to jail. To some of these folk, kicking a policeman is a route to a warm bed, warm breakfast, and a shower. Now, the total cost of that process would exceed the cost of putting them up in a five-star hotel overnight.
3108. So, are we being stupid in the way in which we approach the whole problem? We see it as siloed, which is a favourite word of mine, and we find very expensive ways of achieving absolutely nothing. I wonder whether you have any thoughts about that.
3109. **Rev Donald Ker:** Could I throw in another thought? I mentioned supported housing for care-leavers, in which I have been involved. Is there a way in which that

- programme may be extended beyond those who have simply been in the formal structures of care, so that where you have people who have in some way managed to survive under whatever the family roof means until they are 18 years and, therefore, are out of the system, but now, for whatever reason, are on the streets? If their problem is finding a bed, company, or a certain amount of mentoring as to how to cope, is there a way in which the concepts of supported housing for care-leavers can be extended? You talked about silos; we may have done a bit of siloing in that respect.
3110. I am interested that you say that the problem is not money. I accept that.
3111. **Mr Copeland:** That is what they said.
3112. **Rev Donald Ker:** I quite accept that. At the same time, there is also an issue when, for some people, the problem is money, and when there has been some failure to claim all the benefit available. That is another area in which we are very keen and content to work with the Committee to make sure that the benefit provided is taken up. We are concerned that, in some cases, there is low take-up. Those are my two thoughts.
3113. **Mr Copeland:** The salutary lesson that I took away, and I fear that it is something that we will see a lot more of, is that there was an individual in one of those places who, until about six months ago, had a home, a car, a family, and a job worth £50,000 or £60,000 a year. In the space of that period, he descended into alcoholism and was sleeping in a shelter. His life experience has not equipped him to deal with that. Some people are so equipped, but he is not. I fear that there will be people who will find themselves in changed circumstances for which they are not prepared to cope
3114. **Rt Rev Dr Roy Patton:** I will follow on from Donald's comments. This is one of the questions that we will raise: what steps will the Department take to reduce the high level of under-claiming by those most in need? This is an area in which partnership is vital and the Churches could play a real role in it by alerting communities to that particular issue, and by encouraging people to claim, thus ensuring that the system works, as best it can, for all who are in need.
3115. **Fr Bartlett:** An example of that is that Age NI is contacting the Churches to get us to promote the winter warming campaign for older people, and ensure that they know what they can get. Clergy can visit homes and give out the packs, and say; "You need to do something about this" or "We will help you to get this."
3116. **Mr Copeland:** I am sorry for the length of that digression, Chair.
3117. **The Chairperson:** It is not a problem, Michael. It is very helpful. Clearly, it is an issue that we have to address, because we get periodical initiatives from the Department. Those are all very important and, on each and every occasion, they realise a number of additional benefits for people who need them and are entitled to them, but have not been claiming. However, there needs to be something much more organic than the process of just happening upon unclaimed benefits on an ongoing basis.
3118. **Mr Durkan:** Thank you for coming along today, gentlemen. First, I commend you on your proactive and collective approach on this issue. A lot of the issues that you have raised are ones that we have raised previously. A lot of the issues that I may have raised today have already been raised by members who have already spoken.
3119. Protection of the vulnerable is central to all your respective faiths, and I would like to think to ours as well. As Mickey rightly said, this legislation is an attack on the vulnerable. You mentioned the Institute of Fiscal Studies' analysis that £0.5 billion would be taken from the vulnerable. Not only is that money being taken from the vulnerable, which is reprehensible, it is being taken out of the wider economy. Do you share the view that they will, therefore, actually



- create more vulnerable people, as that will inevitably lead to more shop closures, job losses benefit dependency?
3120. Housing stock was mentioned a couple of times, particularly its unsuitability given the proposed under-occupancy legislation. There is also an issue given the segregated nature of our housing stock. Unfortunately, there are people with different religious backgrounds who do not co-exist as harmoniously as you all seem to. Have you thought of the impact of that on your own congregations? For example, people will be asked to move to different areas of a city merely because there is a smaller unit available there or whatever.
3121. I like the lifeboat analogy. Whereas it was traditionally women and children first for lifeboats, they do not seem to have been afforded that privilege for this one. In fact, they seem to have been the first to be attacked. There are issues around childcare in particular. Do the Churches see themselves as having a role to play in that respect?
3122. **Fr Bartlett:** As you know, churches are very often the centre for childcare initiatives, clubs, nurseries and all of that. There is certainly more scope, given the infrastructure that they have at their disposal, often in very challenged areas. Again, this is where the partnership and conversation between the relevant Departments needs to be more detailed. They need to be more proactive in thinking of the Churches. To be frank with you, I remember meeting a senior official who was in charge of developing the work on child poverty. He set up a committee of about 25 people, and not a single Church had been invited to be part of it. When I pointed that out, he said, "Why would we invite the Churches?"
3123. Anyway, I am just saying that we need to be much more alert to how the social capital can be brought to bear on all these issues. However, we are living in very fragmented times. There is nothing easy in what you have asked about.
3124. **Mr F McCann:** Thank you for the presentation. I do not think that anybody who comes through these doors to make a presentation says that universal credit or any aspect of it is a good thing. We all take into consideration the fact that it will have a massive impact.
3125. I want to go back to what Michael said. I understand the work done by the Welcome Centre. I live a couple of hundred yards from it. It was actually kick-started by St Peter's after a fire in the Morning Star hostel. It has its origins there, and it does some excellent work. However, the issue is much wider than that. It does not affect only people who are sleeping rough. I always operate under the old adage, "There but for the grace of God go I." You are just one disaster away from something like that happening to you. I have been in and out of the Welcome Centre many times, and I know that the Chair has been too.
3126. Like Mickey, I have addressed quite a number of public gatherings. The more you explain this to people the more it depresses them. Rather than depress people, we are trying to find ways of starting to tackle some of it. All the parties around the table have opposition in their own ways, but not all the parties agree on the best way to approach this and take it forward. You spoke about lobbying. At this stage of the game, there needs to be intense lobbying from all the parties to all the key figures in the British Government as they look to implement this. Hundreds of thousands of people came out on the streets to protest about the poll tax, but there has not been anything like that this time because the British Government have started to criminalise those who claim benefits. There is a lot of work to be done.
3127. We can break it all down individually. Some people say that universal credit is good in itself because it brings all the benefits together. However, by the time you get to that stage, everything will have been cut so much that the impact will already have been felt.
3128. The Churches can play a unique role in bringing people together and giving



- them advice and information. People will seek information not only on the impact that this will have on them but on how they can work with us to get around it, whether in respect of benefits, DLA and PIPs, ESA, the single-room allowance or under-occupancy.
3129. As Michael said at the start, it is not down to just what the four Churches can do and what you represent. We have a collective moral responsibility to try to take people through this. We, too, have a moral responsibility to ensure that we protect those in most need in society. There are a lot of things that all of us can do, and it is about how we approach it collectively.
3130. Given the parishes that you all represent, you are well-equipped to bring people together, discuss this with them, and look at the ways in which you can have an impact. Two things that have been mentioned are food banks and housing, but there is much more that gels the whole thing together. Hopefully we will have made some difference by the end.
3131. **Rev Donald Ker:** The family structure is something that we have not addressed yet but which is in our submission. We talked about families that break down and the effect of that on young people, but, thankfully, most families do not break down. This means that a large number of people are involved — not formally or paid for — in caring for those with special needs, the elderly and so on. This is an almost hidden task of caring, because it does not register in the economics. They could also be vulnerable to welfare reform and change. We plead with you to not forget carers when you are thinking through the possibilities of making sure that the most vulnerable are not left out. We are concerned that they could very easily slip through the net. Due to their task of caring within a family, they do not have the possibility of going out and finding paid employment elsewhere. They do, of course, save the state substantial money, although that is a very crude way of looking at it. Society has to be very careful that unpaid carers do not suffer as a result of this. We want to put that on the table.
3132. **The Chairperson:** Thank you for that. I tried to refer to it in my opening remarks, because you addressed it in your submission. We have to look at the implications for people who are caring, child-minding and so on. That leads into the whole area of conditionality, and we have to grapple with that. I appreciate your reminder.
3133. **Mr Douglas:** Thank you very much for your presentation. Over the past number of weeks, I have met a number of groups here and in other places. I ask them, “What can the Assembly do for you?” The biggest issue that comes up every time is welfare reform. So, you are right; you have hit the nail on the head. People have fear, and, as Roy said, it is not just in disadvantaged areas. A lot of people are struggling with their mortgages, job losses and those sorts of things.
3134. **Rt Rev Dr Roy Patton:** The new poor.
3135. **Mr Douglas:** It is interesting, because on Friday I was at a seminar in east Belfast about welfare reform, and later afternoon I met with the East Belfast Independent Advice Centre. They told me that, because of poor benefit uptake, they have been able to help people to claim £1.8 million and that is just one organisation. I thought to myself: there is a huge saving to be made. It is money that would have gone back outside Northern Ireland.
3136. One thing I would say is this: a number of people have said that they have a heavier workload and that they are under pressure. I can see that churches are under pressure as well. Do you anticipate that your workload will increase as a result of welfare reform? Some organisations are telling us that their workload will probably increase by about 30%. They are at breaking point at the moment and are struggling. I thought I would just asked that question: do you anticipate that the workload of local churches will increase?
3137. **Rt Rev Dr Roy Patton:** There is no doubt about it. The Churches are engaged

- in various processes at the moment. For example, there is an organisation called Christians Against Poverty. It is mobilising more people and training them. However, we can deliver only so much. I think that the issues identified here, regarding our ability to respond, are very time-consuming to start with. It is not as though you can sort out issues for individuals in five minutes. It is not as though that is all the time it takes to fill in the forms or things like that. It takes a lot more time. There is no doubt about that. Anything that can be done to encourage and support churches that are engaged at grassroots and on the ground level in supporting the wider community would be very helpful.
3138. **Rev Donald Ker:** You are right that the work will increase. I am aware of a church in my own denomination that is addressing this issue by setting up a small charitable community company in which it is involved. It knows that its work will increase; but one of the difficulties is accessing bits of the necessary funding that will allow it to get premises and administrative staff. It is staffed by volunteers, some of whom work morning, noon and night in one case, to try to get some funding that will help it meet the need.
3139. It falls back to churches. If there is a way in which such groups could access support funding to help them do the job. There is a sea of goodwill among our people, as well as a sea of concern. We know that we need to put the structures in place, and we seek to do that. However, accessing the funding to put a small community group in place, which will be involved with a lot of this, is a problem. I think that I have to name that.
3140. **Mr Douglas:** The other thing is that all that work and all those ideas need arms, legs and co-ordination. That was another thing that came out of the meeting with the independent advice centre. It also uses a huge number of volunteers. However, volunteers have to be managed, co-ordinated and trained. There are all those issues.
3141. In your paper, you ask, at point five,
- “What steps will the Department of Social Development take to reduce the high levels of under-claiming by those in most need?”*
3142. Advice Northern Ireland suggested to us that there should be some sort of statutory obligation to provide the resources for independent advice. Is that something with which you would concur?
3143. **Rt Rev Dr Roy Patton:** That would be very helpful. In the communities that we represent and are part of, this is an issue that needs to be addressed. It is not something that might happen; there must clearly be an obligation for it to happen, and every effort should be made to make it happen.
3144. It comes back to what we were saying about working together and partnership. All of us feel that this is something that we can advance together and make a real difference. People do not claim benefit for various reasons. Maybe they do not know, and they need information and advice. There are also others, who, because of their ethos and understanding, take the attitude that, “We have never taken money from the Government” or “We stand on our own two feet.” We need to encourage people to think differently about that. They have probably paid their national insurance and they deserve, and are worthy of receiving, the support that they need at this particular stage in their lives.
3145. **Rev Adrian Dorrian:** More important than the statutory obligation is that the mechanisms that are in place to make those things happen are fit for purpose. I echo the moderator’s comments that there is a strategic opportunity here, because the Church is probably best placed to do that. We have two members of the clergy in my parish in east Belfast, and, between us, we were in one of the local schools at length hearing about the problems that it is facing because of the cuts, not just welfare reform. Another of my colleagues was at a gathering that was organised by the Belmont and District Council of Churches on suicide in east Belfast. Over 100 people were at that, and it

was called together at around a week's notice. I was not there, but my colleague was. At the same time, we were putting work into preparing for this, and a new food bank is about to open just down the road from us. Those are all things that are happening at the same time, and it may be that the Church is one of the few bodies in civic society that has, if you like, the overarching perspective. That is not to suggest that you and your colleagues in the Assembly do not, but there is a strategic opportunity to work together to ensure that those mechanisms that are being wheeled out into society, for example, for means-testing, and so on, are fit for purpose.

3146. **Fr Tim Bartlett:** I will respond to that with a wider comment. I do not underestimate the importance of and challenge to Churches to call on the generosity of those who might have a little more finance to spare. The Society of St Vincent de Paul is funded primarily from the voluntary contributions of parishioners in the Catholic Church, so we will have to ask those who have more to give more. So that we are not completely bleak about this, two great positives that we have in Northern Ireland are that we are an incredibly generous people, which will help, and we probably have a better community infrastructure and sense of community cohesion at local level. Sadly, it has fractured over the years, but this is an opportunity to work together and across traditional boundaries. I am as concerned about poverty and social cohesion in any part of Belfast as I am in Catholic areas. It is a time to look again at how we build good, strong communities that care for and support each other. It is a good thing in its own right that, as human beings, we should try to achieve that in societies. This crisis might help us rediscover how we do that a little. We are already good at that and are ahead of the rest of the UK.
3147. In fairness to Lord Freud, when the four Church leaders met him, he surprised me by acknowledging that Northern Ireland is a different place. As you probably all know, he has a particular

interest academically and otherwise in Northern Ireland and its social welfare structures. I do not know how that has expressed itself in the journey to where we are now and whether any allowance has really been made apart from allowing you freedom to recalibrate minor bits of the legislation. We appealed to him and to the British Government to fund Northern Ireland more directly in addressing some of the other issues outside of the welfare system that can compensate. That is where I take Fra's point that we need to continue to lobby very strongly and together. Sorry if I have gone slightly off your question, Sammy.

3148. **The Chairperson:** A number of Committee members want to interject, and I will take them in order.
3149. **Mr Douglas:** I have one quick point to make. Adrian, you mentioned vulnerable people, particularly young people. I know that you have been involved in youth work over the years. Can you expand a bit on that? We hear about disability and elderly people and about benefits for a whole range of people. Can you give us a snapshot of your own feelings on how this will impact on young people?
3150. **Rev Adrian Dorrian:** Tying in with what Tim said at the start, I think that the two biggest things that sit with young people are the fear of what the future holds and the confusion around what the future holds. That includes people who want to go into further education and people who want to finish school and go out and get a job. They do not know what is out there. They know that there is not much out there, or at least that is the perception. Then they hear things such as there may not be the opportunity for housing benefit, so the idea of moving somewhere to find work, even part-time work, is not available to them.
3151. As Mickey said, 37% of young people who are on housing benefit are in employment. It just means that there is a sense of hopelessness, I suppose. That is the word that I get back most often. I hear, "What does the future hold for us?" and "What is the point

- of working hard and trying to get qualifications or some sort of vocational training, because, at the end of it, there will not be anything?"
3152. My wife is a teacher who teaches part-time in two schools, and both of those jobs will probably be gone at the end of the year. There are limited prospects for the future, and, among people who are trying to go straight into work or further education or to take professional qualifications, there is a sense of hopelessness, if I have to summarise it in one word.
3153. **Rt Rev Dr Roy Patton:** That is a very significant issue, and, in some way, as a society together, we have to find ways of giving our young people hope. That is the most disastrous thing in our society at the moment. Some time ago, I talked to a secondary school principal who said that schools used to be able to say to their young people that if they wanted to get out of the poverty trap, they should get educated. The principal said that they can no longer say that because people can have PhDs and still be walking around. Somehow, we need to get that message out there and create some ways of creating opportunities to give people some hope.
3154. **Mrs Cochrane:** I need to learn to signal to speak sooner, because most members have come in on almost all my points.
3155. Mark raised the issue of childcare, and the Churches have a role to play there. I encourage them to feed into OFMDFM's childcare strategy. I am a mum who is paying £80 for my two children to be in childcare today, and that is not realistic for people. Mickey said that the minimum wage is £6.19 an hour, and someone who earns that cannot afford to pay £40 for one child for a day. When trying to help to find places for constituents, a lot of the groups that are being run really well in churches run from 9.00 am to 1.00 pm. That does not work, and that needs to be looked at. There have to be mechanisms for getting funding in to allow those things to continue longer, because some of the changes in welfare reform are to ask people to work more hours, so childcare needs to go on beyond that time. If you have to be back to pick your child up at 1.00 pm, you have to have finished work by 12.15 pm. Those are things that the Churches can do.
3156. Perhaps the Committee needs to go back to the Department to ask it to outline its communication plans. We have all raised it individually with it, but are we using the churches and their halls to have information sessions? I am sure that the churches would be quite happy to allow that to happen. Our church is linked into Acts 2:45, through which people make a specific request for things that they need, such as a kettle or a washing machine. You can really target help through that, and we find that to be useful.
3157. Given that the youth are the working generation of tomorrow, I will pick up on some of the information about that. I am a leader in the senior section of the Girl Guides, and, last week, we had a careers night with the Boys' Brigade (BB) in Bloomfield Presbyterian Church. That was brilliant, even just to give some of the kids the opportunity to speak with adults one to one and hear some ideas of what might not work for them. On the night of the Welfare Reform Bill's Second Stage, I had to nip home to take the Rangers, and, while I was taking them, I had the debate on my iPad, so they had to listen in to it. It raised a lot of questions for them, and they have now asked to do a session on money matters and lifestyle. They have not got a clue how much it costs to live or what decisions they have to take. That is not getting through to them in the schools. This is a group of teenagers asking for that. Perhaps that is another type of activity that could be going on. They should be encouraged to bring extra friends along, so that they too will get the opportunity to go through it.
3158. **Rt Rev Dr Roy Patton:** I think that that is a very helpful contribution. This is a way in which Churches can engage. It also needs the support of the wider community and government to make it possible and be really constructive, so



- that it is not happening just in an ad hoc way. Teaching people basic issues around money, budgeting and all that could be significantly helpful.
3159. **Mr Brady:** I have just a couple of points to make. You mentioned carers, who are extremely important. Carers save the state approximately £4 billion a year in the North. Carers over 65 years of age save in the region of £500 million. It is a big, big issue. Carers are treated abysmally. To get carer's allowance, you have to be looking after someone for a minimum of 35 hours a week, and for that you get £58, which is £1.24 or £1.25 an hour. Carers are limited in what they can earn. There are all sorts of issues around that.
3160. Another point concerns benefit take-up. We talk about parity, and we have done. It is interesting that, in the early stages of welfare reform, Fra and I were both on the previous mandate's Committee. More recently, there have been pilot schemes in Britain on pension credit. Here in the North, approximately £2 million is unclaimed in pension credit each year. That equates to around £104 million each year. It is a considerable sum of money. The idea was that people would get automatic entitlement to pension credit, whether or not they were entitled to it. Then, after three months, it would be sorted out who was entitled.
3161. Scandinavia has a similar system. People do not have to claim their benefits but get automatic entitlement as it comes along. There is no reason that that cannot be done here. We were told that it could not be done here because we did not have postcodes. Of course we have postcodes. It is just another excuse.
3162. The other thing that is often forgotten in all this is one of the main planks of the Beveridge report: that those people who could afford to pay national insurance contributions, and so on, would support the most vulnerable.
3163. The Churches do a great job. As Tim says, we have a very good and well-developed voluntary sector infrastructure. I spent many years working in it. All of that is happening as it should do. However, the state has a duty of care to the most vulnerable. It is an old cliché, and often used, that the recognition of how good a state is is how well it looks after its most vulnerable people. It seems to me that the state now abdicates that responsibility.
3164. Let us go back to the lifeboat analogy and think about the Titanic. The majority of people who were drowned were in steerage, and it seems to me that the majority of people who will drown this time around will be in steerage. Nothing has changed. The state continues to abdicate its responsibility. You and all the voluntary organisations are doing wonderful work. We are supposed to live in a democracy that looks after people. Unfortunately, welfare reform is another indication that such responsibility is diminishing. That needs to be borne in mind.
3165. **Rt Rev Dr Roy Patton:** I support your views on that. Churches and the voluntary sector are willing to step up, as far as possible, to address this. I am still convinced that it is the responsibility of the state. Under Christian influence and teaching, we want a society that actually cares for people. That care is exercised through the discharge of government responsibilities as well as in the community, voluntary and Church sector.
3166. **Mr F McCann:** We as politicians have all said what we think the difficulties are. The most practical way to try to deal with complaints is to co-ordinate actions. Something that has not been raised is the direction that this is taking towards the financial institutions. People are being allocated financial advisers, who will advise them on how to spend £220 a month, which is really depressing. That is an area in which Churches can come in. They have an influence on credit unions and other financial institutions that have a far better outlook on how they deal with people who are banking their own money and provide some care. People's time

- will be wasted when they are brought in by these advisers to be told how they can spend their money. The Churches might be able to assist in that.
3167. **Fr Tim Bartlett:** That requires ongoing dialogue and partnership, but it is a very important point.
3168. There is one issue that has not been touched on at all but, for obvious reasons, is of deep concern to me. The whole idea that people will be encouraged to take people into their homes to use up spare rooms frightens the absolute life out of me for a whole lot of reasons, but the question that I urge you to pay particular attention to is this: how does that link in with the whole issue of child protection? People may be bringing into their home people either whose full background story they do not know, even though they might think that they know them from the local community, or whom they just do not know particularly, but needs must, and they bring them in.
3169. How does that connect with the sex offender register and that type of thing? On the one hand, government seems to be saying, quite properly, that we need to do more and more to protect children, and all the rest of it, yet they are creating this huge vulnerability. I appeal to you to look at how that issue might be addressed and safeguards put in place.
3170. **Mr Brady:** Father, the Housing Executive was in with us last week. It is doing a pilot scheme in Lurgan and Portadown around the Pathways programme. It is talking to people about underoccupancy and how that might be addressed. One of the issues is encouraging people to take in lodgers, and we raised the point that you make. The other thing is that, if people do take someone in, that will inevitably affect their benefit. Therefore, on the one hand, it may solve the underoccupancy problem, but, on the other hand, it will not solve their financial problems.
3171. The whole issue around child protection also applies to childcare. To access the childcare element of tax credits, your child has to be looked after by a registered childminder. As far as I know, it will be the same under universal credit. Historically, our children are looked after by mothers, aunts, sisters or whomever. However, they now have to be registered in order for parents to access that money. If relations register as a childminder, they have to take on at least one other child who is not related to them. It would seem that one way around that is for the mother, the sister or whomever to be vetted under the child protection legislation, the protection of children and vulnerable adults (POCVA) checks. That would possibly go some way to solving that problem, and it would be an example of joined-up government.
3172. I also sit on the Health Committee, and there are a lot of over-arching issues. There is nothing to stop social services looking at that. Children are being looked after, but people cannot access that element of tax credits. The majority of children are not looked after by registered childminders. We did a survey in my constituency around 12 years ago that found that we had the worst provision of registered childminders in western Europe. It just does not happen, but the children are looked after anyhow. That is another way of looking at it that may provide a solution.
3173. **The Chairperson:** Thank you for that, Mickey.
3174. I thank you, the representatives of the four Churches, for being here and for your written and oral presentations. We have covered a lot of ground. I want to assure you again that, in the past year or more, the Committee has had seven or eight pre-legislative briefings from the Department and engaged with a range of stakeholders. Some parties have engaged bilaterally with others. My own party engaged with you some months ago.
3175. There is a range of issues that are interrelated. We tend to categorise those. We are looking for whatever flexibilities there are in the system within the confines of parity. As I said



earlier, some of us are not entirely wedded to parity or exactly sure as to what the limits are. We are also looking at what can be done by way of mitigation and at what else can be done to address the consequences of the legislation. That is a wider responsibility for the Executive, other Departments and important organisations in our society, not least yours.

3176. We as a Committee have a specific remit to look at the Bill's provisions to see what we want to do. On the basis of the evidence that we garner, we may seek to amend, change, oppose or whatever. That will be a matter for all Committee members in due course. It is also open for the Committee to make recommendations and observations by way of a narrative. We will deal specifically with the 130-odd clauses and dozen or so schedules, but we will also have the opportunity to comment. I have no doubt that some of your commentary will find its way into that narrative. I look forward to engaging with you again in due course.
3177. **Rt Rev Dr Roy Patton:** Thank you very much. We very much value the opportunity, and we wish you well in the challenging task that lies ahead.
3178. **Fr Tim Bartlett:** For the record, the Minister has written to the Church leaders to invite them to meet him before the end of this month.
3179. **The Chairperson:** Thanks a million.

## 29 October 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

### Witnesses:

Ms Pauline Buchanan	<i>Irish Congress of</i>
Ms Maria Morgan	<i>Trade Unions</i>
Ms Alison Millar	<i>Northern Ireland Public</i>
	<i>Service Alliance</i>
Mr Derek Thompson	<i>Public and Commercial</i>
	<i>Services Union</i>

3180. **The Chairperson:** I welcome everyone here this morning. Thank you for taking the time to make a written presentation as well as for coming to the Committee to speak to us and have a good discussion.
3181. Committee members have the papers before them. If members want a copy of the Bill folder, we have copies here.
3182. I do not want to get off on the wrong foot, but I must make a wee point. I see that one of the paragraphs in the written presentation from NIPSA seems to suggest that it is inappropriate for the Committee to give a three-week period for stakeholders to respond in. It states:
- “This response is therefore prepared within the unacceptable constraints imposed by the Social Development Committee as our initial response.”*
3183. I need to put on record that the Committee does not accept that. The Committee is very clear that we have a statutory time frame for legislation. Not only did we advertise before the time frame was scheduled but we telephoned

people directly through the Committee Clerk. We have a list of the series of phone calls that we made, asking people to prepare evidence formally.

3184. Most administrative people, such as you, not only provided a written submission but attended, after the 19 October, and it is entirely up to you what you want to say in addition to what you have written. The floor will be yours in a couple of minutes.
3185. I am just making the point that the Committee is satisfied that, not only are we giving adequate time for this — it has devoted three days a week to the task of evidence-gathering, and rightly so, given the importance of the Bill — we had seven or eight pre-legislative briefings from the Department, we had a range of engagements from organisations, including a number of your own, over the past year or more and we have participated on panels organised by trade union representatives and others. Therefore, the Committee does not accept that it has restrained anyone from making an appropriate submission. We have a statutory framework to abide by.
3186. I say all that without prejudice to any member’s views on the Bill, whether or not members eventually support it. That is a matter for them to decide in due course. However, the Committee has, as I said, to work within the statutory time frame and the legislative process.
3187. The Committee believes that it is well within its remit. No matter what people’s views are, we are very anxious to engage with all the key stakeholders. We recognise that your sector is a very important one in society. We look forward to continuing to engage with you.
3188. Without further ado, I once again welcome you to the Committee, and we look forward to hearing what you have to say.

3189. **Ms Alison Millar (Northern Ireland Public Service Alliance):** I will lead off.

3190. I hear what you are saying, and I note the position of the Committee on the consultation and time frame.

3191. The Northern Ireland Committee, Irish Congress of Trade Unions (NICITU), the Northern Ireland Public Service Alliance (NIPSA) and the Public and Commercial Services Union (PCS) have engaged with political representatives for quite some time now. However, the point that we made in the NIPSA submission is that we did not see the Bill in its totality until 1 October. With due respect, it has taken up a significant part of my time, Maria's time and that of a number of other people to try to get our submission in within the allotted time frame. We are still picking up issues of detail in the Bill because it is complex legislation and has far-reaching ramifications.

3192. We had hoped that the Committee would offer a 90-day consultation on it. To be perfectly frank, it is our view that this is all to fit in with the GB legislative time frame. They want to have most elements of this legislation in place for April. We will talk about the detail of that. We believe that things like the sanctions regime and the new benefits, such as PIP, etc, are designed to meet that time frame. Universal credit has now moved out for six months. Given the impact that this legislation will potentially have on Northern Ireland society and for workers in the system, it should not have to meet a legislative deadline of 1 April. That is the issue that we are raising primarily.

3193. Just to clarify the situation, I will kick off, and Maria, Derek and Pauline will cover various elements. That might help the Committee.

3194. We are aware of the Minister's announcement of 22 October, last Monday, about split payments, direct payments to landlords and fortnightly payments; that is all in our submissions. We fully support them.

3195. As with much of this legislation, the devil will be in the detail and the regulations.

We want to reserve the right, once the regulations come out, to engage with them. We have a question, at the outset, about the regulations. Will the regulations be fully scrutinised by this Committee in the same manner as the Bill? We hope so. As I have said, it is our position that the regulations should be subject to affirmative, rather than negative, resolution procedure. If it is appropriate, we would like to hear the Committee's view on that. The devil is in the details with a lot of this, and the regulations will be of great significance to us and to society at large.

3196. **The Chairperson:** Thank you for that, Alison. The Committee has not formally decided on a number of those key points and, as I suggested earlier, those matters depend upon what the parties and the members round the table eventually decide. Obviously, in due course, the Committee will consider all that.

3197. As I am chairing the Committee, I have to take a neutral stance. The Committee has not formally agreed on any of that. The Committee is well aware of that. I can safely say that I am satisfied that all the parties and the members around the table, no matter what way they ultimately vote, are fully aware of the consequences of the Bill, its implications and the big issues that are there to be dealt with.

3198. Our difficulty — to a member — with the Bill is that it is enabling legislation. Therefore, many of the regulations will come afterwards. You can be assured that all the regulations will be fully scrutinised by this Committee. We will engage with whoever we need to engage with and, equally importantly, whoever wants to engage with us at the given time. Our problem in grappling with the Bill is, precisely as you have already said, that a lot of the detail will come after it.

3199. Already, for the most part, we know what will happen through the Westminster Bill. Certainly, from my discussions with David Freud last week, I think that there are still huge question marks as to how all this will roll out. As far as

I am concerned, and I have said this publicly, I welcome the announcement on the area now to be dealt with: split payments, monthly payments and all the rest of it. However, none of that is settled yet. So there is still a day's work to be done on that.

3200. We welcome that direct payments will be made to landlords for people in receipt of rent. Beyond that, nothing else is formally agreed or tied down. So there is still work to be done by those who are concerned with that. As I said earlier, I and all the members around the table are satisfied with that.

3201. In making its decision, the Committee has to grapple with the fact that this is enabling legislation which will then be followed up by regulations. Regulations come after the primary legislation, which means that, to some extent, they are governed by the primary legislation. That is the big dilemma that Members will have to face when they eventually vote on the Bill. The Committee Stage is one part of this, and the Committee will make its decisions. It may seek to amend the Bill or change particular provisions in it. Obviously, there will be other Stages in the Assembly with opportunities. It is up to the Committee in its deliberations to decide whether to support amendments or propose amendments. We can also add a narrative to that by way of recommendations or observations, and I have no doubt that it will do so. There will be some things that may not be changeable in the Bill. It would not be right for me to count heads around the table, but the options for the Committee will be to make amendments, to oppose elements of the Bill perhaps, to support elements of the Bill perhaps and to make additional recommendations and observations. I have no doubt that a number of the submissions that we have heard so far and the members' own experiences will lead to a particular narrative. I could nearly write some of that script in advance, but that is up to all of the members. Alison, thanks for asking that question, which gave me the opportunity to set that out. The big

issue for us is that the detail will come later on. We know already most of what is coming through Westminster, but, as I said to David Freud last week, I will, ultimately, have to vote on what is front of me, not what someone thinks might be all right on the night, so to speak.

3202. **Ms Millar:** Thank you, Chair. I understand that the Minister made headline announcements last week, and we will have to see how split payments and so on map out over the next short period. We are fully supportive of those three issues about direct payments to landlords, split payments and the view that fortnightly payments are more appropriate than monthly payments. They need to be fleshed out. Although we welcome those concessions, our view is that they do still do not improve the economics of the Bill, and it will still lead to £500 million being removed from the Northern Ireland economy. Further job losses will result. The Committee will be aware that, unlike other parts of the UK, our unemployment figures are rising and the number of available jobs is decreasing. Our submission includes the DETI figures from July of this year, which show that only 3,000 jobs are available, with 63,000 people, or thereabouts, unemployed. The figures do not stack up. We ask that, for those reasons, the Committee considers in the round the impact that the introduction of the legislation will have and that any mitigation should be taken in that broad context.

3203. As the Committee will be aware, NIPSA represents members in the Social Security Agency and the Housing Executive. Colleagues in the PCS represent members in Her Majesty's Revenue and Customs (HMRC). As we understand it, between now and the introduction of the legislation in 2017, although jobs may be ramped up in the initial phase to get the new benefit and changes in place, there is potential for up to 1,600 job losses in the public sector in those areas. We are currently working through the issues around the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) and so on and

- how people in the public sector transfer to a new organisation. We do have serious concerns about the potential for job losses in the administration of benefits.
3204. We cannot accept that 1,600 job losses is appropriate. I refer the Committee to areas of the private sector and the recent announcement of 860 job losses at FG Wilson. Quite rightly, there was a special debate in the Assembly on that issue. Yet, it appears that the Committee and Assembly almost accept job losses in the public sector, whether the losses relate to the introduction of the Welfare Reform Bill or to change in other areas such as health or education services, etc. We ask the Committee to take that into account in its totality, because, with those types of job losses, the reality is that staff who currently administer benefits will end up being recipients of those benefits. That is a major issue, and members will be aware that thousands of jobs across the public sector have gone, and this will just bring further losses.
3205. Leaving aside the issues that I have already raised, we have concerns around elements of the Bill, such as universal credit. We are concerned about the benefit being primarily delivered online. In paragraph 3.2 of our submission, we refer to a previous PricewaterhouseCoopers (PWC) report that made it clear that claimants prefer face-to-face contact. We have major concerns about the impact of online payments on the vulnerable and those with low IT skills or poor accessibility to IT, such as the disabled. We do not believe that the Department for Social Development has thought this through. We believe that the people best placed to advise are our members who work in delivering these benefits. Individuals need to be able to access face-to-face contact. That is not something that only we believe; there is hard evidence in the PWC report into changes to the benefit system that face-to-face contact is vital. Otherwise, people do not claim. I know that each year the Department seeks to ensure that those entitled to benefits do claim, but we believe that
- there will be an increase in the number of non-claimants. Because it will be computer-driven and people cannot have questions answered, etc, there is the potential for more errors. There is also the potential of sanctions and conditionality penalties being imposed on people because they have made a mistake. So, we do not believe in, and have major concerns around, the whole IT provision and online accessibility.
3206. We have major concerns around the clause 5 provision for the introduction of a taper. We do not have a figure for that that we can state today, but we believe that it should be set at the highest possible level. We believe that doing that does not break parity, because there is flexibility to introduce a different taper in the Northern Ireland context. We have been listening in to other people who have been in front of the Committee, and you have heard concern expressed about the impact of the tax credit issue, particularly but not exclusively because tax credit changes earlier this year have already hit middle- and low-income families and driven down their standard of life. I have heard stories of people already losing between £30 and £130 of their tax credit. From our reading of the Bill, one of the tax credit issues is that it is likely to impact on older claimants who may have spent time saving for their retirement. This is all about making work pay; so, will the changes mean that people who have worked and continued to put aside money for their retirement or to send their children to university no longer receive tax credits? Our reading is that older people are more likely to have spent time saving for their retirement, and the Bill's savings rule for those with £6,000 to £16,000 will have a negative impact on older people, which may raise an equality issue for the Committee to examine. So, we ask the Committee to consider putting the case for protection or transitional arrangements to be put in place for tax credit claimants who will transfer to universal credit and that the capital entitlement for one or both of a couple who have reached the age of 60 should also be exempt and have



protection. We ask the Committee to consider that in its deliberations.

3207. I will touch on the issue of the benefit cap. It will be £500 or £350 depending on whether it applies to a couple or a single adult. We have major concerns about the benefit cap, particularly the impact on families with children. The August 2011 figures show that just short of 82,000 claimants are on income support, and, of those, just over 33,500 have children. With the larger-family issue, 8,000 have three children or more; 2,000 have four children or more; and 870 have five or more children. Therefore, as child benefit is included in the cap, that will potentially impact very negatively on families, particularly those families with a larger number of children.
3208. As I understand it, while PIP is excluded from the benefit cap, the disability premiums of the child tax credits will be included in the cap. The Northern Ireland Commissioner for Children and Young People's research and figures show that 6,500 families will lose under the new arrangement. So, there will be an impact on health and well-being, and educational outcomes will be diminished for children, particularly those from larger families. So, as an action point, we ask the Committee to consider whether it should ensure that the benefit cap is removed or set at a high level to protect families and children, irrespective of family size, because, as you know, there are larger families here in Northern Ireland than, perhaps, in other areas. We are asking that the Committee consider overall whether, because of the negative impact, the benefit cap should be removed and set at a higher level for families with children.
3209. I will move on to the housing element and finish there. I will then pass over to my colleagues. We very much welcome the housing element of universal credit being paid to the landlord, and I think that that will address a serious number of the concerns that we had. However, there remain quite a number of issues with housing that we want the Committee to consider. For example,

the intention of clause 11 is to provide an amount to be included for universal credit for housing costs, and that is not related to actual rent in the local housing market. That should be included, because our understanding is that that has the potential to cause a disconnect between the housing costs and the actual rent and, therefore, over a period of time, cause further hardship or perhaps even homelessness. That also impacts on and has a resonance with the Department setting the rents at either consumer price index (CPI) or the bottom 30th percentile. It is currently at 50%. Again, that has the potential to cause homelessness.

3210. The issue that has most exercised the minds of many is that of bedroom tax and underoccupancy. I will not tell the Committee what it already knows, but 14% of properties in Northern Ireland have one underoccupied bedroom, and 25% have two or more underoccupied bedrooms; so there is potential for tenants to receive approximately £8.25 or £14.70 a week less respectively. Again, that will result in hardship or homelessness. We believe that the Committee needs to address the issue of what is commonly called the bedroom tax, and we have looked at some of the issues with the availability of social housing and houses with one and two bedrooms. The 2009 Housing Executive housing condition survey showed that the availability of properties with one and two bedrooms is very limited. That is in our submission.
3211. We think that non-resident parents should be exempt from the current shared-room requirement in housing benefit. For a variety of reasons, including child protection reasons, we do not think that it is acceptable that a child should have to share a bed with a parent. When I talked to my colleagues in social services, they said that there were issues under the Children's Order in relation to the potential there. That is not to discredit any parent or family member or to say that they would abuse a child, but, under the Children's Order



and from my contacts with social services, it raises issues around child protection.

3212. To sum up, as you will know, 90% of social housing in Northern Ireland is segregated. While the Housing Executive has been working to improve that over the years, it will take a generational change and a focus to change that situation. We have to recognise that we are coming out of 30-plus years of conflict. We ask the Committee, in its deliberations, to consider not introducing the underoccupancy bedroom tax until sufficient social housing of one and two bedrooms has been built to meet the needs and/or, where there are children involved, the underoccupancy rule should be set aside until we are able to get houses built that are of sufficient standard. What we are actually saying is that we do not have the resources and have not been able to do the in-depth study. Perhaps that is something that the Committee would want to get its researchers here to look at. If people are made homeless, they turn up at the Housing Executive. What is the cost impact if they have to be put up in more expensive accommodation? What is the impact, not just from a cost point of view but from a point of view of the children and the family living in hostel type accommodation, etc? Therefore, it is not just about the cost; it is about the social impact of a lot of these changes. As I said, the Assembly should exempt non-resident persons from the shared-room requirement in relation to the housing costs. I will finish there and pass over to my colleague Maria, who will go through the conditions and sanctions.

3213. **The Chairperson:** On your last point, I just want to make the point that David Freud has already said, and the Minister mentioned it last week, that he is going to come over here by the end of this month to look at the whole question of housing benefit. I am just repeating to you the announcement that was made last week. We had a presentation from the Housing Executive last week, which said that, on the evidence that it had so far from its own database, it could not meet the challenge if people affected

by this presented themselves tomorrow morning. That will add to the issue around displaced costs. I am not going to bring in other members until we hear the presentation.

3214. **Ms Maria Morgan (Irish Congress of Trade Unions):** Thank you, Chair. Alison made the point that the aim of the trade unions in coming here today is to try to express in detail some of the ramifications of the proposals. That said, the devil is in the detail, which will be in the regulations, so we got our trade union side in the areas that currently deal with disability living allowance DLA and jobseeker's allowance JSA to try to give us some of their concerns in order to highlight the ramifications.

3215. We are opposed to this Bill on the basis that it is, as it says, predicated on cuts very significant cuts of £18 billion, which will mean £500 million for Northern Ireland. We have tried to extract the ramifications as best we can without the detail. I am going to deal specifically for now with sanctions, conditionality and hardship, which relate to clauses 13 to 30. Those clauses introduce severely increased sanctions for people who fail to meet conditionality requirements. We ask the Committee to consider whether those clauses are proportionate and reasonable. We ask that because, if you look at the period of sanctions – 13 weeks, 26 weeks and up to three years – it is quite incredible to try to imagine that you would sanction anybody for three years. However, leaving that aside, that is the worry that we have in dealing with this issue. If you were to sanction someone for that length of time, we would have absolutely no doubt that hardship and destitution would result. That would have to be considered with respect to the equality and human rights aspect of the Bill, including the consequences of the withdrawal of benefit and what that might mean to families, particularly those with children.

3216. There has been an increase in instances of aggression against public sector workers. In our own environment, in Jobcentre Plus, PCS and across NIPSA,

- the potential increase in violence or aggression occurs where people are in despair and coming into our offices. That is not to say that these are not reasonable people. They are people who come in, first-time unemployed, and our fear is that our members are not being given the time to deal with job search and to create all of the de-stressers that are needed when someone is in that situation. We are very proud that our members provide that service. However, we worry about where our society will end up, if that service is removed.
3217. In clause 22 of this particular area, it is required that 35 hours a week are taken to find work. We do not oppose in any way the principle that those who are unemployed should take reasonable steps to find work. In our view, if you are to scrutinise what 35 hours of seeking work might mean to someone, it should not mean that someone should trawling the streets or offices. There are mechanisms in place for that now. We do not know what 35 hours of seeking work would mean. I have worked in a benefits office, and I really do not know what that would mean. I think that that needs to be looked at. Is it excessive?
3218. The other thing is that we are very concerned about is that, although the Bill is about getting people from benefit into work, what has not been publicised is the number of in-work people that it will affect — the working poor. All work requirements contained in these clauses can be imposed upon claimants who already work but who earn below a certain threshold. That will affect, for instance, lone parents who cannot work full-time hours any longer because of various barriers. One of those barriers is absolutely clear in Northern Ireland, and that is the lack of affordable childcare. There is no Northern Ireland strategy to address those issues at the moment. Lone parents are predominantly female, and we are concerned that no analysis has been done. The equality impact assessment has been done on the Bill, but it is our view that it lacked detail. No real impact has been assessed.
3219. The family resources survey (FRS) figures have been used to assess what the Department calls “winners” and “losers”. Those are not our terms. The FRS data is from 2009-2010. They are old, pre-recession figures and, in our view, they would not identify the current economic climate and the high levels of unemployment.
3220. Alison made the point that Northern Ireland is different, and we have to consider that we are coming out of conflict. There are high levels of mental ill health. We have people who would take jobs if jobs were available, but they are not available. You need to consider that when you look at sanctions. Who would be affected if sanctions were imposed, as provided for in the Bill?
3221. There is also the issue that Northern Ireland has the highest unemployment of all 12 regions. It was on the news last week that Britain is officially out of recession. I do not know how that makes any difference to anyone’s pocket. We are talking about society and people. NIPSA and PCS members would all say the same thing. In a school, our members have been asked to reduce their hours rather than lose a classroom assistant. They have reduced their hours in order to keep people in work. If the sanctions say, “You are not meeting enough hours or an earnings threshold. Go back to your employer and ask him whether you can increase your hours.” That will not happen. I represent NIPSA in the Civil Service, and we have a lot of part-time workers. There are simply not enough hours available. These are part-time workers in receipt of tax credits who will be universal credit claimants, and the hours are not there.
3222. We ask the Committee to consider that we are imposing a potential sanction on someone because they are not working enough hours, because they are not earning enough money. That is the way our society is made up. Neither we nor anyone else in the room will be able to address that. In particular, employers will not be able to address it. I know that there has been some discussion with the Committee for Enterprise, Trade

- and Investment to see how employers can put someone from benefit into work when there are people who are already in work and cannot get the hours. That is a huge worry for us. Alison also pointed out that there are between 3,000 and 4,000 vacancies and, as we speak, nearly 120,000 people seeking work in Northern Ireland.
3223. In July, there were 11 jobs going in a DFS furniture store in Derry, and 2,300 people applied for them. There are examples such as this at Asda stores across Northern Ireland. We are aware, and have been told, that the cuts will be made by cutting down on the number of workers, and it is planned that another 40,000 jobs will be cut. So, given that we know that the Tory Government are proposing to make more people unemployed, and that sanctions will be imposed on those who cannot find work, there will be a big cycle in which people will not be able to claim benefits and will not have the safety net of the welfare state that they need.
3224. We have an issue with universal credit. The current six working-age benefits will become one benefit. That will, in our view, be a platform for privatisation. On that point, colleagues will cover some issues around Atos.
3225. Before I leave the sanctions issue, I want to say that according to research carried out by the Institute of Fiscal Studies, Northern Ireland will be hardest hit after London. To date, we have not seen any analysis from the Department on who will be impacted. Until we know that, the only thing we can go on is our currently high levels of unemployment. If sanctions of 13 or 26 weeks, or three years are imposed on people, that will create poverty in Northern Ireland. If there are not enough jobs, and there is not childcare, we do not see how these proposals can be met. On that basis, we ask that these clauses be removed and that some analysis is done. Nobody can tell us any more than we know already about what, who, or how many people will be impacted. On that point, we would say that more analysis needs to be done on who may be impacted.
3226. Clause 28 deals with hardship payments. At the minute, such payments exist to see people through periods when their benefit is not paid. The proposal is for hardship payments to become loans. We just do not think that this is acceptable. We take issue with the fact that if someone's benefit is stopped their hardship payment will be a de facto loan. This is a huge deviation from the current set up and is unacceptable to us.
3227. I want to touch briefly on the proposal to reduce receipt of the contribution-based ESA to a year. Chair, you will know that we raised this point when we were here in December. What will happen to people who pay into the national insurance scheme all their working lives? We still cannot understand what will happen if, after 30 years of paying in all that money, someone becomes ill but gets only a year's benefit. Where is the money going to? Who is telling those individuals that they are investing in a welfare state and in a future that they will not be able to take up? That is a massive issue for us. Where is the money going? Whose idea was it to dismantle the national insurance scheme? Why does nobody know about it?
3228. We have trade union members who are postmen and women, refuse collectors, and others who do heavy duty work that means, in the future, they may be ill with back problems, or whatever, but who will receive only one year of all the money they invested in the national insurance scheme. We are asking you, "Where is that money going?", because we cannot get answers anywhere else. After contribution-based ESA has been paid for a year, if the partner in the household is working, the sick person will receive no money. Roughly £6,000 a year will be lost. When we talk about money coming out of the economy, that is what we are talking about. The economics is the clear bit. It is about what will happen to children and sick people in such households if this happens. That is the reality of what is contained in the Bill.
3229. I will finish very briefly with the clauses on child maintenance, starting with clause 121. The child maintenance and

- enforcement division in the Civil Service protects children and ensures that child poverty does not increase. You will know that the Northern Ireland Assembly discussed child poverty in October. In Northern Ireland, 122,000 children have been identified as living in poverty. The figures are staggering. Save the Children has made comments such as, "If this Executive does not do something about this, we will be in a crisis with child poverty."
3230. Due to the changes to child maintenance, we are concerned that private agreements will have to be reached between parents. These are parents who quite often, because of the breakdown in a relationship, do not have any discussion with each other. How can they possibly come to a private agreement? Regardless of whether they do, who will be impacted? It will be nobody other than the children. The poverty strategy that the Assembly is working on has been tasked to reduce child poverty by half by 2020. That will simply not happen.
3231. People will also now be charged for using the Child Support Agency. Given all the other implications of the Bill, we wonder how, if fees are introduced, anybody will find the money to go forward and ask for help for child maintenance collection. The private arrangements and the privatisation aspect are also big worries. Our members in the Civil Service, across the Social Security Agency and the child maintenance and enforcement division, are best tasked to deal with people in distress and poverty. Part of the objective is to get children out of poverty.
3232. **Mr Derek Thompson (Public and Commercial Services Union):** First, I would like to make some general comments about the Welfare Reform Bill on behalf of the Public and Commercial Services Union (PCS). PCS is utterly opposed to every aspect of the welfare reform agenda. We agree that the welfare system needs to be reformed but not in the manner outlined in the Bill. We believe that the Bill is almost draconian. It is nothing more than a systematic attack on a class and on generations.
3233. If this attack goes unchallenged, it will marginalise and impoverish millions of people in society and thousands here in Northern Ireland. This is one of the reasons why I have come here on behalf of the PCS. I represent the PCS nationally. I have been having meetings about welfare in Westminster and in the Scottish Parliament. We are asking people to look at the direct impact on communities and on the people you are elected to serve. I will touch on some of the stuff that is specific to Northern Ireland as I go along.
3234. I am here, primarily, to discuss PIPs, which will replace DLA. Their introduction will see a 20% cut in DLA. That has a monetary value, which I will touch on later. There are questions that we should always ask ourselves. Why was DLA introduced? Who benefits from DLA? Why is it needed? If you think that disabled people have the same advantages as those who work, you are mistaken, and I will cover some of that later.
3235. The mobility component is designed to support people. One of the things that we looked at was the success of the Paralympic Games. A lot of the athletes who took part in that said that DLA was a major component in allowing them to go through their life and take part in their sport. The mobility component allows people to leave the house on a regular basis, to socialise, and to have some form of life in the community. That will be taken away in some way, shape or form.
3236. Maria touched on the issue of mental illness. Northern Ireland has particularly high figures in that regard. As we know, it probably has the highest figures for post-traumatic stress in the UK. These people will be disadvantaged by this process and the 20% cut. One of the things that has been missed in respect of the introduction of PIPs is how it will be managed through the benefits system. My understanding is that we are quite close to being able to deliver new claims across the benefit system but that we will not be able to deliver in respect of change of circumstances. How many people with mental illnesses



- and some physical illnesses will be able to use the online systems that are available to them? Where are they going to go when the different aspects start to come through? We need to look at that.
3237. One of the key aspects that the Committee should be looking at is this: who has the authority to make decisions on behalf of disabled people claiming PIPs? I urge people to look at the disaster that is ESA just now, the referrals that go through Atos, and the horrific nature of what Atos puts people through. I am not blaming those who work in Atos or those who work in the benefits system. I am blaming the stipulations put on them by this Government to get more and more people off disability benefits and on to jobseeker's allowance or ESA. There are false figures. They are massaging the figures to try to get rid of some of those targets that are out there.
3238. It is crystal clear that we need to work on the assessment process for PIPs. I would like accountability for that to lie with the Department. A strong case has to be made for every decision on somebody's benefit entitlement to be taken by a decision-maker who is sanctioned by the regulations that are in place rather than for those decisions to be taken at the behest of an Atos adviser who is looking primarily at a profit in some way, shape or form for the number of people they get on and off benefit. The number of people they disallow is profit-driven. There has to be some kind of control over that. As a Committee, you need to make sure that that is built into every single stage so that authority to decide someone's entitlement to PIPs lies with a decision-maker who is employed by the Civil Service and who is sanctioned by the regulations to make that decision.
3239. Having a history in the benefit department, I say that there needs to be some form of accountability to the Assembly as well. One of the key things that you have to look at is reviewing the process on an ongoing and regular basis. You have to see how many people are coming off benefits and how many have failed to have a PIP claim accepted. Then, the key issue that you have to look at is how many people appeal those decisions and how many win their appeals. This is my real fear about the introduction of PIPs. Appeals under ESA have jumped through the roof. The majority of people go on to a lower rate of benefit or lose their benefit completely, but win an appeal six months later because the decision is found to have been fundamentally flawed. We are opposed to that, as I said, but the issue is not about that: It is about getting this right from the very start and ensuring that people are protected as much as possible.
3240. I will be open about the evidence that we have received about the Atos assessors. Sometimes it is almost a case of, "Welcome. What is your illness? That is fine. Away you go." There is no real assessment being made. People are not being trained properly. Sometimes they do not even see a proper doctor but rather a nurse or an assessor. Who trains those people? Who employs them? What accountability do Atos employees have? We need to get a guarantee about that before the Welfare Reform Bill is set in stone. We need a guarantee that those who are making assessments on people's lives are properly trained to carry out that function. I hope that you will try to get that guarantee.
3241. Control must rest with the Department: that is the key principle for us. The failure of private provision of welfare is legendary. We are dealing with people's lives and prospects, but privatisation is creeping in. Surely, the object of a civilised society must be to put people before profit and support them. The PIPs will lead to further barriers for those who are looking to get into long-term employment. Let us be honest: there is not an even playing field when it comes to disabled people looking for employment or disabled people getting support. There is a number of reasons for that. One of the reasons that DLA was created was that it brought

- down some of those barriers and gave support.
3242. We now have a process in which people who are disabled go out of work, and who, under whatever assessment is needed, lose their benefit. How will they fare in the job market if they are up against an able-bodied person? Which person is an employer more likely to employ? The disabled person will need the support that has been withdrawn from them. They might need reasonable adjustments in their workplace that have been withdrawn under the coalition Government's rules on employment law. Those are all barriers to people who have disabilities getting into work and ensuring that they continue to be supported.
3243. The savings outlined are around £23 million in the first year and £64 million in the second year. Those figures are a drop in the ocean in benefit terms. They are nowhere near the current figures for unclaimed benefits. So, where is the programme that will get people who are entitled to benefits to claim them? We should also be looking to minimise the disruption for the disabled person that PIP threatens to bring about.
3244. I will sum up by saying that you need to try to ensure that there is fairness and transparency in the process; keep as much control as possible over the outside providers and GPs who are making the decisions to ensure fairness, and ensure that the Department has overall control over those decisions. This is about bold choices. I said that at the hearings I attended in different places. There are choices to be made by everyone in this matter. The general Westminster drive on welfare reform is there, but I believe that every Assembly has its own way to go.
3245. We have seen the demonisation of people on benefits, of those on disability benefits, which I think is a shameful approach. Almost a shock-and-awe tactic has been used, and, from that, we have seen a rise in hate crime against the disabled as well. How do people feel when they are coming off disability benefits or are losing benefits every week? They cannot go out into society anymore. They cannot get jobs that they feel they can go through with.
3246. I urge you to oppose welfare reform in any way, shape or form that you can. I know that you may feel that you are not in a position to do that. Along with other trade unions, we will soon be campaigning massively against the welfare reform agenda; not just against what is coming in now but opposing further cuts that we know people will face in the future. We need to make stark choices as a society on a number of issues, but, on one of them, the Committee and Assembly have the opportunity to draw back from some of the Bill's more draconian measures and make sure that disabled people get their proper entitlements and benefits and that a proper support system is in place for them.
3247. **The Chairperson:** Thank you, Derek.
3248. **Ms Pauline Buchanan (Irish Congress of Trade Unions):** Congress is worried that there has been no human rights analysis of the Bill and its potential implications. Northern Ireland's culture and structure is left over from the Troubles, and I do not think that we can move away from that fact or pretend that it has had not had a major influence on the welfare system. The benefits system cannot possibly sit on its own, away from that structure and away from past influences.
3249. Congress also believes that the Welfare Reform Bill cannot work in these recessionary times. Let us have a look at it if we have the jobs to go round, but we do not have them. What we have at the minute is temporary employment, job insecurity, and zero-hour contracts. Put simply, we have no work. We believe that there are not the structures to support the Bill, and we ask you to look strongly at that aspect.
3250. We also believe that the 20% cuts in DLA and PIP, as outlined by my colleagues, are driven by figures rather than by people or the society in which we all



- want to live. We are deeply concerned that major cuts will be made in DLA, contribution-based ESA and lone-parent conditionality. Those are three areas that particularly concern us. I reiterate that there are high levels of socio-economic deprivation and a higher reliance on the welfare benefits system because of the Troubles. For people with disabilities, the proposals are based on a medical model of their having need and requiring treatment, rather than on the social model that we should have, and very much work towards, of inclusion and participation.
3251. Women will be affected greatly. We all know, and have heard it again from my colleagues, that women are more likely to be carers and have the bulk of childcare responsibilities. We ask that you consider whether the lone-parent conditionality and other cuts that will affect women, because they are more likely to be on means-tested benefits, amount to indirect discrimination under the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). Again, for women in particular, but also for those with disabilities and in marginalised groups, there are no childcare structures to enable access to training and to gain employment. The fact that they are simply not there must be considered as well.
3252. Under sanctions, which Maria covered, we ask whether there has been full equality. Has there been investment in the areas that there should have been? Is there full equality for those with English as a second language? Through research that has been done here, we all know that there are high inequalities and high rates of illiteracy, and we need to put a lot of resources into essential skills. Are those people starting on a level playing field? There has been major underinvestment in people with learning disabilities and there is no childcare structure. There have been inequalities in investment in the past that will very much affect those who are under sanctions and conditionality.
3253. Through research, we know that the key inequalities, coupled with welfare reform,
- will have a major impact on those who are most vulnerable. If we look at our education system and link it to welfare reform, a lot of people here leave school without qualifications, and that can lead to a lifetime of poverty — it starts off with child poverty and it can lead to a lifetime of poverty. Future poverty is linked to educational attainment, and I think that we need to look at that.
3254. At this point, it is also unclear what the impact of passported benefits will have on welfare reform and what the impact will be on those who lose their benefits. Will they also lose free school meals and uniforms? We also do not know what the impact will be on those who have always found it difficult to obtain work, for example, those in the Travelling community and looked-after children.
3255. Maria covered a bit about employment in her discussion of clauses 13 to 30, and we are very concerned about the move to three-year sanctions. We need to consider all the aspects that make up employment here, or non-employment as there is at the moment. There is no job security, and we need to look at where workplace locations are and whether they are accessible to everyone and at harassment. Those can be major issues for people who leave employment, and those who voluntarily leave employment or who are dismissed face being placed under sanction for three years.
3256. Harassment is a major issue in the workplace, which may mean people having to leave their jobs or being dismissed, perhaps unfairly. We deal with lots of grievance and disciplinary cases, which then go into the system. They can be because of race or whether someone is lesbian, gay, bisexual or transgender. They can also be because of sectarianism in the workplace, which is an issue that we all know that we need to keep looking at and putting resources into. We also have zero-hour contracts and all sorts of insecurities. Workers need the safety net of a social security system, and that is not going to be there for them. If it is taken away, we expect to see a rise in exploitation. People will not challenge their

- employers: if they are being harassed in the workplace they will be afraid to leave the workplace and will not challenge in case they lose their jobs. They will then face three years of absolutely nothing. We are very worried that there will be a rise in exploitation, sectarianism, racial harassment and many other issues in the workplace.
3257. It has been well documented that there is poorer access to training and employment for women. One of the major barriers to women's participation in the workplace is caring. We all know that we are becoming a more ageing society and there is also the issue of childcare, which is also crucial.
3258. For those with disabilities, trying to access the workplace is a major issue. The key barriers for people with disabilities are education, attitudes and transport. One of the major issues in the Bill is the removal of DLA and mobility allowance. That will mean that people with disabilities will not be able to access the workplace.
3259. Alison covered all the issues about housing, such as the availability of housing and shared housing. We also want to raise the lack of suitable housing for those with disabilities to live in supportive environments. There will also be major issues for looked-after children, such as whether the parents of children in care will be able to have their children come back to them or to come home at weekends. All the issues around looked-after children are very unclear. We want to live in a social model for participation, and I think that the Welfare Reform Bill is going to roll back on that.
3260. We also feel that the contravenes section 75 of the Northern Ireland Act 1998. We are worried about its impact on CEDAW, which was ratified by the UK Government in 1986 and its impact on the UN Convention on the Rights of Persons with Disabilities, which was ratified by the UK in 2009. There are other pieces of law, such as the European Convention on Human Rights, on which I am not an expert, but we have major concerns that the Bill will contravene them.
3261. I want to tell you a personal story. I was raised on benefits. I was born in the 1960s, when there was no work. I was in receipt of free schools meals and my mum and dad were in receipt of benefits. I had a brother who was not as robust as the rest of us, and one of the things that I remember as a child was my mum sending my other brother for a bottle of over-the-counter medicine, and, as he came through the door, he fell and he broke it. To this day, I can see her kneeling down over it crying, because there was no more money. We have built a society to move away from those days and to move back towards that is just unacceptable. I would never want another family to have to go through such a thing.
3262. We believe that there is mitigation for difference. There can be a stretching of parity, and that must be sought because of the special circumstances in Northern Ireland.
3263. Some of the examples that I have given you of where people are most vulnerable were taken from the reports of OFMDFM's promoting social inclusion disability working group, the Joseph Rowntree Foundation, DENI databases and 'Care Matters'. Thank you.
3264. **Ms Millar:** Chair, I just want to give a very brief run-through. It has been said by a number of people that a Bill that considers only the cost — we looked very much at that issue — is not acceptable, particularly if it does not look at the social impact. If it does not do that it must be a flawed Bill.
3265. Many people in Northern Ireland will live with the consequences of the Bill. You, as a, Committee and the Assembly owe it to those people to take the time to get it right, and to ensure that we can live with its consequences from a social point of view. I do not think that the public quite realise what is coming down the road, and I think that a division has grown up between in-work and out-of-work families. In particular, families who

- are in receipt of tax credits do not see themselves inside the benefit system, and I think that it will come as a huge surprise to them.
3266. To sum up some of the issues that we have touched on today; as a society, Northern Ireland as a whole prides itself on having strong family values, but we are different in a number of respects. There is no childcare strategy; we are coming out of a post-conflict situation with segregated housing; we have more DLA claimants as a result of the conflict and we have a greater proportion of larger families — I spoke earlier about the 870 families we have with five or more children, and that is just families who are in receipt of income support. We also have higher levels of unemployment and those levels continue to rise month on month. We are certainly not out of recession.
3267. In summary, this is about choices for the Committee and the Assembly. We welcome devolution, but with it comes responsibility. We implore the Assembly to make the right choices for the society of Northern Ireland and for the workers in that society. This will create a generational change, and we will have to live with it, potentially for a generation or generations to come.
3268. **Ms Morgan:** I do not need to tell you that the Tory millionaires will never need to use the welfare system. They will never need to use the education system, which is why they are privatising that and the health service. I do not need to tell you what the pain that they are inflicting on communities will be like.
3269. **The Chairperson:** I thought that we were all in it together.
3270. **Ms Morgan:** Yes. You will all know from your constituency offices the type of people who come through your door. I was speaking to a community worker last week, and 800 people who are in absolute despair are coming through her advice centre. So we would like the Committee and the Northern Ireland Assembly not to allow themselves to be bullied by the Tory Government into introducing cuts that will result in destitution. Suicide rates in Northern Ireland have increased; it is all there in front of us. If the cuts are implemented, there will be no turning back. We believe that the Assembly can make a difference, and that is why we are here today to say that there is harm in the Bill. There are issues with parity, and there will have to be difficult discussions. Some things will cost money, and we understand that that it is difficult, but we ask you to tell the Westminster Government that there are some things that you just cannot implement. If you do not do that, they will not be Tory cuts but Northern Ireland Assembly cuts. We ask you to consider alternatives where you can, and the trade union movement will work with you as best we can on that.
3271. **The Chairperson:** Thank you all for your very comprehensive contributions so far. It has been a good engagement. I need to step out for a moment; I will back in a minute.
3272. **Mr Copeland:** Very wise, Chair.
3273. Thanks for your presentation. I have a couple of points, largely related to what Alison said at the start, and I will take them in the order that I noted them down, which is not chronological. You commented, Alison, that you had spoken to people in social services about the bedroom tax, single room rate, or whatever you want to call it. Is it your view that the lack of a separate bedroom for a child visiting the non-resident parent would, in a court, militate against access rights being granted for overnight stays?
3274. You referred to the 40,080 and the 22,156 people in housing stress. It is my understanding that those are the numbers of applications as opposed to applicants and that, if that number was extrapolated on the basis that there could be two, three or four people per application, the number of people involved could approach 100,000, as opposed to the lower figure of 40,000 applications.

3275. Lastly, may I ask a general question? Years ago, I found that, if you wanted to know what was really happening, you did not ask a general, major or even a sergeant, you asked a private — people on the front line. A lot of the changes will fall on your members, Maria. Are you picking up any sense at all that the Department knows what it is doing?
3276. **Ms Morgan:** Are you looking to get me into trouble?
3277. **Mr Copeland:** It is a straight question. I have day-to-day communications with a large number of your members who work on the front line with people who are, as you said, sometimes aggressive. I wonder how we discharge our duty of care towards the people who, day after day, have to listen to absolutely heart-wrenching stories, yet the legislation is similar to the advert: “Computer says no”. How do you protect psychologically the people who have to relay those decisions? I have a deep suspicion that this will all come wrapped like a Christmas present: you will open it and probably not like it, but you will have to deal with what comes out of the box. I am curious about how the preparation for and recognition of the significant changes are affecting your members.
3278. **Ms Millar:** I want to be very clear that we are not suggesting for one minute that there are issues of child abuse with all non-resident parents. However, you asked a question about a separate room for a visiting child. As I understand it, the courts, when deciding whether to grant access, consider all arrangements for the child, including where he or she will sleep.
3279. The housing stress figures are the number of applications. They represent not 40,000 or 23,000 people but the number of applications. Each could represent a single-member family, or a six- or seven-member family.
3280. Maybe I will duck the question of whether the Department knows what it is doing. On a day-to-day basis, I have responsibility for looking after our members in the Housing Executive.
- I regularly hear stories of homeless people coming in and saying, “Here are my children.” On occasion, parents have left their children in a Housing Executive office, saying, “You look after them because we have no money left, and we are now homeless.” Does the Department know what it is doing? I hope that it does.
3281. However, the fact is that front line staff, both in the Social Security Agency and the Housing Executive, face the reality of people at their wits end coming through the door. They have no money left or have been declared homeless, and they do not know what they are going to do. I am sure that these people come to your constituency offices regularly. You do not need me to tell you the horror stories; you have heard them yourselves.
3282. **Ms Morgan:** May I answer that question in another way? When NIPSA meets the Department once a month to discuss universal credit, we deal with the policy issues, but we are also supposed to deal with the HR aspects. However, there is currently no detail at all of what our members will be expected to deliver in the future. I will put that in context: I do not think that the people whom we meet have that information. It is very worrying for our members. This is all happening in the background. The very HR people who are expected to make this work have no detail at all.
3283. It helps that the introduction of universal credit has been put back to 14 April. Maybe a whole lot more of the reform should be put back. In the Department, the management side that we deal with has been given an unrealistic time frame. This is an Act in Britain, but we are only looking at the Bill now, and yet the timetable is the same. That is wrong, and our submission refers to the time constraints being imposed on Northern Ireland. They do not allow us to do what we need to do. The legislation is being rushed through by Britain in an unrealistic time frame.
3284. **Mr Durkan:** Thank you for your presentations. You have raised many issues with which we are, unfortunately,

- all too familiar. Many more are raised in your written submissions, and I look forward to studying those in my own time and in more detail. However, it is important that you know that the Committee has resolved to address these issues as best we can.
3285. Maria raised the issue of equality, and that was reinforced by Pauline. The Bill is, in my opinion, disproportionate in its impact on women, older people and people with disabilities. Last week, the Chair tried to invoke Standing Order 35, which would have meant an equality proofing of the Bill. It is my understanding that the Equality Commission will give evidence to the Committee tomorrow. I wondered whether you, as unions, had sought its advice. What actions lie within the commission's statutory power and obligation?
3286. I will ask Alison a question about the outline business case, which is important to me. Alison, you received that from the Department, I presume?
3287. **Ms Millar:** Yes.
3288. **Mr Durkan:** I attempted to acquire the same document from the Department but was refused it. That is completely unacceptable. During the debate on Second Stage a couple of weeks ago, there was quite a lot of talk about job losses, but they were job losses that would occur if the Bill was not passed. I have, as yet, been unable to find one scintilla of evidence of any mention by, or communication from, Westminster saying that that would be the case. However, when I asked the Minister in that debate how many jobs might be lost as a result of the imposition of universal credit, he said that my question was incomprehensible. I do not know how we are expected to fulfil our scrutiny role properly if we do not have sight of that same business case.
3289. **Ms Millar:** On the matter of the equality elements being disproportionate and the question of whether we had sought advice from the Equality Commission, it is our intention to meet the commission, but, as I explained earlier, there have been time constraints. We have been burning the midnight oil to ensure that we were prepared for coming here and that we got our submission in. It is our intention, under the umbrella of congress, to have meetings with the Equality Commission and the Human Rights Commission to tease out further some of the equality issues.
3290. We refer to the outline business case in our submission. We received it a number of months ago on a restricted basis. We have not released the detail, but the high-level figures that it contains highlight the fact that, between now and 2017, the loss of 1,600 full-time equivalent jobs are projected. That makes sense if you look at all of the elements: six benefits will merge into one; and, taking the Bill at face value, much of the administration will be online, so fewer staff will be needed to deliver benefits. I think that there is, perhaps, some disquiet in the Department about our referring to that in our submission. I press the Committee to ensure that you have all of the information in front of you to allow you to make decisions.
3291. **Ms Morgan:** Although we welcome the fact that we have that information, because the Department has an obligation to consult with the trade union side, I find it very odd that we have information that the Committee does not have. You need to make decisions on the basis of the information that might be held in that business case.
3292. Mark, you made a point about using Standing Order 35. We would have very much welcomed an equality and human rights approach to the Bill. That is on the basis that it contains issues that we believe contravene equality legislation, particularly the reference in section 75 to the nine categories. We also believe that it contravenes human rights on the protection of children, the Children Order and CEDAW, which is the UN convention that Pauline mentioned. We will let the experts on the Human Rights Commission deal with that. However, even if the Committee does not invoke



the Standing Order, it needs, in our view, to have an eye to international and domestic law and consider whether the Bill flouts or contravenes any of that.

3293. **Mr Durkan:** It is my understanding that the Equality Commission has the power to scrutinise the Bill. Should it identify issues under section 75 — I would be surprised if it did not — the Department will have to respond.
3294. **The Chairperson:** We look forward to listening to the Equality Commission and the Human Rights Commission tomorrow. As I said in my opening remarks, parties have engaged in bilateral meetings, and I know that colleagues were with the Equality Commission and the Human Rights Commission some time ago and engaged with them directly on that. I have referred to that publicly in some of the debates, so, clearly, there is a range of concerns.
3295. **Mr Brady:** Thank you for the presentation. The spectre of privatisation hangs over all of this. In the previous mandate, Fra and I were also on this Committee. As far back as 4 June 2007, the initial stages of welfare reform were being rushed through by accelerated passage. At that time, we were told by the then Minister that up to 40% of the Social Security Agency staff could be lost. That was five years ago. We then had the strategic business review, the name of which was changed to Customer First, presumably because it sounded better, although it was basically the same thing. Fra and I proposed an amendment to delete clause 16, which provided for the privatisation of services. At the time, we were told that that would never happen so the clause did not need to be deleted, and the proposed amendment was voted down in the Assembly. Interestingly, a couple of weeks later, the medical support service was privatised, and there has since been a continuous roll-out of that. That is one of the issues.
3296. I said this morning and will do so again that the Bill is not an attack on poverty; it is an attack on the poor. Keeping that in mind will focus people's minds.

We could go on about the Bill all day, and I have gone on about many issues. However, I want to address two issues. The first is the one that Derek raised about Atos and the PIPs and ESA assessments, which have turned out to be an unmitigated disaster. You said that such assessments should rest with decision-makers and not some nurse or so-called health professional. I mean no slight on nurses and the wonderful work that they do, but there are certainly questions to be answered about the box-ticking exercise involved in some assessments. It may sound simplistic, but surely medical evidence should have primacy if someone's situation is predicated on their medical condition, which is the case for DLA claimants. You mentioned, and Fra has said on many occasions, that people on benefits are being criminalised. We have the "Nolanisation" of people on benefits here, whereby we hear all kinds of nonsense about people driving around in motability cars to deliver pizzas. Yet, the Government's own figures estimate benefit fraud to be less than 0.01% and show that fraud in general is going down. Those are departmental figures. It is almost as if, as I have said before and will continue to say, the Social Security Agency is some kind of charitable institution that altruistically gives people money they are in fact, legally entitled to that money. It seems to me that the decision-maker should have the medical evidence that is available to the assessors, but has been ignored by them in all the cases that I have dealt with recently and in many years past. What are your thoughts on the decision-maker having that evidence?

3297. My second point concerns conditionality and sanctions. As we have been going through the clauses, the Department's officials have told us that much of the Bill is predicated on guidelines that will be given to staff. If staff have discretion to accept what is now to be changed from "good cause" to "good reason" — as mentioned, I think, in the Irish Congress of Trade Unions paper and NIPSA's — people do not have to be sanctioned. That flexibility



- is there. Obviously, people foresee a difficulty concerning something that you could perhaps clarify: has there been any discussion about the nature of the guidelines? If you are to have a sanctions-led regime, which is what universal credit under welfare reform is all about, what is the position in relation to targets? The Department is breaking targets, including those on appeals. How will staff cope if their using discretion means that targets are not met? You made the valid point that people will become irritated and that there will be more "violence" against staff, which I think will eventually become a big issue for them. How do you think that conditionality, sanctions, the guidelines and the primacy of medical evidence might be addressed? Getting those right may solve the problems of ESA and the change from DLA to PIP.
3298. **Mr Thompson:** Chair, I did not join in the last debate because it was primarily about Northern Ireland, and I wanted to allow my colleagues to have their say. On a national basis, does the Department for Work and Pensions (DWP), the Social Security Agency or HMRC know what they are doing? No, the fact is that they do not. Over the water, they do not know what they are doing, and my fear is that the mistakes in Britain will feed into here if we do not get it right.
3299. We have heard welfare called a multibillion pound business. There is money to be made by going down a sanctioning route and introducing more draconian measures to get people off benefits. People get rewarded for doing that. A while back, a pilot involved handing over unemployed people to a private company, and if the company got an individual into work after one week, it kept the rest of his or her benefit for that year. Where is the incentive for getting people into good employment? Those ideas are, I hope, going away. Privatisation and targets under welfare reform need to be dealt with, as does the impact on our members, civil servants and the public sector.
3300. Wages are going down dramatically in public civil services. Pensions have been attacked; terms and conditions will be attacked. For a start, that means a demotivated workforce. The only reason for the changes is to facilitate privatisation. A private company will not want to come in and take on employees on good pay, good terms and conditions and good pensions. It will want to take on what is cheapest.
3301. I was an ESA decision-maker a while back, and, at first, I based my decisions primarily on medical evidence. However, when the system started to change and more work capability assessments came in, I got into trouble with my manager, who said that I was making too many favourable decisions. There is a real pressure on staff not necessarily to make adverse decisions but to look at the evidence more strictly in view of the targets. What happens in different places is that, if a member of staff is not making enough adverse decisions, he or she is placed into performance improvement. So there is a real fear factor among staff that, if they do not carry out that instruction, they will face disciplinary action. Primarily, the targets are not departmental but ministerial. There has, in general, been a politicisation of the Civil Service, and I am representing the entire Civil Service here. Departmental heads no longer have the authority to bring in change in the way that they want, which might be in a different way or more slowly. It has been ministerially driven that the changes must happen in a certain form and that the cuts must be made by a certain time. Targets are a major factor in that, and, particularly for Atos, there is a financial impact.
3302. **Mr Brady:** My next question relates specifically to Scotland. A couple of weeks ago, in Lanarkshire, Atos had a contract, which it then re-contracted back to the local health authority. So a statutory agency gave money to a private agency, which then gave it back to the statutory agency and, presumably, made a lot of profit. Do you see that being a feature of privatisation?

3303. **Mr Thompson:** Absolutely. With the introduction of Workfare, people were being forced into working for private companies for six, eight or 12 weeks. Let us be frank: that is state-funded free labour. Private companies get benefit claimants for a six-week period of training, and they stack shelves in ASDA or B&Q. The companies do not pay wages; the Government just pay benefit, which is less than the minimum wage. We pay private companies to do that, so where is their incentive to create jobs? How will unemployed or disabled people have an opportunity to get jobs when there is an unemployed workforce who can do it? Companies are not investing and not creating jobs. That is creating more unemployment, which is creating bigger hazards. As a result, taxation is not being upped and the welfare benefit bill is rising. That is why they want to push through these radical reforms, which are only about cost, not about society.
3304. **Mr Brady:** Before we move on to the guidelines, there was an item on the radio this morning about a report that has been published on people having a reasonable income for their lifestyle. It worked out the amount required at £7.20 an hour, whereas the minimum wage is £6.19 an hour. The other point that was made, which is absolutely relevant to what we are talking about here, is that the situation is much worse here in the North. More people depend on the minimum wage, and there are more working poor, or whatever the terminology. Interestingly, the report states that to have a reasonable or decent standard of living, people should get at least £7.20 an hour, which is £1.01 above the minimum wage, which went up by 11p only three weeks ago. That is the kind of thing that will affect getting people back to work. Ours is a minimum wage economy.
3305. **Mr Thompson:** All unions have signed up to and are trying to push the Living Wage campaign. For general interest, the Scottish Government, along with PCS and others, have signed up to become Living Wage employers. That has been very successful in retaining staff.
3306. **Mr Brady:** When you get independence, you can sort all that out.
3307. **The Chairperson:** You dealt at length with the question of targets. The Department has been adamant in its assurance to the Committee that there are no targets. If I heard you correctly, you said that they are not departmental targets; they are ministerial targets. Will you, as a former decision-maker, tell me how that might work? If that is the case, I will be absolutely infuriated, and I will deal with the Department, because this is an ongoing discussion between us at Committee Stage. As a former decision-maker, you are telling me that there were targets.
3308. **Mr Thompson:** Yes.
3309. **The Chairperson:** How did that work? I am trying to deal with a Department that comes here and says that there are no targets, and you are telling me, as a former decision-maker, that there are. Will you tell me how that works? Somebody's head will roll on this one.
3310. **Mr Thompson:** Decision-makers will be told that every case is to be assessed on its merit and the basis of medical evidence, but the expectation is that 20% of cases will not fall into the right category.
3311. **The Chairperson:** Who tells you that?
3312. **Mr Thompson:** That is in the guidance, and that is the expectation. How that is managed in Departments, offices and systems is very straightforward. An individual member of staff has a live load of x people, and, as 20% of them should fall into that other category, the pressure is on. So much is now micromanaged in the benefit system. If you have 10 cases a day, you would expect two of them to fall outwith the category. Therefore, two of them will, perhaps, be disallowed.
3313. **The Chairperson:** So the Department officially and publicly states that there are no targets, but you are telling me, as a member of the trade union and former benefit worker, that staff will be told to do something that the Department denies.

3314. **Mr Thompson:** When you do not do it, you face disciplinary action. Although they say that there is no specific target as such, putting a certain percentage into your work objectives or into the strategy means that you are measured against that as part of your overall performance. What used to happen is that you would put a distribution cover on your decisions. You would say that one person was really unwell and another was not quite as unwell, and that is how they fell into the carve-up of decisions. That is the reality.
3315. **The Chairperson:** That is fair enough. The reason that I am pressing you is that we will take this up with the Department again. I am being told publicly and legally by a Department and a Minister that there are no targets, and someone is telling me that there are targets. Somebody needs to show me the guidelines that specify the 20%, meaning that staff have to knock back two of 10 people every day. If that is what you are telling me, I need to see that guidance, because that is a serious allegation.
3316. **Mr Thompson:** I would ask them to show you the guidance.
3317. **The Chairperson:** Tell me where it is, and we will ask them to show us the guidance. We will not be denied sight of any guidance. The point that I am trying to make is that the Committee is being asked to deal with something new, yet the process that you outlined is under way. It is not about what might come in as part of the change from DLA to PIPs. You are telling me that this happens today, so I need to establish whether that is correct. Do you get my point?
3318. **Mr Thompson:** Yes, absolutely.
3319. **The Chairperson:** Clearly, that cannot be acceptable. You say that there is a fear factor. If there is that fear factor, I suggest that the trade union needs formally to identify that. We will have to get to grips with this. I want to see the facts and the evidence. We will take serious issue on this matter, because it has concerned the Committee from day one. Being told this by a person who has done the job gives us serious cause for concern.
3320. **Mr Brady:** I want to make a point about targets. When I worked in the voluntary sector, I did a lot of appeals. From the appeals, the Department worked out that people had good targets. If people had a heavy caseload, they picked out a case that could be heard within, perhaps, three weeks, which was OK. However, any cases that had to be heard within the next week were put to the back of the box. So they did the cases that they could cope with within a fortnight. I was told by several people that there were good targets and bad targets. The bad targets were put to the back of the box, but they would come up eventually. It is ongoing, and it has always been the same. That happened when I worked in the Civil Service 35 years ago.
3321. **The Chairperson:** We have to grapple with the fact whether people are saying that, in their mind, a person is legitimate but, because of some target over their head, they had to knock that person back. I have to say that that is a very serious suggestion.
3322. **Ms Millar:** We will provide that to you, Chair.
3323. **The Chairperson:** That would be very helpful. I would appreciate that, Alison.
3324. **Mr F McCann:** Thanks for the presentation. The more you read into all these presentations, the worse it gets. I understand perfectly what you are saying; it would be useful to set out some of the detail, but I think that that will be in the regulations coming down the road.
3325. I have a couple of points, the first of which Mickey raised. Two recent TV programmes covered the targets set for Atos. Both programmes laid out quite clearly that Atos was expected to go in a certain direction. We have certainly been looking at that issue.
3326. Mickey is right: from 2007, our party tabled a number of amendments to

motions and tabled three or four of our own motions in the Assembly, which were defeated. We have had debate after debate in this Committee. Although the general opinion is that this welfare reform will have a detrimental impact, not all parties have the same stance on the direction in which it is going. Two weeks ago, we tabled a reasoned amendment, which clearly laid out some of the key issues that you have brought up this morning, but that was defeated. Last week, we had a motion under Standing Order 34. That resulted in a tie with one abstention from the Committee. Although there is a general belief that this welfare reform will be detrimental, there are different opinions on how it should be handled.

3327. I wanted to pick up on a couple of things that have already been raised. The Department for Employment and Learning (DEL) will also be impacted. Last week, in the Committee for Employment and Learning, I raised questions about the people who will be moved over to work-related support groups and activity groups. The question that I posed to some of the officials — this is my difficulty — was the fact that it is possible that thousands of people will, over time, be lifted from ESA or incapacity benefit and put onto those work-related groups. That will be another pressure on top of the pressures under which people are already trying to deliver. The Committee for Employment and Learning has been told that staff will be able to cope. Some of the people who are being moved across suffer from severe mental illness or severe disability. There is a fear that the system or the people who run the system in offices will buckle under the pressure of trying to deliver that. I do not whether that is an issue that you have raised, but will you comment on it?

3328. I want to pick up on something that Mark said. Maria, you and I spoke a number of years ago about the intention to cut a quarter of the Housing Executive's workforce and the issue of additional jobs. I know that that has been raised. The Human Rights Commission and a

number of other groups that we have heard from are considering taking legal action on a number of aspects. I know that there is probably a broad group of people who regularly sits down to discuss this. Is there any design to say that this works against people's human rights and against equality? In the trade union movement, is there any intention to take some type of legal action? Another thing that concerns me — I have raised it a number of times and during the presentation this morning — is that, when the poll tax was introduced in England, Scotland and Wales, hundreds of thousands of people came out onto the streets, yet I have not seen anything like that number of people now. Somebody said to me that it was probably because the middle classes were impacted by the poll tax, but I am a wee bit concerned that you did not have mass movement in what is the biggest change to the welfare state. That is a problem.

3329. What is your opinion on parity? There is a difference of opinion in the Committee on how far parity should be taken. I am interested in that.

3330. Maria, I was concerned by an article in the 'Andersonstown News' on Friday about a group going into offices and advising workers. It will mostly be your members delivering that. What is your opinion on that? Some people have raised concerns about the impact of that.

3331. That will do for a start.

3332. **Ms Millar:** Do you want me to take a couple of points?

3333. **The Chairperson:** Sorry, Sammy is looking in.

3334. **Mr Douglas:** Thanks very much for the presentation. I have a couple of points that link with what Fra said. The first point is about Standing Order 34. As I said at our last Committee meeting, we were assured in the Assembly by the Minister that he had taken legal opinion and was happy enough with that. So, like Fra, I want to ask: will you be looking for a judicial review, as some people had suggested?



3335. Maria, you talked about choices and responsibilities. It goes back to Fra's point about parity. I was at a Unite conference a number of months ago, and people in the audience asked why we do not simply break parity, challenge the whole thing and not implement it. That is a big issue for all of us. In fact, Bumper Graham was here, and he said that, while he was not a great lover of parity, NIPSA says very clearly that parity cannot simply be breached. What is your response to that?

3336. Finally, the papers state that congress responded to the previous consultation and availed itself of opportunities to make direct representation to the Minister and our Committee but regretted that the views expressed by it have not been reflected in the Bill. That is another criticism, not only of the Minister but of us as a Committee. Could you reflect on that?

3337. **The Chairperson:** We did not produce the Bill. We are scrutinising it.

3338. **Ms Millar:** Do you want me to deal with some of the points?

3339. **Mr Douglas:** May I just say one more thing? You talked about the millionaire Ministers. I said that during the Second Stage debate on the Bill, and somebody said that some Labour people are millionaires. That might not change, which is understandable. You asked why do we not challenge this and plead for a special case. Do you honestly believe that the present Con/Dem Government — the Liberals and the Conservatives — will take any cognisance of us, even if the whole Assembly of 108 Members were behind that?

3340. **The Chairperson:** Respond in whatever way you want to. You do not have to respond to all the questions, but I am sure that you will respond to most.

3341. **Ms Morgan:** I will take a couple of the questions that are relevant to my area. Mickey asked about the decision-makers and discretion for sanctions. We have not had any discussion. The forum at which we meet the Department once a month has not looked at any HR issues,

despite the trade union side seeking to get into that detail to try to understand the implications for our members as the workers. Mickey, I am very concerned that a big lot of discretion will not be able to be used. This is about getting people off benefit and into work, and when it is about that and about money and cuts, discretion goes out the window. Derek touched on the point that the Department should still be able to make discretionary decisions about people. That is notwithstanding the point that you make about the primacy of medical evidence, because our submission states that GPs may need to be paid if we need a report. We need to flesh that out. I know that there will be a cost to that, but it is about the medical assessors having proper and informed information, which might be medical evidence. The decision-makers in the Department are the people who should do it, because they are not working for profit. I would say that discretion will go out the window.

3342. Fra, you mentioned the impact on DEL. You are absolutely right. Current ESA claimants will become jobseekers. Our members in DEL and, indeed, in the SSA are already equipped because it is already happening. In our view, there are not enough staff to be able to spend adequate time with people who are coming off a benefit such as incapacity benefit or employment and support allowance to take time to talk to those people and find out their needs and then go to the labour market to see what suits them. It goes back to the old point that we are making that there are simply not enough jobs to facilitate the people who would work if there were a job for them. Your point is well made on some of the difficulties that will happen if our staff numbers are cut, as they will be. This is where some of the savings will be made. We have been discussing the matter of making a decision collectively to raise this as a human rights or equality issue. The welfare reform group at the Law Centre is a collective of the voluntary and community sector and the trade unions, and we are having our own discussion, as is the Irish Congress of

Trade Unions. Anything that we will do will be done collectively.

3343. Fra, you made the point that there was a mass movement against the poll tax, and I think that our difficulty here is the right-wing media. There is spin that this is only about scroungers. To be frank, when you talk about scroungers, you will get a whole lot of people who turn their back and say that, because it is not about them, they are not really that bothered. On 20 October, the three trade union centres of the Trades Union Congress (TUC) in London, the Scottish TUC in Glasgow and the Irish Congress of Trade Unions in Belfast held demonstrations. A big feature of that was, as you will have heard Peter Bunting and our president say, that further attacks are taking place on the working class. It is a class issue in our view. It goes back to Sammy's point about millionaires. I do not care whether they are Tory millionaires or Labour millionaires, but when they are telling us how we can and cannot spend our money, if you had the money, that is what it is about. It is about people who really are not involved in all the daily things that we do and what we see. That is the issue for us.
3344. On parity, the Secretary of State and the Minister talk about having to have a discussion about rates of benefit. We do not even know what the rates of benefit will be. That is the problem in the detail. Even if we thought that it was great, when we get the regulations, it will be too late because the Bill will be in. If we cannot safely say today what the rates will be for PIP, for universal credit, for the children's allowance and for housing allowance, we are all in trouble. It goes back to whether we are doing this too quickly before we know all those details.
3345. Sammy, you quoted a colleague of ours, Bumper Graham, who said that it must be parity "plus" and parity "warts and all". He also said that parity is a double-edged sword. No trade union and, I suspect, no MLA could say that they will take parity of misery. It is too important when it is about dismantling the welfare state. We know that you will

have to have some difficult discussions in Britain. Taking your point, Sammy, you could go over and ask them to change it because of Northern Ireland's circumstances. I do not think that Northern Ireland is special. Northern Ireland is different. We are not special in the sense that we expect something that no one else has. On the day that the Assembly voted the Second Stage of the Bill through, the Minister said that Lord Freud had accepted that there are differences. So it cannot be selective. He cannot say that he agrees that there are differences but only allow us this bit and that bit. If that happens, all those people whom we have identified will fall through the net. They will walk into our offices or into your constituency offices, and what will we tell them? How do we deal with them? It is about getting it right. We believe and hope that the Northern Ireland Assembly and this Committee can look for an alternative to what is contained in the Bill. The Bill will not go anywhere near supporting those people whom we need to support.

3346. Let me finish on this point. The difficulty that we all have is that the right-wing media and the Government in Britain have done a very good job of convincing people that this is about only a very small portion of the population. The majority of people who will be affected by the Bill are people in work.
3347. **The Chairperson:** Maria, thank you.
3348. **Ms Millar:** Parity frightens off a lot of people. A number of months ago, the Minister talked about stretching parity. What does that mean? We want the same rates as GB unless there is a specific reason why we should not have them. As Maria said, this is about Northern Ireland being different.
3349. Sammy, you asked why there is not a mass movement against the Bill, as there was against the poll tax. Society has moved on, and we have very much moved away from collectivism to individualism. I will not give you a history lesson on that.



3350. In April this year, my union undertook a leafleting exercise and a campaign among our membership about the issue of tax credits. People did not realise why it was hidden from them or how it was hidden; the issue simply was not out there. People did not realise that those in receipt of tax credits in April this year were going to suffer a significant hit. Certainly, our phones started ringing only when letters arrived on doormats that explained that people used to get this but now were going to get only that.

3351. This leads us onto the issue of universal credit. It is said that no one will be worse off. People will not be worse off because they will have suffered all the cuts up until now. As a trade union movement, we would like to have people out on the streets, as was the case with the poll tax. The reason why people are not out on the streets is because, as Maria said, the media are putting a spin on the issue. Furthermore, there is a lack of information flowing from the Department and the Government on the Bill, which will have a detrimental impact on people. By the time the legislation gets through — we hope that you will have ameliorated the worst parts of it — it is almost too late because it will have already happened.

3352. There have been lots of debates and discussions on the issue of corporation tax. You could argue that that is also a parity issue. If we can break parity for corporation tax, we can break it, or stretch it to the absolute limits, on many other issues.

3353. I leave it at that.

3354. **The Chairperson:** Thank you very much, Alison.

3355. **Mr F McCann:** It is interesting. As Alex has said on a number of occasions, the elephant in the room is, in many ways, the question of parity. We have argued that parity should be stretched to its very limits, especially on issues such as these. However, you are the first witnesses who have said that parity needs to be stretched. What you say runs contrary to what all the others have

said. I listened intently to what Bumper said, and he spoke about parity, “warts and all”. He said that he had to accept parity. This is a debate that needs to take place. We need to put parity exactly where it is and take out of it what we can. We have argued for that.

3356. I have two further questions. One of my questions, which I asked this morning, sometimes gets lost, and it is to do with the introduction of financial institutions to advise people on how to spend their money. This is very much a part of the discussion. It is an insult that financial advisers are being brought in to tell someone who gets £240 a month how to spend that money. Another concern that I raised is that, if people are forced to open bank accounts, there will be bank charges and different things. That will further reduce the amount of money that they get. Have you done anything on that specifically?

3357. **Ms Morgan:** I know the point that you are making about financial institutions and “jam jar” accounts. The issue was in the media last week, and we have raised it. In fact, we heard only at our last meeting with the Department that those need to be built in to facilitate the payment. I am still not really clear what a jam jar account is. It appears to be an account whereby somebody who is in receipt of benefit, which will include even somebody who is working and in receipt of universal credit, can have a piece of the account to pay this bill, a piece to pay that bill and a piece to live on. However, from what I can gather, the financial institutions are not open to facilitating that because it would be quite costly to deliver for the thousands and thousands who will be welfare dependent when universal credit is introduced.

3358. **Mr F McCann:** That probably runs contrary to what we heard last week about ongoing discussions with financial institutions. Financial advisers will come in and deliver their services, but obviously those people will not do it for nothing. If everything is paid into a bank account, surely there have to be bank charges that will reduce the level of benefit.

3359. Alison, I have continually asked about the discretionary payments to tide people over in the difficult times of the shared room allowance and underoccupancy. Discretionary payments, by their very nature, are short-termist. Six months down the line, because of the way in which the Bill is laid out, people will face what they were intended to face previously. The Housing Executive deals with discretionary payments. Have you been told anything about how those will be laid out? I know that the 13-week payment is discretionary with a further 80%. However, we are told that that might be extended to 52 weeks and then again beyond that.
3360. **Ms Millar:** On the issue of discretionary payments, in the past three to four months, we have set up an arrangement with the Housing Executive to look at the effect, primarily on staff. It comes back to this question: does the Department know what it is doing? The Department may know what is happening, but my senior level contacts in the Housing Executive say that, following the intervention of NIPSA, the Housing Executive raised major concerns about the transfer arrangement for staff. Those issues have not all been fleshed out yet. Of the 101 staff who are involved in the project for the delivery of universal credit, only two are on secondment from the Housing Executive. There is a dearth there. Despite several trawls in the Housing Executive, staff are not running and skipping to get into that project team. They are very concerned about the threat to their jobs if they were to transfer. We will, perhaps, deal with that in a separate submission to the Committee when more detail comes out.
3361. As regards the issue of bank accounts, we are firmly of the view that the current arrangement with the Post Office works well. It is available in many small towns, although a number of post offices have closed. It is the appropriate way to deal with this, and people do not face bank charges, and so on. People can get only what they have in their account; they cannot get any more. We support the retention of the Post Office account arrangement or the introduction of a similar arrangement that ensures that people are not hit with bank charges, and so on. However, we do not have any detail on that, so we cannot comment in any detail.
3362. **Mr F McCann:** I do not know whether you read an article in the 'Andersonstown News' last week in which a group called RNU said that it had leafleted workers advising them not to implement the welfare reforms.
3363. **Ms Morgan:** May I ask for clarification, Fra? I did not see the letter in the paper.
3364. **Mr F McCann:** It was an article.
3365. **Ms Morgan:** I know that the Republican Network for Unity has gone into the Falls Road, Andersonstown and Corporation Street offices and left leaflets on the desks of staff. It was essentially calling for a mass movement to defeat the Bill. I have to say that I agree with that. Our difficulty is that it said on the leaflet that, ultimately, it would be the staff implementing the changes and that, therefore, it is the staff who could stop them. We are concerned that that puts pressure on our staff. With Alison's involvement, I contacted our reps in those offices and asked whether the staff were concerned and what they wanted us to do. The staff were not concerned, so we did not address the leaflets publicly. However, we have asked the reps in those offices to keep a very close eye on the situation.
3366. The Irish Congress and the entire trade union movement do not have that level of detail about what we will do in the future. I know that Alison said that collectivism is not what it used to be. However, I feel, and I am sure that you feel, that there is a mood out there that we are all having to shoulder the burden for the bankers, the Government and all the people who are inflicting this on us. There was a lot of discussion at the march on 20 October. There were a lot of people from the voluntary and community sector there. We are also having our own discussions in the welfare reform group. I know that, at the

- TUC conference, there was a motion for a general strike. We have to have those discussions.
3367. I know that it is beyond your remit, but you asked about the mass movement. The trade unions need to be going out and informing people, and we have been doing that. I have been at public meetings, and once people are told what is happening, they are interested. That information is feeding through, and we are having more and more of those public meetings. We will also be doing other things. On Friday, Alison and I were at a meeting about congress facilitating a welfare reform group with community groups. We will be taking actions. Do you have any thoughts, even in respect of the worries that you hear from your constituents? I would be interested to hear those.
3368. **Mr F McCann:** I have been at most of the meetings that you have been at. Mickey has also been at quite a number of meetings. He was in Carnlough on Friday, and the two of us were at a trade union meeting in east Belfast a number of weeks ago. We have been available for anything like that. As regards constituency issues, we have been fairly active on the ground in trying to explain to people what is happening and what is going to happen. The difficulty is that a lot of the information has been drip-fed to people.
3369. I was at the march that you talked about in Belfast city centre. I should probably declare an interest in that I am a member of the Services, Industrial, Professional and Technical Union (SIPTU). You had quite a lot of people there. We need to work out where the focus is and how to deliver the message that this is severely detrimental to people's health. There are so many sectors involved, so it is also about how the strings of the different sectors are pulled together. Rather than isolated voices, a collective voice is needed. Collectivism might not be the in thing at present, but it sometimes works when you are trying to pull groups together.
3370. **Ms Morgan:** I agree. We have that through the welfare reform group, and we will need to build on it.
3371. **Mr Brady:** I want to refer to something that Alex said on 'The Nolan Show'.
3372. **Mr F McCann:** Mickey invented a new word earlier: Nolanisation.
3373. **Mr Brady:** There is a feeling out there that this applies only to people who are unemployed. Both Alison and Maria mentioned the right-wing media, which have criminalised people who are unemployed and made them feel bad about the fact that, through no fault of their own, they are unemployed. There is the issue that the contributory benefit of ESA for one year will not affect everybody. Anybody who has been working for 30 or 40 years and who, unfortunately, becomes sick will only get one year's benefit. You mentioned that if they have a partner who is working and on a low income, they will lose out. It is not a new thing. One of the questions you asked — it is an important one — is what happens to the rest of that money.
3374. In 1986, Thatcher put the national insurance fund into the red for the first time in its history to subsidise private pensions. That came out of the blue. It has to be said that she was a catalyst for mass movements, whether the miners' strike or the poll tax riots. I am not advocating that she should come back to stir people up even more than they are. Things have moved on to some degree. However, it is about getting the message out. I have participated in a lot of meetings across the North and, when you actually sit down and explain the impact of welfare reform to those who have suffered industrial injuries, those with unforeseen aggravations and those who used to receive youth incapacity and severe disability allowances, there is a realisation. That message needs to be put out. It is not just the long-term and the, according to the Government, "chronically unemployed" or generationally unemployed who will be affected. People who have been working for many years will also suffer, as will those on low incomes and those who

- will lose their tax credits under universal credit.
3375. The idea about having as big a paper as possible needs to be looked at. There are many things that can be looked at and changed. Parity has been discussed, and there is a feeling that if we break parity we will lose the block grant and will all be paupers. The way things are going, we are all going to end up like that anyway. I think that there needs to be a wider discussion. Sammy talked about the Labour millionaires, and I think that there is a misapprehension that the British Labour Party is a socialist party. Some people may think otherwise.
3376. There is a lot of issues that need to be addressed, and I think that the unions are, maybe, starting to look at those in more depth than before. That is just a personal observation.
3377. **Ms Millar:** It has been said that the poll tax maybe got more resonance because it affected a wider group of people, including those on middle incomes. As I understand it from the media, HMRC will, today, start to send out letters about the removal of child benefit from middle-earning families. That will impact on those families.
3378. You can talk about different groups of people, and welfare reform, universal credit, etc are supposedly about making work pay. We have touched on a number of issues today, and I will not rehearse them all. However, I think that we have tried to come up with action points for the Committee to consider. One of those is that, although this cut in child benefit was announced this time last year, only when the letters begin to arrive on the doormat will people begin to think that it is actually happening. I think that, today and in the period ahead, you will hear in the media about the negative impact that will have. Those people who are just in the 40% tax bracket, and I would not classify them as high earners, will see a real impact on their child benefit, and we will see the impact that it will have on families.
3379. As things move on, there will be things that will impact right across, whether you are in the low- or middle-income bracket. It is an attack, and it goes to the heart of the welfare state.
3380. **Ms Morgan:** We have produced various leaflets and have given those out in town. However, there has been a gap in the information that has been provided by the Civil Service and the Department. Families, communities and even our members do not really know what will happen. That needs to be addressed. We have raised that at every meeting we have had with the Department, but, if you have the ear of officials when they are here with you, I think that you need to raise it as well.
3381. Alison made the point about child benefit notices being sent out today, and I think that that will help us. Also, Iain Duncan Smith made statements about the number of children that can be supported. Such incredible statements make you wonder, but, having said that, they also help to make people listen, ask what it is about and say that that is not the type of society that they want to live in.
3382. In that sense, it goes to the core of what Mickey said. However, the core of it all is what we can do about it and how we can make a difference. That will be the crux of it all.
3383. **Mr Thompson:** I have a couple of quick points. The Department's figures tell us that 40% of those who deliver universal credit will also receive it, as we well know. Those people do not think that they are part of the welfare system. The money they receive is seen as a tax credit and something different. Unfortunately, because of the shock-and-awe tactics I outlined earlier, welfare reform is popular at this time, and that is why it continues. It is popular because of the strategy of demonization of the very small minority of people who may be claiming benefits fraudulently. There are no success stories of people on benefits or a realisation that unemployment is so high, regardless of what the British figures might say. I think

- that that spike was due to the Olympics, and it will probably fall again.
3384. I want to talk about what the trade union movement is doing. We are now starting to build up momentum. The PCS, Unite, and NIPSA will work closely in the future to try to launch something in communities. There is this idea of the workers against the unemployed, and that division needs to end, because everyone is being attacked.
3385. The point that I really want to make is about how we can change the debate on those issues in this country. NIPSA and the PCS have produced a pamphlet on pensions and tax justice that changed the debate, particularly when we pointed out the £120 billion in uncollected and avoided taxes and asked why job cuts were being made in HMRC. The PCS has also produced a welfare alternative, and the key to producing that was not to say what we are against, but what we are for. When they argue against those issues or deal with the Bill, the progressive elements in whatever Parliament or Assembly need to make the case for what they are for. That will draw in the things that every one of us has outlined today to try to protect the system and to make the statement that we are for something better. That is a real step forward, which will galvanise support.
3386. We talked about the Labour Front Bench, and 90% of the cuts were planned by them. The PCS was in open conflict with Labour when it was in power, because of the 30,000 job cuts in the Department for Work and Pensions (DWP) and things like that. It is about providing people with something different. Some sort of alternative will help to galvanise support.
3387. **Ms Morgan:** That is a big piece of work that all the unions and affiliates in the congress collectively started a long time ago. We will continue with it.
3388. **Ms Buchanan:** We will explore some sort of a legal challenge. It will not be easy. However, it is about where it stops just being awful and crosses the threshold into being discriminatory. We are working with various groups on that, and I will keep the Committee up to date.
3389. As to whether the Con-Dems will listen, history shows that they have certainly not listened to the trade union movement. However, we hope that they will listen to the Committee about the cost of implementing welfare reform, never mind the cost of not implementing it.
3390. I will keep the Committee up to date on where we are with, hopefully, a legal challenge.
3391. **The Chairperson:** OK, Pauline, thanks for that, and thank you all for your contributions today.
3392. I do not want to cover all the points, but, even in my constituency, we have put out about 8,000 or 9,000 bulletins door to door in recent weeks. Those have dealt with welfare reform and a whole range of other issues. As I am sure you know, my party puts out tens of thousands of bulletins in a load of areas. In their own way, many people are drawing attention to the issues, depending on where the parties come from.
3393. By way of assurance, you will know that the Bill is in Committee Stage and the Committee's job over the next couple of weeks will be to reflect on the Bill. That is why it is very important for us to take as much evidence as possible. By the end of this process, we will have received over 40 written submissions and over 20 oral submissions, many of which will be from coalitions. That is very important for us as part of our deliberations. Clearly, it is important for us to hear from people with direct sectoral interests as well as wider, more generic interests like yours. At this stage of the legislative process, it is up to the Committee to look at the Bill. People may oppose the Bill or want it amended; that will be up to the members and the parties around the table. I am satisfied that all Committee members have expressed serious concern about the Bill in a wide range of ways. Ultimately, it is up to members and their parties to vote accordingly, but widespread concern has been expressed



by everybody, and that is, perversely, a good thing because there is a problem to be dealt with. However, it is up to the Committee to oppose or produce proposed amendments to the Bill.

3394. It is also up to the Committee to produce a narrative that may contain recommendations or observations. I find it difficult to see how the Committee will deal, for example, with the question of housing when that is to be dealt with weeks or even months up the road, including through working with David Freud. Having met him no later than last week in London, I know that he accepts entirely that circumstances here are different from those elsewhere and that, therefore, a different approach is required here. However, it remains to be seen how that approach will be manifested, and, without being disrespectful to David Freud or anybody else, I would not hold my breath. I am just making the point that we have a job to do, and, as I told David Freud: I have to vote on the Bill that is front of me and not on what someone tells me might happen. I have to look at the Bill and take my own decisions, and that applies to us all.

3395. We have had a useful discussion that touched on the question of parity, on which everybody and every party has different views. Nevertheless, ultimately, we have to deal with what — to use that nice word — “flexibilities” in parity mean. Does that mean stretching the Bill beyond parity? As publicly stated by all the parties, we will certainly be looking for flexibility, and I use the word in its widest context. Hard “and/or” choices may well have to be taken on flexibilities. We all know and accept that that could lie well up the road. So, I thank you for your comprehensive written and verbal submissions and for dealing with all of the questions from members. This is an ongoing process that is not, by any stretch of the imagination, over today. I thank you for your contributions and help so far.

3396. **Ms Millar:** We thank the Committee for having us here today.





## 30 October 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann

### Witnesses:

Ms Evelyn Collins  
 Mr Darren McKinstry  
 Mr Tony O'Reilly

*Equality Commission  
 for Northern Ireland*

3397. **The Chairperson:** I formally welcome Evelyn Collins, chief executive of the Equality Commission; Darren McKinstry, the director of policy and research; and Tony O'Reilly. You are very welcome, folks.
3398. I remind members that the briefing paper from the Equality Commission is before them. A copy of the commission's response to the equality impact assessment (EQIA) in 2011, and a briefing paper for the Committee from March 2012 may also be found in the folders.
3399. Without any further ado, I invite you, Evelyn, and your colleagues, to brief the Committee. The floor is yours.
3400. **Ms Evelyn Collins (Equality Commission for Northern Ireland):** Thank you very much, Chair. We are very pleased to be here again as you engage in your important work of scrutinising the Bill that has now been published. We appreciate that you are devoting a great deal of time and energy to it. We think that this is very important.
3401. I am accompanied today by Darren McKinstry, who was with me in March, and by Tony O'Reilly who has not been with us before.
3402. As you said, Chair, we have submitted a briefing paper outlining some of our concerns and queries about the equality implications of some provisions in the Bill. I appreciate that you will want to ask us about those in some detail. Darren will present them in summary terms after I have said a few words. Then, obviously, we will be happy to deal with any questions that you may have.
3403. Our briefing is based upon our statutory remit. You know that we have specific powers and duties under the various anti-discrimination statutes and in respect of the equality and good relations duties of public bodies arising out of the Northern Ireland Act 1998. As we have said to you before, we have also been designated, jointly with the Northern Ireland Human Rights Commission (NIHRC), as an independent mechanism to promote awareness of and monitor the implementation of the United Nations Convention on the Rights of Persons with Disabilities, with regard to the Government's obligations in Northern Ireland.
3404. We said in our earlier briefing — and I am glad that members have copies of it before them — that, although the commission agreed with the broad policy aim to make the social security system fairer, more affordable and better equipped to deal with poverty and welfare dependency, we saw then that there was a real need to properly understand, consider and respond appropriately to the potential impacts of the proposed reforms. We said to you that we had concerns that some reforms aiming to encourage people into work might not reflect the fact that barriers to employment exist for particular groups of people — people with disabilities, older people, non-working women and so on — which are often social or institutional, not individual, and that, without appropriate support, it is not right to assume that everyone has the ability to improve their own situation. At that stage, we had particular concerns which we shared

- with you about universal credit, lone-person conditionality, housing benefit cap and disability benefit reforms. Those are some of the issues about which we still have concerns.
3405. We also advised you in March that we advised policymakers in the Department for Social Development (DSD) not only about the requirement but the critical importance of assessing the potential equality implications of the policy proposals. Again, I heard you say that it is in members packs. We had concerns about the Department's draft EQIA, and you have copies of those. Some of those concerns remained when the final EQIA was published in May. Again, we raised those concerns with the Department.
3406. You will know that the Minister indicated on 4 May, when publishing the final EQIA, that he intended that the Department would continue to look at the possible equality impacts as the Bill moves forward, and also that work was ongoing in his Department to analyse the impact of policies across the various section 75 groups.
3407. We have engaged further with officials and have been assured that that will be the case; that the original EQIA was the first part of what they intend to be a lengthy assessment process to determine the impact of the various elements of the Welfare Reform Bill; and that there will be further equality screening and, possibly, further EQIAs carried out on the detail of some of the reforms and indeed, more particularly, as regulations are made. We understand that this is, in their own words, an "enabling" piece of legislation.
3408. We have also been assured that the intention is to update the EQIA, and that it is a living document. The Department intends to update the EQIA following a review of additional data received from HMRC recently, which, the Department says, will improve the information available and its ability to identify potential adverse impacts.
3409. So, we expect that the data that the Department now has will be significant in relation to the detailed proposals that will be contained in regulations. Officials have said that, as each set of regulations is prepared, the proposal will be screened for differential impact to assess the need, or otherwise, for an EQIA. This is an area in which the commission will maintain a close watching brief, continuing to monitor what the Department is doing and advise it of its equality duty obligations and responsibilities.
3410. We know that it will also be of interest and importance to the Committee to monitor this and scrutinise the results of any screening and, indeed, EQIAs and, importantly, to consider any mitigating measures put forward by the Department to address potential adverse impacts, as it is obliged to do under section 75 of the Northern Ireland Act.
3411. We are now seeing the outworking of the policy proposals on welfare reform in the draft Bill. We have looked to see what equality implications there may be across the various groups covered by the section 75 duties. We understood from your request for evidence today that you wished us to focus on the provisions of the draft Bill as it stands, and that is what we have done. We have gone through the Bill and have highlighted a number of those issues. There are probably others and, indeed, looking at some of the evidence that you have already received, there are certainly some others in which we will want to take an interest. However, you have seen in our briefing our first cut through since the publication of the Bill.
3412. I will ask Darren to take you through the summary of the document. We are here to answer any questions.
3413. **Mr Darren McKinstry (Equality Commission for Northern Ireland):** Good afternoon, all. As Evelyn mentioned, the Bill is an enabling framework, which gives us some difficulty in providing detailed comment on a lot of the detail, which will come in the regulations that will follow. However, we have tried, in the

paper that we have made available to you, to comment on a clause-by-clause basis. I will pull together some of the key themes and summarise them.

3414. We noted the flexibility indicated recently by the Minister, and our view is that it is important that ongoing consideration is given to the flexibilities proposed and to other flexibilities that may be available. One of those is the initial proposal that universal credit will be paid to the main earner, who is usually a male. We argued that we thought that that effectively reversed the social security provisions and reforms of the 1970s. In our paper, we propose that consideration is given to making that payment, not to the main earner but to the primary carer or second earner to facilitate more equal access to funds and use of funds in the household but with the option for splitting as necessary.

3415. We have identified a few points for clarification, where we feel it is not easy to tell the intended direction of travel. Existing passported benefits is one key area for us. It is not clear to us how that will go forward or, indeed, exactly how that will link in. In our recent consultation, in a response to the personal independence payment (PIP) regulations, we highlighted that we were concerned that those who are already being assessed for PIP would have to take a further work capability assessment for some income-related benefits that are already passported under disability living allowance (DLA). So, there are extra steps, which may affect efficiency and create onerous requirements. We are concerned that this may lead to a loss of income, which, in itself, could further drive disadvantage.

3416. In the paper, we note the intention to move to a more online system. Some other submissions that you have had over the past week or so have made similar points about lower internet usage in Northern Ireland and particular barriers for equality groups. In a recent UK survey, 47% of those who were Disability Discrimination Act (DDA) disabled said that they had ever

used the internet, compared to 80% of non-DDA disabled. Those patterns are very different. Our view is that it is important that safeguards are in place to ensure that information collected or made available is accurate and accessible, that the benefit calculations are appropriate and that any sanctions on timelines for responding or actioning take account of people's access and ability to access.

3417. As far as the claimant commitment is concerned, we recommend that clarification is sought on how clause 14 is intended to operate for couples. We would be concerned if both members of a couple or their families were to be sanctioned when only one party in the couple failed to sign up or comply with that commitment. We want to see general sanctions across the board carefully applied so that their application takes account of the individual circumstances that may impact on people's ability to comply, such as disabilities or access to childcare, and that may affect timelines for actioning things. A range of things could be looked at.

3418. Clause 38 deals with pension credit. As was raised in some submissions last week, we also encourage the Committee to seek clarification on how that will work and its intended effect where one part of the couple has reached the age for pension credit but the other has not. We should also seek clarification on how universal credit sanctions and conditions will be applied in that situation.

3419. We note that clause 42 includes provisions for pilot schemes. We are not aware of any that are intended for Northern Ireland, and we encourage clarification to be sought on what, if anything, might be intended for Northern Ireland. Those pilot schemes could play an important role in considering the equality impacts in Northern Ireland to make sure that whatever is implemented is appropriately tailored to our needs. We note the clauses relating to the end of the existing social fund. It is not clear to us what is intended to replace that, and we certainly encourage that

- sufficient resources are allocated to whatever is intended to replace it.
3420. I will highlight some of the concerns that we have raised previously and which we are raising again in this paper. We have highlighted concerns about the Atos assessments and the fact that a third of them are being appealed against successfully. It is important that lessons are learned from that and are taken on board as we go forward.
3421. We have previously highlighted our concerns about housing benefit and the caps therein. It is important to take account of the needs of different groups, such as: people with disabilities and fluctuating care requirements, who may have a fluctuating need for live-in care; and separated parents with various child access arrangements. Also — and I know you are aware of this point, given the available housing stock in Northern Ireland — our ability to move to a system when we do not necessarily have the stock in place to facilitate it. There are similar concerns about lone-person conditionality in the context of available childcare in Northern Ireland.
3422. I will wrap things up, or pull those points together as regards the importance of enabling provisions in Northern Ireland being available. In GB, welfare reform is operating in the context of a number of provisions that are not yet present in Northern Ireland. The Childcare Act 2006 in GB sets out a requirement on local authorities to meet childcare needs. We do not have that requirement here. We are developing a childcare strategy, but it is important that it focuses not just on child poverty but on maximising economic participation. That plays an important role. There are things such as the work programme that is underway in GB. As Mr McCausland said at the start of the year, the introduction of such a work programme is critical for Northern Ireland, so it is important to see that. And again, there is the housing issue, which I have just mentioned.
3423. It is vital that the Bill, as it comes forward, takes account of the specific situation in Northern Ireland, and I have given some examples of that.
3424. We are happy to take any questions.
3425. **The Chairperson:** Thank you very much. I open the session to members' questions.
3426. **Mr Copeland:** I have a general question. I am uncomfortable, in some ways, because it requires a degree of speculation.
3427. I am given to understand that the United Nations Convention on the Rights of Persons with Disabilities lays an onus, or some very clear responsibilities, on Governments. In particular, articles 19, 23 and 28, deal with:
- "Living independently and being included in the community";*
- "Respect for home and the family";*
- and
- "Adequate standard of living and social protection".*
3428. On the basis of what you have seen so far, do you believe that the Welfare Reform Bill should remain unchanged? Does it breach any of those articles? If you believe that it does, have you reported your concerns to the Office of the First Minister and the deputy First Minister (OFMDFM), as the lead Executive office concerned with protecting and ensuring compliance with anti-discrimination legislation? What are the potential consequences of a UN convention being breached? To the best of your knowledge, has Northern Ireland, or any other constituent member, ever breached such a ruling?
3429. **Ms Collins:** My word. Thank you for such an important question. I think that it would be fair to say that, in the time available, we have concentrated on looking at the potential equality implications of the clauses of the Bill. I know that the Human Rights Commission will follow us and will have been looking at this from the point of view of international human rights treaties. They may well have brought a somewhat different focus to it than us.

3430. On our reading of the Bill to date, we have not said that there is a very obvious standout breach of the UN convention. However, in our joint monitoring role, we have ongoing discussions with OFMDFM about the importance of ensuring that the obligations contained in the convention are implemented fully in Northern Ireland. That goes with the disability strategy that OFMDFM and others were consulted on. There are concerns around people with disabilities in particular and with the impact that some of the reforms may have. One of the issues we highlighted in our response to you today is that there are some areas in which the devil will be in the detail of further regulations, or where it is not clear on the face of the Bill what precisely the implications might be. We would want to push the Department for clarity on those.
3431. **Mr Copeland:** On your last point, pretty much everyone around the Table is concerned that we are dealing with enabling legislation, whereas the real bite will come in the regulations. In your view, is it possible for us to arrive at any sensible conclusions regarding the bit that we see now in the absence of the regulations?
3432. **Ms Collins:** It is difficult for everyone to see the full implications, but I think that there are certainly questions to be asked of the Department about what is in the Bill. We need further clarification about intention and so on, and it is possible for you to exercise your scrutiny role and for us to raise concerns or ask for clarification about the impacts. As I said in my opening remarks, I think that it is important that we hold the Department to account on its equality obligations when it does its screening and equality impact assessments, where necessary, on the regulations. It has assured us that it will do that. The devil will be in some of that detail, and we will have to be very careful to scrutinise it.
3433. **Mr Brady:** Thanks very much for your presentation. I just have a few questions.
3434. Some of the groups that have given us submissions have indicated that they would consider a statutory right to independent advice. In other words, they want to make sure that people who claim whatever benefit have the right to independent advice. What are your thoughts on that?
3435. My next question is on the sanctions. If someone has a good reason for losing their job, whether that is through misconduct or whatever, they may not be sanctioned. However, if, for instance, someone has an undiagnosed mental health problem that could be an issue.
3436. We hear so much about parity, and it is always assumed that it is, necessarily, about money, and, I suppose, to a large degree it is. However, while listening to the radio yesterday, I learned that a survey has been done in Britain. It found that if someone is to have a decent standard of living, they need an hourly wage of £7.20, yet the minimum wage here and in Britain is £6.19 it went up by 11p a couple of weeks ago. That survey indicated that people in the North will be much harder hit, as we live in a minimum wage economy.
3437. I have asked you this question before, and I do not want to put you on the spot too much. It is not just about the regulations; it is about the guidelines. The guidelines will play a very important part in the Department's attitude to sanctions, because there will, hopefully, be discretion involved, and objective rather than subjective decisions will be made on the basis of the guidelines. If the Bill does not comply with equality regulations, what takes primacy? Section 75 considerations are unique to the North and do not apply in Britain, and there all sorts of other issues that you mentioned, such as the lack of childcare and statutory provision for childcare in Britain was introduced in 2006. How does that all tie in? If the Bill is not compliant, how will that interact with section 75 considerations that might have primacy?
3438. **Ms Collins:** I will deal with the last point first and work backwards. When we were here in March, we discussed what the requirements of equality and



good relations are on the Department. It is quite clear that the Department has to implement its equality scheme, and, as part of that, it has to consult on the potential impact of its proposals under its section 75 and schedule 9 obligations. That took place last year, and the reaction was that its treatment of the implications could have been much better. It was not just the Equality Commission that said that to the Department.

3439. In my introductory remarks, I said that we have focused very much with the Department on trying to ensure that it looks at and properly assesses the actual or potential implications of its proposals, and that it takes that into account when bringing forward its policy proposals. That requirement stands on the Department, regardless of what is in play in the rest of Britain, and it has to pay due regard to equality of opportunity in this as in other things within its framework. As we discussed before, you cannot really say that that trumps anything else. The Department has a set of obligations that it has to comply with, one of which is its section 75 duties.

3440. In the context of establishing a decent standard of living and having an appropriate minimum wage, I am not sure whether the Department is responsible for setting the minimum wage here. One of the key things that is important about that — perhaps it goes back to the previous question about whether any of us have a full picture of the potential implications — is that a number of other issues will impact on its outworking. For example, DSD published a housing strategy recently that may have overall implications for housing going forward and that will need to be taken into account. That is difficult. As to whether section 75 obligations trump or take primacy over everything else, section 75 obligations are one of a number of obligations on the Department and need to be effectively applied.

3441. **Mr Brady:** Obviously, I accept what you said, but, at some stage, a decision may have to be made when the regulations or the guidelines are published. The

reason that I raised the minimum wage is that it highlights more inequalities that persist here than necessarily do in Britain. If parity compares like with like, we are at an obvious disadvantage. That was really the point that I was making.

3442. **Ms Collins:** Yes. We have been quite clear that the specific situation in Northern Ireland is the situation that the Department is working in. The number of adjustments that the Minister announced last week show that adjustments can be made to make the provisions as relevant as possible to the Northern Ireland situation. It is about paying due regard to the specifics of the Northern Ireland situation.

3443. The first question you asked was about the statutory right to independent advice. I am afraid that I am not familiar with the regulations that might impact on that statutory advice.

3444. On the questions of sanctions, I hope that we have been quite clear in our response and more generally that whatever sanctions are used have to take account of the different circumstances people are in. Of course, the fact that people in Northern Ireland may be suffering from mental ill-health may impact on their approach to benefits. That has to be taken into account. There cannot be blanket sanctions that do not take account of individual circumstances, whatever they may be. I think that that is a very important point that the Committee should scrutinise in the context of the Bill.

3445. **Mr Brady:** Finally, the point has been raised that claiming universal credit is predicated on making an application. That is the simplification. In my constituency, there is a huge rural hinterland. People simply do not have access to broadband or, in some cases, they do not have the ability to use computers or access to them. There is an almost universal acceptance that people have the internet at their fingertips, but that is simply not the case, and I am sure that it applies to many other constituencies.

3446. In Britain there are huge urban areas, in which it is incumbent on providers to ensure that there is instant internet access. There is also the issue of mobile access being provided through Everything Everywhere (EE). That will happen in 10 cities in Britain, but, of course, it will not happen until Christmas or afterwards. In a sense, that is another inequality.
3447. Part of the difficulty here is that, in many cases, people need face-to-face contact. That is particularly the case for those with mental health problems, yet the Department may not have the resources available. Access might be seen as another equality issue.
3448. **Ms Collins:** There are two issues, are there not? The first is the access to an online facility and the second is the ability to use that effectively. Like many people, I have to get my children to help me with some of these things on occasions. It is also important that these are the sort of things on which there should be an impact assessment. What impact will having such a facility have on the range of people covered in the section 75 category?
3449. **Mr Brady:** A lot of the true impact will not be felt until the regulations and guidelines are outlined. Thanks very much.
3450. **Mr Douglas:** Thank you for your presentation. My point probably follows on from Michael Copeland's about human rights and equality. I got the impression during the Assembly debate on welfare reform that the Minister had got legal advice that assured him that the Bill was human rights and equality compatible. The suggestion here is that you and the Human Rights Commission had little or no contact with the Department, although I think that you refer to it. Are you happy enough with the discussions that you have had with the Department to date?
3451. **Ms Collins:** We are in contact with the Department. We made our submission on the equality impact assessment and I hope that we made our points clearly and that they were understood by the Department. We have had engagement at permanent secretary level about the importance of these matters. As I said in my introduction, we have had some assurances that more information has become available through HMRC that enables the Department to look more closely at the potential impacts and that they are continuing to do that. The Department understands that that is important and that there is a commitment to screening — taking a preliminary look at — the proposals and regulations and to conducting equality impact assessments as this is rolled out. We have had that assurance at senior level.
3452. **Mr Douglas:** Is that ongoing?
3453. **Ms Collins:** I talked to them on Friday about some of these issues, and, as I said, we recognise that we have an important role in advising Departments and ensuring that they are doing what they ought to be to comply with section 75 requirements. That is our ongoing function.
3454. **Mr Douglas:** I have another two quick questions. You recommend that the Committee considers supporting the payment of universal credit to the primary carer, who is usually the mother. Would doing that discriminate against men?
3455. **Mr Tony O'Reilly (Equality Commission for Northern Ireland):** The question relates to the primary carer and does not assume that person to be either a woman or a man. In some cases, the primary carer may be a male single parent or a female lone parent. The basic aim in this instance is to protect the child. Non-carers who are given the money have a tendency not to consider the wider implications of how it is spent, whereas the primary carer will always consider household matters and their caring responsibilities.
3456. **Mr Douglas:** A lot of organisations have told the Committee that it should specify that the mother should be sent the money. Would that cause any equality problems for you?

3457. **Mr O'Reilly:** We specify the carer and not so much the mother. Yes; the mother is generally assumed to be the primary carer —
3458. **Mr Douglas:** I think that we agree on that, anyway. I was just checking. What is your view on the possibility of split payments, as indicated by the Minister?
3459. **Mr O'Reilly:** The Minister indicated that split payments could go to both parties in a household. That goes some way towards addressing the matter, but not quite far enough in the sense that the primary care-giver would have more responsibilities and, therefore, more financial obligations in their role. That would not necessarily always be the case for the other recipient of the split payment.
3460. **Mr McKinstry:** Our default position would be for payment to go to the primary carer, with the option of allowing people some flexibility for split payments.
3461. **Mr F McCann:** I want to follow up what Sammy said. He started by asking about meetings with the Department. There is a big difference between having meetings and getting some common ground on equality impact assessments. There are quite a lot of different elements and parts of the Bill that people would say — *[Inaudible.]* Are you happy and content — maybe those words are too strong — that the Department will follow through with that and that that may result in some changes to the Bill?
3462. **Ms Collins:** I think I have to take that when the Department says squarely — and it has said it to you as well —
3463. **Mr F McCann:** I thought that you were going to plead the fifth amendment.
3464. **Ms Collins:** The Department officials have also said to you in evidence that they will continue to scrutinise and undertake screening and equality impact assessments. We have to take that and monitor that they do it and that they do it appropriately with the right levels of information and that, where they identify a potential adverse impact, they look seriously at potential mitigating measures. That is an important role that the Department has to play in terms of its obligations. We have an important role to work with it to ensure that that happens, and the Committee has an important role in scrutinising what it does.
3465. **Mr F McCann:** I will follow on by talking about pilot schemes. A number of pilot schemes have been rolled out in Britain. Mickey said earlier that there are clear differences between here and Britain. Would it be a breach of equality regulations to try to impose a pilot scheme here that reflects a different region?
3466. **Mr McKinstry:** The lessons that can be drawn from any pilot scheme will be dependent on who is involved in it. So, if the characteristics of those involved in GB are different from the characteristics here, the lessons may not necessarily map on. There may be generic lessons that map on but maybe not specific lessons. The key thing is that the Department in Northern Ireland is required to consider the equality impacts in Northern Ireland and should use whatever information is necessary, whether it is some lessons from those pilot studies or further specific data relating to what is likely to happen here.
3467. **Mr F McCann:** Would you advise the Department that it would be far better if a pilot scheme appropriate for the different considerations here is rolled out here to ensure that there is no breach of equality regulations?
3468. **Mr McKinstry:** We would be very clear that it needs to consider the impacts in Northern Ireland, and, if that includes the need to run a pilot scheme locally, that is what it includes. It is about the equality impacts in Northern Ireland.
3469. **Mr F McCann:** I say that because, back in maybe 2007 or 2008 when the local housing allowance was introduced here, one argument was that it was being done based on pilot schemes in the north-east of England. At that time, you were able to argue for and get a pilot scheme running here that dealt with the peculiarities here. The background of

that question is that there is already a precedent set for pilot schemes.

3470. The issue is cross-departmental. What happens in the Department for Social Development has a knock-on effect for the Department for Employment and Learning (DEL), and one of the major problems that will exist is the migration of people on employment and support allowance (ESA) across into the work-related groups. I asked a question in the Committee for Employment and Learning the other day: will the people who work for DEL be in a position to cope with the mass migration of thousands of people across into that? After a bit of study, the officials said yes, but I took that as a departmental holding response rather than one that any thought had been given to. Surely thousands of people, many of whom are suffering from mental stress and mental illness, who are put into those groups will need decision-makers and assessors who have the level of experience to accurately assess what people can and cannot do. Would that be seen as going against the equality of a person who might be suffering from that or even against that of the person who has been asked to do it, if they have not been provided with the special training required?

3471. **Mr McKinstry:** A different system will, by definition, have different requirements, different resource requirements. You asked about the skills of the people at the front line, and we have been clear in our responses that appropriate equality training needs to be provided to individuals to ensure that they are better placed and that appropriately skilled staff are there to ensure that proper assessments are made.

3472. **Mr F McCann:** There are two things that we are trying to establish. The first is the level of training for decision-makers who look at cases and the second, which I think is also a big issue, is what is “good cause”. We have never been provided with an explanation of what is regarded as “good cause”. I think that we were provided with a list of what may be deemed to be “good reason”, but that was changed to “cause” for

some reason. In your dealings with the Department, will you also be asking it what “good cause” is and how it would be implemented, particularly when imposing sanctions?

3473. **Ms Collins:** A direct answer is that we have not yet, but that is not to say that we will not. Obviously, as the Committee scrutinises the Bill, we will be watching for other evidence and picking up on things that we need to be conscious of. Our briefing to you is our first run through the lengthy Bill. However, you made an important point about the interrelationship between the changes being brought forward by DSD and those that are the responsibility of other Departments with equality obligations. We will need to reflect further on how we ensure that other Departments connected with the reforms comply with their equality obligations. So, thank you.

3474. **Mr McKinstry:** We also made related points in our response to the work capability assessment. Part of that response concerns ensuring that the right people with the right skills make such assessments, but it is also about ensuring that there is access to an appropriate range of information. The information to be taken into account in the assessment should include that from the individual and from other professionals, for example the individual's GP and other medical professionals. In any assessment, it is important that the right information is taken into account.

3475. **Mr F McCann:** The follow-on point that arises from that is the primacy of medical evidence, which is one of the things that Mickey and the Chair have argued. That has certainly concerned us, particularly in relation to assessments carried out by Atos. May I take it that in all these cases you would argue that the best medical evidence should be available for the protection of these people?

3476. **Ms Collins:** Tony may want to come in on this, but further to that, we also have some concerns, which we did not voice in our briefing but have articulated over

- many years, about how disabled people are governed by a very medical model of disability that does not take into account the fact that many of the barriers are social. I said at the beginning that although an overall drive to encourage more people into work may be a very good thing, the fact is that there are specific groups of people for whom there are barriers to employment, including the absence of childcare, institutional barriers or more social barriers. We would certainly like to see a more clearly expressed public policy of using the social model of disability. Tony is much better equipped and more articulate than me on that issue.
3477. **Mr O'Reilly:** In our response to the second review of the work capacity assessment that Professor Harrington undertook, we made it clear that it was not so much a question of who conducts the assessment but more how that evidence is broken down, presented and used.
3478. The Committee is well aware of the criticism that the independent assessor has simply been used, and the assessor has said, "Right, we are under pressure to get such and such, and we will go with that." What evidence have they used? Is the evidence from the Department's doctor? Is it from a person who knows the witness, their experience and their circumstance? And, to what extent is the evidence taken from the witness? In other words, to what extent is, in this case, the disabled person involved in the process?
3479. The difficulty with the Atos assessment is that it is not clear how that evidence has been gathered and put together, and to what extent each part of the evidence has been highlighted or leaned on in making a determination. That concern applies equally to the work capacity assessment for the move from incapacity benefit to employment support allowance and to the work capacity assessment that is associated with the income support supplements related to personal independence payment awards. The same criteria should apply. It is important for the Committee to consider that.
3480. **Ms Collins:** In the detail of our submission on pages 11 and 12, we mentioned that nobody has yet heard the Department's response to the consultation on personal independence payments that it issued earlier this year. So we will have to see what the Department does in that area. Again, going back to its obligations, the Department is obliged to consult on and consider the equality implications and to take account of the consultation. That is not to say that the Department has to satisfy every single person it consults, because that simply would not be possible. However, it has to demonstrate that it has taken into account the consultation responses it has received.
3481. **Mr F McCann:** I think that I asked a similar question the last time you were here. If, at the end of this process, you see that there are a number of issues that clearly impact on the equality of groups or individuals, then in the Assembly and the Department, will the section 75 implications that the Bill throws up supersede what comes from Westminster, or is it the other way round?
3482. **Ms Collins:** As I said before, the Department is under an obligation to conduct its duties in line with the Section 75 obligations. In the Assembly now, there is scrutiny of the Bill and political discussion about what clauses will end up surviving the legislative process. The Department has to give you information on the equality implications. The Bill is in your hands, and you as the legislature have to look at implications, seek clarification, make amendments, and so on. As I understand it, once the Bill is in the House, it is a matter for you what you do with it. Clearly there are arguments about parity and so on that we have heard, but you are scrutinising it, and it is in the hands of the legislature.
3483. **Mr F McCann:** If, at the end of this, you see that there are clearly equality implications, would you come back to us and say, "Look, we have identified a number of elements in the Bill that clearly have implications for people's



equality”? Would you come back to us or would you go to the Department or the Executive? Under those circumstances, where does your power to ensure and protect people’s equality come into being?

3484. **Ms Collins:** Our role is to provide advice to authorities about the conduct of their duties. Where the commission believes that an equality scheme has been breached, it can undertake an investigation into that breach. It can also assist individuals who believe that an equality scheme may have been breached. The conclusion or outworking of such an investigation would not necessarily lead to the striking out of any particular provisions of legislation or a particular policy, but it may lead to our asking the Department to undertake, for example, another equality impact assessment and to look more closely at mitigating measures that it might bring to bear.

3485. The outworking of the duty does not necessarily dictate one particular conclusion. The Department has to satisfy us that it is engaged in the conduct of its duties properly and effectively. If it has gone through a process of an equality impact assessment, whereby it has identified potential adverse impacts and initiated mitigating measures, then even if we do not like the result and are not satisfied it has breached its equality scheme, it may not be possible to challenge that through the investigation process.

3486. **Mr Durkan:** Fra beat me to the punch there. I was going to ask you what teeth the commission has in this instance. In my opinion and, I am sure, in that of other Committee members, there are clearly equality issues right throughout the legislation. We take that very seriously. Indeed, just last week, there was an attempt, through the Chair, to invoke Standing Order 35 in order to establish an ad hoc Committee of the Assembly to look at equality issues in the Bill and the equality implications thereof. I was going to ask about the investigation procedure. I believe that it is covered in paragraphs 10 and 11 of schedule 9 to the Northern Ireland Act.

As outlined there, Evelyn, that involves the commission looking into individual aspects and reporting back. Does that put the ball firmly back in our court?

3487. **Ms Collins:** No. If we thought that any public authority had potentially breached its equality scheme, we could initiate an investigation under paragraph 11. The paragraph 10 provisions that you mention relate to our role in assisting individuals who believe that a scheme may have been breached. However, under paragraph 11, we can initiate an investigation, seek information and bring forward a series of recommendations. If a public authority does not comply with those recommendations and findings, we have access to the Secretary of State to direct that the relevant public authority —

3488. **Mr Durkan:** Have you ever done so before?

3489. **Ms Collins:** We have for one council that we found had breached its scheme. We made a recommendation to it that it had not complied within a reasonable period of time. We asked the Secretary of State to direct that it should. He did, and the council did.

3490. **Mr Durkan:** Can you envisage the commission doing that again?

3491. **Ms Collins:** We have thought about it for a number of significant policies. Let me rehearse hypothetically. If we had decided to initiate a paragraph 11 investigation given our concerns about the equality impact assessment, which we are on record as saying that we felt was not good, the recommendation may have been that the Department does its equality impact assessment properly. We now have an assurance that the Department is looking at the adverse impacts of its proposals based on better information and intends to update its equality impact assessment and screen any regulations coming forward. We want the Department to undertake its obligations properly. Hypothetically speaking, that is probably where we would have got to if we had undertaken a paragraph 11 investigation.



3492. **Mr Durkan:** I want to raise one other wee issue around the pension credit entitlement for couples. You say that we, as a Committee, should seek assurances that clause 32 will not result in the loss of income for couples in which one partner has not yet reached the qualifying age for pension credit. Earlier, we had a witness from Age NI who outlined quite starkly that there will be quite a significant loss of income for couples in that situation. I think that it is potentially £104 or £114 a week. Are there equality issues there?
3493. **Ms Collins:** The section 75 obligations cover people of different ages, so the answer is yes, if there is an adverse impact. Our response recommends that you seek clarification from the Department about that. It is not clear to us exactly how that might work. There is obviously a concern that couples might be prevented from claiming their pension entitlements if one partner has not reached that age. That raises age issues.
3494. **Mr O'Reilly:** Another concern about that clause is the conditionality and entitlement framework associated with universal credit. Would that apply to somebody who had reached the qualifying age for pension credit and would not be subject to requirements and provisions such as the underoccupancy rule in relation to housing? Are they now subject to that? That also needs to be clarified.
3495. **Mr Durkan:** I had asked about this, but it became clear only in the previous session.
3496. **Ms Collins:** When pounds, shillings and pence are added to it, it is very stark.
3497. **Mr Brady:** You answered one of my questions, which was about equality proofing the enabling Bill and the regulations as they come out.
3498. One of the big issues with conditionality is the claimant commitment. If one member of a couple does not sign it, the couple will not get universal credit. If one person does not sign it, it may be that he or she has mental health problems or has taken umbrage with the Department for whatever reason. It has been suggested that the person who does sign it should get universal credit for themselves and for any dependent children. Surely that would impact on the person who does not sign it for whatever reason.
3499. It has not been made clear how much investigation goes into the reasons why that person has not signed it. Mark also asked the question about age. You articulated very well how someone may qualify for one aspect but be discounted from another. That will raise its head more and more, and it has to be addressed. The age aspect may be a human rights issue, but I am just thinking about the conditionality.
3500. Another issue is the work search. Under universal credit, a person who comes into the work activity aspect will have to look for work for 35 hours a week. You would not even have time to work, because you would be spending so much time looking for a job. I do not mean to be too facetious, but you get the point.
3501. All those issues are linked to conditionality. It seems that it will put a huge burden on people that is not there at this point. There are certain conditions, and nobody is disagreeing that there should be conditions. However, it seems that some of them will have an inordinately harsh impact on people, particularly at a time when we have about 60,000 people looking for 5,000 jobs.
3502. **Mr McKinstry:** Two things spring to mind in respect of your point about claimant commitment. First, a couple or family as a whole should not necessarily be impacted by the actions of an individual. Secondly, any consideration of a sanction on an individual should be appropriately considered to take into account his or her personal circumstances. A disability or anything that affects a person's decision-making ability at any given time must be taken into account appropriately. We are very clear that sanctions across the board should take into account —

3503. **Mr Brady:** I am sorry to interrupt. I go back to a point that I made earlier about misconduct. Say it is someone who has an undiagnosed mental health condition. What you are saying is that the individual circumstances must be looked at very closely.
3504. **Mr O'Reilly:** It must be done on a case-by-case basis. You may determine after an investigation that something, whether a disability or another external factor, has impacted on a person's behaviour and proceed on that basis. Our submission states that things must be considered on a case-by-case basis, particularly when the behaviour is unusual or different and against a claimant's interest. Surely that would encourage somebody to come forward and say, "It is not in the claimant's interest to do this, so why are they doing it?" Reason and logic should be used in the application.
3505. **Mr Brady:** Sometimes reason and logic do not exist.
3506. **Mr Copeland:** My point has been partially covered, but I want to talk about the obligations of legislation. We are in the process of reflecting on legislation that was drafted in the rest of the United Kingdom and has come here. We have other laws and requirements that go above and beyond that. Does responsibility lie with us to amend this legislation to conform to our laws? If cost implications arise from that, are those costs due from us or from the people who sent us the legislation in the first place?
3507. **Ms Collins:** In this instance, it is the Department that has an equality scheme and is responsible for bringing the legislative proposals to you. You have a decision-making and scrutiny role, but it is the Department that has an equality scheme that should not be breached.
3508. **Mr Copeland:** So we could endorse legislation — lovely — and someone could take legal action and derive compensation on the basis of that decision.
3509. **Ms Collins:** Although the provisions of the Northern Ireland Act relating to equality and good relations duties give individuals some right to complain that equality schemes have been breached, they are not the same as the anti-discrimination legislation, which gives individuals the right to claim race, age or sex discrimination and may go to a tribunal. If successful, that could trigger an award of compensation. It is two different types of legislation: one is the mainstream equality duty, the parameters of which are set out in section 75 and schedule 9 to the Northern Ireland Act; and the other is about the individual right of action in employment tribunals, which may lead to *[Inaudible.]* a finding of discrimination contrary to the anti-discrimination statutes.
3510. **The Chairperson:** You are right to remind us that we have a statutory obligation to deal with the Bill as we determine. This ongoing evidence-gathering process is important in our deliberations. Clearly, as we move on in our deliberations, we will discuss with the Department the raft of issues that has been raised with us, including by your organisation, and we will address those issues with the Department directly. The Department is also looking at the evidence, and I take it for granted that it will be prepared to have that discussion with us. You, like many organisations, have made the point that it is enabling legalisation, so it is difficult in some ways to go further in scrutinising it because, even though we basically know what is in most of the regulations, we do not have them in front of us.
3511. Nevertheless, we have to deal with what is in the Bill, and I am conscious of that. You have been engaged, to some extent, with the Department over a period of months, and you said that you have been given assurances from it. I do not want to put a pointed question unfairly to you, but, apart from assurances from the Department that it will give further consideration to equality issues, have you got one specific example of it saying, "We have looked at a, b or c, and here is our response"? That is

important because when I am making my mind up on the Bill's provisions, I have to determine on the basis of what is in front of me, not on what somebody might do. I am not impugning the integrity of anybody in the Department or anybody else for that matter who tells me that they will do something, but what you might do after I have signed on for a Bill is no good to me, to be quite frank.

monitor developments closely. We wish you very well with your deliberations, which are detailed and complex. I know that, as a Committee, you are well able for it.

3512. **Ms Collins:** It is an absolutely fair question, Chair. Some additional information was considered in the final EQIA that was published on 4 May and dated April. In response to concerns raised, we sought some additional information but, as I said earlier, we were still not satisfied that that was sufficient. We have seen no further analysis since then, but I understand that departmental officials are working to analyse the data that they have received recently from Her Majesty's Revenue and Customs (HMRC). That will make it easier for them, but we will continue to raise the issue with them. There was some additional information in the final EQIA, and we have assurances, but we have not seen anything concrete. I understand that they are still working on it, and we welcome your asking the Department about the issue.
3513. **The Chairperson:** Thanks very much, Evelyn, Darren and Tony for your contributions this morning. For the record, we are due to make our report by 27 November. We have taken in the region of 40 written submissions and 20 oral presentations, some of which are by way of coalition. That is an important stakeholder engagement. I thank you for helping us in our consideration of the Welfare Reform Bill, and, no doubt, we will be in discussion with you again.
3514. **Ms Collins:** Thank you for that and for inviting us today. We remain at your disposal. If we can get clarification or any further information, it goes without saying that we will be very keen to engage with you. The commission has considerable interest in this area and has concerns about the potential equality impacts. We will continue to

## 30 October 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann

### Witnesses:

Ms Bernadette Magennis     *Age NI*  
 Ms Georgina Ryan-White     *Law Centre NI*  
 Ms Anne Moore     *Save the Children*

- Those issues are the operational flexibility within the conditionality and sanctions regime, and the other welfare reform changes impacting on children and older people. If you have any particular questions about our submission or briefing paper, we will be more than happy to answer those.
3519. We have chosen to talk about those areas today because we know that a number of our other members who have been or will be up over the next couple of days will be speaking on areas such as disability and housing. So we just felt that they were the most appropriate things to talk about today.
3520. To begin, the Welfare Reform Group welcomed the Minister's announcement about the flexibilities in the way that universal credit will be paid. We believe that that is the culmination of the efforts of various key stakeholders, which have largely spoken with one voice on those issues. However, we are cautious because, although those flexibilities have been achieved, we still need to examine what other steps can be taken to protect households affected by the changes and to tailor the welfare reform agenda to Northern Ireland's specific circumstances. It is vital that the changes work in practice for Northern Ireland. Moving people into employment can be achieved only if the jobs are available here and if people have access to good and affordable childcare. However, neither of those ingredients apply locally. We, therefore, recommend that the Committee carefully scrutinises, for example, the underoccupation penalty in the public rented housing sector and possible exemptions from that measure for foster families, carers and prisoners. It also needs to look at the level of conditionality and sanctions proposed under the Welfare Reform Bill, and the lack of childcare provision.
3515. **The Chairperson:** You are all very welcome. Members, the Welfare Reform Group's submission is at tab 1 of your packs. Some further papers from the group arrived this morning, and those are in your tabled items. A full Bill folder is available for anybody who wants one. However, you should have a Bill folder for today's meeting in front of you.
3516. Without further ado, if you do not mind, we will kick off with your presentation. The floor is yours. Thank you for making your submission and for being here this morning to further that.
3517. **Ms Georgina Ryan-White (Law Centre NI):** First, I would like to thank you for having us here to present our views on the Welfare Reform Bill. The Welfare Reform Group is an umbrella group for organisations that have come together to campaign for positive and progressive changes to policy, service provision and legislation for those in receipt of social security. Joining me today are Anne Moore from Save the Children and Bernadette Magennis from Age NI.
3518. Rather than going through our submission, we would like to highlight key issues that we believe require further examination.

3521. The Northern Ireland Executive have set aside £20 million a year for a social protection fund. We believe that that could be utilised to widen the scope for exemptions to some of the more punitive measures under universal credit and the Welfare Reform Bill. We are not seeking an alternative social security system; rather, we are seeking one that is very much tailored to Northern Ireland and that will work in practice for the people here.

3522. It proved rather difficult for us to respond to your call for evidence. As the Bill is an enabling Bill, it outlines the framework, but a lot of the detail is left to the regulations, for example, the rate of benefits; how the work requirements will work; what the earnings disregards will be; and the detailed rules on personal independence payments. In addition, it is becoming increasingly evident in Great Britain that there has been a shift to move information and detail into guidance and circulars. Therefore, we do not have a complete picture of what is happening at the moment. The more significant issues still have to be decided in Great Britain despite the fact that the Westminster Bill received Royal Assent in March. Those issues include, for example, how will transitional protection work; how will the arrangements for self-employed people work; how will they be treated; what is happening with passported benefits; etc? In effect, a lot of key issues still have to be decided in Great Britain, some of which go to the core purpose of the Welfare Reform Bill in respect of making work pay for claimants. Essentially, we are very much in a vacuum, and we cannot see the complete picture.

3523. We are also concerned that many of the regulations governing critical parts of the Welfare Reform Bill will proceed through the confirmatory process, with scrutiny happening only after the regulations have been laid. Given that the Welfare Reform Bill is significantly enabling legislation, that is, in our view, very much a retrograde step. It is vital that there is a way to ensure that the

guidance is also subject to scrutiny. The flexibility to do things differently in a Northern Ireland context lies in the detail of the regulations, so the scrutiny process must find a way of addressing where the scope for flexibilities lie. That is imperative. It is unlikely that, following the bedding-in period of the confirmatory procedure, there will be much scope to amend the legislation in the future. We, therefore, ask that the Committee ask the Department to provide a draft plan to include the timetable for publishing the regulations due to be made under the Bill.

3524. I will briefly move on to the issue of conditionality and sanctions. Part 2 of the Bill makes provision for changes to the responsibilities for claimants of jobseeker's allowance (JSA) and employment support allowance (ESA), and subsequently universal credit, contributory ESA and contributory jobseeker's allowance. The aim of universal credit is to make work pay. Claimants are expected to do everything that can be reasonably expected of them to find work or to prepare for work in the future as a condition of receiving their benefit payment. The conditionality will be backed up by much tougher sanctions to ensure that people meet their responsibility. We appreciate that the Committee has asked for a lot more information from the Department, and we are very much looking forward to the publication of that information.

3525. There are three main conditionality and sanction changes in the Bill. Four types of work requirements will be imposed on claimants: work-focused interviews; work preparation; work search; and work availability. There will be circumstances where there will be no work requirement, for example, if a woman has recently given birth. However, there will be a ramping up of the sanctions. Existing JSA sanctions, which can go up to 26 weeks and which apply to employment-related requirements, will be replaced with new provisions for sanctions on all work-related requirements of 13 weeks for a first failure, 26 weeks for a second failure and three years for a third failure.



- The new sanctions regime applies to failure to apply for a particular vacancy without good reason, failure to take up an offer of work without good reason or leaving work through misconduct. Those periods will be covered in the regulations.
3526. Medium-level sanctions can be imposed upon claimants subject to all work-related requirements. Those sanctions cover failures to undertake all reasonable work-search actions or failures, without good reason, to be available and willing to take up work. The sanctions anticipated are 28 days for the first failure, 13 weeks for a second and a subsequent failure within 52 weeks of the first failure.
3527. The lower level of sanctions will apply to claimants subject to all work-related requirements, work preparation and work-focused interview requirements. The lower level sanctions include failure to undertake specified work action without good reason, failure to comply with a work preparation requirement without good reason, failure to comply with a requirement to provide evidence or confirm compliance without good reason and failure to comply with a work-focused interview requirement without good reason.
3528. With all those sanctions and conditions, we would very much like to draw your attention to clause 22, which we fear is rather draconian. First, it provides that workers or jobseekers will be faced with all work-related requirements. This is provided for in schedule 1(7). This is clearly discriminatory, and is likely to be unlawful without any reasonable purpose. This is one area where we believe that there is scope to recognise that there needs to be a different approach taken in Northern Ireland.
3529. Secondly, the clause also provides for all work requirements to be imposed on a claimant in work who earns below a specific threshold. This is a new approach. Claimants in part-time work on tax credits are currently not expected to seek work on top of their part-time commitments. It is not clear how that will work in practice, and the Committee should determine what approach should be taken in Northern Ireland.
3530. The Department for Work and Pensions (DWP) has also signalled that most claimants will be expected to spend 35 hours a week looking or preparing for work. In practice, we cannot see how that is going to be maintained on an ongoing basis. While CVs can be updated regularly, employers written to and jobs and benefit offices visited, there will be a time or point in the process where there is nothing more that a claimant can do, other than perhaps wait for a response from a prospective employer. So we do not believe that continuing to spend 35 hours a week searching for work for a period of months is practical.
3531. There will also be changes to the hardship regime. Claimants who are sanctioned can apply for and receive hardship payments if they can show that they or their dependants will suffer hardship in the absence of a benefit payment. The Welfare Reform Bill seeks to make hardship payments recoverable. At the Welfare Reform Group, we do not believe that hardship payments should be recoverable and we look for further investigation into that. We believe that the loss of a significant amount of benefit is a sufficient punishment without having to pay back additional money. There is evidence that sanctions do not necessarily work. Some 20% of claimants do not know that they have been sanctioned until after the event. So we believe that sanctions is an area for operational flexibilities could be put in place and the Department should be pressed hard on this issue to give specific undertakings.
3532. Therefore, there are a few issues for the Committee to consider. They include whether the increased level of sanctions is proportionate, given the impact on the rest of the household, including children. We suggest that the increase is disproportionate and that sanctions of 13 weeks, 26 weeks, and three years are way too long. Regulations in Britain allow for only five working days



- for a claimant to establish good reason before the sanction is applied. If the penalty for non-compliance is increased, so too should the time allowed to provide a good reason. We suggest that that period is increased to 15 days; however, we are happy to discuss that with you further.
3533. The Department for Work and Pensions has also increased some of the sanctions arrangements for JSA and employment and support allowance in advance to broadly align with universal credit. That seems rather unnecessary, because the apparent advantages of universal credit will not be available to those claimants in the interim period.
3534. I pass you on now to my colleague Anne.
3535. **Ms Anne Moore (Save the Children):**  
I am honoured to speak here today on behalf my colleagues in the Welfare Reform Group. The paper that I present to you and my notes are the result of collaboration with Mary Anne Webb of Barnardo's, Marie Cavanagh of Gingerbread and my colleague at Save the Children Dr Chelsea Marshall. I will speak in a wee bit more detail about clauses 13 to 25, which concern work-related requirements and sanctions.
3536. Georgina talked about childcare, which I will not mention, except to say that we do not have the provision to make this work. It is also unclear, at this stage, how support for childcare costs would be included. You will all know that, at the moment, families spend about 45% of their income on childcare for one child, which is the highest amount in Europe. Until recently, low-income working families could claim support for up to 80% of childcare costs. That was cut to 70% in April 2011, so some families are already losing £1,500 a year, and some of our research shows that many low-income mothers are already leaving work because they cannot afford childcare.
3537. As you know, lone parents are currently exempt from certain earlier welfare reforms that applied in the rest of the UK. For example, compared to every fortnight in GB, lone parents in Northern Ireland sign on for work-focused interviews every 13 weeks. I am sure that you will all have heard of the Jobseeker's Allowance (Lone Parents) (Availability for Work) Regulations (Northern Ireland) 2010, which provides a guarantee that lone parents who receive jobseeker's allowance and who have a youngest child of 12 or under have the right to restrict their availability for work to their children's school hours. The regulations augment other flexibilities, including the ability of lone parents to limit their availability for work to a minimum of 16 hours a week; to refuse a job or leave employment if childcare is not available; and there is also a requirement on personal advisers to take the well-being of any child into account when drawing up the jobseeker's agreement. The Welfare Reform Act (Northern Ireland) 2010 also requires the best interests of the child to be taken into account in Northern Ireland when the adviser is making a jobseeker's agreement.
3538. When we look at the present Bill's proposals, we see that conditionality and sanctions are to be increased. For example, as Georgina said, a whole new world is opening up. At the moment, claimants in part-time work on tax credits are not expected to seek additional work. However, with the changes, it would appear that benefits would be cut for those in work if they do not meet an earnings threshold equal to minimum-wage rates for a 35-hour week. They will be expected to earn more from working extra hours, getting better pay or taking on an additional job. This at a time when hundreds are chasing every job, and those jobs are likely to be part time or zero contract hours for many people.
3539. Moreover, this seems to run counter to last year's extension of childcare support to those working in short-hours jobs, when the coalition Government announced that universal credit would provide childcare funding for parents working fewer than 16 hours a week. Modelling done by Save the Children shows that universal credit would have

negative impacts on work incentives for many low-income families, including lone parents working more than 16 hours a week and second earners. For example, a single parent who works full time for about the minimum wage and has two children will be as much as £2,500 a year worse off under the new system. So, for a start, we ask the Committee to seek clarification about these apparently contradictory provisions and proposals. Given this confusion, the lack of progress in childcare provision that we all know about and the lack of employment opportunities, those 2010 exemptions for lone parents should be retained and the new conditionality regime should not be applied here. The 2010 Welfare Reform Act's stipulation that the best interests of the child should be taken into account should be extended to the Bill and to carers in couple households. As Georgina mentioned, the Department for Social Development (DSD) could also cost the option of restoring that 10% cut in childcare budget by meeting the shortfall from the social protection fund.

3540. I turn to the issue of housing. Apart from repeating what I think is a universal request for direct payments, the provision for which we welcome, we would like your support in seeking several exemptions. Social housing that is deemed underoccupied but has children living in it should be exempt from a reduction in housing benefit. Households with children should be exempt from moving to cheaper housing until it is clear that suitable properties are available in the 30th percentile of rents. In GB, it was advised that £30 million a year would be added to the discretionary housing benefit for foster carers and families with a disabled child, who have adapted properties and need extra space. We suggest mitigation through amendments to the Bill in subsequent regulations, rather than discretionary payment. Exemptions should also be considered for families with a child in short-term care. Non-resident parents should be exempt from the shared-room requirement because they may have informal access to

their children, and, as you heard from the women's sector, that raises child protection concerns about visits to houses in multiple occupation.

3541. We are all dreading the surge in requests from families for emergency help. As you know, the social fund has long provided a lifeline. I will not go into all of the details that are available about the amount from DSD research. It is shocking to learn that one of the eligibility criteria is the client's actual solvency. If you come for emergency help and are already in debt, you will be rejected at a time when we are expecting increased hardship and debt. We suggest that these criteria, as well as the payment amount and the need for a replacement appeals procedure, must be subject to your scrutiny.
3542. We can provide a lot more detail on child maintenance, but we want to highlight the need to exempt parents with care responsibilities who are on benefits from the collection charges and we need to research the impact of charging on levels of child poverty. Victims of domestic violence have the right to be believed even they have not reported that domestic violence, and that should be reflected in the regulations.
3543. You all know about the problems with medical assessments and the disability cuts. I draw your attention to findings that disabled children and children with disabled parents are more likely to be severely poor and at risk of persistent poverty. Those child poverty figures should be higher if the cost of disability were factored into counting households below average income. We reiterate the request from the Northern Ireland Commissioner for Children and Young People (NICCY) that an expert group should be set up to look into all of this.
3544. Finally, it could be argued that welfare reform represents a misdiagnosis of the problem and that most of the solution to poverty and disadvantage is job creation. Decently paid work will reduce inequality. You will know about the need for an adequate work programme, and we highlight the strong

correlation between child poverty and women's employment and income. I also remind you that work is not always the best route out of poverty, because approximately half of all children who are in poverty live in families where one parent is working. We suggest that the Executive must do considerably more to create decent, well-paid work and reduce the barriers to taking up work and training, such as the lack of proper childcare.

3545. We have no need to remind you of section 75 and the duties under the UN Convention on the Rights of the Child (UNCRC) and the Child Poverty Act 2010, except to say that Departments should actively demonstrate how the decisions contribute to improving outcomes for children and ending child poverty by 2020. These decisions will include funding, such as the social protection fund, the discretionary support policy and other forthcoming decisions on passported benefits such as free school meals and rates relief.

3546. The children's sector would like to leave you with a few key asks: to ensure provision of the impact assessment on child outcomes, as Georgina mentioned; to adopt the best principles of the child; to subject the changes to the social fund to serious scrutiny; to ensure exemptions from cuts in housing benefit and moving home for families with children; to retain the existing exemptions for mothers until childcare is properly sorted and clarify those contradictions; and, repeating what the other sectors have said, to designate the primary carer of children as the main applicant for universal credit; and to provide choice in the frequency of payment.

3547. I will hand over now to Bernadette Magennis.

3548. **Ms Bernadette Magennis (Age NI):** Good morning. I thank the Committee for giving Age NI the opportunity to present its views on how it feels that the implementation of the Welfare Reform Bill will impact on older people in Northern Ireland. Georgina, on behalf of

the umbrella group, has gone over some concerns that we share. I want to look specifically at how the issues relate to older people and at the assessments on universal credit for mixed-age couples and the impact that that will have on reduced capital limits. I will look at sanctions and conditionality restrictions on occupancy and housing and at the impact of the personal independence payment (PIP) and the lack of clarity on disability living allowance (DLA). I will go through those in turn.

3549. To provide some context, everyone here will be aware of the fact that 23% of older people in Northern Ireland live in poverty. Unlike the rest of the UK, England, Scotland and Wales, where it has stagnated, that figure continues to rise, as does the incidence of older people living in fuel poverty. Many of you will be aware of my background in fuel poverty, so it will be no surprise that I will throw at you some statistics on that. Northern Ireland has a higher-than-average rate of fuel poverty of 44%, but over 61% of older people live in fuel poverty. That increases with the age of people. Those figures are, again, on the rise. We in Age NI are extremely concerned about any issues that we believe will worsen the already dire situation as regards the well-being and income levels of older people.

3550. As I mentioned, our biggest concern about older people and welfare reform is the way in which mixed-age couples will be assessed. As members will be aware, under the current legislation, if one partner in a couple has reached the qualifying age in keeping with a woman's state pension age, which is currently 61, they are both assessed for pension credit. However, welfare reform will mean that, where one partner falls below that age threshold, both will be assessed under universal credit. We are extremely concerned about the impact that will have on the financial well-being of couples in that situation. A very basic example is that, under the current structure, for a couple aged 61 and 56, the income on pension credit would be £217.90 a week. If that same

couple were assessed under universal credit, their income would be reduced by £102.45 a week to bring their income to £115.45 a week. That is very basic and does not take into account all the variables that could be in play, but it basically shows that a single person on pension credit would be better off under universal credit than a mixed-age couple. We are extremely concerned about that.

3551. Another area of concern is the capital limit being imposed on universal credit of £16,000, with savings over £6,000 treated as £1 of income per £250 over the threshold. That will mean that, in future, those mixed-age couples with a low income who have over £16,000 and contain a younger partner will be excluded from pension credit because they will be assessed under universal credit. However, they will not be entitled to universal credit because of the savings that they have put together for their retirement. So, there will be a lot of pressure on couples of mixed age, particularly if the older person will no longer get the income that they now get while also having to support the younger partner. Basically, people will be penalised for having a younger partner. We do not feel that that is right.
3552. Following a question asked recently in Westminster, it was revealed that approximately 15% of pension credit claimants in GB were couples where one partner was, at that stage, under the age of 60. We call on the Department to carry out a detailed analysis of the impact of treating mixed-age couples as being of working age for benefit purposes, including providing information about the numbers over time that that will affect, the circumstances of those affected and the changes in the overall level of financial support afforded to them.
3553. Georgina mentioned claimant commitments and sanctions. First, in the absence of that detailed analysis, my comments are not based on any strict evidence. However, it is likely that the younger person in a mixed-age couple will be in their mid- to late-50s — certainly in their 50s. Research has shown that if people in that age group lose their job, they are the least likely to be able to re-enter the workforce before retirement. People in that age group may experience significant barriers to securing employment, such as long-term sickness or intermediate caring responsibilities for their older partner. For that reason, we believe that all necessary support should be given by advisers to assist that age group in re-entering the workforce and that a graded system of conditionality be applied to that group to reflect its circumstances.
3554. An even larger concern about conditionality and sanctions is the impact that they will have if applied to the older person in the couple. That older, retired and often vulnerable person will basically lose out on their benefits and perhaps their sole income through absolutely no control of their own. We are very concerned about the impact that that will have on the income, health, well-being and quality of life of some of our most vulnerable. The needs of the older person in that situation should be taken specifically into consideration.
3555. Housing is another issue of concern with mixed-age couples. Restrictions in the level of housing benefit will not apply to pensioners, but that is not the case if one partner falls below that threshold, and, if couples are assessed under universal credit, normal restrictions will apply. Older couples will often need occasional caring support and something in place if it is ongoing support, such as an extra room, not only for physical support but for social support and to reduce isolation from family. They may also need a separate bedroom if they have separate health needs. We feel that that needs to be taken into consideration in the circumstances. We would be keen to see the details of the proposals to be reassured that older people in mixed-age couples will not be adversely affected by the changes.
3556. One final point that I would like to draw attention to is the concern raised by



- older people currently in receipt of DLA. The Bill states that a decision has yet to be taken on whether to reassess people over 65 who are currently on DLA. We have been contacted by many older people through the services and advice lines that we run, and they are extremely concerned that there is a vagueness around that. We would call for the over-65s to remain exempt from this reassessment, and the introduction of PIPs should provide adequate support for disabled people over 50, again, falling into that category of older people.
3557. You will have received a more detailed briefing from me, which, hopefully, you will have time to read later. If there is any additional information that you require, I will be happy to provide that. Thank you again for the opportunity this morning.
3558. **Ms Ryan-White:** I will just finish off by drawing together everything that we have said in our presentation. We believe that it is vital that there is significant impact monitoring of the changes on vulnerable claimants from the outset. Unfortunately, that has not always happened in the past with changes. For example, with employment and support allowance, the number of sickness benefit claimants that have been found fit for employment was not monitored from the outset, despite that being one of the key aims of welfare reform and welfare change in the past.
3559. Based on the points in our presentation, we suggest the Committee examine the following: the impact of increased sanctions on jobseekers, including whether that has a positive effect on employability and whether sanctions lead to increased demand for charitable support and advice; the impact of universal credit on claimants with disabilities or illness who are fit for work; the impact of universal credit on child poverty levels, given the commitment in the Child Poverty Act to end child poverty by 2020; and the impact monitoring of the direct and indirect consequences of the implementation of welfare reform, in recognition of the significant impact on the working-age population and the knock-on impact in other sectors increasing displaced expenditure.
3560. I would like to thank you again for the opportunity to present to you today.
3561. **The Chairperson:** Thank you for your presentations. I appreciate that you are focusing on certain areas. I will open up the discussion to members. You will be aware that, at some point, all members have identified very clearly with a lot of the issues that you have raised. Obviously, they will try to debate with yourselves some of the components of your submissions this morning.
3562. **Mr Brady:** Thanks very much for your presentation. The thread running through the major submission that you put forward is the lack of knowledge about the regulations. I appreciate that it is very difficult to go into the detail because it is enabling legislation. You point that out very well in your submission. I have a few questions. You have all raised the issue of mixed-age couples. You talked about further explanation of those types of cases. Do you have anything specific in mind in relation to how those might be explored further? Bernie gave a very clear example of somebody losing £115 a week. That is a stark example of how people could be affected. Part of the difficulty about the regulations is the issue around passported benefits. Until they know if passported benefits are going to apply, particularly in relation to carers and disability, it is very difficult to come to any conclusions. Are you thinking specifically of looking at the types of cases that may be affected by lack of passported benefits as the regulations become clearer?
3563. **Ms B Magennis:** As a starting point, we wanted to make sure that we found out the extent of the impact that this was going to have and how many couples would be affected, that is, how many are going to be over the age of 61 with a younger partner. How that is going to be gathered together is something that we have not been able to find out, or whether Her Majesty's Revenue and

Customs (HMRC) or the Department will be able to gather statistics on that, and we need to know the impact of that over a period of time. We understand that it will be a difficult statistic to reach because there are other variables at play in respect of couples not staying together or bereavement. There will always be an ongoing impact. As a rule of thumb, however, we would like to find out how many this will affect as people move into the benefits system. Again, the lack of clarity around some of the information that we have makes it difficult. Some of those basic examples show the stark reality of the impact that it will have. From our perspective, all that we can see is that its impact on poverty levels will be to continue to make them increase.

3564. **Mr Brady:** The work-related requirements have been mentioned, and most people find the work search based on a 35-hour week is unbelievable in some ways. There is also the claimant commitment, and if one person refuses to sign that, the suggestion is that the universal credit payment should be made to the person who does sign it and possibly to the children. Will you elaborate on that a wee bit? Would the prevailing economic conditions that you talked about also apply to the claimant commitment and work search requirements under universal credit? How do you envisage the prevailing economic conditions being monitored?
3565. **Ms Ryan-White:** When I was here last week, you pointed out that Kilkeel jobcentre had five job vacancies —
3566. **Mr Brady:** Yes; 446 applicants and nine jobs.
3567. **Ms Ryan-White:** That would also be one of our concerns as well; there very much needs to be the work out there.
3568. Getting back to the claimant commitment; we have suggested that the split payment of universal credit must be allowed. Along with that, it should be recognised that, in circumstances in which there is discord in a relationship or a breakdown or

somebody does not wish to commit, there should be alternative means of allowing the partner who does commit to receive the payment and additional allowances for children, housing and suchlike. That would need to be worked out in the regulations, but we are looking for a commitment from the Department that it is happy to move forward on that and to work, perhaps with the voluntary and community sector organisations on relationship breakdowns, etc, towards finding a means of moving that forward.

3569. **Mr Brady:** I have just two more questions. Your written submission states that there should be a statutory right to independent advice. Now, that would not cost anything in benefits or affect welfare reform, although it would put a huge burden on the independent advice sector. Has there been any in-depth discussion among your group and with the Department about how extra funding for that would be worked out?
3570. **Ms Ryan-White:** There have been no official discussions by the Welfare Reform Group. I know that Advice NI is pushing that. The social fund policy specifically mentions increasing the role of the advice sector, and we would like to be key players in those discussions to ensure that there is not a negative impact on claimants. So, we are very willing to move into such discussions if the Department wishes.
3571. **Mr Brady:** Finally, Bernie, you said that you were asking for the status quo to be maintained for people over 65 making the transition from DLA to PIP.
3572. **Ms B Magennis:** Yes.
3573. **Mr Brady:** So really, people who qualified before becoming 65 should not have to be reassessed, but, again, I presume that that will depend on the regulations.
3574. **Ms B Magennis:** Absolutely.
3575. **Mr Brady:** The same applies to the cap, because none of that is known. Under regulations, it is possible that PIP may set out two-, three- and five-year



- reassessments but we do not know about the over-65s.
3576. **Ms B Magennis:** Our request is two-fold. We want people with mobility requirements to have those carried through after they turn 65, which the Bill does not specify. It states that, at the moment, people over 65 on DLA will not be reassessed, and we are looking for a commitment that that reassessment will not take place and that people who are currently in that situation will continue to access DLA.
3577. **Mr Brady:** Finally, I forgot to make a point about the sanctions and the guidelines. The guidelines are going to be so important, and we have asked the Department about them in relation to the imposition or otherwise of sanctions. Have you any idea or has there, from your perspective, been any discussion with the Department about having input into those guidelines or is that being done purely in-house?
3578. **Ms Ryan-White:** We have not had any discussions. As we mentioned, we would like a timetable for the regulations and guidance. We would like the Committee to have the opportunity to scrutinise that and to feed into that process.
3579. **Ms Moore:** Negative and confirmatory resolution have been mentioned. Is there any possibility of getting affirmative resolution so that you could have more say?
3580. **Mr Brady:** You covered that in your submission.
3581. **Mr F McCann:** Thank you for the presentation. It was fairly extensive, and a lot of other material is contained in the written submission. We have been dealing with quite a lot of different groups, and most have been singing from the same hymn sheet. There is quite a lot of concern out there. Clause 42 deals with pilot schemes. Do you think that a separate pilot scheme should be launched here? In the past, the Committee, when discussing the local housing allowance, raised the issue of relying on information that was coming from the south of England or the north of England to implement changes here. Do you think that there should be a separate pilot scheme on the Bill or elements of it?
3582. **Ms Moore:** Yes, we all think that. There are so many things that need to be ironed out, and there are so many contradictions. We have a bit more time to 2014, and we need to look at the IT problems. I heard on the radio this morning that employers are up in arms because many of them did not know about this switch to real time. Instead of giving information every year about employees, it will be every week, and they do not know anything about it. Obviously, they will need a communication strategy as well as the rest of us. Also, with all of those regulations and the appropriate type of resolutions, it will be very important to get a pilot here, given the unique circumstances in Northern Ireland with disability and so on. It would be vital.
3583. **Ms Ryan-White:** Our first preference is that a pilot scheme be introduced here. We mentioned in our submission that, if we cannot have a pilot scheme, the Department should take on board any learning experiences from across the water and publish a Northern Ireland-specific report and identify any problems encountered over there that might impact on Northern Ireland-specific issues so that there is a process of addressing those issues. That is our second choice, and we would like to see a pilot scheme run here.
3584. **Mr F McCann:** There are groups, which are trying to tackle the difficulties in the Bill, that are under your umbrella and, equally, there are other groups that also have concerns about the Bill. Has there been any attempt to pull everyone together to try to deal with it as one umbrella group right across the North? There are groups that deal with mental health and some that deal with homelessness. Is it not better to look at one approach for how the Bill could be dealt with?
3585. **Ms Ryan-White:** The Welfare Reform Group has an open-door policy. Our

- membership has quadrupled in the past six months. The unions have come on board with us, and we have had requests from Housing associations to join. There is a collective feeling and organisation. We know that the Churches and the unions were with you yesterday, and we are singing from the same hymn sheet and collectively working together.
3586. **Mr F McCann:** You have advocated that safeguards should be put in place so that people with mental health difficulties, learning difficulties and literacy problems and people whose first language is not English are not sanctioned. Have you given any consideration to how that would work in practice? Do you see that being dealt with in the Bill, or do you see it being placed in the regulations?
3587. **Ms Ryan-White:** We see it more in the regulations on the front line delivery of things. DWP is suggesting making home visits to people with mental health issues. We will very much look to GB to see what they do. We will take the good points from there and come up with some ideas on what can be delivered here in Northern Ireland and what is achievable within the funding restrictions.
3588. **Mr Campbell:** Your submission is very comprehensive. I want to follow up on the issue about potential home visits, and I noticed that you made it in your written submission. Given the diversity of groups under your umbrella, is it your view that, on a pro-rata basis, there is a greater preponderance of those with mental health and learning disability issues in Northern Ireland? I assume that that is the case, but can you confirm that, from your experience, you think that is the case?
3589. **Ms Ryan-White:** There is a higher incidence of mental health problems here, and there is evidence to prove that. The report from the Centre for Social Justice confirms that, and there are mental health issues overflowing from the Troubles. We have mental health organisations in our group, and we know that they will be with you tomorrow. We felt that they would be best placed to speak on mental health issues and disabilities. We have left it there, hoping that you will ask them further questions and speak in depth with them.
3590. Collectively, we agree that there should be home visits, transitional safeguards and allowances for people with mental health problems, especially given the increased conditionality and sanctions. That will ensure that they understand what is expected of them and what rights they have to ensure their safety.
3591. **Mr Campbell:** What I am really getting at is, if it the case — as it appears to be — that there is a greater preponderance of that type of issue in Northern Ireland for the reasons you suggested, that would indicate that there needs to be a greater resource in Northern Ireland to facilitate home visits, which will be more numerous, on a pro-rata basis, than in England and Wales. Is that correct?
3592. **Ms Ryan-White:** Yes. That is what we envisage.
3593. **Mr Campbell:** I presume that the resources would have to be increased to meet that demand.
3594. **Ms Ryan-White:** Yes.
3595. **Mr Campbell:** I was also interested in what Bernadette said about a couple possibly losing up to £100 a week.
3596. **Ms B Magennis:** That is based on the current information we have. Obviously, there will be changes to that.
3597. **Mr Campbell:** That is what I was coming to. That is, obviously, pretty stark.
3598. **Ms B Magennis:** Yes.
3599. **Mr Campbell:** Would it be possible to facilitate the Committee to go back to the Department? I know that it is difficult, because every individual's circumstance is different, but could you supply us with, say, four or five typical — I know it is very difficult to get a typical, possible universal credit claimant — or four or five different categories of

- potential claimants that we would hope would comprise the vast majority of potential claimants? We could put those cases to the Department and ask it what they are getting now and what they would get under the new regime. That will allow us to try and flesh out what you have said, so that, in each of those categories, we could see whether they will be better or worse off. If they are worse off, we could see by how much and how we can remedy that. Do you think that that is a good idea?
3600. **Ms B Magennis:** We do, and we are happy to provide information. Age NI has an advice line, and our workers work across the all the issues. I have a dedicated policy link with someone who deals specifically with poverty, and I know that there is no such thing as a typical claimant, because there are so many different variables. We hoped to bring together a case study for you today to illustrate all the different issues. However, the variables were so immense that it was impossible to say what was representative of a certain percentage. We can certainly draw out examples and provide them, but we could not say, with any certainty, what percentage those cases would reflect. There are so many different variables at play.
3601. **Mr Campbell:** The point I am making is that an individual or group could identify the type of person that might represent, say, 0-5% of potential claimants. Whereas, if it were possible to get the vast bulk of potential claimants in four or five categories, that would, at least, give us an idea of where this is leading us. I fully understand the complexities. You would probably need 150 different categories, and that is just not realisable. However, if it were possible to get four, five or six potential universal credit applicants and information on what they currently receive, and compare that with what they will potentially receive, that would at least give us an idea of the general drift. We could then see what the departmental response would be to that. Would you be able to give us that?
3602. **Ms B Magennis:** We are happy to draw that information. However, as I said, we could not say that it was totally representative.
3603. **Mr Campbell:** I understand that. Thanks.
3604. **Ms Moore:** Gregory, I can point you to research that Save the Children did in London. It commissioned research to ensure that universal credit would support working mothers, and the research found that, as we all know, second earners, who are mostly women, are going to lose out. It also found that part-time-working women who are lone parents and who work over 16 hours would lose £2,500 a year. The reason for that was because Iain Duncan Smith apparently did not get enough money for the reforms. We were asking you to lobby for the additional money to make it work. I am happy to pass those worked-up examples to you.
3605. **Mr Douglas:** Thanks very much for your presentation. Clause 52 deals with the contributory allowance. Almost every submission to date has raised concerns about the limit. You have suggested amending or not implementing that clause. Bernadette, you mentioned those who are under 50 or 55. How did you come to that figure? Is it arbitrary?
3606. **Ms Ryan-White:** No. We looked at the figures that were produced by DWP. The age group that will be affected most significantly by the changes to ESA will be those aged 50 and over — I think that 48% of the claimants who will be affected by the changes will be 50 and over. We very much want to mitigate that impact.
3607. **Mr Douglas:** Thanks, Georgina. Clause 69 deals with the size criteria and the notion of underoccupancy. Last week, the Housing Executive told us that it just does not have the housing stock to relocate all those tenants. You suggested possible alternatives, including opposing the clause in its entirety. Do you have a preferred option or approach?
3608. **Ms Ryan-White:** Our preferred approach would be to oppose it completely.

- We are aware that there are Treasury constraints, and so on. If that is not possible, we have given other, alternative suggestions that have the best interests of claimants at heart.
3609. **Mr Douglas:** It has also been suggested that we amend the clause so that it would not be applied until there is sufficient housing stock. How would you feel about that?
3610. **Ms Ryan-White:** Having spoken to the Housing Executive, we know that that might take a good number of years — perhaps 10 years. We would be happy if that happened.
3611. **Mr Douglas:** Plan B?
3612. **Ms Ryan-White:** Yes.
3613. **Mr Copeland:** Thank you for your illuminating presentation. Each of you represents organisations that have come together in a bigger organisation, but it is you, as Age NI, the Law Centre and Save the Children, to whom I wish to address my question. It is a very simple question, but the answer could be rather complex. Should the legislation be enacted in its current form? What is your single biggest fear for the group that you particularly specialise in? Is there a hierarchy of concern? Is there something at the pinnacle of it? If so, what is it?
3614. **Ms B Magennis:** As you can see from my presentation, apart from the personal independence payment, everything sits under our concern about treating a couple with one person who is of pension age as a mixed-age couple. That is our biggest concern. We can only see it impacting on poverty levels that are already the highest in the UK. That financial impact is our biggest concern.
3615. **Ms Moore:** We are the same. It is anticipated that, because of the accumulation of these cuts, the recession, unemployment and budget cuts, child poverty will increase to 34% by 2020, instead of being cut.
3616. **Mr Copeland:** As a direct consequence of this legislation.
3617. **Ms Moore:** Yes, it will contribute. It is not helping. I know that all the Departments are working together to produce a child poverty outcomes model as an outworking of the Child Poverty Act 2010. All legislation, proposals and funding decisions should be considered in this light: how will they contribute to ending child poverty? The proposals need to be looked at through the lens of the obligation to end child poverty and to realise children's rights in the best interests of the child.
3618. **Mr Copeland:** From our point of view, we are seeing one side of the scale.
3619. **Ms Moore:** Yes.
3620. **Mr Copeland:** I have deep reservations about the lack of availability of the regulations within a time frame that allows you to judge how they will affect the legislation. Following your logic, we also need to know what countermeasures may be put in place to redress the balance.
3621. **Ms Ryan-White:** The Law Centre covers a lot of areas of law. Our client groups will have issues with mental health, social security, community care, immigration, and so on. Our interest lies in almost every part of the Bill. We would like to see it tailored as much as possible to Northern Ireland's specific circumstances. We believe that the Committee should have the time to scrutinise the regulations. Appropriate time should be given for debate and to examine, as far as possible, what can be done by way of a Northern Ireland-specific approach. I could not put one issue ahead of another. They are all very important, are connected and will impact on every working-age member of the population.
3622. **Mr F McCann:** The Minister said a while ago that there is an objective to take 10,000 children out of poverty. That cannot be done with the introduction of welfare reform.
3623. **Ms Moore:** Universal credit, in its initial design, was meant to get more people into work and to make work pay. However, our research has found that



- it is not working. Not enough money was put into universal credit in the first place. Then, of course, the work is not available, given the recession and the huge increase in unemployment. We suggest that, on the other side of the equation, there should be a real focus on job creation and decently paid work — pay above the living wage. The fact that around half the children in poverty are from families who already have a job, and that situation is getting worse, shows that there must be a focus on decently paid work. Then there is all the important support that needs to go into that, such as childcare, transport, qualifications, skills, early intervention, equality — you could start me on a rant.
3624. **Mr F McCann:** We will leave that to some other time.
3625. **Ms Moore:** Yes. *[Laughter.]*
3626. **Mr F McCann:** My other question – it has not been touched on and I cannot see it anywhere in the document – concerns the introduction of the financial sector and financial advisers being brought in to give advice. I have to say that I find it a bit insulting that an adviser will be brought in to advise somebody on how to spend £240 a month. People have to open bank accounts, so there is the possibility of incurring bank charges, which will reduce the amount of money available to them. Have you done anything on that? I do not know whether it is already in existence in England. I picked it up from the departmental briefing.
3627. **Ms Ryan-White:** No, but we can look into that and get back to you.
3628. **The Chairperson:** There is a suggestion that the Government — I use their language, not mine — would be minded to examine banking products that could assist people who are receiving benefit payments under universal credit and that some financial institutions could be encouraged or subsidised to come in to help people to manage their budget. That is the argument for it.
3629. **Mr F McCann:** The Minister said in the Assembly last week that he was talking to a number of financial institutions about those banking products.
3630. **The Chairperson:** I know that David Freud mentioned it at a meeting last week also.
3631. You are not aware of it at this time. We make it very clear that it is a discussion rather than a proposal.
3632. **Mr Durkan:** Thank you for the presentation. Bernadette, I was particularly interested in your focus on mixed-age couples. I have raised questions about that in Committee previously. You and Committee members have referred to the financial implications for mixed-age couples. However, with financial implications come other even more serious implications. You referred to the fact that people would be better off as singles than as couples. Do you believe that that could lead to more couples separating at that late stage of their lives?
3633. **Ms B Magennis:** Obviously, I cannot answer that categorically. However, I know that Age UK did research that found that it would put undue pressure on relationships. How that pressure will manifest itself will obviously be an individual issue. However, the concern is that older people would be better off living on their own than being assessed as a couple under universal credit. That is the bare reality of it.
3634. **Mr Durkan:** We will have the Equality Commission in later. Do you see a clear equality issue here?
3635. **Ms B Magennis:** We are certainly concerned. Pensioners are not of working age and therefore do not have any control over the issue. They will be subject to the sanctions and commitments, but they will not actually be the person signing up to those. They will be subject to the imposition of the commitments, but they will not actually have any control over it. They will not be in a position to increase their income, because they are beyond working age. That is a huge concern for us.

3636. **Mr Durkan:** The issue that I have always raised is that a couple will not be exempt from the underoccupancy element of the legislation if one is still of working age.
3637. **Ms B Magennis:** That is right.
3638. **Mr Brady:** Gregory raised the issue of the incidence of mental health problems, people being visited by DWP in Britain and the possibility of that happening here. Going back a number of years, social security offices had a pool of visiting officers who built up a kind of rapport with the clients whom they dealt with. They were, to a large extent, accepted in the community as being sympathetic, knowledgeable or whatever. If the intention is to have visiting officers go out from social security offices, surely there has to be an expertise involved. We have been talking for five or six years about the expertise needed to interview or deal with people who have specific types of mental health problems. It is about not just the resources that are available but the expertise and training that those people require.
3639. I have a question for Anne and Save the Children. Child protection is paramount, but the issue for a lot of lone parents with the working tax credit is that children need to be looked after by a registered childminder. That is a social services child protection issue. Has any thought been given to the fact there will be the same childcare element under universal credit, even though it is going down from 80% to 70%? That is a big factor for lone parents because of the lack of childcare. Has any thought been given to a family member who looks after a child having to go through the protection of children and vulnerable adults (POCVA) assessments. That is done through very formal and rigorous vetting. A change there might go some way to helping lone parents, given the lack of childcare. There are plenty of crèches, but they are extremely expensive. Registered childminders are also expensive.
3640. Your submission states that 390,000 young people will lose youth incapacity benefit. That does not seem a huge figure, but these are youngsters, a lot of whom have learning disabilities, who will be penalised and brought into the larger workforce pool. There is nothing there for them, and it is highly unlikely that there will be in the foreseeable future. Those may be youngsters who are also in receipt of DLA and possibly will be in receipt of PIP. How will they cope in general terms? That figure, which is quoted a couple of times, does not seem inordinately large even for the Assembly to deal with. What are your thoughts on that?
3641. **Ms Ryan-White:** I will pick up on the issue of ESA. The cost is very little in comparison with the impact that it will have on claimants' lives and what it can give to them by way of support. The social protection fund is where you could look for that money.
3642. If we did that in Northern Ireland, we would be putting our own stamp on welfare reform, by making sure that it provides for those most in need and meets the aim of supporting the most vulnerable in society. That is where we think that there is good flexibility.
3643. **Mr Brady:** It affects almost 3,000 young people at the moment. That is a fair number.
3644. **Ms Ryan-White:** I saw that you talked to the Department about that and asked it for figures. I have also been in contact with the Department looking for figures. It does not have the figures in the equality impact assessment (EQIA), and is looking to DWP for them. We are very keen to get the figures as soon as possible so that real costings can be done and this can be moved on as soon as possible.
3645. **Ms Moore:** On the issue of childcare, I know some of the Department for Employment and Learning (DEL) programmes made provision for exemptions for grandparents. I see no reason why that should not be provided. The childcare strategy has still not been



- prepared and put out for consultation. That should consider those kinds of areas. Given the importance of the early years, from nought to six, and because of how the childcare and early years strategies will work together, not only for allowing women into work but for child development, we should be aiming for long-term universal childcare provision. All of that needs to be on the table. I think that that would be useful in the interim.
3646. **Mr Brady:** Obviously there would have to be liaison with the Health Department, because it is a social services issue.
3647. The reality is that there is a lack of registered childminders and affordable childcare. Mothers, aunts, sisters, and so on, are providing that, and that it is likely to continue because it is what has happened traditionally and historically in the North. It is likely to be a long-term thing. I have spoken to people who are looking after children for relatives, and they do not have any particular problem with registering. However, they have a difficulty with having to look after another child who is not related to them. They are just not going to be involved, because they will not take on the responsibility. That is part of the issue, and it needs addressed — you are right — probably in the short term but possibly in the longer term to some degree.
3648. **Ms Moore:** That is where the linkages need to be made. What would happen if grandparents or other relations became involved and then, because they have homes that are underoccupied, had to move out of the area? All of this has a knock-on effect. I think that all those displaced costs should be looked at as well.
3649. **Mr Brady:** To use that hackneyed phrase, it is all inextricably linked.
3650. **Ms Moore:** Yes.
3651. **The Chairperson:** No other members are looking to come in. I think that we have covered a fair amount of ground, so thank you. Unless you have anything else that you want to put to the Committee, I want formally to say again that we very much appreciate your written submission and your very illuminating contribution this morning. There were a lot of questions and answers. This session has been very helpful, as I am sure that all members will agree.
3652. For the record, as part of the legislative process, the Committee is due to complete its report on the Committee Stage on the 27th of this month, and the legislation will continue through the Assembly into early next year.
3653. **Mr Campbell:** Next month.
3654. **The Chairperson:** We are still in October, so it will be November. Sorry, we are well past the 27th of this month, so it will be 27 November. As I said, the legislation will continue through the Assembly into early next year.
3655. In tandem with that, over the past number of months, the Executive, with the help of a ministerial subcommittee, have been looking at issues around passported benefits, and so on and so forth. Therefore, the Executive have been looking at the matter, and they will consider whether to deal with the social protection fund amendments, which Georgina referred to earlier. There are ongoing parallel discussions on the preparations for the legislation. Obviously that is appropriate, because an awful lot of complex issues need to be addressed. The Committee is in the midst of its evidence-gathering sessions. By the end, we will have received something like 40 written submissions and more than 20 oral submissions. Many of the latter will be from coalition organisations. There is a lot of stakeholder engagement, and rightly so, given the complexities of the Bill and, naturally, the widespread interest in it.
3656. We are very appreciative of your assistance to the Committee. That has allowed us to further deliberate on and consider all the issues. Thank you for your support, which allows us to do our work on scrutinising the Bill. We will be

scrutinising it clause by clause in due course. No doubt we will meet you again in a variety of formats.

3657. **Ms Ryan-White:** Thank you.



# 30 October 2012

## Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann

## Witnesses:

Mr Colin Caughey	<i>Northern Ireland</i>
Mr John Corey	<i>Human Rights</i>
Dr David Russell	<i>Commission</i>

3658. **The Chairperson:** I welcome the representatives of the Human Rights Commission: John Corey, who is one of the commissioners; Dr David Russell, the deputy director; and Colin Caughey, who is a policy worker. Without further ado, I ask the representatives to kick off.

3659. **Mr John Corey (Northern Ireland Human Rights Commission):** Thank you very much, Chairperson. I thank the Committee for inviting the commission to speak to our advice on the Welfare Reform Bill.

3660. I must go through the formality of stating that the Northern Ireland Human Rights Commission (NIHRC) provides advice pursuant to our role under section 69(4) of the Northern Ireland Act 1998. The commission grounds its advice on the full range of internationally accepted human rights standards, including the European Convention on Human Rights (ECHR), which is incorporated in the Human Rights Act 1998, and the treaty obligations of the Council of Europe and United Nations systems.

3661. I will start with general points on the human rights analysis, which are addressed in the commission's advice to the Committee. The commission particularly welcomes the attention that this Committee has given to the human

rights implications of the Bill. However, I must record that the commission is disappointed that there is a lack of evidence that the Department has undertaken the required human rights scrutiny of the Bill. We noted that, last Monday, the Minister for Social Development advised the Assembly that the Department had conducted a full analysis of the Bill against the European Convention on Human Rights. However, we are not aware that that analysis has been made available to the Committee or that it will be published. In addition, the commission points out that the Department is obliged to analyse the Bill against all relevant human rights standards in the treaty obligations of the Council of Europe and the United Nations systems, not just on the European convention.

3662. The commission also submits that the heavy reliance on secondary legislation complicates the task of providing a human rights analysis of the Bill. That is addressed in our submission, whereby we advocate that the regulations should be subject to affirmative resolution or confirmatory procedure to ensure scrutiny against human rights standards. I note that Mr Copeland is not here; however, we read the answer to a written Assembly question provided by the Minister in relation to the process and procedure of affirmative resolution. However, the commission still stands by its advice to you on that matter: the secondary legislation should be subject to affirmative procedure.

3663. Our submission highlights a number of specific issues that require the Committee's attention. The commission's focus is on testing the Bill against human rights standards, not the politics of welfare reform. The commission can support the stated aim of the Bill, which is to assist people into work. The right of people to work is recognised in the European Social Charter. The

measures included in the Bill, intended to assist and encourage individuals to exercise the right to work, must, however, take into account the particular circumstances of an individual. That can be taken forward into the particular measures. We cover universal credit in our submission and have raised concerns regarding the payment of universal credit to a single member of a household. That may compound difficulties faced by vulnerable families, particularly, for example, when domestic violence is present. In that context, the commission welcomes the Minister's announcement that universal credit payments may be made to two persons, but the commission will want to analyse the detail of the proposed arrangements on that.

3664. The Commission will be familiar with the widespread concerns about the replacement of disability living allowance (DLA) with personal independence payments (PIPs). DLA or PIPs is an important benefit that assists disabled people to overcome societal barriers that they may face. The commission submits that the UK has ratified the UN Convention on the Rights of Persons with Disabilities, and, under that convention, the Northern Ireland Executive are required to protect the right of disabled people to live life as independently as possible. The commission's advice is that the convention requires the Executive to adopt the social model of disability and that that needs to be reflected in the assessment criteria for PIPs. The commission further advises that the Committee needs to investigate how the assessment process for PIPs takes account of the social, practical and environmental barriers experienced by claimants with disability.
3665. We deal with the sanctions regime in our submission and have raised concerns about the potential for the sanctions regime, relating to the various work-related requirements. Our concern is that those will be imposed unduly harshly, with the result that an individual may become destitute. The Bill contains

numerous safeguards, so that the sanctions should not be imposed without good reason, and allows for those who have sanctions imposed on them to apply for a hardship payment. However, our concerns remain. The system places a significant amount of power in the hands of those who are responsible for its administration, which is how the benefits system has traditionally operated.

3666. Paragraph 7 of schedule 1 to the Bill provides for regulations that will define the circumstances in which a claimant could be determined as not having a good reason. The commission advises that it is important that those regulations take into account the particular circumstances of an individual. In that context, we have raised specific concerns regarding women with childcare responsibilities and have advised that the regulations should make specific provision for those with dependants. We also submit that that is an area in which the particular circumstances of Northern Ireland are relevant. We further advise the Committee to consider more generally how the absence of adequate and affordable childcare in Northern Ireland impacts and whether that should be reflected in the Bill.
3667. We cover the issue of hardship payments in our submission. As I said earlier, when a sanction is imposed, individuals may apply for a hardship payment, provided they can demonstrate that they are or will be in hardship. The commission's advice is that the imposition of a sanction that has the potential to result in an individual becoming destitute engages the Northern Ireland Executive's positive obligation under article 3 of the European Convention on Human Rights. That is an obligation to prevent hardship at a level that may amount to "inhuman or degrading treatment". The commission's concern is that a sanction creates a significant risk that it may result in individuals or their dependants becoming destitute. For example, the commission is

- concerned that vulnerable members of society, particularly those with mental health problems or impairments, may encounter difficulties when applying for hardship payments. Again, the working arrangements for hardship payments are to be set down in regulations. The commission's advice is that those regulations should expressly provide that a sanction should not be imposed when there is a significant risk that it may result in individuals or their dependants becoming destitute. The Committee may wish to investigate whether the regulations may make provision for an alternative sanction in circumstances in which there is a risk of destitution.
3668. As a general point, the commission also advises that all staff who are responsible for the conditionality and the sanctions regime must be adequately trained and that every effort should be made to resolve a difficulty before a sanction is imposed. The sanctions regime must be proportionate and procedurally fair.
3669. Clause 70 of the Bill provides for the abolition of the discretionary part of the social fund, which includes community care grants, crisis loans and budgeting loans, all of which have provided important safeguards when an individual encounters financial difficulties. Community care grants in particular have provided support to disabled persons. We understand that a replacement scheme is to be developed, and we encourage the Committee to interrogate the sufficiency of the replacement scheme to ensure that it provides similar safeguards to the current system.
3670. Clause 69 empowers the Department to set an approximate maximum housing benefit. The precise details of how that will be calculated will, again, be set out in regulations. The commission advises that those regulations should provide for a specific assessment of the personal circumstances of an individual, particularly when an individual is disabled. Again, because of the particular circumstances of the Northern Irish housing stock, we think that specific provision needs to be made to monitor the implications of that proposal closely.
3671. Clause 30 allows for contracted providers in the private and voluntary sectors to exercise the functions of the Department that relate to work-related and connected requirements. That could impact on individuals' entitlement and benefits and, by extension, on their right not to be treated in an inhuman or degrading manner and on their right to an adequate standard of living. The commission submits that it is important that there is no ambiguity about privately contracted providers being subject to the provisions of the Humans Rights Act 1998. Private contracted providers should also be required to provide adequate training to their staff, which should include training in relevant aspects of human rights law and, specifically, on the rights of disabled people. The commission advocates that those matters should be covered in statute.
3672. A final point that is not in our submission relates to migrant workers, which we understand the Law Centre has also raised with the Committee. Paragraph 7 of schedule 1 to the Bill allows for regulations to provide that claimants from the EU with a right to reside will be placed in the all-work requirements category. That appears to treat migrants in a discriminatory manner, and the commission advises that it may be in breach of article 14 of the European Convention on Human Rights. As pointed out in our submission, contributory and non-contributory benefits are proprietary rights protected by article 1 of protocol 1 of the European Convention on Human Rights (ECHR). The commission intends to analyse the issue further, and we advise the Committee to seek analysis undertaken by the Department on the matter.
3673. Those are the points in our written submission that I wished to highlight to the Committee. My colleagues and I will be pleased to answer points of detail that Committee members wish to raise.



3674. **The Chairperson:** Thanks very much for your presentation, which was quite comprehensive. Again, thank you for providing us with a written submission, which we were able to look at, and on which you further elaborated. A number of members wish to speak.
3675. **Mr Douglas:** Thank you, Chair.
3676. Thank you for your presentation. You mentioned what the Minister said in his statement on welfare reform. He said:
- “As part of the process for bringing a Bill to the Executive, my Department has already conducted a full analysis of the proposals contained in it for their compatibility with their obligations under the European Convention on Human Rights.”*
3677. He then went on to detail the various articles and finished off by saying:
- “The Department’s view and mine is that the Bill is compatible with the convention rights, as defined in section 1 of the Human Rights Act 1998. That view has been confirmed by the Departmental Solicitor’s Office.”*
3678. I note your concern about the absence of detailed human rights analysis of the Bill and of its potential implications. Either you are right or he is right, as you take totally different views. You also mentioned that there is no evidence of what the Minister detailed in his statement. Have you had any detailed discussions with the Minister or his Department on those details? Have you requested any of that information?
3679. **Dr David Russell (Northern Ireland Human Rights Commission):** We are not disputing that the Minister has undertaken a human rights analysis or an impact assessment. In fact, we noted that he made that remark to the Assembly. The only thing that we are drawing to the Committee’s attention is whether it has had sight of that impact analysis?
3680. **Mr Douglas:** Have you seen it?
3681. **Dr Russell:** No, we have not.
3682. **Mr Douglas:** Have you requested it?
3683. **Dr Russell:** No, we have not.
3684. In response to your final question, just to jump ahead, the commission met the Minister when the Welfare Reform Bill was passing through Westminster. At that stage, the commission made it clear to the Minister and his officials that it was willing to engage at whatever level they saw fit. However, in the interim period, the Department has made no approach to the commission seeking advice.
3685. **Mr Douglas:** Have you approached the Department?
3686. **Dr Russell:** No, we have not.
3687. **Mr Douglas:** Do you agree that it is a two-way process? We will certainly be asking the Minister for some of that evidence after what you have said; it is a good point.
3688. **Mr Corey:** To add to that, when the legislation was being considered at Westminster, the House of Commons Joint Committee on Human Rights criticised the absence of a detailed human rights memorandum at the time. Given that that criticism is on record, we take the view that it was not unreasonable to expect the Department to produce a memorandum when the Bill came in front of the Assembly. The warnings were already there.
3689. **Mr Douglas:** Are you saying that there is no memorandum at the moment?
3690. **Mr Corey:** That is one of the issues. The additional point I made in the submission is that the Minister spoke about testing the Bill against the ECHR. However, we submit that the Executive, the Assembly and, indeed, the Committee have obligations under United Nations and Council of Europe treaties as well as the convention.
3691. **Dr Russell:** Just to add to John’s point, perhaps it would be useful to draw the Committee’s attention to section 26 of the Northern Ireland Act, which states that Executive Bills have to be rendered compliant with international standards. The obligation falls, in the first instance, on the Executive and, ultimately, on the Secretary of State to ensure that

- Assembly legislation complies with binding UN law. We would like to see the Department bringing that forward and the Committee addressing it. The explanatory memorandum to the Bill contained a human rights compliance statement, but unless the Committee has seen otherwise; to date, that is certainly all that the commission has seen.
3692. **Mr Douglas:** I have a couple of quick questions. You do not seem all that happy with your experience in this process to date. Compared to previous processes, has this one been very different when it comes to your discussions with the Department and the information that you requested?
3693. **Mr Corey:** I cannot rely on a lot of personal experience on this. The first answer that comes to mind is that I think that everyone recognises that the Bill is almost unique in its scale and impact on people. What should properly happen in this case must be judged on its own as opposed to being compared to what happened previously with the Human Rights Commission's consideration of a relatively straightforward Bill that did not raise the same range of human rights issues.
3694. **Dr Russell:** We are happy to give you a few examples of recent such Bills. The Department of Health, Social Services and Public Safety (DHSSPS) engaged extensively with the commission and sought its advice privately on the mental capacity legislation, as did the Minister of Education on special educational needs reform.
3695. **Mr Douglas:** Finally, you talked about the absence of detailed human rights analysis. If there were agreement to do that, what would that analysis look like?
3696. **Dr Russell:** I suggest that we take as a starting point the international standards that the commission has identified, and look for convention compliance article by article relevant to each clause of the Bill; in much the same way as we assume that the Departmental Solicitor's Office would have done for the ECHR, which the Minister explained in his statement.
3697. **Mr Douglas:** May I assume that that process would be fairly lengthy?
3698. **Dr Russell:** It could well be. I caught the tail end of Mr Durkan's question raising the other alternative, which is for the Assembly to establish, under Standing Orders, an Ad Hoc Committee to undertake a detailed analysis. Westminster has the benefit of the parliamentary Joint Committee on Human Rights doing such analysis, but there is no Committee of that standing in the Assembly.
3699. **The Chairperson:** By way of information; the Committee has sought legal advice on the specific issue around the migrant workers to which Les Allanby referred earlier.
3700. **Mr Douglas:** Chair, may I ask another quick question.
3701. **The Chairperson:** Sorry, Sammy; I am just putting on record that we have sought a legal opinion on that matter.
3702. **Mr Douglas:** Some groups have told us that they may mount a legal challenge by seeking leave to apply for a judicial review. Would you be interested in doing that if we do not come to some sort of arrangement?
3703. **Mr Corey:** There are many complications for the Human Rights Commission embarking on judicial review processes. Our engagement in this matter is under our statutory function. I see our duty as being to advise, in this case, the Committee of the human rights standards and issues that have to be engaged in its scrutiny of the Bill, and to clarify those to members. That is our role.
3704. **Dr Russell:** The point is that court is the last resort. Within its competency, the commission's job is to make sure that the Bill is as compliant with human rights standards as we can possibly make it. That is our interest. We are certainly not interested in judicially reviewing anyone if we can at all help it.

3705. **Mr Colin Caughey (Northern Ireland Human Rights Commission):** To amplify John's point: the European Court of Human Rights has emphasised that the more parliamentary scrutiny that there is of human rights issues the less likely it is that there will be a court challenge. The Committee's interest in the human rights issues raised by the Bill is one area of significant difference from previous processes.
3706. **Mr Douglas:** OK. Thank you.
3707. **Mr Brady:** Thanks for the very interesting and informative presentation. You are right to say that this legislation is unique. The most recent major change was instigated by Fowler in 1985 and enacted in 1988. This is much wider and more encompassing. I may be misreading your demeanour, and correct me if I am wrong, but it seems that there are certainly parts of this that you are not particularly happy about. Other groups have highlighted the Convention on the Elimination of Discrimination against Women and article 27 of the United Nations Convention on the Rights of the Child. There is the whole issue about universal credit. Many have argued that payment should go to the main carer, which would then protect vulnerable members of the family, particularly children. I wonder what your views are on that.
3708. You also raised the issue of the transfer from disability living allowance (DLA) to PIPs. I know from talking to numbers of people with particular disabilities that DLA is there for a specific reason. It is to enable people to have a better and enhanced quality of life which they may not have otherwise because of their particular disability. According to the Social Security Commissioners' case law on DLA at this point in time, it is not necessarily what causes your problem that matters; it is how it affects you. This Bill takes that a step further: it is now about how you can cope. One of the issues that you raised is that it is also incumbent on the private sector — like Atos, for example — to ensure that human rights are properly dealt with.
3709. If you saw the 'Dispatches' and 'Panorama' programmes, it will be very clear to you that there are big human rights issues involved. The contract for the changeover from DLA to PIPs has not been decided here. However, I think that we can be reasonably assured that there will be a similar process put in place. That seems to be, in many cases, a denial of fundamental rights, particularly of disabled people. I wonder as to your views on that, though I do not expect you to comment on particular private companies.
3710. As to the work capability assessment, some people have been asked how far they can walk. I have had people in my constituency office who have said, "I have mobility problems and I told them that I can walk 20 yards". They were then asked, "How far can you go in a wheelchair?" They responded, "I do not have a wheelchair and I have no intention of getting one." That is the kind of situation that is developing.
3711. One of the things that you pointed out very clearly, and this is important, is that each case should be dealt with on an individual basis. It should be dealt with objectively by the assessor. We have argued, and I continue to argue, about the primacy of medical evidence. If you are dealing with a benefit such as PIPs, DLA or employment and support allowance (ESA) medical evidence is important. People get DLA because they are medically assessed initially, whether it be self-assessment or through medical evidence from their GP or consultant. It seems that the decision-maker who makes the final decision but is not medically qualified needs to have all that evidence to hand in order to make any sort of reasonable decision in relation to that person's particular circumstances.
3712. I think it is important that you mentioned that there are not just physical and mental disabilities; there are also the social barriers that people face. That is all interlinked with their human rights.
3713. Can you comment on those issues?

3714. **Mr Corey:** I will ask Colin to pick up on some of the detailed points that you have raised. You commented on my demeanour. I think it important that I restate that the commission's focus is to test the provisions of the Bill, as we would any piece of legislation, against human rights standards, and not the politics of welfare reform. There may well be differing views about welfare reform, the background and reasons for it.

3715. A second general point that I would make, without commenting on any private company, is that the media reports that have been quite widespread about individuals' experiences of the system so far in Britain, serve at least to put everyone on notice that this is a critical area for examination. That is one of the reasons why the commission included that, specifically, in its submission. We could see that human rights could be affected by this, and we have heard and seen that.

3716. My last general point is on your references to how individuals who are applying for PIPs are treated, as in the current DLA system. We have submitted the issues around the societal model of disability, as against the medical model of disability. However, we do not suggest that there should be some utopia in which assessments disregard a person's medical condition. That is not real, in the context of a person applying for that type of assistance. What we say, quite clearly, is that the assessment should take account of a wide range of factors and the societal factors that affect or may affect that individual. Not every two people will be the same, and we are essentially saying that each individual's full circumstances must be considered and that there must not be a regime of box-ticking. That is our approach. I will ask Colin to pick up the other points of detail that you raised.

3717. **Mr Caughey:** In our opening statement, we welcomed the Minister's indication that universal credit could be paid to two people. Certainly, it is written in the United Nations Convention on the Rights of the Child (UNCRC) that children have the right to benefit from social security.

So, our key concern will be to analyse whatever measures are proposed in that area so that they benefit the child. Similarly, with women; that the money there benefits female members of the family also.

3718. I will amplify the PIPs point. As John said, the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) very much supports the social model of disability and encourages and requires Governments to look at how societal barriers prevent a disabled person from engaging fully in life. We feel that it is important that that is reflected in the assessments for PIPs. There has been much discussion on how to do that in England, Wales and here. We encourage the Committee to keep that under review as the assessment criteria further develop to ensure that it is looking at what assistance an individual needs to ensure that they are able to fully participate in life.

3719. **Mr Brady:** I have one more point, Chair. Mark alluded to it earlier, and it was mentioned this morning by Age NI. Because of the change, one partner in a couple may be eligible for pension credit and one for universal credit, because they are younger. This is the norm for couples in our society in most, but not all, cases. That person will then be brought back into the work pool, and we heard this morning about the very stark example that the couple could lose £115 a week. You mentioned destitution, and when people are on a benefit that is, by government's own admission, at subsistence level, £115 a week is a huge amount of money and could lead to people being in destitution. If someone receiving that amount of benefit is trying to budget to a particular level and manage a particular lifestyle and loses approximately 50% of their benefit, how does that tie in with human rights? Presumably, it flies in the face of some conventions because of how the person's human rights might be affected. Ultimately, benefit is not their chosen lifestyle or chosen income but is how they have to manage.



3720. **Mr Caughey:** That indicates the importance of closely monitoring the implementations of the reforms once they are brought in and trying to anticipate the impact prior to that. As we mentioned in our opening statement, the Government are under a positive obligation to ensure that individuals do not find themselves in destitution.

3721. **Mr Brady:** The difficulty is that, by the time the monitoring is completed, people may already be in that situation. That issue has to be addressed.

3722. **Dr Russell:** I have not looked in great detail at the point about the universal credit and the pension provision. However, we have looked in more detail at the hardship payment, for example, and, with that, we are concerned that destitution constitutes a violation of article 3. So, there would be a breach in that instance. The difficulty with the provisions of the Bill — and I heard it mentioned in the previous evidence session — is what its outworkings may mean for potential human rights breaches is hard to quantify due to the lack of analysis combined with the reliance on secondary legislation. We do not really know in practice, and we could not say one way or the other, that a breach would occur. It seems to us that the hardship payment would kick in after the sanction, and that someone could find themselves in destitution. As a consequence, they would apply for the hardship payment and maybe receive support. At that stage, a violation would have already occurred. It is too late and is like trying to shut the door after the horse has bolted.

3723. On your other point about private sector contractors, the European and domestic case law is quite clear on that: private sector contractors carrying out a public function are public authorities for the purposes of the Human Rights Act. That should be made clear in private sector contracts.

3724. **Mr Brady:** Hardship payments will be recoverable. Although people may get a hardship payment to get them out of short-term destitution, they will be

below subsistence level when their benefit kicks in again because they will have to pay back the hardship payment. The regulations may well deal with the amount. However, I think that it is true to say that, with respect to social security benefit and parity, it has always been the case that recovery from benefit here is more than its equivalent in Britain. People here have always had to pay back more. That was my experience when I worked for many years as an advice worker, and it puts people here in an even worse position.

3725. **Dr Russell:** If people find themselves in that circumstance, the multiplier effect is a possibility. Until the new regime kicks in, it is hard to justify it. One thing we considered regarding the migrant workers point, for example, is that, with the work-related requirement categorisation of EU migrancy and the right to reside, because of some other aspect, such as a disability, migrant workers would find themselves subject to a sanction regime. As a consequence, their hardship payment would kick in too late after the violation had occurred. They could find themselves in the repeated scenario that you paint.

3726. **Mr Copeland:** I would like to put to you one question that I asked previous witnesses. It is about the UN Convention on the Rights of Persons with Disabilities with particular reference to articles 19, 22 and 28. What are the potential consequences of legislation being enacted here that breaches that convention? To the best of your knowledge, has Northern Ireland or any other constituent member ever breached such a rule?

3727. **Dr Russell:** Do you mean the UNCRPD?

3728. **Mr Copeland:** The UN Convention on the Rights of Persons with Disabilities, which sets out some clear responsibilities.

3729. **Dr Russell:** There are two aspects here. The question is this: what would be the impact if the Assembly brought forward legislation that had not been sufficiently scrutinised as regards compliance? It is a statutory requirement. However,

- the conventions are not justiciable. Therefore, if, as a consequence of the legislation, there was an unbeknown breach of the UNCRPD, the likelihood is that that would become part of the reporting process back to the United Nations.
3730. However, the more immediate worry is how the unbeknown breach of the CRPD would be linked to a potential breach of the European Convention. One possible scenario would be where, under the new regime, there was a withdrawal, or partial withdrawal, of payment of PIPs from someone who is disabled and who is subject to the new cap for housing. They could easily find themselves facing a choice between keeping a roof over their head and feeding themselves. That would constitute an immediate breach of article 3. It would also engage article 19 of CRPD.
3731. When people talk about the particular circumstances of Northern Ireland, we hear well-versed arguments about how we are different from the rest of the UK in respect of, for example, the housing stock. Something else that we think that the Committee should consider, which we mentioned in our submission, is the fact that there are a number of reforms taking place in a variety of Departments in Northern Ireland that coincide with the introduction of welfare reform and could also have a potential impact. As a consequence, in the scenario that I have just painted, someone could easily find that they would better-placed in a residential care home. However, we know that Transforming Your Care from DHSSPS will reduce the number of residential care homes in Northern Ireland. So, the situation could be compounded by the impact of another government policy.
3732. **Mr Copeland:** What are the consequences of that for the legislation, for those who enact the legislation, and for those who carry it out?
3733. **Dr Russell:** If, retrospectively, it were found that there was a breach, the legislation would have to be amended.
- You could easily find yourself with an individual claimant taking a judicial review.
3734. **Mr Copeland:** Would the legislation then have to be changed?
3735. **Dr Russell:** If there was found to be a breach, yes.
3736. **Mr Copeland:** If I picked you up correctly, you said a few moments ago that there is a duty to ensure that this legislation is as compliant as possible. Is there an interpretation of “compliance”? I suppose that there must be. What did you mean by the phrase “as compliant as possible”? I would have thought that something is either compliant or it is not, in the absence of a legislative process to decide that.
3737. **Dr Russell:** It is. However, ultimately, there is always the possibility that a legislature could unknowingly pass legislation that is then found to be in technical breach. It is the proper role of the courts to determine whether that is the case.
3738. **Mr Copeland:** So, are you the arbiter here, in so far as you are the font of all knowledge about whether something is a breach? Does an onus, therefore, reside not only with the Department, to ensure that what it is proposing does not breach human rights conventions, but with us in our scrutiny role?
3739. **Dr Russell:** Our role is to provide the best analysis, from a human rights perspective, as we can to the Committee and the Assembly in order to assist them to make good, compliant human rights legislation. A number of other actors have that responsibility as well, such as the Departmental Solicitor's Office. As has been suggested, there is the possibility of the Assembly formulating an ad hoc scrutiny Committee to deal with this serious legislation. There are a number of avenues open to the Assembly under Standing Orders, and the commission will play its part.
3740. **Mr Copeland:** If I were to give two lawyers a piece of paper with x, y and z written it, they would argue about the



- relevance of x, y and z for hours. I have always found that to be the case.
3741. Basically, at the end of this process, if we have done our job properly, we should be advised about whether what we are proposing to recommend, accept or declare as scrutinised is compliant. Even at that point, however, it could be subject to an interpretation from someone with a different view.
3742. **Dr Russell:** It could be. However, the Committee has at its disposal the possibility of making the recommendation about the secondary legislation under affirmative or confirmatory resolution. We certainly think that that would add in an extra layer of protection in respect of human rights compliance for those parts of the Bill that we have not yet seen and do not know the impact of. From a human rights perspective, that would be an extra safeguard.
3743. **Mr Copeland:** Sticking strictly to the human rights aspects of this, I presume that the rest of the United Kingdom is bound by the same conventions. Your view is that it would be unsafe for us to accept their findings because we have another layer of consideration to apply from the equality legislation and stuff. Some would say that we really are making a whip to beat ourselves. Given that this has gone through Westminster, there is an assumption that it has already been human rights-proofed and that everything is hunky dory. Are there implications for Westminster if we raise issues here about compliance with the human rights conventions?
3744. **Dr Russell:** This is a devolved matter. It is within the competency of the Assembly to pass this legislation. So the duty is on the Assembly to ensure compliance. Whether the welfare reforms that have been introduced in England and Wales, and Scotland are compliant is a matter for those Parliaments. In this instance, the commission is advising you. However, we engaged in the Westminster process as well, because we knew full well that the Act would be replicated here according to the parity principle. The Joint
- Committee on Human rights, a scrutiny Committee in Westminster, raised very similar issues to the ones we are presenting today. It may be worthwhile for the Committee to look at what the Joint Committee concluded and advised the Government.
3745. **Mr Copeland:** If, at the end of this process, we are faced with legislation from Westminster that satisfies its requirements but does not satisfy the requirements here, does responsibility for any financial implications arising from potential breaches and mitigating factors that have to be put in place lie with those who sent the legislation to us in that form or does it reside with us from our own meagre resources?
3746. **Dr Russell:** Responsibility for the implications of a breach would reside with the Department, because it is exercising the legislation. I am not sure what you mean by potential financial implications, but if you are talking about the possible impact on the block grant —
3747. **Mr Copeland:** Yes. In other words, that the legislation sent to us was not attuned to our needs, and that the cost of attuning it to our needs in order to comply with as much as we could was rested in the fact that the expectations to be realised in the Bill were not achievable in our context.
3748. **Dr Russell:** The Committee may conclude that. It would not be for the commission to analyse that. I can give you an example. The shift from DLA to PIPs, for example, is premised on a 20% cost saving. We do not doubt for a minute that 20% may be saved as consequence of the shift from DLA to PIPs. Our concern is that it might be a blanket approach determined in advance. Who knows? As a consequence of moving from DLA to PIPs and analysing people individually, you may well find that the government's requirement to support people, while complying with convention requirements and the Convention on the Rights of Persons with Disabilities (CRPD), will cost more, and resources would be

- better diverted from other parts of the pot.
3749. **Mr Corey:** Some of your questioning bears out the point that we made about the importance of secondary legislation or regulations being subject to scrutiny, even though the equivalent regulations may not have been subject to scrutiny or may have gone through the Westminster Parliament by negative resolution. We are saying that affirmative resolution or confirmatory procedure should be applied. We would almost say that you should apply that approach to all the regulations that will come through on this. It reminds me of a phrase that we used in the past when we talked about parity in other areas, which is, “We are interested in parity but not parrotry.”
3750. **Mr F McCann:** Much that I was going to ask has been covered, but I will go ahead anyway.
3751. **Mr Durkan:** Parrotry — who’s a pretty boy? *[Laughter.]*
3752. **The Chairperson:** He does not really mean that badly.
3753. **Mr F McCann:** Do you want us to be here until 5.00 pm?
3754. Thanks for your very informative presentation. Things would be different if we were talking about a Bill that does what it says, which is to change or reform. The Bill that we are dealing with is, however, more ideologically driven than it is aimed at bringing changes for the better to people in England. Obviously, I will not ask you to comment on that. It is also sanction-led, as you, quite rightly, said. In the Assembly, some time ago and more recently, we tried to get at the “two strikes and you are out” issue. You could be sentenced for a particular social security issue through the justice process, then, on release, you walk into an office where you can apply for and get benefit. However, if you are caught doing the double, your benefit can be suspended for 26 weeks, two years or whatever. So, if you are charged with a benefit offence and apply, you will be refused benefit. Something in that seems unfair: you could be done for robbing a bank and be accepted as a legitimate claimant, but if you make an error claiming benefits, you are refused benefit.
3755. As I read through the information, I noted the case of Ásmundsson v Iceland, which I think that you quoted. What were the consequences of that? Does the judgement have a knock-on effect on how sanctions are applied here?
3756. Housing is the other issue. Is there an international standard for the size of rooms? Most of the old Housing Executive or social housing providers’ homes had a box room that measured about 6 feet by 10 feet or 8 feet by 10 feet and could take a single bed, but now we are told that it can sleep two people. Is there anything in law that states that, at a certain age, people of opposite sexes have to stay in a separate room or even people of different ages?
3757. **Mr Corey:** I will ask David to pick up your first and third questions, and Colin will deal with the second.
3758. **Dr Russell:** The Ásmundsson v Iceland case was a European Court judgement on a sanctions regime. The court determined that the removal of social security benefits was disproportionate. So, yes, case law has been set down. You raised the issue of how long a sanction should go on for, and sanctions could be subject to a test. We have included the case law in our presentation to indicate that there is the possibility of sanctions being tested when the new sanctions regime kicks in. What the court would consider in that instance is whether it was a proportionate and reasonable response to fulfil a legitimate aim of the sanction. There is nothing adverse to human rights standards in imposing the sanctions regime; the question is whether it is a reasonable and proportionate response and, vitally, and what most concerns us, will it push people into destitution? That would be unacceptable, and it would be a clear breach under inhuman and degrading treatment. As the sanctions regime

- sits now, our concern is that that might happen. However, that comes with the caveat of our not knowing what the secondary legislation will be. European case law would have relevance in this jurisdiction, because the Human Rights Act 1998 is read in conjunction with European Court judgements.
3759. **Mr Caughey:** Another judgement is *Limbuela*, which is equally difficult to pronounce. That case related to an asylum seeker's eligibility to apply for benefits, and a restriction had also been placed on his working. The House of Lords ruled that it was possible that making someone unable to access benefits could be considered as leaving them in destitution.
3760. There is nothing as specific as that case on your point about the size of rooms. However, under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and the right to independent living, it may be that someone will require a carer to enable them to live more independently or will, occasionally, require a carer to stay. There are ways in which the size of a room or the availability of additional rooms in a house would be relevant to someone's enjoyment of rights that are protected under international human rights law.
3761. **Mr F McCann:** Are there different definitions of destitution?
3762. **Mr Caughey:** The principal definition is contained in the *Limbuela* case. That comes from the Nationality, Immigration and Asylum Act 2002 definition, under which someone would be considered as being destitute if they lack:  
*"accommodation, and food and other essential items".*
3763. **Dr Russell:** In essence, we are talking about the choice between having a roof over your head and feeding yourself. Everyone should have the right to shelter, accommodation, food and clothing. Where people are faced with choosing between those, there is the potential that we could overstep the mark and be in breach.
3764. The general reference of the UN's Committee on Economic, Social and Cultural Rights is to "adequate housing". However, there is no definition of what constitutes that. Once again, the focus on human rights is on individual need. These decisions should be premised on individual circumstances. What a family of four requires not to be destitute will be completely different from what a single person living alone requires.
3765. **Mr F McCann:** On the housing issue, would the legacy of conflict, underoccupancy and the difficulties that remain with people moving from one area to another have an impact on people's human rights? They may have been asked to move but refused because they feared for their life.
3766. **Dr Russell:** There is a clear, positive obligation on the state to ensure that there is no potential breach of the right to life. Given the nature of society here and the threat of sectarianism and all that goes with it, the choice of housing stock in which it would be appropriate to accommodate people is limited. That is only one particular circumstance. We also know that there is a higher level of DLA claimants as a consequence of the impact of conflict here. We do not, necessarily, have the highest level, as there is some debate about how the UK is broken up regionally.
3767. **Mr F McCann:** That is interesting. I have one final question on the cap on benefits. We were told that 520 or 580 families will be directly affected by that. However, over 13,000 people on DLA may also be affected by the transition to PIPs. Obviously, through the Bill, it has been decided to place a cap at a certain level. That will penalise a certain section of the community — those with large families. Is there anything there that you see as impacting on destitution or taking away people's right to quality of life?
3768. **Dr Russell:** The right to family and private life under article 8 of the European Convention on Human Rights would be engaged at that point,

and there would also be a potential breach of article 14, as it may be discriminatory.

3769. **Mr Corey:** It almost comes back to the earlier point of how you measure destitution and hardship and the impact that they have. If benefits are capped, it may not affect a small family, but it could start to have the impact that you described on a large family.

3770. **Mr Durkan:** Those comments are timely, as I was going to make a point about the UN Convention on the Rights of the Child. In my opinion, the inclusion of child benefit in the benefit cap is a breach of that convention. Further possible regulations will certainly be a breach, particularly as we have heard Iain Duncan Smith talking about stopping child-related benefit at two children. Article 26 of the convention states:

*“Parties shall recognize for every child the right to benefit from social security”.*

3771. There is no mention of just the first two children. What would be the implications if the UN Convention on the Rights of the Child (UNCRC) were breached? Do you think that this could constitute such a breach?

3772. **Dr Russell:** The Convention on the Rights of the Child is binding law on which the UK Government and the Northern Ireland Executive have to report back periodically to the United Nations. I am sure that the UN’s Committee on the Rights of the Child will look at that issue closely. It is not dissimilar to the previous point. I would imagine that, in the first instance, because you are talking about a move from the family unit with two children to the three children scenario, the most likely first avenue to explore would be whether family life was impacted in a discriminatory fashion, which would engage article 14 of the European Convention on Human Rights. You would then bring in the UNCRC on top of that. Domestic human rights protections and international protections quite often mirror each other.

3773. **Mr Durkan:** It is proposed that the mobility component of PIPs be removed from someone in a hospital or care home. Would that be a breach of human rights?

3774. **Mr Caughey:** The UNCRPD requires that disabled people be supported to live life independently. If a car was a necessary element of enabling someone to live life independently, there is certainly the potential for their not having one to have adverse implications on their right to an independent life. As far as I understand it from my reading of developments in England and Wales, the mobility component is to be retained for persons in care homes. However, that may be inaccurate.

3775. **Ms Brown:** Thank you very much for your very interesting presentation. I want to ask you about the lack of a childcare strategy and the necessary infrastructure and resources. That places women at an obvious disadvantage in relation to welfare reform. Will you give us your view of placing work-related requirements on women with childcare responsibilities and the possible sanctions? Northern Ireland is unlike England and Wales, where there is a responsibility to provide childcare. Are there any apparent human rights issues?

3776. **Dr Russell:** Yes. We addressed that issue in our submission, which lays out the standards quite clearly. Article 22 of the United Nations Declaration on Social Progress and Development 1969 provides for:

*“the establishment of appropriate child-care facilities in the interest of children and working parents.”*

3777. As with all the treaties mentioned in our submission, that has been ratified by the UK and is binding on the Northern Ireland Executive. Furthermore, article 8 of the European Convention on Human Rights might also, potentially, be engaged in that area, as could article 1 of the Convention on Eliminating All Forms of Discrimination Against Women (CEDAW), which does not allow for discrimination against women on the

basis of sex and in comparison with men. It demands equality in political, economic and, vitally in this instance, social life. All those could potentially be engaged.

3778. We are conscious that the situation with childcare here is different. There has been some indication — I do not have the figures to hand — that the demand for childcare is higher and would outstrip the current supply. So the requirement to attend interviews, for example, will obviously be onerous on women, and there is potential for discrimination. Again, I do not know. All this has to come with the caveat that we do not know what the regulations will say. A regulation could provide adequate protection to deal with this circumstance.
3779. **Mr Brady:** Fra talked about the double-whammy effect. We have been told that someone who receives an overpayment of £50,000 in benefit, or is jailed for an offence relating to social security fraud, will have their benefit sanctioned for three years. So someone who has spent two years in jail and is released will have their benefit sanctioned for a further year. He will return to the household with, say, his partner and three children, and they will not get benefits. Presumably, though it will depend on the outworkings of the regulations, he will be living in a household that receives a certain amount of money for his partner and children, but not for him. Presumably, he will be assimilated back into the household. Then we come back to the issue of possible destitution, whatever the definition of destitution may be. There seems to be no provision made for those circumstances. That sanction may well lead to the break-up of the family, because money will be coming in for only four people, not five. There are all sorts of implications connected with that. Would that particular situation be considered as a breach of human rights?
3780. Fra made the point that, if you commit a crime, you go through the judicial system and are punished. When you come out, you can immediately claim benefit,

but not if the crime related to social security. Since 2008, here in the North, the incidence of social security fraud has continually decreased, whereas the incidences of claimant error and departmental error have risen. DLA, for example, is the benefit least prone to fraud: it is less than 0.01%. Yet the demonisation of people on benefits has contributed to the general atmosphere around so-called welfare reform. There is almost an acceptance by some people of the attitude, “I am working, so why should those people be better off?” The reality is that all the changes to contributory benefits, such as ESA being paid for only a year, irrespective of how many contributions have been paid, will have an impact, not just on the working poor, the unemployed, or those on benefit, but on people who work.

3781. **Dr Russell:** Your first point was on the demonisation of those on benefits. The commission's views are quite clear: the human rights requirement on the state, under the European Social Charter, is to ensure that there is an adequate social security system.
3782. On the specific issue of prisoners, the deprivation of liberty is the punishment for the crime. The further punishment, which you suggest may be introduced after a prisoner has been released, raises a serious human rights concern. The commission would have to look at that in more detail. To date, we have not analysed that, but we will be happy to do so should the Chair or Committee see fit to ask.
3783. **Mr Brady:** We talk of demonisation, but what has been forgotten in all this is the duty of care that the state owes to the most vulnerable. If you listen to some of the media here and in Britain — I have said this before and will continue to say it — you would think that the Social Security Agency was some sort of charitable institution that gives out money like a church organisation or the Society of St Vincent de Paul. There is a duty of care to be met, and, as you said, a requirement on the state to provide an adequate — “adequate” is an important word in this case — social



security system for the betterment and enhancement of people's lives. I can say in all honesty that no one to whom I have spoken has ever said that they like being on benefit, or that they are there by choice. It is as simple as that.

3784. **Mr Corey:** Absolutely. You refer to the duty of care owed by the state to the most vulnerable. From the perspective of the Human Rights Commission, our priority is the most vulnerable people. People in prison are among the most vulnerable, and on their release they are also amongst the most vulnerable. As David said, the commission staff have not yet examined that, but if asked, we will pick up that point.
3785. You made a wider point about the demonisation of individuals by, for example, allegations of benefit fraud. At the end of the day, we all want a benefit system that is there for everyone. This is not about examining benefit from the point of view of people who have committed fraud but about benefits for people who are ill, disabled or lose their job, and the system should be there to protect everyone with dignity and respect. That is what this should all be about.
3786. **The Chairperson:** John, David and Colin, thank you for the commission's written submission and for your contribution today. It has been very important and very illuminating for all of us.
3787. I want to make one point. Most organisations that come here refer to the recent announcements by the Minister. Last week, he announced that the Bill would be modified to facilitate direct payments to landlords, for example, for people in receipt of universal credit and rent support. That will go, by default, to the landlord directly. However, there was a question about split single payments or monthly payments. The implementation of universal credit has been deferred from October 2013 to April 2014 to facilitate the development of the IT system to provide for the modification of the method of payment, either by way of single or monthly payments. Last week, however, I had discussions with

David Freud, who in no way accepts that the default mechanism will be that people can get their choice of fortnightly payments. That will still have to be negotiated by way of some type of special circumstances. The detail has not been worked out yet, but he made it very clear that they still want to pay as many people as possible monthly and by way of a single payment. I am just making the point that the Minister took that at face value, but it is for the panel to examine that, and people will submit their views on what form split payments might take. You have ideas, and the women's sector will have ideas. As yet, there has been no agreement on the ultimate nature of any modifications. Our difficulty, as a Committee, is that we will have to decide on the Bill at Committee Stage before any of those deliberations have been concluded, but it is up to us to grapple with that.

3788. For your information, we will complete Committee Stage and provide our report to the Assembly on 27 November. Your contribution has been a very important part of our deliberations. Thank you, and we will, no doubt, engage with you again.
3789. **Mr Corey:** Thank you very much, Chairperson.





## 31 October 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

### Witnesses:

Mr Pól Callaghan  
 Dr Rose Henderson *Citizens Advice*  
 Ms Louisa McKee

3790. **The Chairperson:** We will have a number of presentations and briefings today, the first of which will be from Citizens Advice. We have Pól Callaghan, head of policy; Rose Henderson; and Louisa McKee. Many of you will remember Pól. I formally welcome the three of you who are here on behalf of Citizens Advice. I remind members that at tab 1 of their Bill folders is the briefing paper from Citizens Advice, which was provided earlier. Without further ado, the floor is yours.

3791. **Mr Pól Callaghan (Citizens Advice):** Thank you, Chairperson, and thanks to the Committee for affording us the opportunity to come and speak to you this morning.

3792. Before I start off, I will just say that we obviously appreciate everybody has been working to a very tight time frame over the last while, but we would like the Committee's indulgence if any of what we said appears a little bit rushed or whatever else. We had our AGM with President Higgins yesterday, so we have perhaps been a little bit more distracted than would otherwise be the case had the timetable been different.

3793. I am head of policy and information for Citizens Advice. On my right is Louisa

McKee, who is our training manager. She specialises in mental health issues and engages in some voluntary work in that field outside Citizens Advice. On my left is Dr Rose Henderson, who is a member of our information team. She has more than 10 years' experience as a front line adviser in east Belfast citizens advice bureau (CAB), in particular, and elsewhere.

3794. As you indicated, Chairperson, we have already provided a written submission to the call for evidence. That hits on many of the key issues that we would like the Committee to consider. We will touch on some additional points this morning, because some things have come to light even in the past week to 10 days. We are conscious that the Committee will have had significant evidence from other stakeholders and from the Department, so we will try, in so far as we can, not to regurgitate things. There are obviously some points that our network would like us to hit on as well, but we will also try to hit on some new perspectives, raise new issues and bring new information to light where we can. However, there will obviously be some degree of overlap.

3795. I will give a brief overview of how Citizens Advice operates and how our work relates to the Bill; summarise some of our overview approaches to welfare reform and the Bill in order to provide some context; and make some brief comments on the Minister's recent statement on operational flexibilities. We will then proceed clause by clause through some of the things that we have put in our written submission and mention some things that have dawned on us since the deadline. I will deal with universal credit and some of the other elements and will then hand over to Rose, who will deal with the employment and support allowance (ESA). Louisa will deal with personal independence payments (PIPs). I will wrap up at the end.

3796. We have obviously provided some amendments as per the call for evidence. We have attempted to provide amendments where we think there would generally be little or no financial cost and where we think supplementary measures might be available to the devolved institutions to address some things. In so far as possible, we have put forward amendments that we think will attract reasonably significant support or widespread support and should not be too contentious, but that is obviously for the Committee and the wider Assembly to decide, not us.
3797. I know that some members of the Committee already know Citizens Advice very well. Some members have been involved in the bureaux in the past, some have been on management committees and others have been very strong and powerful advocates for their local CAB. Those are all roles that we respect, acknowledge and appreciate.
3798. Citizens Advice provides information and advice to the public in 28 main offices across Northern Ireland and in over 100 outreach outlets and services. According to MORI, there is 98% awareness of Citizens Advice among the Northern Ireland population. To give a degree of context to our work on welfare reform and the people who will be affected by it, 39% of adults who live in homes where the household income is less than £15,000 have used a Citizens Advice service in the past three years. Our offices handled over 305,000 issues last year on behalf of 84,000 clients. Over half a million items from our online advice guide service were downloaded on to Northern Ireland computer stations. Last year, we provided advice on over 40,000 issues relating to disability living allowance (DLA) alone. So between the migration from DLA to PIP, universal credit and the other aspects of the Bill, we anticipate that there will be a significant impact on our work and on the people who come to Citizens Advice looking for help and assistance.
3799. We obviously work closely with our sister organisations in England, Scotland and

Wales and with Citizens Information in the Republic. I know that some of you will be aware of some of the partnership work we have done, including the recent report, 'Holes in the safety net: the impact of universal credit on disabled people' by Tanni Grey-Thompson. So I will not dwell on that too much this morning, but we will obviously be happy to comment on it.

3800. I will touch briefly on the potential impact of the Bill without regurgitating too much of what other advice providers have touched on. Significant impacts will include issues such as the major switch entailed by the move to digital default, and particularly the search and demand for advice and information in the context of having a dual system in operation for some time. Most of the external commentary assumes that the switch will take place overnight, but we will, effectively, run two systems for advisers and the public for a significant number of years. There will obviously be a rise in appeals; training requirements for advisers; changes to case recording systems internally; changes to our public and internal information systems; and some physical investment will probably be required in new facilities, particularly to deal with the online dimension of welfare reform.
3801. We are aware that the overall Bill is largely a read-across from the Welfare Reform Act 2012, and we are aware of the devolutionary constraints under which the Assembly and Committee are working. It is an enabling Bill, and, as others have said to the Committee, much detail remains unconfirmed and we await further information on regulations, including input from the Department for Work and Pensions (DWP) in December. There has been quite a lot of consultation here and a lot of input from many different stakeholders. It is not the Committee's fault, but there has not been as much output in the form of certainty as people might have hoped for, so we still do not know the range of elements to be tabled in relation to PIP and various other things. To some extent, we are in

- the dark and some of what we say is a result of that.
3802. We welcome in principle the idea of simplification in welfare reform. The idea that fewer agencies will interact with clients and that there will be less duplication makes sense. The drive to employment is obviously welcome, but the Committee is well aware of the lack of employment here. So, our real problem is not the drive for employment but the lack of employment, and I do not need to tell any member of the Committee about our region's latest unemployment statistics. Citizens Advice is worried by the practice of cuts often being dressed up as reform, and elements of the Bill fall into that category, particularly its impact on disabled people and the 20% statistic that the Committee is well aware of.
3803. Various elements of the Bill appear, to us, to be contradictory, and that theme runs throughout the Bill. For example, the Committee may have heard the point made that sanctions may result in people losing their home. That does not bode well for helping people to secure employment or get new employment. As recently as this week, the Confederation of British Industry (CBI) expressed some concern about the potential impact of universal credit on the business community as whole. There are obviously burdens on enterprises and young entrepreneurs that may go against encouraging people to start their own business and get into work. We share that fear.
3804. There are some particular issues around the loss of flexibilities in the tax credit system, which makes the reforms quite complex. We are concerned about the sanctions-first approach that is led by the DWP in particular. We think that it is based on misconceptions about the level of benefit fraud and we fear that there is a lack of evidence behind the sanctions-first approach, as is demonstrated by research findings.
3805. Overall, the Bill purports to reflect real life in the real life working environment. However, in respect of the reality of self-employed people's work and how they organise their business, what is in the Bill coming across from London does not. The proposed reporting systems and the removal of cautions go against how the legal system generally works and various other things.
3806. So, some initial general observations and themes that do not relate to one particular part or clause of the Bill but seem to be recurring issues that the Committee may like to hear and might already have in mind. The first is the whole issue of gross and net savings. The explanatory and financial memorandum and other departmental documents provide various estimates of savings. Perhaps the Committee has been brief on this already, but we are a little confused about whether all these savings are gross, net or sometimes a mixture of both.
3807. I know that you have heard evidence on some of the secondary consequences of various cuts. If you are looking at things such as disabled students' allowances (DSA) time-limiting stipulation, the obvious question is whether that saving is one that is net of the impact on jobseeker's allowance (JSA) and income-related ESA. Do the figures for youth ESA provided to the Committee reflect the impact on income-related ESA? We will touch on the fact that it seems to us that that is not the case. Housing underoccupancy sanctions have an obvious impact on discretionary support costs as well.
3808. Then there are the wider cost implications, which, I imagine, many of the disability charities would have raised. With PIP, there is the impact on appeals, on the health system and on the mental health budget. With regard to ESA time-limiting, what are the effects going to be on retirement provision? The Department of Health, Social Services and Public Safety (DHSSPS) is leading on the adult care consultation that is running until March 2013.
3809. Obviously, quite a number of the things that are in this Bill will directly impact upon the ability of people in their 50s

- and 60s to provide for their care in old age. So there is an issue of joined-up thinking there. If you look at the whole area of sanctions, particularly the higher end, it appears to us that there has not been enough focus on the unspoken potential consequences, such as the impact on the criminal justice system. As people are sanctioned at the higher end, is that going to result in higher crime that will impact on other people in those communities which will already be impacted upon severely by welfare reform? Then there are the impacts with regard to family breakdown, with the costs to social services and whatnot.
3810. I have just mentioned the lack of joined-up thinking. Look not only at adult social care but also the not in education, employment or training (NEET) strategy, the purported increased focus on people as they get older in the workforce, and the whole issue of mixed-age couples and people who are retired and who are now coming into the realm of universal credit. There is a bit of confusion around that. There is certainly an issue about the resources of the Department for Employment and Learning (DEL) being focused more towards older people, according to the stipulations in this Bill. Arguably, we need to be focused more on younger people and getting them into the workplace for a longer period of time. There will be consequences such as a lower standard rate for under-25s which will have an impact upon the ability of people under 25 to secure education and training for themselves and to get into productive employment.
3811. As to ESA in youth, DWP has estimated that 90% of people who fall out of the ESA in youth provision will then qualify for income-related ESA. On the figures provided by the Department of £390,000, in broad terms, if that meant that there was a net saving of £39,000, that is the starting salary for a principal officer grade 7 in the Civil Service. I have no doubt that there will be at least one principal officer assigned to deal with this; probably he will have a team under him. So that is actually the saving at the end of the day. So maybe that is a question that the Committee might want to ask. It is something that struck us as an odd working together of the numbers.
3812. The whole question of under-earnings is one that we are a bit concerned about. Particularly when unemployment is so high — you will have heard this argument before from others — it seems strange that we are going to be pursuing people to increase their earnings. Maybe the focus should be, particularly as DEL's services are under strain, to get people into the employment world at all. The lesson from the changes to working tax credits earlier this year is that, when people needed to increase the number of their hours to maintain their working tax credit entitlement, they found it very difficult to do that. Especially, for example, people working in major supermarkets and whatnot else sought to increase their hours and found it very difficult to do. And that is in the context of people seeking more hours. We think that this smacks of people being punished for being low-paid, and we are worried about that. The Committee might want to think — as it may well be doing — about how things like the social protection fund may be utilised in order to ameliorate some of those points.
3813. We look at welfare reform in the round, and the whole question of parity and everything else. Things might be applied equally in England, Scotland and Wales, but over here the impact can be very disproportionate. We think that there is potentially an insidious consequence of the under-earnings approach, as opposed to the under-working approach — which is the working tax credits approach. As I have already said, it penalises people not for working less; leaving aside all the other things, it punishes them more for being paid less, which, we think, is more than a little unfair given their burden.
3814. If we look at average earnings here, they are obviously 16% lower than the UK average, according to the Labour Force Survey of June this year. In particular, we are concerned about the impact on women. In this region, women earn £71



- a week less than local men on average. Obviously, if under-earnings is going to be a driver for work requirements and sanctions, it will impact more upon those who are earning less, which, in this case, is women.
3815. Let us look at this in the round, when people are talking about parity and what might merit the making of a particular case here, or steps being taken here. To put it most starkly, if you look at the Labour Force Survey (LFS), which assesses average earnings across every region of England, Scotland, Wales and Northern Ireland, and between men and women, with the exception of Welsh men, men here on average earn less every week than anywhere else. Women here not only earn less than women anywhere else in the UK but, on average, earn £384 a week less than men in London. So, the axe will not fall hardest on your average man in London. The Committee will understand well some of the other considerations behind all this, but it appears that women here will be hardest hit of everybody who will be impacted by the under-earning provisions. We think that that is very unfair and penalises people for their circumstances rather than their motivation to be in the workforce and to be productive in that context. So, that is what we have to say about that.
3816. There are some themes to keep in mind. You will be aware of various arguments about childcare and the fact that we are effectively 15 years behind England according to Employers for Childcare. A piece of research from the Resolution Foundation in the UK this week disclosed in its Counting the Costs survey that two parents working full time on the minimum wage with two kids will end up £4 a week better off. The local implications and statistics will be slightly different, but there are issues about making work productive for people and practical implications in the Northern Ireland context, particularly with the rural dimension, which rural members will understand. There are also issues right across our region that maybe merit a different approach.
3817. issue of school hours is quite different. As we understand it, children in school, especially younger children, will generally be released from school at 3.30 pm in England whereas, here, many of those children, as many of the parents here will know, will be released at 2.00 pm. That has an impact, especially on people who are trying to work around school and around childcare responsibilities. School holidays here tend not be co-ordinated, and that has an impact on people's availability for work and their childcare costs.
3818. Another dimension that members will be aware of from their constituency experience is the issue of where childcare is located. In the Derry area, parents in places such as the Bogside were told that nursery places were available in places such as Claudy and Eglinton. As a lone parent, you will be sanctioned because you have been told that childcare is available in somewhere such as Claudy or Eglinton. That is not fair as far as Citizens Advice is concerned, and I am sure that that example of nursery provision will be replicated in various other places. We need to be very careful about the rules and regulations once those issues are drilled down over the next number of weeks and months.
3819. The Committee will have heard quite a lot about disability already. I have mentioned the 'Holes in the safety net' report that Citizens Advice did at UK level with the Children's Society and Disability UK. People who are disabled will be affected by a number of things such as the 12-month time limit and the loss of the severe disability premium by the position that the UK Government are taking on the Gorry case, which involves underoccupation and two disabled children. As we understand it, the UK Government have been granted leave of appeal to go to the Supreme Court, and that will start in December. To Citizens Advice, that appears to effectively be a 14% disability child penalty on families that have two disabled children rather than one. If they have to separate them out, effectively the state will



- penalise them for having to make that accommodation themselves even though the Court of Appeal has already said that that is unlawful. Maybe the devolved arrangements could look at that and the social protection fund.
3820. You will have heard a number of arguments around PIP, such as the likely cut in numbers of people who are entitled to higher rate DLA as we move across to enhanced PIP; the forwards/backwards test; the increase in the anticipated condition from three plus six months to three plus nine months; issues around deteriorating conditions; the reduction in the absence period that is provided for; and passported benefits. That is all in the context of the 20% cut underpinning the welfare reform approach.
3821. One other issue that we have taken up is to do with transitional support, and we have been in contact with the Department and the agency on that. I am sure that the Committee is well aware of the issues around that and that transitional support will be effectively calculated at the point of migration for people as they move into the universal credit system. The figure is then locked, but it is locked as an actual figure, not as a real-time figure, and there will not be any index-linking. The real value of that figure will decrease over time, and there will be a loss in earnings or income for a number of people compared with the current system. Another important point about transitional support is that any change in circumstances will trigger its removal. We have exchanged correspondence with the agency about that, and its position, as outlined to us, indicates that any change will trigger that. The loss of any element could include, for example, the birth or death of a child, or even, presumably, the loss of a job. So it seems that, potentially, people will be penalised for taking up and then losing a job after universal credit comes in, which seems to run totally contrary to the stated public policy intention of the system. My final point may require further clarification from the Department, but is probably worth asking the question if it has not already been posed.
3822. At a policy level rather than its impact on advice providers, the CBI and the Local Government Association in England this week expressed further concerns about the timetable for the “digital by default” provision, which is of concern to anybody with a stake in how the system will apply here. The lesson of the Ulster Bank’s failure in the summer is that people will be worried by both what happens if there is a delay in the migration to the new system and how people’s payments will be provided if there is a failure in that system. I am sure that the Committee is already considering that.
3823. The Committee will know that 30% of people in Northern Ireland do not have access to the internet at home or at work. People here who are on benefits are, by definition, more unlikely to have access in work anyway, so increasing the digital divide. The rural dimension is particularly important here, given that we have a disproportionately rural population. Although the numbers of people with internet access at home are broadly the same in urban and rural areas here, the implication of not having internet access in a rural area is that people are further from a library. Even leaving aside the issue of opening hours, which I think that members mentioned, rural dwellers are further away from advice centres and other such places, including MLA constituency offices, so it is harder to get access to the internet. There will also be issues around secure internet access from public places, and so on.
3824. Just a day or two ago, the Joseph Rowntree Foundation released data that it commissioned through the University of Portsmouth that shows that only 40% of claimants in England are currently ready and able to use an online system. Only 20% of claims in England are currently done online, and there are clearly huge challenges there. It may be that the idea of trusted *[Inaudible.]* in the advice centre, which Louisa may touch on, could be considered in the Northern Ireland context. We know

- that Advice NI previously spoke to the Committee about a statutory right to advice. The general terms of that would need to be worked out, but Citizens Advice thinks that that would be a useful idea, particularly in the context of a more sanctions-focused system that will have consequences for people who do not do things within stated timelines. It is important that people have a reasonable opportunity to secure reliable advice, which would, presumably, also end up costing the state less in resources, appeals, and so on, which makes sense to us.
3825. Will I finish the first part of the presentation by moving on to the Minister's statement?
3826. **The Chairperson:** Work away.
3827. **Mr Callaghan:** Some detail remains to be worked out, but we welcome the progress that the Department and the Minister have made in their negotiations with Lord Freud and others in DWP.
3828. The Minister's statement did not contain further details on the question of payments to landlords, so we are still a bit in the dark about when and in what circumstances clients can opt out. There are also all sorts of issues about care for clients who may have mental health challenges, such as dementia, and how that will be handled. The Minister said that there would be further consultation on determining the criteria around split payments and more frequent payments "where necessary". What exactly will "where necessary" mean? Citizens Advice is firmly of the view that child payment elements of the various benefits, moving forward, should follow the main carer in the home in any split payment and that the housing element, if it is to be taken directly by the tenant rather than the landlord, should go to the person who would normally be responsible for looking after the housing payment to the landlord. The Minister touched briefly on other issues, such as money advice, financial planning and banking products. There has been some recent engagement between the Department and advice providers and other stakeholders on that. The Committee will probably just want to keep a watching brief on that area for now.
3829. Before we go to the clause-by-clause commentary, may I stop to catch my breath?
3830. **The Chairperson:** Fair enough. It is entirely up to you how you make your presentation, but you may want to bring in your colleagues to make their points, and we will take members' questions at the end of your presentation. It is entirely up to you, Pól. The floor is yours. Feel free to make your presentation in whatever way you want; this is your session.
3831. **Mr Callaghan:** Does a member have a question that you want me to deal with?
3832. **The Chairperson:** Members want to come in. They have indicated that they wanted to come in, so we will wait until you finish your presentation. We may have the answers before you finish.
3833. **Mr Callaghan:** Maybe not. As my mother often told me, Chair: quality and quantity are not the same.
3834. I will try to run through the clauses of the Bill as quickly as I can. As I said, we are not going to go through everything that is in our submission. You have that in writing.
3835. We deal with clauses 3 and 4 on entitlement in our submission. We think that the issue of mixed-aged couples will cause considerable distress and unease. The lack of clarity about the effect on people who would currently be deemed to be in retirement and in receipt of various retirement payments, either occupationally or from the state, will, once there is some more public traction, cause concern. Universal credit is supposed to be a working-age benefit, and, at least nominally, we are being told that those who are retired will come into the sphere of universal credit if they have a partner at pension credit age. The Committee might have further information on that, but, as we understand it, we do not know whether that means that any work requirements will fall on the older partner. It may be

- that that is not the intention, but there is a little bit of distress building on that. If it is meant to be a working-age benefit, it would be a little unfair to extend the working age by your choice of partner. Some people might say that that would entail additional work anyway, but that is another issue. Clearly, as we move forward to 2018 and beyond, the rising women's pension age will bring more people into that net. As I think other witnesses have testified, there will be implications around DEL resources. I am sure that the Committee is addressing those.
3836. We feel that clause 4 raises some issues around the habitual residence test (HRT). I know that members are aware of the issues of inconsistency, subjectivity, and so on, to do with the habitual residence test. I will try not to say HRT, because I know that that would cause some confusion. The Committee is probably aware of issues at an EU level between the European Union and the UK Government, the European Union's unhappiness at the right-to-reside element of the test and its deeming that it falls contrary to the discrimination elements of the treaty and EU regulations on social security co-ordination. As I understand it, Commissioner Andor has given the UK Government two months to come back to the Commission with their position, but the Commission has also indicated that it will take a further legal challenge on that to the European Court of Justice (ECJ). Although that is a relevant point for the Committee to consider, and there is a lot of uncertainty about how the HRT will work in practice, there is certainly a lot of dodgy sums involved in the calculations and in what it will and will not cost. Twelve months ago, Iain Duncan Smith said that the cost to the Treasury of repealing the right-to-reside element of the habitual residence test would be £2 billion, and, last month, the Treasury released new figures giving the actual cost at £155 million. When we have major questions of public policy being determined on such wide-of-the-mark calculations, I do not think that that is a place that any of us want to be in.
3837. On the Northern Ireland-specific elements of the habitual residence test, there are particular views on our tradition of emigration and people going away and coming back after working for many years outside this jurisdiction. Our approach is that, given the work conditionality that is being built into universal credit in particular, we do not really see the need for the habitual residence test to be applied in its current form. Why put in place that extra barrier when the whole point of universal credit, as the coalition Government would describe it, is so that we do not have people relying on the state and not wanting to work?
3838. One of the things that we think might be worthy of some more attention by the Committee is the question of people who come back here to carry out caring responsibilities and those who return after a family break-up. They may have moved away with a partner, have come back and are facing difficulties in that context. There may be other areas in which the social protection fund might want to be considered by the Committee.
3839. Clause 5 deals with financial conditions and the area of capital limits. I know that the Committee is very aware of the various impacts that the switch from tax credits and pension credit will entail. Quite a lot of the discussion up to now has focused on older people and those who are approaching retirement age. We are also worried about the impact of the capital limit stipulations on younger couples who are saving for a house deposit, and for parents of disabled children who have set aside money to provide for the future care of that child. As people get older and if, for example, one of them falls out of the workforce, there will be a significant impact with capital limits in universal credit. When that is mixed with the 12-month time limit in the ESA work-related activity group (WRAG), it could have a calamitous effect on people's finances when, in fact, they should be saving for older age. That again falls in with the question of *[Inaudible.]* and what we are going to do around that. There is also

- the mixed-aged couples dimension and pensioner poverty, on which I know that other witnesses have testified previously.
3840. Clause 6 deals with restrictions on entitlement, and we have a bit of an issue about the waiting period that is set out in the Bill. The Bill is supposed to provide for a seamless transition between being in and out of work. That is especially important in the context of lower-paid and insecure workers —those who do not have security of tenure. The Joseph Rowntree Foundation has done quite a lot of work on that both in the Northern Ireland and wider context. There is, perhaps, an opportunity to maximise the potential of the real-time information system. When that comes in, a seven-day statutory limit for a claim to be processed seems overly generous. That is why we have suggested that an amendment be made so that that limit would be capped at three days in law here. That is in our submission.
3841. Clauses 7 to 10 deal with awards. I have touched on the issue of under-25s and the impact of a simplified standard rate on the NEETs strategy, and so on. On clause 8, we have raised an issue about tax credits. We would like to see a designation of all statutory payments, such as statutory sick pay and maternity pay and comparable benefits such as maternity allowance, being considered as earnings for universal credit purposes. At present, they are classified as earnings for working tax credits. If they are not captured in the disregard, it could entail an actual loss to people as we move across into the universal credit system, especially for those who are new parents or who are in early illness. We are also worried that the transitional protection provisions would be triggered and that transitional protection might be removed from people if they were to fall in or out of those benefits. If someone falls sick, for example, has a child or has had a child before they move onto universal credit and come off a payment such as statutory maternity, that in itself would be a change of circumstances, even though the child has been born. They would lose that transitional protection.
3842. The Committee has heard various arguments on self-employment. Our view is that the system should ideally be constructed on actual earnings rather than on assumed or deemed income. When we talk about self-employed people, very often we are talking about individuals such as taxi drivers or plumbers and those who do not necessarily run medium-sized enterprises. Whether it is an individual or someone running a small shop or local business, various things such as the impact of the recession on trading and even an event such as a burglary or fire in a premises or someone going on maternity leave or falling ill will have real impacts on their actual income, which would not be properly accounted for in the deemed income system. We are concerned about that. We also share some of the concerns that others have expressed about the burden of monthly reporting that will be placed on people. That is not really based on the reality of how people go about their monthly business. We would be concerned that it might have the adverse consequence of directly or indirectly causing some people to go into the black market, who would not otherwise do so.
3843. In the Northern Ireland context, there is a particular issue about the rural community and farmers. Presumably, they will be classified as self-employed for many of the purposes of universal credit. When we have had a spring, summer and autumn such as we have had, farmers being deemed to have certain incomes is not necessarily reliable or desirable. That could have a further impact on rural incomes over and above the difficulties the rural community already has.
3844. I will not dwell too much on the one start-up every five years issue. I know that you have been briefed on that by other stakeholders. I want to make a couple of other points on the issue of disability. The first point is dealt with in our submission, and for the purposes of the presentation, we will refer to it as “post-trauma income”. DWP regulations provide for certain disregards on earned



- income such as personal injuries payments. The regulations specify that certain special compensation schemes will also fall into that classification. They stipulate three categories in particular: people who have received compensation for Creutzfeldt-Jakob disease; people who were compensated for contracting HIV from a blood transfusion; and people who were compensated as a result of the 2005 London bombings. At this stage, because of time pressures and various other issues, we do not have the answers, but the Committee may want to look into that. If those types of regulations are being provided for in England, it raises questions about fairness here for people who are receiving payments as a consequence of the Troubles or who may receive payments as a result of child abuse in an institution, and so on.
3845. The issue of housing benefit and rate relief calculations is a separate but not entirely unrelated point. At present, there is a mandatory disregard of war widow's pensions, widower's pensions or war disablement pensions when assessing entitlement to housing benefit. It appears that that entitlement will go when we move across to housing credit as part of universal credit. For example, a recent client who was part of our Royal British Legion (RBL) project and who is 75% disabled receives a war pension and his full housing benefit entitlement because his war pension does not count towards his housing benefit calculation. However, as we understand it, he will lose that entitlement when we move across to universal credit. It is important to point out that one of the reasons why that is not dealt with in the regulations in England, Scotland and Wales is that they do not have a mandatory disregard. It is discretionary because the housing system is administered at a decentralised level. That will be not an issue for DWP, but if the regulations were simply transferred across, there could be an unintended consequence here. There have been other recent issues whereby there have been unintended consequences from reciprocal
- arrangements. The Committee may want to raise that with the Department.
3846. In respect of responsibility for children, and disabled children in particular, there is an issue with moving away from tax credits. The disability element of child tax credit, which is £57 a week, will be arbitrarily cut to £28 a week for many disabled children unless they are blind or on the higher rate of DLA. If the motivation is to move parents into work, it is important to consider that childcare for disabled children is particularly hard to secure because of the lack of availability and because it can often be more expensive. From family experience, I know others will know this too that that is a particular problem, and it needs more care and attention, not less. Citizens Advice, therefore, recommends that the Committee suggest the establishment of a special childcare fund for disabled children as a bespoke initiative to mitigate the impact, if it is impossible to do that through the benefit system per se. We do not have numbers for the quantum involved, but presumably it would not be tens of millions. I am sure that questions could be asked of the Department.
3847. Clause 11 deals with housing credit. Do not worry, I will bring in some of my colleagues soon enough. Some of these comments also relate to clause 69. I know that the Committee is very aware of the various arguments around the underoccupancy provisions, such as the nature of our housing stock, the University of Ulster research and the particular circumstances here. I think that somebody used the example of Tiger's Bay and New Lodge at one stage. Fundamentally, our view is that people should not be penalised for not moving when there is nowhere suitable for them to move to, given our local circumstances. The fact that there is less protection for mixed-age couples, whereby the younger person triggers universal credit, is another issue. Again, we just do not know what will happen there, and we need more clarity.
3848. I know that you have been briefed previously on the issue of the zero-

earnings rule for owner-occupiers getting housing benefit help as they move across to housing credit. That appears to be particularly unfair on people who are trying to engage flexibly with the labour market, such as carers or people with disabled children. Universal credit is supposed to be a seamless transition. However, the reality for young people and low earners who are often in and out of the workforce in an unpredictable labour environment is that this is not a seamless transition but a cliff edge. Although to some extent it mirrors what happens with working tax credit, universal credit is supposed to be better than that, so that is something to consider. The Committee has already received evidence on support for mortgage interest and the impact of that on arrears. We are fearful that that might be an extrapolated problem as we move across.

3849. We have made three recommendations on housing credit. In our view, a change-of-circumstances trigger should not apply until two years after the change of circumstances, partly to reduce the demand for smaller properties that the underoccupancy provisions generally will bring about as people come into the system new rather being subjected to transitional protection. We do not believe that the underoccupancy provisions should apply in any circumstances in which suitable alternative accommodation cannot be made available, and we think that there is a reasonable ground for arguing that that is not an issue of parity but an issue of local reality and local public policy. Ideally, we think that the Committee and decision-makers should hold the line a little until we see the outworkings of what is happening in Britain. DWP has suggested that 35% of claimants will fall into rent arrears. There is clearly already a huge problem with rent arrears in the Housing Executive, for example, and it seems illogical to proceed, potentially to create many more arrears, before we know what is going on. We can wait and see what might happen across the water.

3850. Clause 12 deals with child carers. You have heard about the removal of the

severe disability premium (SDP). I note that in Tanni Grey-Thompson's report for Citizens Advice, Disability UK and the Children's Society, she recommends that a self-care element be introduced into universal credit if the SDP cannot be retained. If that cannot be done as part of universal credit, it could be addressed as a supplementary non-benefit measure here, and a separate fund could be set up to deal with that because, although we do not have the figures available today, the numbers of people and the amount of moneys will presumably not be overly high.

3851. One issue that is not in our submission and, as far as we can establish, has not been picked up by anybody else – I am sure that I will get some odd looks if it has been – is the loss of carer premium from ESA. Since we put in our submission, we have noted that the DWP regulations state that people will be able to receive either the amount for limited capacity for work or the carer element of universal credit but not both. That represents a significant departure from the current arrangements. It seems to be predicated on an assumption that people who are on ESA and who have been assessed as having a limited capacity for work cannot care for somebody. However, if people have been deemed by the state, particularly given the various issues with ESA and assessment, as having some capacity for work – it might be limited, but there is a capacity – and if they have a capacity to work, surely they have a capacity to care and should be accommodated appropriately. If this proceeds as we understand that it will if the regulations are read across, that will be a potential loss of £32.60 to an awful lot of already hard-pressed households.

3852. I will jump to clause 14 and the claimant commitment. There is a lot of merit in the claimant commitment approach, but it should be based on partnership rather than on stipulation on the part of the Department and the agency. You are aware of the issues of sanctions and what happens if there is one refuser. It seems to us that there is potentially



- a [*Inaudible.*] element to that and that other people would be punished for the “offence” of the person who refuses to sign. That will add to distress and, potentially, domestic abuse, mental illness and various other issues, and we endorse calls from others for a single rate to be paid to someone who signs and the amount for children. There is little evidence that sanctions work, which we have referenced in our paper. It is potentially counterproductive to impose sanctions that last after someone re-enters the workplace, because it acts as a deterrent to people coming back, given that they would then have to repay the sanctions. We have various examples of clients who are unaware of the reason for a sanction being imposed. If a client is unaware of that, it becomes solely a punitive measure without any constructive learning or developmental impact. There is one case from a bureau in Scotland in which a dyslexic client was sanctioned after having made the employment support service aware that they could not use computers because of their dyslexia. That person was then sanctioned for not using an online system and was not given the reasoning until after they enquired after the sanction had already been imposed. We certainly do not want examples such as that here. So we are recommending that claimants are asked to affirm their understanding of the reason for any sanction before it is proceeded with. That would ensure that reasons are understood, and it enables a claimant to challenge the decision or provide a good reason in prompt fashion thereafter.
3853. We have also provided another amendment to do with partnership, which effectively could be summarised as follows. Years ago, when women were getting married, they had to say that they would honour and obey their husband. I do not think that anyone who is reasonable would now suggest that that should be done. Effectively, the contract that the claimant commitment purports to make is that you will honour and obey what the state tells you, which is not much of a contractual undertaking. We think that a more mature and constructive approach should be taken to that.
3854. I will move on quickly. Clauses 15 to 24 are on work-related requirements. We have raised a particular point about “improving personal presentation”. We think that that should be proportionate to the person. It is potentially unlawful, but it will certainly be helpful if, in order to keep it lawful, there should be clear — I almost said “clean” — fair and well-understood guidance arrangements both for claimants and for front line officials who are taking decisions.
3855. As to clauses 17 and 18, it is important that clause 18 is tailored to the circumstances of the claimant. It makes sense for claimants and also for getting the most economic impact for them once they get back into the labour market, given their skills, experience and many other things.
3856. One thing that citizens advice bureaux have reported over the past few years of the recession is that, in many cases, jobs and benefits offices are not very well suited to dealing with people who come in with high education levels or very high levels of skills in the manual sector, and so on. They are not well geared up for that. Perhaps, as we move forward to the new system, we need to have a more client-focused system rather than a bureaucratic one.
3857. There is one point about under-earning. At clause 18(5), we think that the regulations that are provided for here should explicitly protect people who are working but under-earning from sanctions to ensure compliance with existing work demands. In other words, if people are called to interview with the Social Security Agency (SSA) because the Department has decided that they are not earning enough, given that they are in work — this will be a new phenomenon — potentially people will then be subject to further requirements and sanctions. In complying with the Department’s requirements, they should not then have to fall foul of their existing

- employers with regard to rostered hours, and so on.
3858. With regard to clause 22, you have already heard about the 35 hours per week of having to look for work, and there are various issues around EU migrant workers. We endorse what organisations such as the Law Centre have said on those issues.
3859. With regard to clause 23, we have suggested another amendment. When interviews are being scheduled with the stated aim of assisting a claimant to comply, there should be a statutory obligation on the Department to make at least a reasonable effort to have regard to the circumstances of the claimant, his or her caring, work or other arrangements, before that is done. That is not a veto; it is just a provision “to have regard to”, like many other statutory duties.
3860. With respect to clause 24, we have provided two amendments, which would be consequential. Those have to do with hate crime. As the Bill stands, it provides for a 13-week suspension of requirements that have been imposed on people if they are victims of domestic violence. We believe that that should be extended to people who have been subjected to hate crime, particularly in the event that it is so significant that it disrupts their family life, to the point at which they need to be rehoused. We do not have exact numbers, but the evidence that we have been able to deduce is that the Housing Executive reported last year, in the first quarter of 2011-12, that there were 10 cases of hate crime that required legal intervention, and there was no indication in any of those 10 cases that any rehousing was required. So presumably the numbers of people affected would be very small, and that could also be addressed by the supplementary fund.
3861. With clauses 26 and 27, there is a technical point that is important for clients, which is to do with sanctions and the issue of appealability. Paragraph 97 of the explanatory and financial memorandum appears to indicate that the sanction decision will be appealable but not the decision to impose work-related or connected requirements or a claim of good reason. That clause may raise issues with article 6 of the Human Rights Act concerning due process and the right to a fair trial. Effectively, we are unclear about how a sanction decision can be appealed but not the other decisions unless manifest maladministration is the only thing under appeal. You cannot really decide on a sanction decision if you cannot take the other factors into account. So, the other things should be appealable too, because that prevents things building up to the point of a big appeal, which is more complex and distressing for everybody concerned.
3862. Clause 28 deals with hardship payments, and you have already heard the various arguments about the shift from a grant to a loan system.
3863. Clause 33 brings into the realm transitional protection arrangements, and we have already touched on some of those issues.
3864. Under Part 2, which is on page 18 of our submission, we have suggested two amendments to clause 45. Again, our comments on the recoverability of hardship payment apply to clause 47. Clause 50 concerns work programmes, which we refer to on page 9 of our submission.
3865. Chair and everybody else, I am sure you will be pleased to hear that I am going to hand over to Rose, so I will get a break, and you will get a break from me.
3866. **The Chairperson:** OK, Pól. Thank you very much. Fire away. It is OK; just take your time.
3867. **Dr Rose Henderson (Citizens Advice):** I am going to address the proposed time limiting of contribution-based ESA, of which I know you are all aware. I would just like to remind you of what Ms Pollock from DSD said about the clause. She said:
- “ESA for people in the work-related activity group was only ever intended to be a benefit*

*for temporary, short-term interruptions in employment. It is considered that a limit of one year allows people time to adjust to the effects of their health condition, and the benefit provides support for them while they do so."*

3868. I think that those words will sound quite hollow for a lot of our clients. A typical person falling into that category might be medically retired from a job they have done all their life. They want to work, but cannot, probably because of the toll their job has taken on their body. As we know, over-50s have great difficulty in returning to the workforce. That is what the 50-plus element of the working tax credit was about, though that has now been abolished. As one client said to me, "I have no qualifications and a bad back; what job can I apply for?" For those people, we are not talking about temporary, short-term interruptions in employment. Realistically, there is no work out there for them.
3869. You have heard from others about the unfairness of the proposal. People who have paid national insurance all their lives will be denied benefit at a time when they need it. The people hardest hit will be those with a partner who works or those with savings, because they will not be able to access income-related ESA. They are the very people who, in the Prime Minister's words, did the right thing. They saved for their old age and now, just as they are coming up to retirement, their savings will be eroded. The DWP estimates that, in Great Britain, 48% of those who will lose out under this proposal will be over 50.
3870. Another aspect is that the 365-day time limit will apply retrospectively when the Bill becomes law. For instance, in England, where the Bill went through in April, people started losing their benefit straight away, because they had already been in the work-related activity group for a year.
3871. The Law Centre has noted the cost of breaking parity on the issue. However, we would like to draw your attention to the significant difference between here and GB. In Great Britain, letters were sent to affected claimants in 2011 to

warn them of the proposed change in April 2012, allowing them a year to plan. We have asked the ESA branch about notifying claimants here, but it says that it cannot do anything until the Bill is passed. There is some information on NI Direct, but it went up only in the past couple of weeks. So, there is lack of information here. All we want to say is that as no notification has been given to claimants about a change in benefit, which could see them losing up to £99 a week, we propose that the 365-day time limit should run only from when a claimant is informed of their potential loss of benefit. That would give them a year to plan for what is a significant loss of income. After all, one of the thrusts of welfare reform is about financial responsibility and planning, so this would fit in with that aim.

3872. As Pól said, we would like to see an assessment of the net cost of the implementation of the claim. He talked about people moving on to income-related ESA and JSA. Other people will try to get moved into the support group, which is not time limited. So, there will be more assessments and appeals and even greater demands on an advice sector, which is already trying to get to grips with ESA work.
3873. If time limiting is implemented, there is lack of clarity about what will happen when a claim ends. It is important that claimants who qualify for income-related ESA move seamlessly between the contribution-based and income-related claim at the end of the 365 days, so that there is no gap in their entitlement. However, there are ongoing problems with people claiming both income-related ESA and contribution-based ESA. This is quite complicated. As you know, you cannot get premiums on contribution-based ESA. So, if you have a disability or housing cost, you have to claim income-related ESA at the same time. For example, a client with mental health problems recently came into our Newtownabbey bureau, where the adviser saw that he was not getting the right amount of money on his ESA. He should have been getting a severe

disability premium. When she rang the ESA branch, she was told, “Oh well, he hasn’t applied for the income-related; he applied for contribution-based ESA”. But it is difficult for clients to understand that they have to apply for both. We are flagging up the need for a simple, straightforward and robust system to be in place so that claimants who are transitioning from income-related ESA at the end of their contribution-based claim have no gap in payments. Simplifying that process is really important.

3874. Clause 53 allows a person who has lost their contribution-based ESA as a result of time limiting to requalify if their condition deteriorates and they are moved into the support group. For example, if someone with arthritis has to give up work, they are put into the work-related activity group for 365 days, after which they then come out of it because they no longer get income-related ESA. If their arthritis gets worse, they are reassessed and put into the support group. Clause 53 is positive and allows their new claim to link back to a previous one, so that they can go back on to contribution-based ESA. We would like clarification on whether there are any time limits for the linking of the new claim to the old one and how it is shown that the claims are linked. Our London colleagues, who are already working with the new system, say that to establish a link you have to continue to claim ESA even though you cannot get it. That involves submitting more limited-capability-for-work questionnaires and participating in further work capability assessments, as required. To us, this seems overly bureaucratic and off-putting to some people who will not want to be bothered with it. However, when their condition gets worse and they want to reapply, such people will have prejudiced their continuous claim and they may not be able to be put back into the contribution-based support group. That, again, needs to be simplified, probably through regulations.
3875. Finally, clause 54 deals with ESA relating to youth, which supports people with disabilities to lead independent lives.

As Pól said, it is not a lot of money, and 90% of claimants will qualify for income-related ESAs. Do we really want to undermine, by removing this benefit, the independence of the other 10% who will not qualify, perhaps because they are in a relationship? We would like to see ESA relating to youth retained.

3876. **Mr Callaghan:** Chair, to keep the sequence of the Bill, I will quickly touch on a couple of small points before coming to PIP.
3877. Clause 69 relates to housing benefit. I know that others have given useful evidence on the 30th percentile, the consumer price index (CPI), and all that business, and how housing benefit will be uplifted in the future. However, even the use of the 30th percentile presents problems, because we understand it to be a measurement of marketplace rents rather than available rents in the marketplace.
3878. I will give you an example. Our bureau in Ballymena recently surveyed local rent agencies. It is an anecdotal survey, but it is probably the experience of a lot of people in Ballymena. In all the rent agencies that our bureau visited, it could not find a single property available to rent that fell within the lowest 30th percentile. As the advisers in Ballymena will tell you, this is because people who are getting cheap rent tend to not want to move. Therefore, even before you consider dropping it down to what CPI would entail, the 30th percentile measure is arguably not based on an accurate measurement of market availability. That is a bit of a problem.
3879. I have talked about a lot of the underoccupancy stuff. As we understand it, the Housing Executive has 25,000 people currently in arrears. That figure has risen by 10% in the past year. Bringing in underoccupancy legislation will only to add to that problem. There will be more people coming into see the citizens advice bureau and more people coming into all of your constituency offices, as you well know.



3880. Other people have talked about the issues around foster carers, and we have already touched on the Gorry case. Just like with the Gorry case, we think that foster carers could be the best people that the social protection fund could be used to address.
3881. Clauses 70 to 73 deal with the social fund. There have been some welcome developments here, including that it will be more open to low income and contributory benefit recipients. At a recent stakeholder event, the SSA said that the social fund budget would effectively be ring-fenced for the next two years. However, according to the current timetable, the transition will last until around 2018. So, we think that ring-fencing should also last until about 2018.
3882. I will pass over to Louisa, who will deal with some points relating to PIP
3883. **Ms McKee:** As Pól said at the beginning, I am wearing two hats today in that my background includes working with lots of marginalised groups. In particular, I have a keen interest in mental health, and I work as a volunteer counsellor. I have also worked with victims of domestic violence and victims and survivors of the conflict.
3884. I will give a very short contextualisation, which I am sure you are aware of. In Northern Ireland, 40,000 people are claiming ESA and more than 189,000 are receiving DLA. Those figures do not even include the people who have not yet transferred to ESA from income support and incapacity benefit. Westminster have indicated that they want a 20% reduction in disability spending, which will take a very significant chunk out of our local economy and out of vulnerable people's pockets. Of course, that was before the Chancellor went on to announce a further £10 million cut last April.
3885. I will start by looking at PIP and addressing the 10 clauses from clause 76 that refer specifically to PIP. There is a proposed absentee reduction from the current position of 26 weeks to a period of four weeks. I know several clients who experience chest conditions or rheumatoid arthritis and go abroad and stay with relatives for large chunks of the winter because that makes their lives bearable. Although our very damp climate gives us a lovely green environment, it also exacerbates such conditions and can cause considerable pain, discomfort and disability. Stopping claims after four weeks abroad will have a severe impact on people's lives. They will probably not be able to go abroad without the support of DLA that allows them to address those conditions.
3886. One of the things that we are concerned about is what currently happens with assessments for ESA. Clients do not see the report at the end of the assessment for ESA, which can go on for about 75 minutes. To us, it would seem much fairer if there could be a signed-off report at the end. We had a client who was asked whether she had a pet. It was recorded in the report that she had a pet, was able to care for it and, therefore, was able to work. That client had a dog that her children walked and that provided her with companionship. However, that came out only when it went to appeal. That was a huge waste of resources. It could have been addressed simply by the client getting sight of the report and being able to clarify the situation. Think about other contexts in which legal contracts are entered into, such as a police witness statement. The person signs off the report even if they have not written it themselves. That would be relatively easy to incorporate, although we might have to do something about doctors' handwriting.
3887. Still under the same clause: providers in England are offering assessments. Capita is offering assessments in GP surgeries, and Atos is offering 60% home visits. That could be addressed in the tender here, because it will very much lessen strain on the current system. People whose disability means that they cannot manage stairs are turning up at Royston House and are being told to go away, to go to Ballymena, or to come back at another stage. Think about the impact that this

- has on someone with a severe health condition, particularly a mental health condition, as opposed to their being able to go to their own GP surgery or a nearby GP surgery or to have a home visit. That issue, hopefully, can be dealt with when the tender is being developed.
3888. We hope that the learning advanced by the Harrington report, which advocated that there should be a mental health champion present at the functional assessments of ESA, could be transferred across since we are moving to a functional assessment for PIP.
3889. The Committee may already know this, so, if you do not mind, I will pose it as a question to you: if an individual already receives the PIP mobility component, will they continue to receive it once they reach pensionable age, as in the case of DLA? If no one knows, perhaps we could get clarification from the Department.
3890. We should learn from the experience of ESA in the transfer to the functional assessment. At the moment, clients can go to their assessments and bring medical evidence of a spinal injury, for example. We had a client who brought an X-ray and was told by the medical health professionals that it was irrelevant. That evidence then had to be duplicated at a later stage. Perhaps the functional assessments could be widened to accept evidence certified by the GP or the consultant at that point. That would reduce the number of cases that go to appeal. So many cases will be going to go to appeal anyway while we hammer out the case law. The more that we can prevent those, the less drain it will be on our resources and those of the Social Security Agency's.
3891. As far as the claim procedure itself is concerned, we already raised concerns about the digital-by-default claim. One thing that we want to try to ensure is that individuals do not experience the time limits around the return of the two-part form as being a barrier to seeking advice. Obviously, we are going to be swamped, Advice NI is going to be swamped, and the Law Centre is going to be swamped. Our waiting times are going to increase. Perhaps something could be done to expand that window or ensure that people have access to advice as a statutory entitlement.
3892. Since we have full ISO accreditation and are a trusted intermediary in many cases — for example, with debt relief orders through the Department of Enterprise, Trade and Investment — we also hope that we will be able to make claims. In the current system, we cannot make a claim for PIP on behalf of a client. That is detrimental, particularly in the area of mental health, in that people have to advocate for themselves. Lots of people are not even fully aware of their own problems. I have sat in a room with a 70-year-old man who told me that he had no problem caring for himself, yet I had to keep Vicks under my nose throughout the entire interview with him. If people with our experience are filling in the forms; in many cases, you will get a much better picture of how the condition is impacting on the person. It will also come to the Social Security Agency in the language that it understands and as it wants to get it.
3893. We are seeking clarity about the forwards/backwards test if somebody is not given a prognosis that they will have their condition for nine months, which is quite a stretch for a health professional to make. If it turns out that a condition does last for nine months, because individuals' conditions develop differently, will their claim still stand? Do they need to claim again? Can that claim be backdated for them? If, in effect, they have been ruled out for not meeting that condition but it turns out that they do, there should be some mechanism that triggers their claim by just a check-up on evidence that the medical condition is still the same.
3894. Our rural bureaux have concerns, to which I have a bent as a Fermanagh woman, that the reforms are Belfast-centric. We think that it is likely that there will be times when the Republic of Ireland will be deemed to be the competent authority responsible for paying disability benefit to someone who lives in one jurisdiction but works



- in the other. That has the danger of disincentivising people from cross-border working, which is commonplace, because they would lose their disability benefit.
3895. A final concern of mine concerns people on remand — we are always interested in working around the margins. A person may lose the motability component of their PIP when they go into prison on remand. We have talked about similar passporting arrangements being applied to motability. It means that a person who is ultimately found to be innocent could lose their motability car. We need to look at doing something to sustain that transport provision, perhaps something similar to the DLA provisions for people going into hospital. Otherwise, is there not an assumption of guilt being made? You will be glad to hear that that is it from me.
3896. **Mr Callaghan:** Chair, if it is OK, I will make four final points. I am conscious that we have taken up quite a lot of the Committee's time, but I hope that you will find the points useful.
3897. The first is about our discussion with the SSA about why so many ESA appeals are successful. One point that SSA officials made to us was that they do not receive the determination and the statement of reasons for it from the Appeals Service unless they initiate legal action to appeal the appeal. That seems to be a bit of a bureaucratic monster and we believe that it would be helpful for the Bill to place a statutory duty on the Appeals Service to disclose the reasons to the SSA, perhaps at the agency's request. It seems to make an awful lot of sense to do that because the SSA could learn why a tribunal took a different view, and it could incorporate that, and a proper understanding of the law, into its decision-making on the front line after assessments are received from Atos or whoever the provider is.
3898. Secondly, our submission refers to clause 101, which concerns the mandatory revision of a decision in the SSA before an appeal can take place. We think that a compromise solution is that it is fair to have revision as the default position, but that if a client has lost confidence in the agency's ability to deal with their case or is minded to appeal anyway — and we have all dealt with people of that view — they should be able to opt out of the revision. Revision will often make sense and save people from having to go through the appeals procedure, but it may sometimes make sense to allow people to bypass it.
3899. My penultimate point concerns reciprocity of sanctions. You have heard quite a lot about sanctions, so I will skip what I was going to say about them because most of it is in our paper anyway. The reciprocity of sanctions goes back to the question of whether the claimant commitment is a real partnership between the claimant and the state — one that mirrors that between an employee and employer — or amounts to the same old approach of the state telling the citizen what to do.
3900. The sanctions are being ramped up so that they are becoming ever more punitive measures on people who receive overpayments, even when they are not at fault and, in some cases, will be charged for them. We think that this is outrageous, and the Committee is probably looking into it and has heard evidence on it. It would be a useful signal to the Department and, indeed, to claimants if the Bill provided for a penalty against the agency if it issues an underpayment. There is an issue with underpayments generally and about fraud and errors. All the focus in the media is on fraud and not on errors in the Department, and the Committee is aware of the various statistics on that, such as the 1% benefit fraud statistic.
3901. From the point of view of a public policy, and in the context of the good use of public resources, a penalty on the Department whereby, for example, it had to pay £50 to a client who is underpaid, which is effectively the way that it will work in reverse, would drill down better performance in the agency and in the Department and minimise error. It would be an innovative approach in the Northern Ireland context, but it should be considered here.

3902. My final point relates to the benefit cap. When it was going through Westminster, you will remember that there was a little bit of confusion about the number of people who would be affected here and the whole issue about London and housing. You know all the arguments, and I will not rehearse them.
3903. Even now, the focus with the benefit cap is very often on people with large families. There may be all sorts of issues around carers and people with childcare responsibilities, but analysis by the Children's Society in England, Scotland and Wales shows that for every adult affected by the benefit cap one in four children will be affected at UK level. This is a punitive measure against children rather than against "lazy adults", which is obviously not language that we use but is the sort of language that some commentators use. You are not hitting the people who you want to hit even on the terms that the benefit cap seems to be driven by.
3904. The empirical evidence — and this is a DWP statistic released this month — shows that 59% of families who will be hit by the benefit cap have between one and four children, not five and more children. This will bring more families into the loop, presumably, than would otherwise be the case.
3905. There is a big issue with statistics, and we are not sure that the numbers of people stated by the Department to fall within the benefit cap are reliable. In February, the Social Development Minister said in a statement that 99% of households will be unaffected by this. So, there was an implication that up to 2,400 households might fall into the benefit cap. However, DWP statistics released on 17 October show an increase in the number of households in Britain that have been notified of potentially falling within the benefit cap. You have to bear in mind that the numbers notified are not the ones that have been deemed to definitely fall within that. The figure will be above £450 rather than £500. Nevertheless, the numbers that have been notified have gone up by 41% compared to six months ago. So, DWP is obviously widening the net with the number of people that it is modelling and now says will be affected.
3906. This is not only a London issue. You might say that the whole narrative is London-centric and to do with London housing, but the number of people in Scotland who have been notified that they fall within the benefit cap has increased by 61%, and the number in Wales has increased by 52%. Socio-economically, we are not all that different to Wales, and Cardiff is not, as I understand it, all that different to Belfast socio-economically compared to, for example, parts of London. The Committee might want to look at that because, with the statement that was issued by the Department at that time of the February 2012 figure, one of the footnotes said that it is based on the Northern Ireland version of the DWP modelling tool for the impact of the benefit cap. So, the Department said in February that the statistics that the Minister released at that time were based on the modelling tool that DWP has now effectively revisited and said was not reliable. The Committee may want to look into that as well. You will be pleased to hear that that is all I have to say.
3907. **The Chairperson:** Thank you Pól, Louisa and Rose for your comprehensive written submission and oral presentation.
3908. **Mr Brady:** Thanks for the presentation. I have a couple of questions about PIPs. You state in your submission:
- "appropriate claimants should be given an award on the basis of their submitted evidence".*
3909. What is your definition of an "appropriate claimant"?
3910. It seems to me that medical evidence should have primacy. The problem with ESA, and presumably with PIPs, is that medical evidence is often given to an assessor who is probably not sufficiently qualified to read it. Medical evidence usually comes to light only in the appeal process, but the decision-maker should

- have that evidence in front of them and make an informed decision on that basis.
3911. You mentioned the statutory right to advice. You and all the other advice agencies have mentioned the increase in your workload. Has there been any discussion with the Department about funding? Obviously, most, if not all, advice organisations are under-resourced and under-funded. Over the years, there has been a lot of talk about mainstream funding, task forces and God knows what, yet we still end up in the same position. I just wonder whether there has been any joint approach to or discussion about funding, particularly with CAB being such a large organisation, as you outlined, or have things been left to see how they evolve?
3912. **Mr Callaghan:** We had a feeling that a question about funding would come up, Mickey. I checked with the interim chief executive, and there has not been any specific consideration of future funding needs, certainly not at any detailed level. Yesterday, I read something on the web about DWP making £65 million available to the advice sector in England in light of welfare reform. With everything else that was going on yesterday, maybe I should not put that on the record, but I recall reading something along those lines.
3913. We endorse the approach that you outlined of medical evidence having primacy. If you think in the abstract and talk to people who are involved in disability organisations and to some disabled people, there is a desire to move towards a social model. The problem is that we have a flawed application of the social model. It is a bit like the problem with the 11-plus that people used to talk about: it was not even an academic measure of a child; it was an academic measure of a child on one day. The Atos assessment is a bit like that, because it is not an assessment of functional needs, even on a typical day. Instead, it is an assessment of functional capacity, as it appears to the assessor, on a particular day. There is so much up in the air to do with when that is, how someone is feeling and whether they have one of the various fluctuating conditions that the Committee is well aware of. The use of medical evidence makes an awful lot of sense, because it makes the whole process less cumbersome and more effective for everybody.
3914. You asked about the term “appropriate claimant” in our submission. Even the Department would say, before we even get to PIP that, in ESA cases where there is prima facie evidence that a person should qualify, applications can be processed as a paper exercise.
3915. **Mr Brady:** For terminally ill people, for instance.
3916. **Mr Callaghan:** Yes, there is probably quite a wide range of people to whom that would apply. We certainly do not want a situation to develop with PIP in which the more people who are put through the assessment system, the more lucrative the contract for the provider. I am not saying that that is the position now, but it should be pre-empted.
3917. **Dr Henderson:** You mentioned people with terminal conditions, but we should also consider those with long-term conditions who are, obviously, not going to improve. It seems unnecessary to bring those people in for face-to-face consultations.
3918. **Mr Brady:** That is where the primacy of medical evidence comes in.
3919. **Dr Henderson:** Exactly.
3920. **Mr Brady:** These are medically based benefits.
3921. You mentioned providers, 60% home visits, GP surgeries, and so on. We are dealing with a flawed process, and it does not matter whether assessors come out to your house or visit you at the top of a mountain. Unless the flawed process is addressed urgently, it will not matter, and they will still come up with the same result. It is important to mention that.
3922. **Mr Callaghan:** You are right that, in a way, it is an ancillary point. As you know, there has been a furore about rushing various clients through assessments,

- and how that affects someone on the day is a big issue for them. However, you are quite right: it is no good putting a bandage on a massive wound.
3923. On the point of medical evidence, we had a client from, I think, north Antrim — it was certainly the Causeway bureau in Coleraine that dealt with the case. An internal appeal letter from Atos stated — Rose may correct me on this — that its job was not to assess the client's medical condition but to test him on various points. The person who dealt with the appeal put it in very stark terms, and that epitomises the problems with the ESA assessment. People might say that PIP is not ESA, but the functional approach is the same.
3924. **Mr Brady:** The case law on DLA means that it is not what causes a condition but how it affects someone. PIP takes that a step further so that it is how people cope with their condition. Most people with disabilities would argue that they cope within their limits but need extra support to allow them to do so. That is the important issue.
3925. **Mr Callaghan:** There are problems with various descriptors. We provided a submission in response to a couple of the Department's consultations earlier this year. There is too much detail to get into it now, but we referred to those points.
3926. **Ms McKee:** I want to make one last point. One of the difficulties with PIP is that so many of the provisions will be removed. It has come back almost to just those are terminally ill. An expansion of those provisions would save everybody a lot of stress and resources.
3927. **Mr Copeland:** Pól, it seems a long time ago now, but, at the start of your presentation, you said that either income or salaries in Northern Ireland were 16% lower than elsewhere. What does that statistic mean? Is that an average of everyone in work? As a disproportionate number of people in Northern Ireland are employed in the public sector and subject to national pay scales, would you agree that that drags the average up?
3928. **Mr Callaghan:** That is correct.
3929. **Mr Copeland:** The true figure of need could well be far beyond that. Adjustments were not made to allow for that, so the true differential in salaries could be 20%, 25% or 30%.
3930. **Mr Callaghan:** I do not want to put words in your mouth, Michael, but if you are asking me about average earnings in the private sector, they would, as you put it, drag the average earnings down. The private sector tends to be the more unstable sector of employment. People tend to come in and out of the private sector and, generally speaking, those who work in the public sector have security of tenure. The figure that I gave was for average earnings, not earnings per hour. Women's earnings are statistically lower not just because they earn less per hour, although that is true. It is as much a reflection of the fact that, in broad terms, if one partner in a couple works fewer hours and so earns less in a week, it tends to be the woman. The problem with universal credit is that it does not factor that in. It is about what you earn and not why you earn less, so it is a tax on low-paid people.
3931. **Mr F McCann:** Thank you very much for your presentation. It was very intense.
3932. **Mr Callaghan:** I know that you like a bit of intensity, Fra. *[Laughter.]* Hopefully, it was not too spooky on Halloween.
3933. **Mr F McCann:** It certainly covered everything.
3934. You mentioned sanctions, and we spoke to representatives from the Human Rights Commission yesterday. One of the issues I raised with the commission was the "two strikes and you are out" rule and the fact that people convicted of benefit fraud will lose the right to make a claim after they have been sentenced. I said then that someone could rob a bank and come out of jail and not be affected by that rule. Is there any evidence — perhaps from your sister organisation in Britain — that



- families are being penalised as a result of that and other aspects of welfare reform, especially when you look at the three-year sanction?
3935. **Mr Callaghan:** I think that the Bill calls those “higher-level sanctions”. The evidence from England is that the impact of a serious sanctions regime is varied and various. One impact is that it leads, or certainly contributes, to the break-up of families. Think about it: if someone is imprisoned as the result of benefit fraud, there is a perverse incentive, which is built into the Bill and the sanctions regime, for his or her partner to dissociate themselves and become a stand-alone partner. I do not want to use stereotypes, but let us say that it is a man who is in prison and he has three children with his partner. There is a perverse incentive in the Bill for his partner to say that they are separated, she no longer has anything to do with him and, as far as she is concerned, he deals with universal credit his way, and she deals with it her way.
3936. There are further repercussions down the line for the rehabilitation of offenders and bringing people back into the community, whether as a result of benefit fraud or something else. I am not an expert in criminology, but, from what I know of it, the evidence tends to suggest that, if people have family and social support on leaving prison, there is less likely to be recidivism and repeat offending than if they are left to fend for themselves in a post-sanctions environment.
3937. **Mr F McCann:** That could probably be stretched to take account of the likes of mixed-age couples, where the younger person will have to claim for the older person. In such cases, the temptation will be for people to claim separately as there is a substantial financial gain. The system will lead people to that.
3938. You spoke about the implications of clause 59 and the entitlement of lone parents to income support. You went on to say that there should be different rules, but you did not make any suggestions.
3939. **Mr Callaghan:** Is that to do with children in school?
3940. **Mr F McCann:** Yes.
3941. **Mr Callaghan:** For the record, it was, to be fair, Rose who made that point. In a way, we have not really had time to figure that out. At the risk of pointing out the obvious, Fra, if the Treasury obsession is with parity and the statutory providers of services put certain citizens in a position in which they are affected more adversely by, in this case, the childcare burden, that should be a reasonable consideration in how another part of the statutory framework responds to dealing with those citizens, whether through sanctions or something else. I am thinking on my feet, but you could, for example, make a special provision in the sanction arrangements to reduce the number of hours that someone with children in P1 to P3, or whatever, had to work. You could also bring in ratios for the level of earnings that they might be required to hit within a week. You could also deal with it differently outside the benefit system by providing a particular childcare fund for people who have children of that age, because they will be subject to sanctions if they do not fulfil the work-related requirements of universal credit. There are a few different ways that that could be done, and I am sure that other people inside and outside CAB have other suggestions or ideas. There are different ways of skinning the cat, Fra, but, one way or the other, it will squeal.
3942. **Dr Henderson:** At the moment, we are out of step with Great Britain, where the age has been lowered to 5. We could just decide to continue to be out of step.
3943. **Ms McKee:** It has changed the claimant commitment?
3944. **Dr Henderson:** It has changed already in GB, yes.
3945. **Mr F McCann:** That is an important point. Pól, you mentioned the whole question of parity. Within CAB, certainly in how things in Britain relate to here, there are clear examples of breaches of parity, but they have not been

documented. Around the table, there is a difference of opinion on how this should be handled. Sinn Féin believes that parity should be stretched to its very limits to find ways through. Others believe that parity is paramount in maintaining the level of benefit. However, in many respects, it is not like for like.

3946. I have raised this next point a number of times. Organisations such as CAB and bigger organisations, such as the Joseph Rowntree Foundation (JRF) and others, seem to have had a run at this with amendments in the House of Commons and the House of Lords. However, they did not stick, and there did not seem to be any real breakthrough. When it comes to trying to get people to buy into it, what is the difference between what happened then and what might have happened 10 years ago? I know that the criminalisation of claimants is one aspect of it, but this leaves us bewildered. Mickey often refers to this, mostly because he was born before the Beveridge plan of the 1940s. *[Laughter.]* He rightly says that, had things like this happened years ago, hundreds of thousands of people would have come on to the streets.

3947. **Mr Callaghan:** You will appreciate, Fra, that we as an organisation would not comment on some of those points. However, you made a point about attempts to amend the Bill. Colleagues in London were involved in a sustained lobby of Parliament, and many of the amendments that we suggested were taken up by Members of the House of Lords. Many others were also involved in that lobby, not just Citizens Advice. You will all be aware of the various amendments that got through the House of Lords but, when the Bill went back to the Commons, the coalition Government shot them down. One such amendment related to the Gorry case and a question about disabled children. Unless the Supreme Court takes a different view, it looks as though the UK Government will be forced to change the position that it imposed in the House of Commons, as the Supreme Court will deem it unlawful.

3948. Unfortunately, there is a certain perception, at times not helped by media coverage, of people on benefits. Terms such as “spongers” are thrown about, whereas others not on benefit are seen as contributing positively to society. That is the sort of media debate that has been framed. I remember being on Radio Ulster about a month ago. On the same day, there had been a headline in the ‘Belfast Telegraph’ along those lines. A point that we make frequently about welfare reform, and which I made on Radio Ulster, is that it is a false paradigm to say that some people are on benefits and others are in work. There are tens of thousands of people, in the North alone, who are working and in receipt of benefits. I do not have the figures with me but the vast majority of people on housing benefit are also in work, and, for them, housing benefit is a supplementary income stream. The whole point of tax credits, for example, which will be a part of universal credit, is that they keep low-paid people in the workplace and make work pay for them.

3949. Part of the problem may be a misunderstanding of the issue. When it comes to dealing with the whole question of benefits, in England, the political centre of gravity — as opposed to Scotland, here or in the South — is a little further to the right. There is maybe less understanding in some parts of the English body politic about what it means for benefits to interact with the workplace, and so on.

3950. JRF did some very interesting research, not only on low pay but on the lack of security in the workplace. Very few of us do not have family, friends or even personal experience of being on the dole for a few weeks. It is all too common a story now. I am not having a pop at the media, but the headlines in the papers are often about people losing their jobs. We saw that with FG Wilson and umpteen others, but there is no link to say that, when someone loses their job in FG Wilson, hundreds of people will go down to the dole office in Larne, Newtownabbey, and so on. So you are a saint one day and a devil



- the next. You cannot have it both ways when constructing the narrative. It would be helpful if we tried to frame a more productive and mature narrative. We can pick that up in the pub later, Fra.
3951. **The Chairperson:** It is an interesting and very important conversation, but it is not related to the Bill.
3952. **Mr F McCann:** Is that you telling me to shut up, Chair?
3953. **The Chairperson:** No, I would never tell you to shut up, Fra, but I might want to move on to another member. It is a very important debate because it is about demonisation and misunderstanding. We need to remind people that, in a few months or a year, they might be one of the recipients of universal credit. When you are employed, it is a credit; when you are not employed, it is a benefit.
3954. **Mr F McCann:** I have a quick point that has been raised a number of times. As so many elements of the Bill will impact on a large cross-section of the community, have you considered taking legal action against certain elements of it?
3955. **Mr Callaghan:** The Bill is not yet passed, and we do not know what will be in it, so we have to wait and see. The other issue is the regulations. I am not saying that amendments to the Bill, as an enabling Bill, are not important, but regulations will often have more of an impact on clients than some clauses. Other clauses are very significant, but we are so much in the dark that it is very much a case of wait and see. They do not even know in England. We have talked to our colleagues in London about what they are hearing in Whitehall and from our network in England. So much is still up in the air there, too. So, unfortunately, the problem is that we are not even in a position to consider those issues, Fra.
3956. **Mr Durkan:** You mentioned Halloween, Pól, and it is safe to say that the more I hear about this, the more scared I get. Thank you for your useful and comprehensive submission and presentation.
3957. When talking about clause 8, you expanded that to exemptions and possible protections for victims of the Troubles. WAVE was here previously, and we would certainly support it. Do you have any ideas about how that could be managed?
3958. I will run through a few points, and your team can come back to me. With clause 11, you propose to delay the underoccupancy penalty for two years where suitable accommodation is not available. We would support that, but it would be very hard to get agreement from the Department because the fact is that suitable accommodation is not available, and, at this rate, it will not be available even after two years. What is your view on the increase in the fund for discretionary housing payments? Is that sufficient and sustainable? You spoke about the possibility of utilising the social protection fund in specific circumstances for people so affected.
3959. The proposal on clause 24 is very useful. That is about expanding the definition of victims of domestic violence to include victims of hate crime. I strongly agree given the context here and the fact that sectarian attacks have not, unfortunately, been completely consigned to the past. The Equality Commission and the Human Rights Commission were here yesterday. Do you think that we could pursue that as an issue with them or that they could pursue that with us?
3960. Clause 130 is about the removal of the rate relief scheme from the housing benefit scheme. Representatives of housing groups will be here later, and they might be better placed to talk about that. However, will you outline the impact of that as you see it? I await answers to a couple of questions that I submitted to the Minister of Finance and Personnel on that last week. I agree with your point on the benefit cap and the unreliability of figures that we have been getting in response to our questions as individuals and as a Committee. There has been disparity in many of those.
3961. At the start of your presentation, you mentioned stringent or strict time

frames being imposed on claimants throughout this process. It is not referred to in your submission, but clause 92(2) gives effect to schedule 10, which gives the power to regulations to determine rules for transition. In the consultation on PIP, 28 days was specified for someone undergoing the move from DLA to PIP. If they did not do that, they had just a further 28 days in which to appeal. If that was not met, they would be struck off. What are your views on those time frames? They show that we will have to be very attentive to the regulations when they come so that we do not such things slip by. Is it your opinion that people would need more time than that, or should they not be penalised during the first migration? I hate the fact that I am using the word “migration” because it sounds like they are going somewhere good.

3962. **Mr Callaghan:** Thanks, Mark. To take those in some order, I will deal with the first four and pass the other two to my colleagues if that is OK.

3963. The straightforward answer to your question about victims is that, right now, we do not have further suggestions. I do not want this to sound like a complaint, but we had a two-week turnaround on the Bill, which is a huge piece of work. Even in the week since then, and despite other distractions, we have come up with a few ideas. I know that that is not the Committee’s fault and that it is no doubt as vexed about this as we are. However, from our point of view, it is a little frustrating that, in the week that the Committee invites us to submit our written response, we get a letter from the DHSSPS about ‘Who Cares?’ — the report on adult social care that is out for consultation — and the deadline for that is two days before St Patrick’s Day. That is despite the fact that, arguably, this Bill is more significant in the Assembly mandate, and I would say that its impact on the community is just as extensive. So we have not really had time to thrash through all of the issues.

3964. **Ms McKee:** We had some discussion about victims and survivors as the

Bill developed. I am sure that you are aware of some of the anomalies already in the system that could perhaps be addressed under welfare reform, such as the fact that special provision was made in regulations for compensation received by victims of the London bombings. Special provision was also made for people in Omagh. Yet the situation of the multitude of others who have been so adversely affected by the conflict does not seem to have been addressed. We would certainly want that to be looked at.

3965. **Mr Callaghan:** It is not for us to instruct the Committee, but you may want to seek written or oral evidence from the likes of the Victims and Survivors’ Service.

3966. Mark, you asked about the underoccupancy questionnaire and the two-year delay in discretionary housing payments. As you have probably heard from elsewhere, the problem with discretionary housing payments is that they are supposed to deal with short-term crises and are not supposed to be a substitute for a long-term problem. We know from what is happening on the ground that we are sleepwalking our way into creating a problem. It is a bit like saying that we know that we are going to stab you, so we are going to buy a huge number of Band-Aids that we will whack on to you afterwards. I am not trying to be flippant, but it is a bit like that. A Band-Aid is not designed to heal a wound. If someone has a wound, they do not use a Band-Aid to heal it; they get surgery. The problem with the discretionary housing payments response is that that is what it is like. One of the problems with doing it through DHP as opposed to, say, a special fund to deal with underoccupancy or certain categories of underoccupancy victims, if you want to put it like that, is that it undermines the point of having discretionary support. It is discretionary, which, in a way, is problematic because it is not an entitlement. As it is discretionary, it is, therefore, subject to all sorts of budgetary pressures and everything else.

3967. It also confuses the people who are delivering the service through the

- agency in the Department, because they are having to balance different priorities. On the one hand, they are being told that they are there to help people in a crisis, and on the other hand, they are there to bolster a flaw in public policy implementation. In that context, what people are doing is admitting that they are implementing a flawed public policy and are then saying that they are going to try to fix it through a device for fixing crises. That is just not really satisfactory.
3968. Jumping to the issue of hate crime; we work a lot with the Equality Commission, in particular, on a number of things, and Louisa has done some of her training with the commission. We have not spoken to the commission about the hate crime idea. The Committee might want to gather more evidence from the PSNI, the Housing Executive and others about the stipulations for that. Certainly, it is probably worth asking their views. I think that that would send out a positive message, given some of the recent stuff about hate crime. The Committee is probably aware of the Channel 4 reports on victims of disability hate crime here. I think that that would be a good message to send out. However, you are quite right, sectarianism is still a major problem.
3969. I will pass over to Rose to answer the question on rate relief.
3970. **Dr Henderson:** Unfortunately, we have very little information about what will happen to rate relief. Given that the changes are going to come from next April, it is quite worrying that we have not seen more. The indication is that there will be a 10% cut in the subsidy. Earlier this week, I saw something about the DWP making additional money available to local authorities that will handle rate relief in England. I do not know whether we will get the same here. Our worry is that unless the rate relief scheme is very well integrated into universal credit, we could get those cliff edges that universal credit is supposed to be ironing out. This is also true of other passported benefits such as school meals. By taking on extra hours, you are not suddenly going to lose your rate relief as long as it is all tapered. It is really important that rate relief is well integrated into the universal credit system. Of course, come next April, universal credit will not be in place, but these new rate relief arrangements will have to be in place. I am afraid we do not have the information, but I know you have other people coming in who might have that.
3971. **Mr Callaghan:** Mark, you used the phrase “waiting for answers”. I think that we are in the same boat as other people. Louisa will deal with the one on PIP.
3972. **Ms McKee:** As you have seen from our submission, we expressed grave concerns about the 28-day turnaround for PIP. It will not be as bad for them as it will be for those on contribution-based ESA, because, next April, the Social Security Agency will at least send out some information in the uprating letters to forewarn people. I am concerned — again speaking with my other hat on — about people with a mental health condition, and I do not even mean those with a severely chronic mental health condition. I am thinking of one client in particular who received a DLA form and just put it away, because her strategy for dealing with life is avoidance. We have serious concerns about what safety nets are being put in place to ensure the turnaround of the migration process to PIP. The follow-up phone call is all very well, but who among us answers the phone if we do not know the number of the person calling?
3973. If there is going to be a phone call from the Social Security Agency to remind somebody that they need to get their PIP application in, that person is unlikely to answer the phone. The second letter is likely to get the same treatment as the initial prompting to get the form. Also, with the likely increase in demand on our services and the other advice services, people may not be able to get advice within four weeks, especially as they probably will not bring their forms to us until the day before it is due back. We all avoid what we do not want to take on.

3974. **Mr Callaghan:** With ESA, we had a 40% increase in the number of clients and cases due last year. That was not even the first year of the ESA migration, so the problem had been building even before that. There have been some questions about anticipated demand, but we have not finished our own modelling exercise. This is different on many levels to the changes in tax credits nine or 10 years ago, when our business went up 25%, or the ESA migration. Take the 40% increase in workload due to ESA as a benchmark and compare the PIP migration with the ESA migration. With ESA migration, we were not talking about a digital-by-default system and lots of clients who, whether it is done by computer or not, will not be able to understand the application process. It is effectively as though we will be suddenly generating a lot of illiterate clients who cannot fill in the forms. That is what it will amount to.
3975. So, you will end up with advice providers, whether it is ourselves or others in the independent sector, having to deal with people who are seeking advice about their entitlement and how the change will affect them and also having to deal with those who are having problems with the complexity of the process. Lots of people who will be on PIP will also be affected by the universal credit change, so there will be compound problems, housing credit coming into that and a myriad of issues. There will not just be an increase in the number of clients affected compared to the increase after ESA migration, there will also be an increase in the complexity of the effects on every client who comes in. Then, there will be the functional aspect, because of the online stuff, and issues around personal security and how we access systems. The whole advice sector is still a little bit in the dark about how all of that is going to work out. That could build-in problems, because there will be at least two appointments required, whether they are by phone or otherwise, for a lot of claimants who seek advice from us. That will add to the workload, and that is only the start of it.
3976. **Dr Henderson:** As we said in our submission, PIP is a significant change from DLA. At the moment, if we are giving phone advice to a client and think that they should be applying for DLA, we can phone up and request a DLA form for them. That form will be dated, which will mark the start of their claim. They then have a month to submit the form, and we can fill it in for them if they make an appointment with us. Under PIP, we can only ring up and request a form for someone who is sitting beside us. So, if we establish over the phone that a client should be applying for PIP, we then have to make another appointment for them and bring them in. It is extra work. Is it really necessary?
3977. **Mr Douglas:** On clauses 28 and 47, you mention hardship payments. You go on to say in your submission:
- “Any decisions to recover hardship payments are likely to deter the entry of claimants into the workplace.”*
3978. Do you have any evidence to support that?
3979. **Mr Callaghan:** We do not have a comparable sanctions system. However, it stands to reason that if you have a system in which a sanction is going to apply even after someone goes back to work, you are, at the very least, removing an incentive for them to do so, which goes against what we have been all been told is the fundamental point of universal credit.
3980. Iain Duncan Smith and others have consistently talked about how universal credit is about engaging people who are disengaged from “constructive” or “productive” life and preparing them for the workforce. They also say it is about treating people like they are in the workforce, which is how the whole debate about monthly payments arose. If you look at sanctions, perjury results in a sanction in a criminal court. However, Once you purge your contempt of the court, the punitive consequences of that offence come to an end. You will have heard about that in some of the debate about what is going on in the courts in Dublin with a well-known family. What we are doing here is saying



that norms and conventions that apply in other established institutions of the state, such as the courts — whether in the North, the South, England, Scotland or anywhere else — will not apply to people on benefits, who have to be treated more punitively. That goes back to our discussion about people on benefits are stigmatised and, as the Chair said, demonised. It seems to us that on the basis of fairness, it should be done differently. It is not for me to say, but if you consulted a lawyer on that issue, they would probably say that they could at least give it a crack under the article 6 right to due process. Whether it would go anywhere is a whole other kettle of fish.

3981. **Mr Brady:** You suggested amending the claimant commitment to ensure that it is done in partnership and with due regard to the person's knowledge, skill, etc. You were right to make the point that a lot of the people who are being sanctioned currently and will be in the future do not know that they have been sanctioned. That information is not apparent. I watched an interesting programme about food banks in Coventry, and the majority of people interviewed were there because of sanctions. Yet, the vast majority of them did not know that they had been sanctioned; their benefit just stopped or was reduced. That is an important issue. However, at the moment, the claimant commitment is very much down to the terms laid down by the Department. It is in no sense a reciprocal arrangement. The Department will dictate what is required and the claimant does not have much input. Your proposed amendment might strike a balance.

3982. **Mr Callaghan:** We obviously agree, Mickey. Interestingly, by happy coincidence, as I did some last minute reading-up on the internet last night, and I found that the London-based Centre for Economic and Social Inclusion had commissioned work to be undertaken on universal credit through the University of Portsmouth with the Joseph Rowntree Foundation. They picked up on the idea that the claimant commitment should

be more partnership driven. We were pleased to see them pick up on an idea that we had had a couple of weeks ago. *[Laughter.]* Leaving that aside, there are two points about our proposed amendment that I did not make because I was conscious of trying to get through a lot. You touched on them, Mickey, but they are two separate issues. The first is that the client should be engaged. In a way, this is about respecting the client as a citizen, which feeds back to some of the things that President Higgins said at our AGM yesterday. However, it is also about enabling the claimant's potential rights of appeal and all that stuff, including understanding, learning and development, which, again, fit into the idea of the workplace model. Most of us in work will have training plans and what not because we are supposed to develop over time.

3983. The other point is one of having a public policy that is advantageous to the client but goes wider. So, there is the issue of consultation, but also that of having regard to the client's skills, knowledge and experience.

3984. The feedback to our bureaux is that lots of people who never thought that they would end up in benefit offices are now going to them. All of the people that I have talked to who are going into benefit offices say the same thing, and I am sure that you have heard it too. They are probably the likes of those who worked in FG Wilson or umpteen other places around the region, and the benefits system and the jobs service that we have is not cut out to deal with them. I do not think that I am being unfair in saying that.

3985. The experience of many clients is similar to that of the man I talked to in the past week. This guy has a degree and two Masters, including an MBA, and he ended up unemployed. He is claiming JSA and the response he got was, in effect, "Oh, you've got a degree; that's great". When he said that he had an MBA, the response was almost, "That's amazing". He felt a bit patronised but, more importantly, he said that the service was not much use to him and



that the stipulations set for him were not very demanding, given what he should have been doing to get a job. He was doing far more than the agency required of him.

3986. It is not about people who are in a position to earn less in the economy, because many of them will be well educated or whatever else, and it is not about being biased towards people who have a higher earnings potential. It is about being more reflective of the different realities across our labour market. If we have a system that can deal with people who have basic training and basic education needs, that is great. It is obvious that we need to develop that and the Committee is aware of that. However, we will have a problem if we have people with higher skills, whether technical or engineering skills, or former professionals, such as architects. We need a jobs service that can work with people to maximise their potential, not just, necessarily, for them but for the Northern Ireland economy as a whole. If we end up with people falling into a rut and not only falling out of the labour market but not having the aspiration to get back into the part of the labour market they were in or that they can usefully contribute to, that will not good for any of us in our attempts to rebalance the economy in the long term.
3987. **The Chairperson:** No other members have indicated that they want to ask a question. Pól, Rose and Louisa, I thank you for your very helpful and useful contribution in writing, your oral submission and your deft handling of a lot of the questions that were put to you.
3988. Obviously, the Committee is involved in what I would consider to be quite an intense stakeholder engagement. We have received more than 40 written submissions and, by the end of this process, we will have received over 20 oral submissions. A number of those responses are coalition-based. Given the complexity of the Bill, thankfully and importantly for us, there has been widespread engagement. Although it has been a relatively short period of time in people's minds, you and others

have been over the Welfare Reform Bill on a number of occasions over the past year and a half. Everybody is well versed in its provisions, and everybody has pointed out the big difficulty is that a lot of it will be dealt with by way of regulations down the track that are not available to us.

3989. I thank you for helping us in our deliberations. We look forward to completing our report by 27 November. I have no doubt that your contribution will assist us in doing that.
3990. **Mr Callaghan:** If there is anything else, Chair, we are, obviously, happy to help.
3991. **The Chairperson:** That is not a problem. No doubt we will engage with you again.



## 31 October 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann

### Witnesses:

Ms Karen Hall *Disability Action*  
 Ms Norah Marquess  
 Ms Jenny Ruddy *Mencap*

3992. **The Chairperson:** We have Karen Hall, information and policy manager of Disability Action; Norah Marquess from Disability Action; and Jenny Ruddy from Mencap. First of all, I apologise for the delay. I know that you have waited very patiently, and I thank you for that. I formally welcome you to the Committee this afternoon. I thank you for providing us with papers and for being here to help us in our deliberations on the Welfare Reform Bill. Without further ado, if you are happy enough, I will leave it to you to make your presentation to members.

3993. **Ms Karen Hall (Disability Action):** We are very clear in our message about the Welfare Reform Bill. It will have a significant impact on the lives of disabled people in Northern Ireland. It is not only the possibly 117,000 who will be reassessed in the transition from disability living allowance (DLA) to personal independence payment (PIP). We also have big concerns about some elements of universal credit.

3994. In respect of universal credit, we are really worried about the removal of the severe disability premium and the impact that it will have on children with disabilities and how the proposed disability additions will work. Another big concern is the one-year time limit

on contributory employment and support allowance (ESA) for those in the work-related activity group. We are also worried about the housing criteria, which we will talk about in a bit more detail; the changes to the social fund; and the support that will be given to disabled people if they are to be moved into employment and what those supports are. It will not just impact on disabled people financially. It will have a significant impact on people's stress and mental health and well-being.

3995. We have already been out talking to groups of disabled people about the changes to DLA and PIP. At a public meeting that we had in Dungannon, there were clear concerns about how this will work and how people will deal with the stress of having to go for an assessment. The message from disabled people was clear. So, it is about what measures we can put in place to help to alleviate some of the issues.

3996. We also need to be clear about the bigger picture. It may be that some disabled people will be better off in work under universal credit, but that does not mean that an employer will offer them a job or that the appropriate supports will be available for them to go into the workplace. None of the measures outlined by the Government to date has looked at the fundamental social and economic barriers that people face in trying to live independently in their own community. The measures are very much focused around individual responsibility rather than looking at the collective disadvantage that disabled people face and the societal barriers that mean that disabled people cannot live independently in their own homes or communities. We have to be aware of that wider context.

3997. I will not go through the Bill clause by clause, but I will pick out a couple

- of things. We added a section on the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The Joint Committee on Human Rights at Westminster did a report that looked not just at welfare reform but at how changes to adult and social care and different things were impacting on disabled people's ability to live independently in their own community. It made a couple of recommendations, and one key point was that not enough work has been done to look holistically at the impact on disabled people and the cumulative effect of the different changes. The committee said that there needed to be a much wider look at that impact, particularly at article 19 of the UNCRPD, which requires the state to take effective and appropriate measures that will facilitate full enjoyment by disabled people of key rights to independent living and inclusion and participation in the community. As we move forward, that human rights context is important.
3998. As I said earlier, there are two main concerns about universal credit, the first of which is the responsibility for children and young people in clause 10 and the disability addition. Children who are in receipt of the higher rate of the DLA component will get the higher addition under universal credit. That is similar to what happens now. However, those children who receive the lower level of support through the disability element because they receive the lower middle-rate care component of DLA will now receive the new disability addition, which will be worth only £27 instead of £54. That is quite a significant decrease. Work needs to be done to look at extra support for families with a child or children with a disability, and, at the very least, financial support should be extended to those in the middle-rate care group, not just those in the high-rate care group.
3999. On housing elements, the Bill states that there will be an additional room for an overnight carer. We think that it needs to go further than that. It is about additional space, not just for care. It could be for treatment or for additional equipment in the house. That equipment is sometimes big and bulky, and that needs to be taken into consideration. Jenny will probably talk a bit more about being close to your own community and how that family support can be quite important as well.
4000. The removal of the severe disability premium under universal credit is another key concern. Basically, severe disability payment (SDP) allows for somebody who lives on their own to get extra support with living independently. That will be a big reduction for quite a lot of people, and we are worried about how that will impact, especially on disabled people who live independently. The responses have said that people will get DLA and PIP but that DLA and PIP do not consider what support you already have around you. So, if you are living on your own as a disabled person, you might need additional support in many areas. We have gone through the claimant responsibilities under universal credit bit by bit. We need to take into consideration that disabled people face barriers in going into work or even trying to move into work because of attitudes, perceptions and employers. We have gone through that in detail.
4001. The time-limiting of those in the work-related activity group of employment and support allowance is in clause 52, and 53% of people will be impacted by that. They will not be able to move to income-related ESA, and there will be a significant decrease in income. We are worried about how people will manage that and how they will be supported, particularly if they have been in that work-related activity group for a year, or whatever timescale, already. It is not clear what support they have been given to move into work. Jenny will speak a bit more about conditions for youth and contribution to ESA in youth, but we are concerned about how the claimant commitment works and some of the elements of that.
4002. Disability Action made a response to the high-level new discretionary support policy, and we are waiting for

- more information about how that will work. However, the equality impact assessment (EQIA) basically said that no figures were available for disability in relation to social fund data scans, but we know that a significant amount of disabled people rely on support through crisis loans, and particularly community care grants, for different elements of their lives. The personal independence payment is the big area. There is not much about it in the Bill, so the issue is more related to the subsequent regulations, particularly the thresholds and the descriptors. There needs to be some clarification or additional information in the Bill.
4003. We asked recently whether the policy analysis on DLA had been done. It was stated in the EQIA that there would be some policy simulation models. That is available for universal credit, but it has not yet been completed for disability living allowance and PIP. So, we need further information on who will be impacted. However, we have put some information in our submission about what should be in the regulations and the length of awards. We are particularly concerned about people with fluctuating conditions, especially those with mental health problems or conditions like MS. As I said, we are waiting for more confirmed detail on that.
4004. On the issue of reporting to the Assembly, the Bill states that that should happen within two years. We have seen the difficulties with the work capability assessments (WCAs). The report needs to start very soon into the process so that those problems can be ironed out. We have seen with the WCAs that there have been changes made, but it has taken time for them to be implemented. We would also like to make sure that disabled people are involved in that process, because they are the experts on how the provisions are working for them.
4005. I am going to leave it at that and pass over to Jenny.
4006. **Ms Jenny Ruddy (Mencap):** Thanks, Karen. I thank the Committee for the opportunity to come up and speak today on the Welfare Reform Bill and how it is going to affect the 33,000 people who have a learning disability and live in Northern Ireland.
4007. A learning disability, as you may know, is a reduced intellectual ability and difficulty with everyday tasks, which affects someone for their whole life. We go into a lot of detail in our written submission, but I want to highlight three key areas: changes to ESA, the housing criteria and the introduction of PIP.
4008. In section six of our submission, we talk about changes to ESA. The aim of the reforms has often been cited as being 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 those barriers and, instead, may lead to some disabled people in work being forced to give up their jobs because they can no longer afford the support they need.
4009. Mencap's research and experience indicates that most people with a learning disability clearly want to work. However, we believe strongly that compelling people with a learning disability to work could be counterproductive. In particular, it would add further stress to people with a learning disability as they go through a process of facing and understanding the changes that are happening to welfare reform. We are also aware of the high number of people who have been assessed as fit to work and have successfully appealed that assessment, as Karen has outlined.
4010. In section 6.3, we state that it is unfair and unjustified to time limit benefits for people with learning disabilities who have paid into the system and have a right to expect that they will be supported as they move towards work. Ultimately, we ask the Committee to consider an amendment that removes time limits from the benefit. However, if that is not possible, we ask the



- Committee to consider an amendment that reduces the time limit from 365 days to 730 days for those in the work-related activity group (WRAG) of ESA. One of the other concerns with ESA, as Karen has outlined, is that the 365-day time limit is effective straight away. So, if you have already been in that group for a year, your benefit will be affected. There is little evidence to show what support people have been given in the WRAG group in that time period, what the reasonable adjustments have been made to take account of a person's disability or how effective the support has been in helping people to gain and retain employment. So, we cannot see the argument for that. We ask the Committee to consider an amendment that ensures that the time limit for the WRAG group is continuous and that the days are counted after the Bill is passed and not before.
4011. As Karen outlined, one of our main concerns is proposed removal of the youth condition in contributory ESA. The benefit supports those with severe and lifelong disabilities, such as those who remain in education after 16. I know that the Committee has heard that the cost of the benefit is estimated to be £390,000 a year in Northern Ireland. Mencap's community-based advisers, who support people through the benefit process, have told us that opportunities for employment for those who receive the benefit are quite restricted, owing to their disability. They are also allowed to claim the benefit as an adult, which gives them a little bit of independence. It is about being financially secure, which means that they can often do voluntary placements, as work is not usually an option.
4012. Section 7.1 of our submission deals with housing and the new size criteria. The reasoning behind the policy is to contain growing housing benefit expenditure and to 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 underoccupying their home. Moreover,
- and as Karen outlined, many homes might have been adapted to meet the individual's need, meaning that, should the individual have to move, new adaptations would have to be paid for. In addition, there are issues for people with a learning disability who access the package of support and have built up support networks in the area in which they live. Those could not be maintained if they were forced to move to another area.
4013. The proposals do not take into account other learning disability factors or the importance of an individual living in a particular area: being close to family or friends who provide support or caring responsibilities; accessing community services; accessing transport, which is vital for people with a learning disability; and being a part of the local community. The limited provision of accessible housing options may already significantly reduce the choice that a person with a learning disability has over where to live. By implementing the housing criteria as it stands, people with a learning disability may not have the opportunity to live independently in their community.
4014. We ask the Committee to consider an amendment to exclude DLA or PIP claimants from the new size criteria. We ask the Committee to consider amendments that would ensure that, in cases of people with a disability or of families with a child with a disability, where an adaptation is in place, where additional space is needed for treatment or equipment, as Karen said, or where services are available only in a specific area, they will not be required to move and will not have their benefit reduced.
4015. Finally, I want to talk a little bit more about the introduction of PIP. I know that a lot of this will be in the regulations, and Karen said that there is not a huge amount of detail in the Bill. However, we want to raise our concerns anyway.
4016. 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, that would mean that 24,000 people will potentially

- lose that benefit under PIP. We believe that the UK Government have not fully considered the huge and detrimental impact that the proposed changes will have on the lives of the UK's most vulnerable people and their families.
4017. Section 8.3 of our paper outlines the results of report that Mencap undertook in 2010, titled 'DLA: why it matters'. The survey's findings highlight the central role that DLA plays in the life of people with a learning disability, helping them to afford the support that they need to live an independent and fulfilling life. Mencap believes that access to all rates of DLA must be protected; otherwise, people with a learning disability will be left socially and financially vulnerable and isolated.
4018. One of our main concerns about PIP is the assessment process. It will introduce face-to-face assessments for most PIP claimants, stricter criteria and a shorter timeline 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 external organisations.
4019. We are also concerned about the removal of lifetime or indefinite awards, given that learning disabilities are lifelong conditions that people are born with. Although individuals may develop other disabilities or conditions during their life, their learning disability will not change. We ask the Committee to consider it imperative that the decision-maker from the Social Security Agency (SSA) or whoever carries out the medical assessment has a good understanding of learning disability and the context in which people with learning disabilities live. The responsibility will be on individuals once they receive correspondence from the SSA to make a claim for PIP, so there will be implications for people with learning and communication disabilities. If people cannot read or have difficulties 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 the SSA. It is also important that people with a learning disability be given the additional information and support that they require to complete the process, including reasonable adjustment and, where necessary, advocacy or advice from external organisations.
4020. We also have concerns about the changes to entitlement for the enhanced rate of the mobility component. Under DLA, individuals can be awarded the high rate of the mobility component if they have severe mental impairment, are in receipt of the high care component or have significant challenging behaviour. Under PIP, the criteria for receiving the high-rate mobility component will be removed. Several people with a learning disability whom Mencap supports meet that criteria under DLA and are in receipt of the high-rate mobility component. The removal of that award will have a huge financial impact on individuals, their families and their carers. Having funding for a mobility car or to pay for transport is a lifeline for those individuals, and its removal will have a devastating effect on their life. We ask the Committee to seek further information on that and to give it attention when the regulations on PIP are published.
4021. Finally, we are concerned for those individuals who currently receive DLA but who may not receive PIP under the regulations. Earlier, I spoke about the significant barriers that people with a learning disability face when they are trying to get employment, and I said that less than 10% of people with a learning disability are in paid employment. In a 2011 survey by the Disability Alliance, 56% of disabled people said that they would have to stop or reduce work if they lost DLA. That could result in 1,200 disabled people in Northern Ireland becoming unemployed, which, based on the average NI salary, would lead to a loss of £6 million in income tax and national insurance to the Treasury. We ask the Committee to ensure that the Department publish the policy

- assimilation model and results that Karen spoke about and clearly state mitigating actions where the impact on people with a disability and carers is required.
4022. I thank the Committee again for the opportunity to speak today.
4023. **The Chairperson:** Thank you very much, Jenny. Norah, do you wish to add anything?
4024. **Ms Norah Marquess (Disability Action):** I am here as the manager of the employment and training unit in Disability Action. We feel quite strongly that the Welfare Reform Bill will have a big impact on employment for people with disabilities. I am here to answer any employment-related questions.
4025. **The Chairperson:** OK, thank you for that.
4026. **Mr Brady:** Thanks very much for a very informative presentation. I have a few points to raise. Karen, you raised the whole issue of societal barriers for disability. That is very important. People tend to look in isolation at the physical or mental disability.
4027. You also mentioned the loss of the severe disability premium. It is often forgotten why that was brought in. It is to help people, particularly those who live independently, to cope with those societal barriers and their disability. The whole purpose of DLA and the severe disability premium was to enable those people to live independently and to become part of and remain in the community. If you consider it, that is one of the main planks of Transforming Your Care. However, we have one Department going one way and another, seemingly, going the other. That is important to recognise.
4028. The other thing is the loss of the youth incapacity payment. The severe disability premium was for those who are 16 years old and upwards, mainly those with learning disabilities. Not only did that give them a degree of independence but it was a source of comfort to parents, in that at least the kids were going to have something going into the future. The waiving of the contribution conditions was a progressive step, even though the severe disablement allowance was abolished. It now means that all those people will be subsumed into your area of employment.
4029. In a previous life, I worked as an advice worker in Ballybot House in Newry, where Mencap has a unit. You see how well people cope with their conditions, but they find it difficult enough to cope and could not be transported into employment. This goes back to your point about the reassessment under PIP and the fact that there will be no indefinite awards and people will receive awards for only two, three or five years. I have represented at appeals young people with Down's syndrome who were given two-year awards, as if they are going to wake up the next Monday and not have Down's syndrome. You wonder about the mentality of the people who make such decisions, and there is no guarantee that the people who will make the decisions in future will be any better equipped.
4030. You mentioned the mental health champions, and there are also autism champions. As far back as 2007, when the initial stages of welfare reform came in with work-focused interviews, Fra and I argued for the need for staff to be trained. For example, we asked that if someone with bipolar disorder went in for an interview, would the person behind the counter be able to deal with that and realise that it is a fluctuating condition. You mentioned other fluctuating conditions such as MS and a number of other mental health conditions. We have asked what training staff will get and, to date, have had no definitive answers. That has been going on for five years. Staff whom I know who work in Social Security Agency offices admit that they are at a disadvantage in many cases. They cope as best they can and do very well in many cases, but they are at a disadvantage, because they are expected to make decisions that they do not feel qualified to make. That is another issue.

4031. DLA came in in 1992 along with disability working allowance, which encouraged people of working age to work. However, that seems to have gone out the window completely, not that, in my experience, it was ever used to any great degree. Six months after it came in, I remember ringing up the Department to ask who would qualify for it, but it could not tell me. There was a lot of disinformation and lack of knowledge about the system, and I am not sure that the personal independence payment will be any better.
4032. You also mentioned the assessment, which I think is very important. We have argued, and continue to argue, that the primacy of medical evidence in these cases is paramount. The decision-maker who ultimately makes the decision is not necessarily the person who did the assessment. That might have been done by a civil servant who does not have the knowledge. Good, informed medical evidence is very important. Do you agree with me about the primacy of medical evidence?
4033. **Ms Hall:** Yes, we have said that it is really important for the medical evidence or the evidence that there is about a person to be taken into consideration at any early stage and that nobody should be financially disadvantaged for having to obtain that information. We have already seen people being charged for evidence from doctors for work capability assessments. People should be not financially worse off for having to do that. Where evidence exists, it definitely should be used.
4034. We understand that the thresholds and the descriptors will be out in mid-November. I have a copy of our original response to the previous consultation, if you would like to see it. In that response, we asked for an awful lot of changes to the descriptors, because they did not take into account how people live or their individual circumstances, which are different for every disabled person. The previous set of descriptors did not take into account some of the barriers and looked only at certain activities; for example, being able to microwave a meal. Living off microwaveable meals is not healthy. It should be about preparing a fresh and healthy meal that will sustain you and help with your health and well-being. Quite a lot of what was in the thresholds and the descriptors was worrying. We await what I understand will be the final draft of the descriptors and the thresholds. If they are to be used, it is so important to get them right now so that people do not experience the same level of problems with them as they do with the work capability assessment, which involves two completely different assessments: one about work and one about living independently. The descriptors and the thresholds do not apply to the social model of disability. It is still about looking at the medical evidence rather than considering what a disabled person's everyday life is like and what support he or she has.
4035. **Ms Marquess:** On the point about medical evidence, people need to be aware that people with learning disabilities do not necessarily have a very close relationship with their GP, because they are not ill. Therefore it sometimes might be difficult for a GP to give a good assessment of somebody's capabilities. That always needs to be borne in mind when looking for medical evidence.
4036. **Mr Brady:** Obviously, then, the people who know best, such as parents and families, should be an integral part of the decision-making process. You mentioned the work capability assessment. Even after the revision by Professor Harrington and all the other stuff, it was still a disaster. That just shows you how bad it was at the start. A couple of revisions have been done, and it is still not fit for purpose. You are right that a lot of youngsters with learning disabilities do not have immediate or direct contact with their GP all the time, because there is no need for them to have that. It is therefore essential that their family and the people closest to them be involved.
4037. **Ms Hall:** The big thing as well is that around 75% of people within the age



- range on DLA are on indefinite lifetime awards. There are people out there who honestly do not think that this applies to them. The message is not getting out that this will apply to all those people and that they will be reassessed. The communication is not there at the minute, and that is key. People think that this will not affect them.
4038. **Mr Brady:** On that point, if you do not reapply for PIP, there will be that gap. I just want to make that point.
4039. **Mr Copeland:** No matter what way you cut it, if the current benefit is reflected, around 25% of people applying for PIP will be suffering from mental illness. We have not as yet seen the award of the contract. The talk is that it will go to Atos. Do you feel that, if the contract tender document did not place on the contract provider — in other words whoever wins it — the necessity to have panelists available to do the examinations, and if that panel did not reflect the fact that 25% of people applying are liable to be suffering from mental illness, the usefulness of the contract and the whole exercise can be called into question?
4040. **Ms Hall:** From our perspective, we obviously do not yet know who will get the contract. I am not privileged to the information on what the process is. Whoever is providing the service or the assessments will have to have those specialisms built in. Even take the number that they will have to do in a week — how will that be possible? If the contract is not delivered on and if the supplier is not doing what it is supposed to be doing, there need to be sanctions imposed. However, I have no further detail on that at the minute.
4041. **Ms Ruddy:** May I make a point about the medical evidence? We have had some good engagement with the Social Security Agency's PIP team, which has been running a number of external stakeholder events since the start of the year. There have been some positive changes to the form. Initially, on the front page, where it asked for a contact, it just specified a person's GP which, as Mickey has outlined, is not necessarily practical for someone with a learning disability who may not have had contact with a GP for many years. That has now been changed to allow for any medical professional with whom you may have been in contact with, including occupational therapists and speech and language therapists, who might be more relevant to someone with a learning disability. There is also now a section providing for a family member or carer to give some comments on your disability. We saw that as being quite a positive step.
4042. In our written submission, we outlined the effect that this will have on the health service. If you are now having to go and seek medical evidence, the doctors' waiting lists or whomever you go to get that evidence from will become longer. Everyone is going through the reassessment process for many different types of benefit. We are concerned that people might not be able to seek that evidence within the shorter time frame under PIP.
4043. As to ESA in youth, which we talked about earlier, I know that when MPs considered the amendment in the House of Commons, the argument arose that people in that age bracket were already getting other types of disability benefit so why did they need that additional money. However, I think that that is a very naive take on the additional costs that someone with a disability may have, considering that some people may be worse off under the reforms. People underestimate the additional costs that someone with a learning disability has. ESA in youth is really is a lifeline for those people who have stayed in education after 16.
4044. **Mr Douglas:** Thank you very much for your presentation. On delegation and contracting out, you mentioned concerns about the output-related funding model for contractors, and you related your experience to that in England. Can you elaborate on that?
4045. **Ms Hall:** That is more to do with contracting out the work elements. If it is being contracted out under the Steps



- 2 Success programme, what we have seen and heard from other organisations in England and Wales is that, although the programme exists, people with disabilities are furthest removed from the labour market and so it requires quite a lot of work and support to get them into employment.
4046. The contractors are getting the people who are easiest to get into work into work, and disabled people are being left behind. That is one of the key concerns. Norah can tell you a bit more.
4047. **Ms Marquess:** We recently attended a seminar run by the Centre for Economic and Social Inclusion, and it had brought people over from England because of Steps 2 Success. It was quite clear that, for people with disabilities, there was “creaming and parking”, which is a terminology that is used. There is so much output-related funding, so people with disabilities are seen as not being lucrative, because it will cost more money to move them through the system and get them into employment. Therefore, those people are being registered by the companies but are then being parked because there are no facilities or resources to provide the support that they will need. Somebody at that conference said that creaming and parking is happening across the water and that the car park is getting very full. It is happening in England, Scotland and Wales, and we should be doing something to prevent that here, because, as a disability organisation, we have grave concerns about how people with disabilities will get left behind. Welfare reform is up in the air for them.
4048. **Mr Douglas:** I have a final question. You referred to a disability disregard provision to be inserted in clause 8. What would its effect be? Do you have any idea how many people that would benefit?
4049. **Ms Ruddy:** That is about couples where both partners have a disability. Was your question about the number of people?
4050. **Mr Douglas:** What will the effect be? How many people are we talking about?
4051. **Ms Ruddy:** We do not have any figures on how many people it will affect, but, under universal credit, both people in a couple cannot claim disability benefit. Therefore, there is a level of disregard there, and their disability benefits would be capped. We are asking that that be taken into consideration. Both partners in some couples have a disability, and even children with a learning disability have parents with a disability. Some families have more than one member with a disability, and we need to take that into consideration. That issue may not have been raised before. Our national office in London asked about taking that into consideration. The numbers are pretty much unknown.
4052. **Mr F McCann:** I have a couple of questions. Thanks for the presentation. I sit on the Committee for Employment and Learning, and people sometimes forget that the consequences of the Welfare Reform Bill will have knock-on effect in DEL. I raised a question last week in that Committee about the migration of probably thousands of people who suffer from mental illness into work-related groups. Mickey touched on the point about decision-makers not having the proper training. Perish the thought what it will be like when people with serious mental health problems and disabilities who have been long-term unemployed suddenly find themselves in that arena. Have you raised that with the likes of DEL? The response that I got from one of the senior officials led me to believe that that Department has not even thought of that. That will have serious consequences for what we are deciding here.
4053. **Ms Marquess:** We responded to the Steps 2 Success consultation, and we raised all our concerns about people with mental health issues or any sort of disability being exposed to difficult situations. We raised the fact that DEL staff do not have the training to support people with disabilities. We raised the issue that, in the past, disability employment advisers (DEAs) were trained to work specifically with people with disabilities, had set caseloads and

knew their clientele. That has fallen by the wayside with Pathways to Work. We suggest that that is worth reconsidering. DEAs still exist in England. That specialism is still there. We are concerned that generic departmental staff do not have the skills or know-how on how to treat people, deal with their situations and work with the barriers that they face, so we will push for specialism to be brought back into the Department.

4054. **Mr F McCann:** Will you provide us with any information that you have on that?

4055. **Ms Marquess:** I have a copy of it here.

4056. **Mr F McCann:** As Mickey said earlier, we have been told that training or information have been provided by organisations such as yours that allows decision-makers to be trained to a level of competence. In some of the cases that we deal with, there is no evidence that that has happened. We may need to go back to some of those people and tell them that the evidence of training that we asked for has not been forthcoming. Although welfare reform will impact on the realm of DSD, it will also have a knock-one effect on other Departments.

4057. In our talks with the Department, a number of Committee members raised the issue of supported housing and special adaptations for people with physical disabilities. I believe that supported housing will be exempt, but a huge number of people have had their currently underoccupied houses specially adapted. At the minute, it does not look as though there is anything in the Bill to protect such people. Have you dealt with some of that stuff?

4058. **Ms Hall:** Although we welcome the allowance of a room for an overnight carer, our main issue concerns not overnight care but having room for treatment. Someone may be on dialysis, need physio, occupational therapy support or whatever. People need to have room to do that. We need to look at how that will work. We do not want somebody having to move or look for different accommodation because of

that clause. We are concerned because they will probably have to move further from their family and existing support networks. We do not even know where accessible housing is in Northern Ireland. A register for the Housing Executive is looking to be developed. We need to work through all of that before bringing in a provision that will have a significant impact on disabled people. Even a hoist, because of its size, takes up a lot of room.

4059. **Ms Ruddy:** We also point out that the housing pool is very small for somebody with a learning but not a physical disability. We think that imposing this criteria has the potential to make that pool even smaller. We know that transport is the number one issue. It is vital. Moving people who are living in the community on their own to somewhere with poorer access to transport or away from family members on whom they rely to get out and about will have a huge impact on their independence. If you cannot get out of your home, how are you expected to have a job? How are you expected to engage with your community? How are you expected to get to some of your services? The Bill does not really look at that. It is important to consider the effect that this will have on those with physical disabilities who live in adapted housing. However, people with learning disabilities can sometimes fall beneath the radar when considering facts that are not based on adaptations. We should also consider the Bill's effect on people's local community links that is caused by moving them to a different area or putting them in the position of not being able to move out of their family home.

4060. **Mr F McCann:** Finally, I do not know whether you have assessed the impact of the shared room allowance on people with mental illness. It is one of the issues that we have raised, particularly the provision to raise the age eligibility from 25 to 35. What is the impact on somebody with a mental illness or physical disability suddenly living in a shared house for the first time? Such

households can sometimes be fairly disruptive. Have you been collating any evidence on that?

4061. **Ms Hall:** Not specifically. We can certainly look at our enquiry stuff and do an analysis of some of the data. Sometimes, the information we pick up does not go far enough down. A case was taken in England, under human rights legislation, on the issue of private households. So this will impact on social housing. Three young disabled people successfully took a case against DWP in relation to extra room space and earned the right to live independently. There is some learning to come out of that, as DWP had to reissue advice. However, my understanding is that it will appeal the decision, so we await the outcome of that.
4062. **Mr F McCann:** Surprise, surprise.
4063. **The Chairperson:** Fair enough. Thank you, members. Are you happy enough? You have made your presentation, but do you want to make any additional points?
4064. **Ms Ruddy:** I just remembered something that I meant to say earlier when I was talking about the form and how the introduction has been changed so that you can include any medical professional's opinion in the evidence. One of our concerns — it was not just the learning disability sector but a lot of the disability sector that voiced this — is what weight that carries. So, again, it will come down to the training, the decision-maker or the agency. That is what we have seen with Atos and employment support allowance, in that the medical assessment carries more weight than the independent evidence from a family member or a medical professional. That is a huge concern as well. When it comes down to it, the medical assessment will carry more weight, and that is what the decision will be based on.
4065. **The Chairperson:** Thank you very much, Jenny. That is a very helpful additional bit of information. If you are happy enough to leave it at that for today, I will just say again that we very much

appreciate the submission you provided, as well as the additional information in your oral submission here and how you dealt with some members' questions. It has all been very helpful.

4066. We are working towards the 27th November for our report. I just want to assure you that your contributions so far have been very helpful. In some cases, you have reaffirmed some members' views, and you have certainly given some additional weight and clarity to some of the issues that we need to grapple with. So, again, thank you very much for your support to the Committee in its deliberations on the Bill.
4067. **Ms Hall:** Thanks for the opportunity. If you need anything further, let us know.
4068. **The Chairperson:** I have no doubt that we will be engaging with you again. Thank you very much. Again, apologies for the delay earlier today.



# 31 October 2012

## Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann

## Witnesses:

Dr Jennie Donald	<i>Chartered Institute of Housing</i>
Ms Ricky Rowledge	<i>Council for the Homeless Northern Ireland</i>
Ms Nicola McCrudden	<i>Housing Rights Service</i>
Mr Cameron Watt	<i>Northern Ireland Federation of Housing Associations</i>

4069. **The Chairperson:** I formally welcome everybody to the resumed Committee meeting. Obviously, we are here to continue our formal scrutiny of the Bill.

4070. In this session, we are pleased to receive a briefing from a range of housing-related organisations. Without any further formal ado, I invite the witnesses to come to the table. With us today are Dr Jennie Donald from the Chartered Institute of Housing; Ricky Rowledge from the Council for the Homeless; Cameron Watt from the Federation of Housing Associations; and Nicola McCrudden from the Housing Rights Service. I formally welcome you this afternoon and apologise for the slight delay at the end of the morning session. It went on a bit longer than planned, but, given the importance of this legislation, we would not, in any way, want to restrict any of those who make submissions to us. I thank you for your written submissions and for being here to give us your oral submission. The floor is yours. I will leave it up

to you how you want to make your presentations.

4071. **Dr Jennie Donald (Chartered Institute of Housing):** Thank you very much, Chair. On behalf of my colleagues, I thank you for inviting us to come along today to give evidence and for the opportunity to suggest potential amendments to the Northern Ireland Welfare Reform Bill. We welcome the Minister's announcement last week, and we would like to acknowledge and commend the role that the Committee played in pursuing and securing the flexibilities in the administration of universal credit and the delayed implementation in Northern Ireland. You will know from our written submissions and conversations that we have had with the Committee that each of our organisations has always been clear that we support the general principle of work paying more than welfare and the principle of a simpler, more easily understood and more accessible benefits system.

4072. In moving from the principle and policy of welfare reform to the practical reality, I want to pick up on a couple of reports that were published this week. A KPMG report brings a stark warning that one in five workers in the UK exist on below the living wage of £7.20 per hour. Northern Ireland has the highest proportion, 24%, of workers living on below the living wage. Moving people from benefits to low-paid work that leaves them struggling to meet their basic household needs is not a solution to tackling poverty and disadvantage. The Joseph Rowntree Foundation published, amongst other findings, research that suggested that work may not necessarily pay under universal credit. For some, the incentive to work full-time will increase only marginally, whilst for others the incentive will be weaker than under the current system.



4073. I know that you are very well aware of the particular housing challenges in implementing the welfare reforms. I do not want to rehearse those again, so we will move directly to the Bill. I want to highlight a couple of concerns about universal credit more generally and then two areas in which we would like to suggest amendments. In many ways, it is difficult to talk about the housing cost element of universal credit because there is so little information in the Bill to comment on. The detail on rent service charges and mortgage interest will all fall to the regulations to determine. At the appropriate time, we would very much welcome the opportunity to discuss the regulations in Northern Ireland to ensure that we can drill down to the level of detail of how housing costs will be dealt with. It would be very helpful if the Committee could perhaps seek some clarification from the Department on the timetable for the regulations and when we might be able to see those to comment on them and help to shape the detail.
4074. On a general note, the process of designing and implementing universal credit poses a number of strategic and operational risks to the provision of an effective system. We are very concerned about that. That detail is in our written evidence, so I will not go through it again, but we are happy to take questions.
4075. We are membership organisation, and one of the concerns from members is that landlords — social landlords and possibly private landlords — will have to subsume much of the significant implementation costs of universal credit that will fall outside the budget of the Department for Work and Pensions (DWP) and the Department for Social Development (DSD) in preparing for the changes and their impacts on tenants. It almost goes without saying that a lot of those concerns could be allayed if we had more information and clarification on a number of issues in the Bill, such as universal credit as it is being developed; how the IT system will operate; the new local arrangements for rates relief; passported benefits; the social fund; support for non-online users and how those services will be delivered; what the delivery structures will look like; and how housing assessments will fit into the determination of universal credit payments.
4076. I will touch briefly on two areas where we feel that it would be very useful to seek amendments to the Bill. The first is extended payments. The Bill does not allow for housing cost run-ons, which are also known as extended payments, when claimants start work. Under the current system, housing benefit or support for mortgage interest continues for four weeks after an individual has found employment. It helps claimants in the transition from benefits to wages. We know from colleagues in England that universal credit regulations being drafted in Westminster plan to abolish the extended payments. We feel that contradicts the objective of improving incentives for the long-term unemployed to take up work. Given the high levels of long-term unemployment in Northern Ireland and the prevalence of low-paid employment for people who do transition into work, we ask that you consider continuing extended payments on the introduction of universal credit and writing that provision into the Bill. We have suggested wording of an amendment in our written evidence.
4077. The second issue is rates relief. We feel that there is a real risk that the more elements that are provided outside of universal credit, the more the simplification principle of the benefit is eroded and the single taper may no longer necessarily apply. That is why we advocate that the benefits of a lower withdrawal rate of support, which is obviously a key element of universal credit, are not lost when it comes to housing benefit for rates relief. We ask the Committee to seek to ensure that help with rates remains outside of universal credit whilst mimicking the amount of benefit that would be received if help with rates was included in the benefit. We have provided some

of the more technical detail of that in our written submission. If the new rates relief scheme is developed based on the current system rather than what would be the case if support for rates was contained within universal credit, low-income households returning to work or taking on additional hours would find very quickly that they have to take on responsibility for payment of rates. Again, we have provided all that detail. Essentially, what we suggest would ensure that payment of rates is assumed at a level commensurate with universal credit, thus ensuring that households do not find themselves only very marginally better off in work or if they increase their hours.

4078. **Mr Cameron Watt (Northern Ireland Federation of Housing Associations):**

Chair and Committee, thanks again for the opportunity to present today. I would also like to reiterate Jennie's thanks for the Committee's support for the flexibilities that have been secured in the operation of universal credit here. I am sure that the robust cross-party consensus really strengthens the Minister's negotiating position with DWP. I put on record our thanks to Minister McCausland for winning those flexibilities, which we believe will help greatly in mitigating the impacts of welfare reform and, as you know, are being viewed enviously by the rest of the UK.

4079. As Jennie mentioned, most of the detail on how housing costs will be covered under the new system will be set out in regulations. Some of those regulations — on service charges, for example — have still to be finalised in GB. It would be very helpful if the Department provided a timetable for publishing the regulations due to be made under the Bill. Given their importance and complexity, we hope that the Committee will be able to scrutinise those draft regulations on housing costs in the necessary detail once they are produced.

4080. Clause 69 will introduce an underoccupancy penalty, or bedroom tax, for social tenants. We, too, support the principles of simplifying the benefits

system and making work pay. However, we believe that the underoccupancy penalty is unjust and has the potential to cause real hardship to many low-income families. A fairer approach would be to apply the penalty only if or when the affected tenant had been made an offer of a suitable smaller home that they had refused. The scope to mitigate the impacts of the penalty without breaking parity seem limited. In common with the Chartered Institute of Housing (CIH) and others, the Northern Ireland Federation of Housing Associations (NIFHA) is very concerned about the failure to exempt disabled people and foster carers from the underoccupancy penalty. Those issues were debated at some length during the passage of the GB Bill, and additional funds will be made available to offset the impacts on those two groups. However, those measures will be only temporary. We think that we should be able to do better here in Northern Ireland, so we ask the Committee to amend the Bill to exempt those two groups from the penalty.

4081. We also think that there is a strong case to delay the introduction of the penalty for six months in line with the six-month delay to the introduction of universal credit here. Housing associations along with the Housing Executive have been, and are, active in publicising the likely changes to tenants and doing what we can to prepare. However, in GB, there will be a gap of over a year between the Act being passed in March 2012 and the penalty being introduced in April 2013. Here, the period could be as little as a few weeks. The information-sharing powers that will allow our members to better pinpoint and identify people affected are contained in this Bill. They cannot be used by housing associations until this Bill passes into law. Given that the impact of the penalty will severely impact so severely over 30,000 households in social housing, we believe that our members and tenants need more time to prepare, especially when the delays that have inhibited that preparation have been completely outside our control.

4082. As I said, housing providers need that real-time benefit information to pinpoint which tenants are impacted by the changes to provide appropriate help as well as mitigate the risks to their income streams. So, as far as clauses 116 and 117 on information-sharing are concerned, we believe that housing associations should be specifically added to the list of qualifying persons so that we can definitely get hold of that information. In the GB legislation, there is provision for local authorities that want to share the information with housing providers, but, in practice, not a lot of them have done that. Here, all housing providers providing social housing should have access to that information as of right so that they can provide the necessary help and support.

4083. We know that the budget for discretionary housing payments will increase from £3.4 million to £6.9 million. However, the underoccupancy penalty will result in benefit savings and, therefore, lost income to tenants of £15.5 million annually. Over 6,000 housing association households will be receiving £70,000 less each week in housing support as a result of the bedroom tax. That is £3.7 million annually. Therefore, there will be immense pressure on this comparatively small budget. So, to prevent severe hardship, we think that it is likely that the fund for discretionary housing payments will need to be increased. We ask the Committee to consider that.

4084. I would just like to finish with a word on exempt accommodation. Many of the homes that our members provide are specialist and supported housing for vulnerable people. We welcome DWP's decision to remove housing costs for supported housing from universal credit, because that recognises that this housing is more expensive to provide and needs to be supported at a higher level. However, the announcement in GB that we are going to move to a new localised system for exempted accommodation creates real uncertainty. We feel that there is a real danger that we could move away from a demand-

led system, where the costs are fully and properly covered, to these costs being covered from a finite pot which could create a major shortfall in the amount of housing support that is available and necessary for people in exempted accommodation. We ask the Committee, therefore, to closely scrutinise how housing costs for exempted accommodation are going to be managed within the new system.

4085. **Ms Ricky Rowledge (Council for the Homeless Northern Ireland):** I, too, thank the Committee for asking us along today to give evidence. In the short time available for me to talk to you, I want to focus on homelessness, and, in particular, the impact of the Welfare Reform Bill upon people who are already homeless, not those who potentially may have difficulties with affordability in future when the Bill is implemented.

4086. I want to talk to you about the administration of universal credit, and a little bit about a couple of the clauses and what they will mean to homeless people, so that you are mindful of that particular group of very vulnerable people in society. Finally, I will also talk about the implications for some of our strategies in Northern Ireland.

4087. Homeless people who live in temporary accommodation live in hostels or single lets. Single lets are self-contained accommodation units that are leased en bloc by the Housing Executive to give people temporary homes. There are around about 800 of those units in Northern Ireland. They have very poor access to IT on the whole. If we look at the default method of applying for universal credit, we see that it is online. You will find that many of those people who are homeless and in that population have low literacy and numerous skills, and low IT skills. They also will not have great access to the actual technology that will allow them to apply for universal credit. We need to be mindful that when we look at other methods of applying for universal credit — whether it be by telephony or through individual face-to-face contact — homeless people

should be given as much opportunity as possible to access that.

4088. In regard to the provision of temporary accommodation, providers will need to look at how they can gather the resources to provide the actual computers whereby people can access their online applications, because many of them will not have that. Also, they will need to be trained up in skills development to help people learn how to use computers and how to do things, particularly when circumstances change and you have to reapply. I also think that there are some issues with confidentiality around getting help for applying.

4089. The second area regarding administration is the fact that universal credit is likely to go directly into bank accounts. In my work, I speak to many, many homeless people who live in temporary accommodation and to the staff who work with them. Banks and building societies are very loath to give bank accounts to people who are in temporary accommodation. That is a fact. I know providers who have talked directly to many different banks in Northern Ireland, and who have been told, “We don’t think so.” I think that there is a responsibility on the Stormont Executive to speak to the banking fraternity to encourage them to ensure that there is accessible banking for everyone in Northern Ireland.

4090. The third and most important thing for people with regard to administration, when they are in temporary accommodation, is the production of evidence. Many of our more vulnerable homeless people — whether they have suffered domestic violence, been involved in criminal justice and have been released from prison or live chaotic lifestyles — will not have the kind of evidence that is needed in order to apply for universal credit. The way it works — at least the way we are told that it will work — is that your claim will not become active until all evidence has been presented. We have people who will not be able to provide all evidence, and that means that they could go long periods of time without money,

and those who are accommodating them will be a long time without any rental income. At present, third-party verification from a reputable source is allowed as evidence, and we ask that it be written into the Bill that, while those who are homeless are seeking to get together the evidence needed, third-party verification should be accepted to kick-start their claim.

4091. I support what Cameron said about what will be included in housing costs. The housing cost element — whether it is paid directly to the landlord or not — in supported temporary accommodation includes an element for intensive housing management, and that recognises that it is more expensive to provide the bricks and mortar for certain vulnerable groups. We ask that that is maintained in the housing costs that will be delivered external to universal credit. Otherwise, we will have an increase in arrears, and, potentially, schemes will close due to lack of finance.

4092. I will finish by talking about discretionary payments, particularly discretionary housing payment for homeless people. Most people who leave temporary accommodation, regardless of the reason they became homeless in the first place, will need help, normally through a community care grant, to set up a home. Research says that 70% of tenancies will break down due to loneliness and due to people living in a house and not a home because they have no furniture. Could you imagine living in a house where you literally have nothing? People depend on money coming through community care grants and, ultimately, often through crisis loans to establish a home, and if you have those things, it is more likely that your tenancy will be sustainable. I agree with my colleagues that it will be spread very thin. We have real concerns that it will be subsumed into a wider discretionary social fund and will not be ring-fenced for housing costs alone. We ask that consideration is given to, first, increasing the fund; secondly, to ring-fencing it for housing costs; and, thirdly, to some level of prioritisation



- for homeless people who are leaving temporary accommodation and do not have furniture in storage to set up a new home.
4093. I hope that you recognise that the UK welfare reform legislation will have a negative effect on some of our local initiatives; namely, the homelessness strategy, which was consulted on and approved by DSD and passed by the Stormont Executive. That strategy praises as its mainstays the prevention of homelessness and access to affordable housing, but this legislation and the regulations that apply to housing will not just drive a horse and carriage through it but will drive a steamroller through it. That will mean that it will be virtually impossible for us to meet the aims that we have set ourselves. I ask that, in some way, that is taken into consideration.
4094. **Ms Nicola McCrudden (Housing Rights Service):** As a front line agency that provides advice to people who are already affected by implementation of cuts to housing benefit, we see very little in this Bill to improve their situation. In fact, we are very concerned that it will put a lot more people in a much worse situation. It is very difficult to provide an informed comment on the clauses that relate to housing because, as my colleagues said, the detail will be in the regulations. With regard to clause 11 and housing costs, that will include what is to be included and excluded from housing costs; when a claimant is to be treated as liable or not; when a claimant is to be treated as occupying, including temporarily occupying accommodation; how the amount itself will be calculated; and when that entitlement will commence and cease. We strongly urge the Committee to conduct full and proper scrutiny of the regulations, because the devil will be in the detail.
4095. We have looked at the draft universal credit regulations in Britain and have genuine concerns that there will be further cuts through regulations that will affect social housing tenants, private tenants and homeowners. Even though that is not related to the Welfare Reform Bill specifically, it will come in on the back of the detail of the regulations. With regard to homeowners, one of our major concerns is the waiting period before entitlement to help from support for mortgage interest. We are still waiting for a determination on how long that waiting period will be. Currently, homeowners have to wait up to 13 weeks for assistance. There has been talk that DWP will extend that to around 39 weeks. I am sure everybody is aware of the saying that a person is only three months away from becoming homeless. Working people tend to have some reserves. However, our experience to date has been that those reserves are running pretty low and that people have enough to get by for only a month or two. So to expect people who lose their job to wait 39 weeks before entitlement to support for mortgage interest is very impractical. We are extremely concerned about that, and we ask the Committee to clarify what the intentions of the Department and DWP are in that regard.
4096. One key change being signalled by the Department is that an owner on universal credit will lose help with housing costs, even if they take up temporary work. At the minute, such a claimant can get, for example, employment and support allowance (ESA). However, it is our understanding that if a lone parent, for example, takes up a job for a day week, they will no longer be entitled to any help from support for mortgage interest. That runs contrary to the principle of the Welfare Reform Bill.
4097. We are also concerned that there may be cuts to entitlement generally. At the minute, a person on income-based jobseeker's allowance (JSA) is no longer entitled to any assistance from support for mortgage interest after two years. That really has been a lifeline to the vast majority of our clients. However, if that were extended across the board, we would have serious concerns about the implications for the local housing market, unless someone with a crystal ball can see an end to



this recession, because our market is in a very different place from the one across the water. Most of our clients are in negative equity, which leaves them with very limited options. Our house prices are still quite suppressed. So, again, in respect of Northern Ireland's circumstances, I would just ask the Committee to be mindful of that.

4098. I will touch very briefly on the issue of tenants. There are significant changes coming down the line, and those of you who provide advice to your constituents on housing benefit, as I know you all do, may be aware of some of these terms. There will be changes to overlapping entitlement or what is known as the "two homes rule". If someone who is renting privately is made an offer for social tenancy and that is accepted — a landlord often does not want the accommodation to be void and naturally the person on the waiting list wants to move in — that person will have an overlapping entitlement, because they are liable for rent on two homes, and their benefit paid will be paid. Our understanding is that that will be done away with under the universal credit regulations. Again, as Ricky pointed out earlier, currently, homeless people in hostels who are waiting for a social fund payment for furniture are entitled to assistance. Our understanding is that that will also be done away with.
4099. Currently, claimants who are temporarily absent from home are entitled, under specific circumstances, to housing benefit for up to 13 weeks or 52 weeks. However, under the draft universal credit regulations in Britain, that will be payable for a maximum period of six months. People who were entitled to it for up to 13 weeks will obviously benefit, but those were entitled to it for up to 52 weeks will obviously be at a disadvantage. That includes people who are admitted to hospital, to long-term respite care and to prisoners who are in custody on remand.
4100. There are a number of other issues, but I do not have time to go through those here. I really just wanted to make the Committee aware that there

are further cuts coming down the line. It is so important that you scrutinise the regulations line by line, clause by clause. I agree with what Jennie said about the timetable. It is very important to get a timetable from the Department and to ask it whether there is scope within the regulations to make Northern Ireland-specific amendments.

4101. We, too, are very concerned about the budget for discretionary housing payments. However, we are aware that it is discretionary and is temporary. However, we ask that provision be made within the social protection fund to ensure that people who have had their benefits cut and are at risk of losing their home are provided with some kind of assistance through that fund, even on a temporary transitional arrangement.
4102. **The Chairperson:** Thank you very much, Nicola. We have had four presentations so far, and like the others, that was very informative.
4103. **Mr Douglas:** Thanks very much for your presentation. We have heard from a number of stakeholders about the underoccupancy requirements. People are saying to us that the requirements should not be applied until there is sufficient and appropriate housing stock. What is your view on that?
4104. **Mr Watt:** I think that, in an ideal world, we would not introduce such a requirement until we had sufficient and appropriate stock so that everyone could have a home that was deemed a suitable size. Given our limited housing stock and the very major constraints on the newbuild programme because of limited public funding and our members' limited capacity to borrow privately, that is, perhaps, unrealistic. We should, however, aspire to some changes that will make the system fairer. As I said, exempting particular groups, such as foster carers and disabled people, would make it a fairer and more equitable system. Given that the changes are so fundamental, providers and, more importantly, tenants, need a fair opportunity to prepare for the very

- major changes that the bedroom tax, or underoccupancy requirement, will usher in.
4105. In communicating with tenants, our members have done a lot of work on the range of changes that will impact on social tenants. However, much of that work has been frustrated by a lack of clarity on, for example, direct payments. We are, obviously, very thankful to the Minister for securing that. However, the uncertainty in that area had created a difficulty in communicating clear messages on direct payments. That is also the case with the bedroom tax, because we do not know what the final shape of that legislation will be here.
4106. As to the provision itself, building new, smaller homes is a part of the solution. Under the social development programme, housing associations are committed to providing 150 new smaller units this year and 200 next year. However, set against the scale of the problem, which is that over 30,000 social households are underoccupied, that is a significant but small part of the solution. Along with perhaps exempting one or two particular groups and delaying the introduction to give us a fair chance to prepare, we also need to do much more work on, for example, supporting people to take in lodgers and looking at issues to do with allocations and tenancies. I do not think that there will be any quick fixes. This will require a lot of small, incremental improvements.
4107. **Dr Donald:** Absolutely. If we can delay the underoccupation penalty, perhaps by six months to bring it into line with universal credit, that would certainly be helpful. Communication with tenants is fundamental. I understand that it could be January when tenants are notified that they are at risk of being evicted by virtue of this penalty. That does not leave much time for people to assess their housing options and find a suitable property, if indeed such a property is available.
4108. In other parts of the UK, a lot of time has given to thinking about how to make better use of stock. Investment has been put into programmes of work with local authorities and housing associations on using the stock that they already have more effectively and supporting tenants to move if they are willing to do so. Obviously, when people become aware of the severity of the reductions in benefits, there is a chance that they will want to move on. So we should at least give some thought to putting money into that sort of programme, and we should put a lot of resource, right now, into using the stock that we have more effectively while we wait for the programme to catch up and for those smaller homes to start being built.
4109. **Ms Rowledge:** I slightly disagree with my two colleagues on this issue. I think that other elements need to be taken into consideration and that we should try to delay the implementation for as long as we possibly can, certainly while we do other work. My reason for saying that relates to the differential between the security of tenure of a social tenant and that of someone in the private rental sector. Many of the people who will be affected by this will be like me: their children will be grown up and have left the house, and they are in a bigger house than it is deemed that they need. If it were me, I would be sitting in a secure tenancy, and I would say that there was nowhere in my area or community, to which I have ties, to move to. So I may decide to pay for the two extra bedrooms. The alternative would be to move into the private rented sector, if accommodation were available there. I would have much less security of tenure, and it would be highly unlikely that I could find a home in the bottom thirtieth percentile in order to get full housing benefit. So I would have to pay something towards my rent anyway. Where would you stay? You would stay in your secure social housing tenancy.
4110. Therefore, the driver and ideology behind the legislation, which is to get better use of social housing stock, as is right and proper, is pointless, because we do not have secure tenancies to move people into, we have quite high rents, and we do not necessarily even have the most appropriate housing in the private

sector. People will, I think, choose to stay in their social rented tenancies. Therefore, we have to look at how we can better use our housing stock and look at the sharing of homes and that kind of thing. If you can get a six-month delay, that would be brilliant. However, if you could get a delay that was a wee bit longer, we could start to work with private as well as social landlords on looking at change of use, which would be positive.

4111. **Mr Douglas:** The Housing Executive told us that, if the Bill were implemented tomorrow, it would not have the necessary housing stock.
4112. **Ms Rowledge:** Exactly.
4113. **Mr Douglas:** Somebody suggested yesterday, after a discussion with the Housing Executive, putting off the implementation of the requirement for 10 years, because it would take that long to get the necessary housing stock.
4114. **Mr Watt:** As has been said, the evidence from GB is that about 80% or 90% of social tenants affected by the bedroom tax will seek, at least initially for a year or two, to stay put. So to begin with, you will not necessarily get movement within the social housing stock. The Housing Executive is taking the lead in procuring a new online home-swap portal. That is intended to work across the social housing sector in Northern Ireland, including the Housing Executive and housing associations, so that, where people are interested in downsizing or upsizing, we are efficiently and effectively facilitating movement within the social stock to match people up as best we can.
4115. **Ms McCrudden:** Providing advice and support to tenants will play a very important role. Tenants do not know what their housing options are. They do not necessarily know that moving into the private rented sector means that they are giving up a secure property, their entitlement to buy and all the other rights associated with that. Tenants need to be informed and given proper time to seek out that independent advice so that they can make an informed decision about where they want to go.
4116. We have not had any investment for looking at the whole financial inclusion agenda. The Executive are producing a financial capability strategy, and I am on that advisory group, but it will be in place only from March. So we need to look at what investment will be attached to that strategy. It is very unfair to start cutting people's housing benefit entitlement when they have not had the support, information and guidance to show them how to manage their money more effectively. That is quite important.
4117. My third point is about our allocation scheme. There is a mishmash between how our social housing property is allocated and the underoccupancy regulation that will be brought in. Someone could be offered a property and two children under the age of seven would be expected to share, whereas the current allocations policy is two children under the age of 10. That mishmash needs to be looked at, because somebody could be offered a property today and be underoccupying that property come April.
4118. **Mr Douglas:** Housing Executive officials said that the Bill was very clear, and they used these stark words: if people do not pay the rent, they can expect to be evicted. They said that they wanted advice from us, and they certainly did not say that they would evict everybody who did not pay the rent. What is the response of your sector to what happens now with evictions and the potential for evictions under the Bill?
4119. **Ms McCrudden:** If you are asking about the attitudes of landlord to evictions, it would be more appropriate for Cameron to respond.
4120. **Mr Watt:** The housing association movement is committed to working with the Department for Social Development, the Housing Executive, Advice NI, Housing Rights Service and the other housing and welfare agencies to ensure that people do not lose their homes as a result of the changes. However, as

- we have acknowledged, the changes will cause real hardship, and people will run up greater arrears. DSD, as the regulator for social housing, has very tight expectations of the arrears under which our members are allowed to operate, and, obviously, our members are committed to keeping those as low as possible. A significant and sustained increase in arrears would jeopardise our members' capacity to borrow privately. Lenders to the social housing market are pulling out as fast as they can, and it is a challenging environment. If our arrears were to start increasing significantly, our members' banking covenants would be breached, and the capacity to borrow privately and build new social homes in Northern Ireland would be severely jeopardised. We will work with everyone else to give as much help to everyone affected by this. However I think that there has to be a bottom-line expectation that, one way or the other, people still have to pay their rent.
4121. **Mr Douglas:** I go back to Nicola's point on the financial capability statement. The Consumer Council is providing advice like that. You are all saying that we need to have some sort of statutory regulation to support advice agencies and those types of organisations.
4122. **Mr Brady:** Thank you very much for a very informative presentation. You mentioned one point that many of the other groups mentioned, which is that the regulations are not yet available. It is also important that the guidance to social security staff is not yet available. Many of the sanctions and how they will be addressed are predicated on guidelines, so it is important that those are available, too.
4123. Some of the concerns that you raised are very real. In your submission, you state:
- "Since universal credit rolls together a number of different benefits it will comprise of different elements (eg standard, childcare, housing costs). At the moment these elements are processed in parallel. There is a danger that the decision on an award will be slowed down to the slowest part of the process. Under universal credit, nothing will be paid to the claimant until everything within the claim has been decided."*
4124. Ricky, you mentioned homelessness. That is a huge problem, and it will impact on those vulnerable people. However, there are other people who simply do not have the information at hand and for whom it can take a while to get, for instance, bank statements and details for their mortgage companies. That is a real difficulty.
4125. In your submission, you also state:
- "There are no safeguards in the universal credit system to prevent the type of tweaks and additions which have caused the current system to become so complex and unwieldy."*
4126. That is very true. There is a notion abroad that universal credit will make everything so simple, but it is all predicated on the effectiveness of the IT system. I have been around the benefit system for a long time. In 1993, when the Social Security Agency (SSA) went live, it involved the biggest computerisation since NASA, and apparently this one is even bigger. That system did not work. The system for the former Child Support Agency (CSA) is the classic example: they had to revamp the whole thing. The inherent difficulties in rolling out universal credit will be a real problem, particularly for housing.
4127. Although we welcome direct payments to landlords, that means that landlords, to a degree, will be OK. The same protection is not afforded to tenants, whose money it really and legally is. It is not just some altruistic gesture on behalf of the Department. Tenants are not afforded the same protection in the reduction allowed in underoccupancy, and so on. The protection is very unbalanced in that respect. I have no doubt that universal credit will probably create more problems than it solves.
4128. **Dr Donald:** Some of the information in and around universal credit comes from my colleagues in GB, and they are working quite closely with DWP and the Work and Pensions Select Committee on some of those issues. You are exactly right: our big concern is that tenants and



- claimants have complex and multiple issues. They do not always fit neatly into one simple, streamlined system. Of course, the reason why the current benefit system has reached its current size and level of complexity is simply because it had to reflect the nature of all the different circumstances. That is one of the concerns.
4129. We will also, simultaneously, be reforming a system and imposing expenditure cuts. When those two things happen at the same time, the potential for things to go wrong is greater, which is a very real concern for us. We continue to raise the issue with DWP and the Work and Pensions Select Committee, and we are trying to get more clarity on how those processes will work, particularly the IT system. However, the idea that it will slow down, because fewer benefits need to be assessed and factored into universal credit, is a very real concern.
4130. **Mr Brady:** I want to make a point about the living wage. That report refers to a living wage of £7·20 an hour and the minimum wage is £6·19 an hour. It also states that people in the North will be impacted more heavily by the lack of that £7·20. We live in a minimum wage economy, and in many cases employers will not pay more than that. Some obviously do, but the majority do not. Therefore, people are still that £1 an hour below a decent living standard. That leads on to other problems and to their trying to cope on a daily, weekly and monthly basis. Therein lies the problem.
4131. How the complexity of tax credits, for example, is going to be resolved in a benefit that will subsume all that makes it even more worrying.
4132. **Dr Donald:** Absolutely.
4133. **Ms Rowledge:** I would add that there are particular issues in Northern Ireland about the sanctions around seeking better-paid or more work. On the whole, we do not have better-paid or more work in Northern Ireland. How we apply that to our circumstances here really needs to be considered.
4134. **Mr Watt:** I think that most people would support the move to digital by default. We are moving into a digital age, and people need to be able to use computers. However, although digital by default may be the right approach, there has to be a fallback for vulnerable people. If those people have a problem with their computer or have no IT skills or access to a computer, the system will break down. A fallback is needed so that people can sit down with someone and get a problem sorted. That fallback will not be available in GB, but I think that we need to make sure that there is some sort of fallback for face-to-face support if people need it.
4135. **Mr F McCann:** I want to raise a couple of issues, especially on Cameron's last point about it being right that we move to a computerised system. Some of the evidence that we have heard is that a fairly high percentage of people cannot afford computers and would not be able to tap into that. There are many other people who have a limited knowledge of how a computer works. That also needs to be considered.
4136. Sammy raised the issue of evictions. Evictions are already taking place for rent arrears and for those who cannot meet their mortgage payments. There will be a huge increase in the number of people who will lose their homes.
4137. **Ms Rowledge:** There has been an 18% increase in homelessness in England in the past year and a 36% increase in London.
4138. **Mr F McCann:** Cameron mentioned the 30,000 houses that would immediately come under the provisions for underoccupancy. Is that within the housing association movement or the Housing Executive?
4139. **Mr Watt:** About 26,000 Housing Executive houses and 6,200 in the housing association movement will be affected. Overall, about 32,000 households in the social housing sector will be affected.
4140. **Mr F McCann:** When people argued that point, you said that you are building



- 150 units over the next wee while. That is a drop in the ocean compared with what is needed. There needs to be a complete change in the mindset of those who have drawn up the Bill. There are huge differences in housing here. We live with the legacy of conflict, and it is not easy for people to move across communities. A couple of weeks ago, I told the Minister that there are a couple of hundred houses lying empty in Tiger's Bay and that 200 people from New Lodge want to move into them. Would they allow it? No, they would not. There are major differences that need to be considered when this is all done.
4141. Jennie, your presentation refers to the extension of the shared accommodation rate. Do you have insight from landlords on the effect of the shared accommodation rate to date?
4142. **Dr Donald:** I was trying to get a bit information on that the other day, and I spoke to a colleague who works in the private rented sector, particularly helping low-income and vulnerable households to gain access to homes in that sector. There has been a bit of a delay because of the transitional protections, and the shared accommodation rate is not hitting as immediately as we thought it might because it depends on renewal of tenancy. However, increasing numbers of people are starting to say, "I can no longer afford my current tenancy. Can you find me something cheaper?" In most cases, it is almost impossible to do that because, in Belfast, it is a £40 drop between the local housing allowance before the shared accommodation rate and after. Last month, 40 people across Northern Ireland were impacted by the shared accommodation rate and said that they can no longer afford their current accommodation. My colleague said that, in many cases, landlords are prepared to drop rents but cannot drop them enough to make up the shortfall. We can meet tenants in the middle, but it is not feasible because tenants cannot make up the shortfall that is particular to the shared accommodation rate.
4143. **Mr F McCann:** I have dealt with a couple of people in that category, and a number of people are walking away from accommodation and are back with parents or staying with friends because they cannot afford it. It goes back to the bluff that was put across when it was announced that there would be an increase in discretionary payments from the Housing Executive to cover the cost. It talked about up to £3 million and now up to £6 million. A lot of that was initially said to cover the cost of the shared room allowance. If you add 30,000 people on top of that, it is a minimal amount. Many people do not grasp the fact that it is short-termism and that people still have to deal with the effect of it. Individually, you all do good work, but the hard message that needs to be sent out is that we are not prepared to deal with underoccupancy because it will lead to homelessness. A decision has already been taken that no new hostels will be built, which has a knock-on effect for homeless people.
4144. Nicola, we constantly talk about the impact on people who will lose their benefit for mortgage payments. If possible, could we have some clear examples of how it will impact people? That would allow people, especially us, to see the implications clearly. We get four or five presentations a day, and the Committee has guaranteed that everybody will be given the chance to have their say. We had a two-hour session this morning, and there are more evidence sessions this afternoon. We have accepted that, but, for it to be written into what we are doing, we need those clear examples. The impact of some of the changes on housing, Cameron, and from a homelessness point of view, Ricky, needs to be clearly outlined.
4145. **Ms McCrudden:** We are undertaking a piece of work that is like a snapshot survey of what is happening with homeowners who are experiencing mortgage arrears because of the cuts to support for mortgage interest. We are looking, almost a year down the line, at where they are now. We are having

- difficulty in following up a lot of people. That is not surprising because they are probably no longer there and have probably moved somewhere else. We will probably have that information within the next few weeks.
4146. **Mr F McCann:** I raised an issue yesterday with the Human Rights Commission, and it could make a major difference. It is the question about what the box room in many of the older housing association and Housing Executive social houses stands for. That may have been drawn up many years ago and might have fitted in with the guidelines then, but surely, in this day and age, a box room is more of a cupboard than a room. If that were removed, it would assist a lot of people. That is the message that we are sending out.
4147. **Mr Watt:** Some flexibility about the redesignation of rooms would be helpful. I suppose that one of the advantages of the GB legislation is that it is not prescriptive about what does and does not constitute a bedroom. Obviously, we cannot do a wholesale reclassification of two-bedroom properties as one-bedroom properties.
4148. **Mr F McCann:** Is that because it might reduce rent?
4149. **Mr Watt:** I am afraid that landlords could not take that hit.
4150. **Ms McCrudden:** It would also impact on tenancy agreements. If people are allocated a three-bedroom property, they will sign a tenancy agreement to say that they have a three-bedroom property. That is not to say that we cannot overcome that if some properties are redesignated, but there probably are some legal implications.
4151. **Dr Donald:** In respect of future borrowing, you could get round the implications for landlords, but there would be knock-on consequences for existing loans taken out against the stock that they have, rent levels and all those sorts of things.
4152. **Mr F McCann:** How has your sister organisation in England dealt with that?
- It is obviously ahead of us given that the legislation is already in place there. Has it be able to work out ways round it?
4153. **Dr Donald:** In respect of underoccupancy?
4154. **Mr F McCann:** Yes.
4155. **Dr Donald:** It is actually very interesting. Along with DWP, we have been running a learning network on direct payments. That is starting to feed back lots of other issues. Direct payments are obviously a concern for landlords in GB, but underoccupancy is emerging as the bigger concern. Like us, they are very worried about what that means for them. However, as you pointed out, they do not have the added issue that we have of segregated housing.
4156. We have developed an underoccupation toolkit, which we provide to landlords. That is free to download from our website and is accessible to everyone. It gives social housing providers lots of practical steps on how to help to support tenants through the changes, how to change their business modelling and how to take account of the effect of the changes on them, as part of the association, and on their tenants. So we are providing that support and advice to landlords. I have to point out that that was funded by the Department for Communities and Local Government. It invested in a team within the CIH to make better use of social housing stock. That is why we have been able to do that sort of work.
4157. **Mr F McCann:** Are you saying that it has a flaw?
4158. **Dr Donald:** It is not work that we as an organisation have been able to do entirely on our own. It has relied on government support. That is because the Government recognise that underoccupancy is a major issue and that we need a strategic and targeted approach to deal with it.
4159. **Mr Watt:** As well as landlords continuing to do what they can to explain the changes to tenants, by doing leaflet drops, providing tenant newsletters and

- going door to door, I think that some sort of public information campaign is necessary. The Housing Executive website sets out the changes to underoccupancy, but it is still says, "These changes may apply from next April." The likelihood, however, is that they will apply. If it is only saying that they may apply, I think that the reality has yet to hit home. I think that complementing landlords' efforts with a public information campaign would really help to raise awareness. People would then go to our members and get the help that they need.
4160. **Dr Donald:** We have to be much more creative. A standard issue letter will not necessarily do the job. Going door to door is one thing, but landlords in GB are using social media more and are texting tenants to make them aware of the changes. We have developed an app for smartphones that housing officers use when they go out to talk to tenants. Within five minutes of putting in all their details, the app will tell them exactly how the benefit changes will impact them and exactly how much they will lose each week from their benefits. That is helping tenants to make informed decisions very quickly.
4161. **Ms Rowledge:** It is important to remember that the regulations, the changes and the potential loss in rental income are multilayered. If people have children at home, they will be hit by increasing non-dependant deductions, which puts stress on families. However, if the children leave, people are immediately hit by underoccupation. So people are caught coming and going. People do not recognise the different levels. We need to try to make sure that the information directs people to advice agencies, which will help them to recognise how comprehensive these changes to housing are. It is confusing enough for those of us who work in the area, so it must even more confusing for tenants.
4162. **Mr F McCann:** I have just a final point. During the presentation given by the Housing Executive, the representatives said that they had recently completed a survey in the Portadown area in relation to underoccupancy. There was a huge percentage of people who said that they would not move. This is the bottom line in all that. It goes back to Sammy's point earlier on. If people say that they will not move and they start to incur penalties — and this will probably come down to organisations that you would oversee, Cameron — what moves do you make then? Departments and things like that would probably force them out and they would all be evicted. How do you evict 30,000 people?
4163. **Mr Watt:** Clearly, we cannot evict 30,000 people. Hopefully, the majority of those who make up the difference, will be able to find a way, one way or another, whether through bringing in a lodger or whatever. However there will be significant numbers of tenants running up significant arrears. We need to extend as much help to them as we can. However, as I have said before, the housing associations cannot be financially viable without collecting the rent. We will have to find a way of collecting the rent.
4164. **Ms McCrudden:** Just a final point on that: we have concerns that tenants will not be able to make up the shortfall. The figures that we have been given here for housing associations are that the shortfall will be £9.42 for one room and £17.48 for two, and that is per week. So, I would be very surprised if those tenants were able to make that up. For Housing Executive tenants, it is £8.25 for one room and £14.70 for two.
4165. **The Chairperson:** OK. Fair enough. Thank you for that.
4166. **Mr Copeland:** This is a sort of unforeseen possible consequential. The housing management system (HMS), by which the Housing Executive allocates properties at the moment, can, on occasions, if the applicant has FDA (Full Duty Applicant) status, give rise to a property being offered that has more bedrooms than the facts indicate are needed. The claimant, or the applicant, is entitled to three "reasonable offers". The executive's view of reasonableness, on many occasions, is a bit strange.

4167. What I am asking is whether you feel that there is a parallel piece of work going on to ensure that a property turned down on the basis of economics, is not actually counted as a reasonable offer that will then see someone for ever in the limbo of not having a home?
4168. **Ms McCrudden:** It should not be treated as a reasonable offer because the Housing Executive needs to take into account the suitability of the accommodation. Currently, my understanding is that allocations are still being made, and people are that desperate to get a social tenancy that they are taking them anyway, even though they may be informed that they may be underoccupying. If you have the options of being in a hostel, sleeping on someone's floor or you have been offered a tenancy, you will take it and then hope that these changes will not happen, because everyone keeps saying that they "may come down the line". That just reinforces what we said earlier. It is very important that the regulations are brought forward as soon as possible to you, so that that information can be communicated to tenants.
4169. **Mr Watt:** I believe that there are some changes to the common selection scheme going before the Housing Executive board shortly, which will make some tweaks to the system, in light of welfare reform. However, I think that landlords will still have to offer larger properties than may be covered under the new system and that that will still constitute a "reasonable offer". There is a huge amount of work that needs to be done on the common selection scheme. A fundamental review is under way, which is signposted in the housing strategy. However, a huge amount of work has to be done on the common selection scheme, allocations and tenancies in light of the new system.
4170. **Ms Rowledge:** I —
4171. **Dr Donald:** Oh sorry, Ricky. I have one last thing, or one last thing before Ricky. There is an issue of training for staff, which is something that we should take on as an organisation and take a certain amount of responsibility for. We have been saying for a long time that welfare reform cannot be the responsibility of one unit within a local authority, the Housing Executive or a housing association. It has to be disseminated right across the whole organisation. Everyone working in housing needs to know what the changes are and how they will impact on people, so that someone who is in a district office managing allocations or advising people about housing options is fully aware of the entire picture of what these welfare reform changes will mean, so that they can direct tenants or applicants to appropriate properties.
4172. **Mr F McCann:** I could probably argue with you about that for an hour. The system needs to be scrapped and started over again.
4173. **The Chairperson:** That is for another day and another hour.
4174. **Ms Rowledge:** I wanted to talk about the common selection scheme. Fra and I can have a conversation in the bar about that another day. *[Laughter.]*
4175. **The Chairperson:** You have made a very comprehensive set of written submissions and, more importantly, you were here today to underline a range of those points. I thank you for your presentations. I also thank you for your indulgence given the delay in the time frame of the meeting. It is very important for us to hear from experts in the field like you.
4176. Sammy raised the issue of the Housing Executive. The Housing Executive representatives made it clear that although they will be duty-bound to have a robust policy of repossession or eviction if people are deliberately not paying their rent, they make a clear distinction between those who do not pay their rent even though they have the wherewithal to do so and people who, as a consequence of the welfare reform proposals, are unable to pay their rent because they do not have the wherewithal — that is the term that they used. They have drawn attention to the

- fact that they will be faced with that and have to deem people homeless.
4177. **Ms Rowledge:** At vast expense.
4178. **The Chairperson:** That also brought in the whole question of displaced payments. I do not want a run of headlines that 30,000 people will be evicted by April.
4179. **Mr F McCann:** I thought that it was March.
4180. **The Chairperson:** I am just making the point that, to be fair to the Housing Executive representatives, they raised a clear concern about people who, as a result of these proposals, may not be able to pay their rent. They put that question out for discussion: how do you decide whether to take someone's home off them?
4181. **Mr Douglas:** They also talked about underoccupancy, which will affect something like 26,000 people in receipt of benefits. To go back to Nicola's remark: how will those people deal with that penalty?
4182. **Ms Rowledge:** You also have to bear in mind that 11% of those people are working people. Therefore, they will not be getting housing benefit. However, the money that is taken off them is a percentage of their total rent and not pro rata to their benefit. So, many of them may actually end up in a negative position of getting no housing benefit.
4183. **The Chairperson:** I am just making the point that, in fairness to the Housing Executive representatives, while they will, on an ongoing basis, evict people who are deliberately or carelessly not paying their rent, they have said that they could well be faced with people who cannot afford to pay their rent and asked how housing associations should deal with that. That is a big question; there is no question about that.
4184. **Mr Watt:** Housing associations are social businesses. They are in it for a social purpose. They will do everything that they can to support people in the worst circumstances who have the least room for manoeuvre. However, unlike the Housing Executive, we are not deficit-funded by the taxpayer. The Housing Executive does not have the same financial constraints as our members. Our members will do everything that they can to support and help people and show understanding and forbearance where they can, but they have loan covenants that they have to stay within if they are to continue to provide new social housing.
4185. **The Chairperson:** It is an issue that is not resolved; that is for sure. It is clearly a cause for concern from everybody's perspective. For accuracy, I am just trying to put on record the comments that the Housing Executive made to the Committee.
4186. Thank you again very much. We are working our way through 40 written submissions and 20 oral submissions. A lot of those are from coalition-based groups like yours. That is very important to us. We have had the benefit of discussion with you, and we will continue to have that. Thank you very much for an invaluable contribution to our deliberations on the Bill.



## 31 October 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Ms Paula Bradley  
 Mrs Judith Cochrane  
 Mr Sammy Douglas  
 Mr Fra McCann

### Witnesses:

Ms Jolena Flett	<i>Belfast Migrant Centre</i>
Ms Karen McLaughlin	<i>Northern Ireland</i>
Mr Patrick Yu	<i>Council for Ethnic Minorities</i>

4187. **The Chairperson:** Members, we are going to move on to the next briefing, from the Northern Ireland Council for Ethnic Minorities (NICEM).

4188. I formally welcome representatives from NICEM here this afternoon. I apologise if you have been held up longer than was necessary. I am sure that you have heard that often enough, but there you go. I welcome Patrick Yu, director of NICEM; Karen McLaughlin, legal policy officer; and Jolena Fleet, manager of the Belfast Migrant Centre. I welcome you all here this afternoon. The floor is at your disposal, so without any further ado, please make your presentation.

4189. **Mr Patrick Yu (Northern Ireland Council for Ethnic Minorities):** Thank you, Chair and Committee members, for giving us the opportunity to speak to you today on the Welfare Reform Bill. I will do a short introduction, and then Karen McLaughlin, our legal policy officer, will talk about the implications of the Bill for ethnic minorities, in particular, and the EU legislation. Jolena is the manager of the Migrant Centre, which provides a wide range of advocacy, advice and support services for all migrants. She will use two cases to illustrate the implications of the Bill for ethnic minorities.

4190. I am pleased to follow yesterday's submission from the Northern Ireland

Human Rights Commission, in which the chief commissioner gave a detailed account of the human rights implications of the Bill, with which we completely agree. However, the commission ignored the impact on ethnic minorities, which are protected by international human rights law under, in particular, the UN Declaration on the Elimination of all Forms of Racial Discrimination.

4191. So, something was missing from the commission yesterday, and we are happy to fill in the gap today. We appreciate the opportunity to present our case, and we are very narrow on the race issue. A lot of submissions have already covered the wider implications of different aspects that impact on ethnic minorities, and we are one of the many groups affected by the Bill.

4192. My key message to the Committee today is that the Bill might infringe a number of EU laws. My colleague Karen will give more detail about that effect. Under the Northern Ireland Act 1998, the Assembly cannot make any law that is incompatible with EU law and the Human Rights Act 1998. Our assessment is in line with that of the Joint Committee on Human Rights, which was very critical of the absence of a detailed human rights impact assessment on the same Bill, which is now being discussed in the Assembly. So, we have more or less copied and pasted everything from England, Wales and Scotland, and, in Northern Ireland, we do not have a mechanism similar to the Joint Committee on Human Rights to scrutinise. This Bill is so important and affects so many people. I ask the Committee to talk to the other Assembly Committees about whether they should put a mechanism in place to safeguard the legislative process in the future.

4193. This Bill will affect the most vulnerable groups in our society. We are coming out of a conflict and have a high level

- of poverty and social deprivation. Without a full EU law and human rights impact assessment, the Assembly will be vulnerable to making law that is incompatible with EU law and the Human Rights Act. Any law that is incompatible with EU law will be void.
4194. Therefore, we request that the Committee seeks a full human rights impact assessment and EU law impact assessment from the Minister before the Bill continues. It will be more expensive if the Bill is not done properly, and, therefore, it is better to do the right thing in a sufficient time rather than to rush it through. The Chair had very good experience when we engaged with him on the seafarers Bill that is proposed by the Office of the First Minister and deputy First Minister. That is exactly the same situation. History tells us that it will cause a lot of people anguish and, at the same time, create more unnecessary litigation. Therefore, I ask the Committee to consider our suggestion. I will pass over to Karen.
4195. **Ms Karen McLaughlin (Northern Ireland Council for Ethnic Minorities):** Thank you, Patrick. At the outset, I want to point out that it is important to recognise that social welfare law is not developed in a legal vacuum. I have set out in section 2 of our briefing paper the number of international human rights standards, including the concept of progressive realisation, that prohibit the introduction of retrogressive measures, and I am sure the Committee has heard from a number of groups over the past number of days that believe that the Welfare Reform Bill constitutes a retrogressive measure.
4196. As well as international human rights standards, NICEM is particularly concerned that the Welfare Reform Bill seems to have been developed in the absence of a thorough consideration of EU law. A number of sources of EU law should be taken into consideration, and I will go through them in four points.
4197. First, the principle of non-discrimination on the basis of nationality is enshrined in article 45 of the Treaty on the Functioning of the European Union.
4198. Secondly, the right to social security and the principle of non-discrimination is enshrined in articles 34 and 21 of the Charter of Fundamental Rights of the European Union.
4199. Thirdly, a crucial issue for us is that the Race Equality Directive 2000/43 lays down a framework for combatting discrimination on the grounds of racial or ethnic origin and puts into effect the principle of equal treatment. According to article 3(e), (f) and (h) of that directive, social protection, including social security, social advantages and access to the supply of public housing, followed in the scope of the directive. The concept of discrimination in the directive includes three elements: direct discrimination, indirect discrimination and harassment.
4200. Finally, it is important to bear in mind that social security is also an area of co-ordination in EU law, and it is governed by two EU law regulations, nos. 1408/71 and 884/2004. So bearing that in mind, I will briefly outline three of NICEM's key concerns in relation to the compatibility of the Welfare Reform Bill and programme with EU law.
4201. It appears that some parts of the Bill are inherently discriminatory. For example, the provision for differential treatment of EU migrant workers, set out in schedule 1 paragraph 7 of the Bill is quite striking. That provides for EU claimants, who ordinarily fall under the non-work-related requirements to be instead placed into the work-related requirement category. As I have already mentioned, one of the core principles of EU law is equal treatment, and that forms the basis for the co-ordination of social security law in the union. This is a clear case of differential treatment of EU migrants that would undoubtedly be found to be discriminatory in court. Therefore, NICEM recommends that this provision be deleted from the Bill.
4202. In addition, NICEM is also concerned that clauses 61 to 63 may discriminate

- against migrant workers, who may experience a change in their immigration status. These provisions introduce a new requirement for claimants to have an entitlement to work in order to claim certain contributory benefits. This is particularly concerning for non-European economic area (EEA) nationals, who ordinarily are not entitled to non-contributory benefits. So effectively, that would exclude non-EEA nationals even further from the welfare system. Bearing in mind the Limbuela case cited in the briefing paper, it is arguable that those clauses can have a potential to breach human rights, where migrants have lost their jobs and, despite having paid tax and national insurance contributions, migrants may find themselves being forced to live in destitution by the system that the state has put in place. Therefore, NICEM recommends the deletion of those clauses from the Bill.
4203. Our second concern relates more broadly to the programme of welfare reform. Since the Welfare Reform Bill before the Committee is an enabling Bill, most of the details will be left to the regulations. NICEM is deeply concerned that Northern Ireland will adopt the same approach as Great Britain in drafting the regulations. The draft regulations in Great Britain, as well as indications by the Department for Work and Pensions (DWP), suggest that EU migrants may be paid benefits at lower rates. That again would constitute direct discrimination. The introduction of the requirement to seek work for 35 hours per week could also potentially discriminate indirectly against EU migrants, particularly in relation to paragraph 7 of schedule 1, as I have already mentioned.
4204. So, in NICEM's view, clauses 8 to 10 of the Bill, which deal with the calculation of awards, and clause 22, which deals with work requirements, could potentially allow for Great Britain's approach to be transposed to Northern Ireland, and that would undoubtedly amount to discrimination.
4205. Therefore, NICEM calls upon the Committee to put in place safeguards within the Bill to ensure that those provisions do not provide a pathway for discrimination in the regulations.
4206. The DWP has indicated that a new residence test will be introduced for personal independence payments (PIPs): a worker must have been in the UK for two of the past three years. Such a test has previously been held to be in breach of EU law and, in addition, the Council of Europe's 'European Code of Social Security' prevents the state from setting a minimum time period to determine residency. The introduction of such a test could potentially lead to infringement proceedings by the European Commission against the UK, concerning the misapplication of EU law. In the briefing paper, I have referred to ongoing infringement proceedings against the UK in relation to the application of the right-to-reside test.
4207. I have already mentioned potential breaches of international human rights obligations, but those are not legally binding. However, it is important to bear in mind that EU law is legally binding, and any breaches of EU law may result in infringement proceedings which could lead to hefty fines, as Patrick has already mentioned in his introduction.
4208. That concludes my presentation and I will now pass on to Jolena to provide some cases studies to illustrate the ongoing issues faced by migrants on a daily basis. Given the fact that the Bill paves the way for differential legal treatment, this will undoubtedly have a knock-on effect on the administration of payments at the coalface.
4209. **Ms Jolena Flett (Belfast Migrant Centre):** Chair and the Committee, thank you for the opportunity to present to you. I would like to set the context of what we are seeing in our advice services and how the changes are beginning to impact on individuals among the black and minority ethnic (BME) population.
4210. NICEM has been formally providing advice since 1998, and to the migrant working population in particular since

- 2004, beginning with the floating support project. In 2010, we received three years of Big Lottery funding to establish the welcome house project, which has now become the Belfast Migrant Centre. The centre has one full-time adviser, two part-time advisers and an immigration adviser. Since 2010, the advisers have assisted in over 5,000 cases, with 41% of those related to welfare benefits.
4211. Our increased capacity for advice services has allowed us to monitor trends and respond to the different needs of the migrant population. We have seen our caseload change from queries about filling out forms and simple questions about benefit eligibility to complex appeals in the alarming rate of people who are in crisis situations. The increasing demands on our services mean that we no longer have the capacity to meet the ever-increasing need. There is an increasing need for tribunal representation, which we do not have the resources to provide. There is also a difficulty in accessing that through other advice centres that do have the resources, as they are already oversubscribed.
4212. There are further difficulties around language, as many advice centres have no funding to provide interpreters, and, even with the basic grasp of English, the terms used in assessments and tribunals are not feasible without the help of an interpreter. For example, a client who was doing an assessment to transfer from disability living allowance (DLA) to PIP was asked whether she had trouble communicating. She answered yes, as she could not speak good English.
4213. We continue to be concerned about the access that our service users will have with the changes proposed under the Welfare Reform Bill. Migrants have increased difficulty in accessing social welfare as a result of a lack of local knowledge. Therefore, navigating the administrative system, sometimes without access to interpreters, leads to increased difficulties. We are deeply concerned by the indications that all applications will now be processed online and that claimants will need a bank account.
4214. There are two case studies in the briefing paper that outline some of the difficulties people have faced. One of those refers to a 65-year-old man whose employment support allowance (ESA) was stopped after an assessment, which had the knock-on effect of stopping his housing benefit. That meant that he had to live off a credit card for six weeks and got into debt as a result. Help from our crisis fund helped him to pay his rent to avoid homelessness. The other case study looks at the impact of an assessment that was done by a GP without the use of an interpreter, which meant that the claimant's DLA was stopped. On appeal, she was awarded a new DLA award that was increased to high rate mobility and middle rate care and that effectively met her needs.
4215. The other issue we have had, which I am sure you have heard about from other groups such as Advice NI, is about getting GP reports and having to pay for further information. That has further decreased people's access to what they need to get a proper assessment done.
4216. We have received funding because there was a recognition of the gap in accessible and independent advice services for people from the black and ethnic minority community, particularly those who are migrant workers from EU and non-EU states. Difficult economic times, austerity measures and welfare reform have dictated that the need for the service will continue to increase. However, our funding officially ends in June 2013.
4217. Issues of discrimination and harassment at work and in housing, increased redundancies and unemployment of migrant workers, delays in the benefits system due to a lack of understanding of eligibility and compliance investigations have put the BME population in an increasingly desperate situation. Many of the crisis situations we have supported have been caused by delays in the processing of tax credits and benefits,

- with an increasing number of our service users being referred to the compliance unit almost immediately after applying for what they are entitled to. That has led to an increase in depression and mental health issues and substance abuse. Our staff have had to train themselves in mental health awareness and suicide prevention, although counselling is not within their usual remit.
4218. I hope that the increasing pressure on the independent advice sector is taken into account, especially the advice needs of those who are particularly marginalised in our society. We also hope that there will be recognition that people in those communities also suffer from disabilities and include older and younger people. Thank you.
4219. **The Chairperson:** Thank you very much for your presentations. Before I bring in Sammy Douglas, you have, obviously, raised a range of concerns in your submission. Have you raised any of those with the Department?
4220. **Mr Yu:** No, not yet. I think that you are aware that we have lobbied Departments like the Department for Employment and Learning (DEL) on the agency worker directive, which gave us a problem. We are in the same situation with this Bill. We also lobbied on the seafarer's regulation and the amendment of the whole race legislation. At the moment, we have so many things in one pot.
4221. We will not let the Department off the hook. Our presentation of evidence to the Committee today is just the starting point. As we have done previously, we will publish a more detailed paper and present that to the Department. We will also circulate that to the Committee.
4222. **Mr Douglas:** Thanks very much for the presentation. In your paper, you stated that:
- "DWP has indicated that a new residence test will be introduced."*
4223. You went on to state that:
- "Such a test has previously been held to be in breach of EU law".*
4224. Patrick, I think that you said that you endorsed the Law Centre's presentation to the Committee.
4225. **Mr Yu:** Yes.
4226. **Mr Douglas:** OK. The Law Centre also raised serious questions about the potential discrimination of migrant workers as a result of paragraph 7 of schedule 1 to the Bill. What is your view on that? Should it go ahead, have you considered some sort of legal challenge to the Bill?
4227. **Ms K McLaughlin:** I will take up the question on paragraph 7 of schedule 1, and I will leave the question of the legal challenge to Patrick. Was your question about the case that was found to be in breach of EU law?
4228. **Mr Douglas:** It was about the potential discrimination of migrant workers.
4229. **Ms K McLaughlin:** The way that it is set up, migrant workers, who would ordinarily not fall within the work-related categories, will now fall within them if such regulations come into effect. It is a cause of concern for us that that power even exists or that even the idea of differential treatment has been set out. Clearly, primary legislation should not set out differences between one group and another. EU social security law is based on the free movement of workers. It allows workers to move from one member state to another, and, equally, workers can move from here to another member state. They should be treated equally. So, that is quite concerning.
4230. **Mr Douglas:** Are you saying that, as it stands, this is very much a misapplication of EU law?
4231. **Ms K McLaughlin:** Yes, on the basis of the principle of equal treatment and the free movement of workers.
4232. **Mr Yu:** We are not worried about the litigation issue now. We are going to our own lawyer to ask. This is what we have indicated as the prima facie cases at the moment. We just give them more detailed legal opinion on how far it may infringe.



4233. As I said, EU law is quite straightforward. All the cardinal rules are already set up by the European Court of Justice. We will see whether the infringement will worry us. The Committee had very good experience of that when it dealt with the seafarers regulations.

4234. **Mr Douglas:** Jolena, those case studies were very good. Anything like that is very helpful to us. We are going through all the clauses, but it is people's lives we are talking about here.

4235. **Ms Flett:** We have several case studies to illustrate all the different points. Anything that is needed is available for submission.

4236. **Mr F McCann:** On the back of what Sammy said, the Equality Commission, the Human Rights Commission and the Citizens Advice all raised the problems that might be faced by ethnic minorities in relation to the Bill. It baffles me that there are clear breaches of European law ahead but DWP and others are still pushing ahead. The difficulty of dealing with an enabling Bill is that the devil will be in the detail. Most of the detail will come in the regulations, and you will probably find that it will be much worse once they start to lay the thing out. Although groups have individually spoken about that, is there a possibility of the groups coming together under the auspices of NICEM?

4237. One of the questions we have asked every organisation was whether they have considered legal action on aspects of the Bill. I would not expect an organisation like yours, with the little resources that you have, to be able to tackle something like that. However, if you joined with the Law Centre, the Human Rights Commission, the Equality Commission and Citizens Advice you could, maybe, launch a united action once the regulations come out, based on all the stuff you said today. Many of the representations that have been made to us show that there is growing concern.

4238. You heard me ask the people from Mencap and Disability Action who were

here before — and I have asked the question a number of times at different levels — about how people are treated under the proposed legislation or the old legislation when they go into the offices. That can be related to migrant workers. Sammy is right about the need for clear examples. If there are other examples we can use in evidence or that you can put into evidence, those will be helpful.

4239. **Mr Yu:** That is very important. We always keep a legal challenge in our minds. It is one of the many options that we should consider. We are highly likely to take a legal challenge in this case, because we are not happy about the whole benefit system. We have a lot of cases. Jolena gave just two examples, but have dealt with more than 4,000 cases on the benefit side alone. Most of those are all about discrimination.

4240. You can see that the process will lead to the commission bringing infringement proceedings. The legislation has not yet come fully into effect. I imagine that the commission is watching the British Government very closely to see how they introduce the legislation. We will keep in contact with the commission and send our assessment to it to see whether it will take any action on the issue. The bigger issue is who should take the legal challenge. There is no doubt that, according to statutory duty, the Human Rights Commission and the Equality Commission have more and more powers, functions and resources. However, we, as a voluntary and community sector, are also very important. Any legal challenge must not be out of context. We need to produce a very good testing case and keep within our remit. You are talking about multi-layer partnership. Each of us does our bit to help the process if the law is not made right.

4241. As I said clearly at the outset, it is very important that the Committee should consider, or raise with the Business Committee, the lack of mechanisms that our Assembly has to scrutinise the Bill to determine whether it is in breach of human rights or equality legislation. I remind the Committee

that an additional duty applies to the Assembly under section 75. You must make sure that the legislation will not discriminate. You also need to promote equality of opportunity on so many different grounds. This Bill is more or less a wake-up call. That is why it is very important that we should have the scrutiny mechanism. Otherwise, like the Committee for the Office of the First Minister and deputy First Minister (OFMDFM), you will have more trouble later because of a law that was forced to pass.

4242. **Mr F McCann:** Patrick, you are right. As Mickey often quotes, in 2007, this Committee put down amendments challenging the early stages of the Bill. Last Thursday, there was a proposal from this Committee to, under Standing Order 35, suspend the Committee and set up an Ad Hoc Committee to look at the human rights and equality implications of the Bill. It was a deadlocked vote, which meant that it was lost. Yesterday, the Chair mentioned bringing that proposal back to the Committee next week. Do you see that as a way forward in looking at the human rights and equality implications?
4243. We asked the Human Rights Commission representatives yesterday whether they will consider legal action, and they were not as clear as you were. It was the same with the Equality Commission. There needs to be someone to pull all those groups together and say, "We have all said this. How can we deal with it? Rather than having singular cases, let us present a collective case." What do you think about the proposal under Standing Order 35?
4244. **Mr Yu:** I agree that article 35 is the first step towards rectifying the situation that we face. However, in the long term, we should also have that kind of parliamentary mechanism to properly scrutinise a Bill such as this, which is so important because it affects every section of society. You can imagine that there may be more such legislation in the future for which we will need to give over more time for scrutiny. My gut feeling is that this is quite simple.

Just like the Human Rights Act, all Departments must attach to Bills their assessments of who will be affected by them. They need to do that before the Bills come to the Committees otherwise Committees will always need to second-guess or seek legal advice before they scrutinise Bills, and I do not think that that is fair to members.

4245. **Mr Brady:** Thanks very much for the informative presentation. What Karen said bears out that the Welfare Reform Bill was formulated in Britain with complete disregard for European law. European law is legally binding. If this legislation goes ahead, and the draft regulations and guidelines have yet to come, there will, without doubt, be legal challenges. Patrick makes a practical point by asking who has the resources to do that. I am sure that larger organisations will come together to bring legal cases, because, as you said, the Bill contravenes various European laws. Britain just seems to have flouted EU law in pursuit of the ideology on which the legislation is predicated. We talked about invoking Standing Order 25 to set up an Ad Hoc Committee, but that is another discussion.
4246. I was interested to see Citizens' Advice's proposed amendment to clause 24(7), which makes special provisions for victims of domestic violence. It wants that provision to be extended to those who suffer hate crimes and have to be rehoused. The wording is relevant to you and states:
- "For the purposes of subsection (7)... 'hate crime' has such meaning as may be prescribed and shall include grounds of ethnicity, sexual orientation, gender identity, religion, political opinion or disability".*
4247. The proposed amendment continues by explaining that a:
- "'victim of hate crime' shall be defined by regulations under subsection (7)... 'resulting in a need to be rehoused' shall be defined in regulations".*
4248. It goes in to say that the amended provision will apply to a person who has "recently been a victim" of hate crime.

A lot of hate crime is racially motivated throughout the North, not just in Belfast and other places. It has happened in my constituency and in others. Provision for victims of hate crime could reasonably be enshrined in clause 24 in particular because domestic violence is seen as something that needs to be addressed, and hate crime is no different. What is your view on that?

4249. **Ms K McLaughlin:** Picking up on the point that was made about EU law: I reiterate that infringement proceedings have been ongoing for a year in relation to the right to reside and those proceedings do not seem to have fazed the drafting of the Bill. So, there is a clear disregard.
4250. **Mr Yu:** Before we go to Jolena, I would like to say that this is a very complex issue. I think that your intention to protect that grouping is good. Jolena will give you more practical examples. In the end, people are being excluded, or they will relocate to England instead of staying here, because they feel that enough is enough.
4251. **Ms Flett:** Obviously, any further protection for victims of hate crime is welcome. There is also a lot to be said on the interpretation of who is a victim of hate crime, the under-reporting of hate crime and the police failure to report hate crimes as such. That is another discussion. If that line is to be followed, then a lot of work must be done on who falls into the hate crime category, how it is interpreted, and what the guidelines will be. There needs to be training and more understanding in the Departments about what a hate crime is and how it is reported.
4252. **Mr Brady:** I wanted to flag that up because I agree that it is a very complex issue and can vary from individual to individual.
4253. You talked about the right of residence. Habitual residence was introduced by the Tories in 1995 by Peter Lilley and was pure xenophobia. There was no other reason or logic to it because it contravened European Union law.

However, it is interesting that the majority of people affected are people who were born here and lived here, went to America or Australia or wherever to work and came back. It is such a nebulous concept, because you could be here for a week and be accepted by the Department as being habitually resident and somebody else in another office could decide that it is three months, because the case law states that the longer you are here, the more habitually resident you become. That needs to be addressed.

4254. **Ms K McLaughlin:** Definitely. That is the issue that we have with the two-year rule. In the South, they had a two-year rule, which had to be rowed back from because it was simply in breach of EU law. Any move towards that would be silly because it will be open to legal challenge immediately and will be an easily won case. It will draw out the process and lead to litigation costs for the Government.
4255. **Mr Yu:** Another implication is that, once you infringe EU law, that part of the law will be void immediately, and there will be consequences for the implementation of the programme.
4256. **The Chairperson:** I thank members. Are there any additional points, Karen, Patrick or Jolena, that you need to put to the Committee before the session ends?
4257. **Mr Yu:** I want to raise a little bit of detail about the programme. Karen briefly mentioned indirect and direct discrimination. Part of the programme in the future will involve the use of online applications, and you are aware that such applications will exclude a lot of people. I tried to highlight that more than 65% of migrants from the EU cannot speak any English. How could they apply for benefit? A second element of the online application process is that a person must have a bank account. You are aware that we have anti-terrorist legislation, and that if a person wants to open a bank account, he or she needs to reside here for six months and show that they have a residence requirement and ID for that purpose. In particular,

if the person does not have a tenancy, they will not get a bank account. A former colleague of mine from NICEM worked in Brussels for four or five years and then came back. She resided here before and has all the bank records, but she cannot get a bank account until at least six months have passed. As you can see, this is the trouble.

4258. Most migrants from the EU work in meat-processing plants, and quite a lot are agency workers. I highlighted the same issue to the Committee for Employment and Learning, and there was a formal investigation by the Equality and Human Rights Commission in GB into the meat-processing industry. One effect is that there is multi-layered exploitation. One layer is that employers give people cheques but know that they can never cash them. They ask people to become self-employed and give them cheques. A lot of people then become doubly exploited. If they try to cash the money, they need to go to the Western Union, where they will pay a certain interest rate or fee in order to do so. As you can imagine, such people are very low paid already, so that kind of exploitation system is created. If you do not have the language and a bank account, and cannot apply for one, there is both direct and indirect discrimination due to language and the barriers created.
4259. As well as ethnic minorities, you also have the vulnerable groups of people who are illiterate. We came across some Chinese people who can speak with a very good local accent but who cannot read or write. That group will most likely be in the benefit system. So, you will be excluding not only the ethnic minority but also those in the margins. You should think about how to improve the programme otherwise there will be a lot of legal challenges.
4260. **The Chairperson:** Thank you very much for your written presentation and for your contribution today. You will understand that you have raised a number of issues with us, not least the last couple of points regarding potential direct and indirect forms of discrimination arising from the Bill. You gave us a number

of case examples, and Karen gave us some more fulsome responses on that matter. You will have also determined from members' questions and other submissions that a range of concerns has been raised by others as well as those that you have raised this afternoon. It is very important that we receive concerns that are confirmed by a spectrum of organisations.

4261. Thank you for your invaluable contribution, which will help us to scrutinise the Bill to the best of our ability. We look forward to completing our report by 27 November under the current schedule. Your contribution has been a big help to us in understanding the Bill and its consequences, and it will help to shape our response when we come to the clause-by-clause scrutiny.
4262. Again, thank you very much, and we look forward to continuing our discussion with you in due course.





## 6 November 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

### Witnesses:

Mr Maurice Byrne	<i>Department for</i>
Ms Martina Campbell	<i>Social Development</i>
Ms Jane Corderoy	
Mr Mickey Kelly	
Ms Anne McCleary	
Mr Colm McLaughlin	
Mr Michael Pollock	

4263. **Ms Anne McCleary (Department for Social Development):** Thank you for giving us this opportunity to go through the Bill and provide you with further information. As you can see, there are quite a few officials here today, and I am taking a back seat at this stage. You will be familiar with Colm McLaughlin, Martina Campbell and Michael Pollock, who will take you through the document in relation to universal credit and the working age benefits.

4264. We also want to thank all the stakeholders who took the time and trouble to respond to your call for evidence. The amount of time that they have put into all this, the amount of time that the Committee has allocated to it, and the amount of time that the Committee has spent on this has been quite significant. We have listened very carefully to everything that has been said, and we are still working through the written submissions. We recognise the scale and depth of the concern that has been expressed by stakeholders,

but we also recognise that there is a degree of confusion in some sectors. We want to advise the Committee and the stakeholders that the Social Security Agency (SSA) has a communications plan — I know that there have been some concerns about that — and there have been a number of events for stakeholders and more are planned, including one aimed at employers, which is to explain the role in relation to the real time information. A lot of that is ongoing, and a lot more is planned. In particular, there is the event in the Long Gallery coming up later this month.

4265. We understand and acknowledge that much of the detail will be in the regulations or in the guidance that is provided to SSA staff. Where possible, we will try to give you reassurance on that, and we will see where that takes us. That is all that I want to say at this stage. I hand you over to Martina and the team.

4266. **Mr F McCann:** The question of reassurances from the Department came up time and time again last week. At the start of the process, you talked about seeking and getting reassurances from the Department at this stage, in the absence of being able to look at the regulations. People seem to indicate that the regulations could dramatically change the workings of some of the stuff that we are talking about. Will the reassurances that we may be given today be changed or affected by regulations?

4267. **Mr Michael Pollock (Department for Social Development):** I would not have thought so. In going through the Bill quickly, we have explained the policy intent, and that would be the intent that we want to see coming through in the regulations. If there is an unwarranted outcome as a result of some of the regulations, we would not be happy about that either. If we are telling you

now that a particular clause is designed to do something, we want to see that translated through into the regulations. What was said previously was that, following Final Stage in the Assembly, we will try to share regulations — any of the regulations that have been drafted through the Department for Work and Pensions (DWP) — with you in advance of our own regulations coming through. We will try to share with you anything that is in the public domain so that you will have longer to go through and scrutinise them before we bring ours forward.

4268. **Ms Martina Campbell (Department for Social Development):** In our responses to the questions raised during the various evidence sessions that we have attended, we have stated, where the regulations are available, the relevant regulation in the DWP published version. As you know, the DWP regulations have gone to the Social Security Advisory Committee (SSAC), and it has responded to DWP with a list of comments and recommendations. DWP is working through those. There may be a slight tweak to the regulations, but that would be only in response to the recommendations made by SSAC, which would obviously mirror concerns in the Committee and among stakeholders.

4269. **Mr F McCann:** I have no doubt that you are trying to guide us through the regulations as far as you know them at this stage. I noticed that you mentioned SSAC. There have been a number of occasions in the past when SSAC made recommendations that came down in opposition to elements of the Bill — the shared-room allowance was one — and its advice was disregarded. I think that somebody from the Law Centre sits on SSAC. The Law Centre representatives said that the devil was in the detail of the regulations. The Human Rights Commission, the Equality Commission and a number of other groups were asked whether they were considering taking legal action, but they said that they could not, based on what was in front of them. The main thrust of this will come in the regulations. So, there seemed to be an indication that

although the main thrust of the Bill points in one direction, the regulations, when they are published, may take us in another direction. We will not know that until December.

4270. **The Chairperson:** OK. The point has been put on the record as an issue. *[Inaudible due to mobile phone interference.]* We will start with the document that we have in front of us. Part 1 deals with universal credit. *[Inaudible due to mobile phone interference.]* Obviously, as we go through this with the departmental officials, this is our best guess at what the outstanding matters are for response from the Department. I will hand over to Martina and her colleagues.

4271. **Ms M Campbell:** We will start with clauses 1 and 2 and the issues of frequency of payment, the recipient of the payment and the direct housing costs payment. I will take points 1 to 4 in the issues paper together.

4272. In his statement of 22 October, the Minister clearly stated that he has secured flexibilities from Lord Freud and that the outworkings of that in relation to the definition of exceptional circumstances and the circumstances in which those flexibilities will be operated will be consulted on. In our evidence sessions, we told you that the legislation as drafted allows for those flexibilities in exceptional circumstances.

4273. The first way forward, on page 2 of the issues paper, says:

*“The Committee may wish to consider if it is content with this approach or if it wishes to pursue the potential for twice monthly payments ... as an option for all claimants”.*

4274. Again, I remind the Committee of the overall policy intent, which is that the purpose of universal credit is to get claimants used to going back into the world of work. The monthly payment mimics what happens for the vast majority of people, according to the stats that we use, who receive a salary monthly.

4275. As I have said, there will be an exceptional service for claimants who are deemed to be vulnerable. There will also be a range of budgeting products, to which I have also referred. We have given you more detail about those products in our responses. We will be doing all that we can to support claimants who receive a monthly payment to manage their money on a monthly basis and, indeed, those claimants for whom a monthly payment is not appropriate at this time.
4276. Do you have any questions about that, Chairperson?
4277. **The Chairperson:** I just want to establish a point for the record, Martina, because we are not debating any of these provisions at the moment. In his statement to the Assembly, the Minister made it clear that the default position will be that payments for rent support will go directly to landlords.
4278. **Ms M Campbell:** Yes, that is correct.
4279. **The Chairperson:** Although, as you rightly point out, the Bill provides for such payments to go on, the Minister's announcement also dealt with establishing a board or whatever else to have a look at all that. What was agreed with Lord Freud — I spoke to David Freud after that as well — was that there would be an examination of what the nature of the payments might be within the facility of particular circumstances. There is no default mechanism for more frequent payments or split payments.
4280. I am just putting this on the record. There is a default position that rent support will go directly to a landlord.
4281. **Ms M Campbell:** Directly to landlords, unless they opt out.
4282. **The Chairperson:** Whereas the issue around more frequent payments or split payments, whatever they may be, in detail, is not at a default position. It will be in the core legislation by way of exceptional circumstances, but the detail of that is to be agreed.
4283. **Ms M Campbell:** Yes. That is correct.
4284. **The Chairperson:** I am just getting that for the record. Michael, did you want to ask a question?
4285. **Mr Copeland:** I just wanted to check whether that gave landlords the right to insist on getting payment from tenants in a particular way. In other words, a landlord taking on a new tenant could say that he wanted paid directly, whereas the tenant may wish to accord with the policy intent, as indicated in the clause.
4286. **Mr Colm McLaughlin (Department for Social Development):** In relation to a landlord requesting it from the claimant himself, the claimant would have to come to the Department if the norm for him was that he wanted it paid directly to himself.
4287. **Mr Copeland:** The thing about exceptional circumstances, Colm, is that someone has to make their mind up about what exceptional circumstances are. What may be exceptional circumstances for the customer may not be for the Department.
4288. **The Chairperson:** The default position is that the rent will be paid directly to the landlord, unless the tenant opts out of that.
4289. **Mr Pollock:** Do not lose sight of the fact that it is the individual who is entitled to the payment, not the landlord.
4290. **Mr G Campbell:** I wanted to make sure that there is no distinction between what the Minister said and what Martina said. In paragraph 1, headed "Frequency of Payment", the Minister's statement is cited, beginning:
- "In the majority of cases there will be a single monthly payment".*
- Martina used the phrase, "the vast majority".*
4291. **Ms M Campbell:** Yes, except where there are exceptional circumstances and the claimant wants it paid in a different way.
4292. **Mr G Campbell:** Yes. However, you have no idea, at this stage, what will

- constitute “the majority of cases” or “the vast majority of cases”: whether it will be 55% or 95%?
4293. **Ms M Campbell:** No; we have no stats on that.
4294. **Mr G Campbell:** Not yet. Right, OK.
4295. **Mr F McCann:** At present, what happens is that there is an opt-out on the back of the housing benefit form, which states that you can get it paid directly to the landlord, or you can receive it yourself. I think that that provision already exists in applications for housing benefit. I take it, from what the Minister says, that that is not going to change?
4296. **Ms M Campbell:** This is a new IT system, so it was originally designed that the payment would go directly to the claimant. That is a part of the outworkings of the Minister’s statement. We are trying to get it built into the IT system that there may be an option.
4297. **Mr F McCann:** I was offering that as a point of clarification. However, you have raised the subject of the IT system. If it is not capable of doing that, there will not be that option. Is that what you are saying?
4298. **Ms M Campbell:** No. We are saying that Lord Freud has committed to making that change for Northern Ireland.
4299. **The Chairperson:** There are two issues in all that for me. One is that there is an IT system, and, two, there is the political decision to make the payment by whatever way. For me, the IT system should follow what the Government decide that they are going to do. The IT system should not dictate it; it should be the other way around.
4300. **Ms M Campbell:** Yes.
4301. **The Chairperson:** OK, so the decision has been taken that payments for rent will be paid directly to the tenant, unless the tenant opts out. However, that is not the case in respect of universal credit, in any which way. It will be paid according to the determination of exceptional circumstances.
4302. **Ms M Campbell:** Yes: the split payment and frequency.
4303. **The Chairperson:** That is to be agreed at some point and further consulted on. That is not a default position. That is still in special circumstances.
4304. **Mrs Cochrane:** I was just going to ask about the phrase “where necessary”. The document cites the Minister’s statement:
- “payment flexibilities will allow for different payment arrangements where necessary, not least where vulnerable customers will find budgeting difficult.”*
4305. At what point will we know what the definition is? Who will be defined as being one of those people?
4306. **Ms M Campbell:** The Minister has tasked officials with consulting on that issue and what defines an exceptional circumstance.
4307. **Mrs Cochrane:** Will that come to us before we are supposed to have finished our report?
4308. **Ms M Campbell:** Probably not.
4309. **Mrs Cochrane:** We would need to decide whether we would want to amend that. We might not be happy with how it is defined.
4310. **Ms M Campbell:** I appreciate that. I would say that that work will not be completed by the end of November.
4311. **The Chairperson:** I want to remind members that this paper was provided by the Committee Clerk as a help. We do not need to deal today with the part on the way forward. We are not dealing with the way forward, because those are considerations, which, obviously, will have to be looked at. We are still trying to clarify that we all understand what the Bill is about. Ignore the part on the way forward, because that is for another discussion. Once we have all of this, we can seek some understanding and clarification.
4312. **Mr Brady:** I would like some clarity. Paragraph 3, which deals with regularity of payment, states:

*“only the most ‘vulnerable’ (however defined) will be eligible for split/twice monthly payments.”*

4313. If we start with the premise that everybody on benefit is vulnerable, to a larger or lesser degree, who makes the decision about who the most vulnerable are? Who defines that?
4314. **Ms M Campbell:** The consultation, which the Minister has committed to undertake, will define the criteria for exceptions, and the decision will ultimately lie with the decision-maker.
4315. **Mr Brady:** So they will define some kind of vulnerability pecking order?
4316. **Ms M Campbell:** The criteria will be defined in consultation with stakeholders.
4317. **Mr Pollock:** There will not necessarily be a pecking order, as such.
4318. **The Chairperson:** That is as per the announcement from the Minister. All that detail will have to be worked out.
4319. **Ms M Campbell:** Paragraph 5 deals with who makes a claim. Clause 2 makes provision for a member of a couple to make a claim as a single person, but that is to be defined in regulations. The Committee has heard from stakeholders that, where one member of a couple refuses to sign a claimant commitment, they would like the option for the member who is willing to sign the commitment to be able to make a claim in their own right. That is currently not permitted in the legislation. The legislative position is that both members of the couple must sign the claimant commitment. If one member of the couple does not sign the claimant commitment, there will be what we are terming a cooling-off period, and, obviously, they will be encouraged to re-engage and make their claim on that fashion.
4320. **The Chairperson:** So, Martina, beyond what may be a cooling-off period — *[Inaudible due to mobile phone interference.]*
4321. **Ms M Campbell:** There is no claim.
4322. **The Chairperson:** There is no claim. OK. Do members understand that?
- Members indicated assent.*
4323. **The Chairperson:** There is nothing further on that.
4324. **Ms M Campbell:** Paragraph 6 deals with third-party verification. We heard from a lot of stakeholders that homeless people in particular might not have the documentation available to them to enable them to have their verification completed. We will definitely consider that issue, but we think it is probably unlikely that the system would permit third-party verification. However, we will discuss that with Conrad McConnell, the fraud policy lead. He may be able to give the Committee more clarification on that tomorrow or Thursday, when we are back.
4325. **The Chairperson:** So that is a deferral.
4326. **Ms M Campbell:** Paragraph 7 deals with mixed-age couples. I think there is some confusion here. I want to clarify that where one partner in a mixed-age couple is under pension age and the other is over pension age, they will have to make a claim for universal credit for new claims. In those circumstances, only the working-age member of the couple will have to complete a claimant commitment. We would not expect the member of the couple who is over pension age to complete a claimant commitment. That is in line with government policy that working-age people should be encouraged and supported into work where they are fit and able to do so.
4327. There was an issue in respect of the impact on passported benefits. As I have said previously, the issue of passported benefits is under consideration by a cross-departmental group. All these issues and the criteria for defining passported benefits and access to passported benefits will be considered by the individual Department that owns the passported benefit.
4328. **Mr F McCann:** There was no confusion from the Committee. The Committee



- understood perfectly that the change in the benefit would mean that the older person would have to rely on the younger person to make the claim. The argument from the Committee at that time was that it is unfair that a person who has worked all their life and is in a partnership with a younger person would lose out because the younger person would assume the lead role in a claim for benefit because they are working. I do not think that there was any confusion from the Committee. We were raising concerns that this could have a direct impact on the relationship. I just wanted to make that point.
4329. **The Chairperson:** Was the issue not that some organisation — it might have been the Law Centre — made the point that it was not clear about whether a person over pension age who has a joint claim with someone of working age would have to join the workforce. We are now being told that that is not the case; is that right? That was a query from a number of organisations. Do you have a further query, Fra?
4330. **Mr F McCann:** I thought that we were still being told that it would have to be the younger person who makes the claim. That would have a direct knock-on effect on the older person in the relationship who, until they reached pension age, would have had to make the claim themselves.
4331. **Mr C McLaughlin:** The younger person would claim for both.
4332. **Mr F McCann:** If the older person in the relationship hits 65 or 66, whereas normally they would claim, this pulls them back into the system because the young person will be making the claim in their place. Therefore, there would be a net loss for the people in that relationship.
4333. **Mr C McLaughlin:** The younger person is of working age. The work-related activity, actively-seeking-work and available-for-work regulations are appropriate only to the person who is of working age.
4334. **The Chairperson:** Is there any adverse impact on the older person in that situation?
4335. **Mr C McLaughlin:** No.
4336. **Mr F McCann:** So they would still be able to claim for their old-age pension in their own right?
4337. **Ms M Campbell:** Yes. When they reach state pension age, they will be able to claim pension. That will be taken as unearned income.
4338. **Mr F McCann:** That is not what I picked up.
4339. **Mr Pollock:** You thought that the younger person has to claim the pension on behalf of the older person.
4340. **Mr F McCann:** Yes.
4341. **Mr Pollock:** I do not think that that is the case.
4342. **Mr F McCann:** If the younger person in the relationship has to claim for both people, that has to have a knock-on effect on the older person in the relationship. That is the point that I am making.
4343. **The Chairperson:** Yes. I thought that what we were being told is that the younger person in the couple would have to make the claim.
4344. **Ms M Campbell:** The younger person has to make the claim.
4345. **The Chairperson:** On behalf of both of them?
4346. **Ms M Campbell:** Yes.
4347. **The Chairperson:** The older person does not have to meet the job commitments, and so on?
4348. **Ms M Campbell:** No.
4349. **The Chairperson:** Is there any other adverse impact on the older person, in respect of passported benefits for example?
4350. **Mr F McCann:** In respect of finance and pension benefits?
4351. **Mr Brady:** On that point, presumably their income will be aggregated, so if the older person is entitled to contributory state pension, that is OK, but,

- presumably, for the younger person, the number of hours they work could then impact on the overall benefit coming in. If the younger person is eligible for universal credit, or the whole claim is eligible for universal credit, the older person is going to be subject to the tapers, depending on what the younger person is doing. Inevitably, it has to have an impact. You cannot divorce, and hopefully they will not in some cases, according to what Fra is saying. The point I am making is that it has to have an impact. You cannot say it does not. It is inevitable that it will have an impact, because they will not be making separate claims. That is the point. So it will inevitably have an impact. It will depend very much on what the younger person is doing. If, for instance, the younger person is sanctioned, how does that impact on the older person? The younger person is the one who is going to be subject to all the rules and regulations under universal credit. Again, I go back to the phrase “inextricably linked in benefit terms”. You cannot get away from that. So it is going to have an impact.
4352. **Ms M Campbell:** We will have another look and come back to the Committee on impact.
4353. **The Chairperson:** I am a wee bit concerned, Martina, to be honest with you, because I asked a direct question twice about whether there would be an adverse impact, and I was told that there would not. I am concerned that now, on further investigation, I am getting different responses. I just want to say that. I do not want to repeat it again, so I will leave it at that for now. Do you want to move on?
4354. **Ms M Campbell:** The next paragraph is related to temporary absences from Northern Ireland. The proposed change allows for temporary absences of between one month and 26 weeks, depending on circumstances. Stakeholders have raised some concerns that there may be some disadvantage compared with the existing rules. That issue is under consideration by DWP, so we cannot give a definitive position on that.
4355. **The Chairperson:** Is there any particular reason? It was raised by some stakeholders. Do you have any indication as to what the consideration by DWP will be based on?
4356. **Ms M Campbell:** I think it is being reconsidered based on some of the comments arising from SSAC.
4357. **The Chairperson:** OK.
4358. **Ms M Campbell:** Paragraph 9 deals with under-16-year-olds and under-17-year-olds. Under the current rules, 16- and 17-year-olds are entitled to payments made on a discretionary basis where severe hardship occurs within job seeker's allowance (JSA). Under the new rules, it is proposed that there will be no such provision. In terms of the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) point about people who are registered for training but have not secured an immediate placement, again, DWP's position is that those people will not be entitled to any payment. We have sought further clarification on that from DWP, but the initial indications are that that will be the position, unless, obviously, they are a lone parent, or are leaving care, or one of the types of exceptions that are already defined.
4359. **Mr G Campbell:** Numbers-wise, do you have any idea of how many people might fall into that category?
4360. **Ms M Campbell:** No, I do not think we have any numbers on that, but I will check that for you.
4361. **Mr Brady:** I want to check something. You mentioned lone parents, etc. At the moment, child benefit is a qualifying benefit, so if the parent is receiving child benefit, the child or young person is still dependent. That can lead on to the issue of estrangement from the family household — not kids coming out of care or whatever, but —
4362. **Ms M Campbell:** That exception is still there. If there is no parental

- support, they are still entitled. The next paragraph is entitled, "Receiving Education". The definitions are in the regulations and are similar to the position now. So anybody on income support who gets benefit now whilst in education will continue to do so, as those rules are being carried forward. We are not aware of any disadvantage there.
4363. With regard to the tariff income provision in clause 5, there has been a suggestion that it will impact on older claimants who have savings over the £16,000 limit, and we are aware that there will be an impact. We have not been able to assess that impact, because the sample size for Northern Ireland is too small. However, DWP has done some work on that, which we can provide copies of to the Committee. We realise that there will be an impact, but we go back to the overall policy intent, which is that the benefits are for people who are in need: those who have savings and are able to maintain themselves should do so. The benefit is only there for when people need it.
4364. **Mr Brady:** Another effect will be predicated on the passported benefits because, for a lot of people, a tariff income will qualify them for a small amount of benefit, which will bring them in. So I do not know how the passported benefits will operate, because, for the majority of older people, even that small amount of benefit —
4365. **Ms M Campbell:** It gets them access, yes. I appreciate that.
4366. **Mr Brady:** That is important, and I wanted to flag that up because the number of older people who have that kind of money is relatively small.
4367. **Ms M Campbell:** From memory, DWP research found that it was one in five.
4368. **Mr Brady:** There would be a much more drastic impact if the passported benefits were affected.
4369. **Ms M Campbell:** Yes, absolutely. That is why it will be important that Departments, when they come to define their criteria for passported benefits, take into account all those factors.
4370. **Mr Brady:** The difficulty is that it will still then go back to the amount of capital. At the moment, for people on pension credit, it is open-ended, which is a much more effective way of ensuring that older people have access to passported benefits. To me, this measure is a way of stopping that.
4371. **Ms M Campbell:** I might be able to get the figure for cost of raising that for older people to you tomorrow — I thought I had the information with me. I think, from memory, it was something like £50 million.
4372. **Mr Brady:** Maybe you could supply us with the figure.
4373. **Ms M Campbell:** I will have it for tomorrow.
4374. **Mr Brady:** Thank you.
4375. **Ms M Campbell:** Clause 6 is entitled, "Restrictions on entitlement", and should be read in conjunction with clause 8. It is about the number of waiting days. The clause states that the regulations may prescribe that the period of waiting does not exceed seven days. That does not mean that the number of waiting days is seven, it just means that we cannot prescribe the number of waiting days to be seven, if that makes sense. It states that a period prescribed "may not exceed" seven days. The purpose of that is to administer the benefit. There are waiting days in benefits, and where a person is only entitled to universal credit for one or two days and the amount is small, where the administrative cost is more to pay that out, the payment will not be made. The Department reserves the right not to make the payment.
4376. **Mr Brady:** At present, if someone is entitled to 10p, the Department legally has to pay them that, because it could impact on other things. For instance, we are back to passported benefits. Even if it is a miniscule amount, it could still bring them in.

4377. **Ms M Campbell:** Yes, but there should be something in the award notice that gives them that underlying entitlement.
4378. **Mr Brady:** Obviously, that is in the future. We will check that through the regulations.
4379. **Ms M Campbell:** Through the regulations and through the passported benefits.
4380. **Mr Brady:** You are saying that it could be seven days; it could be three days.
4381. **Ms M Campbell:** Yes. It is highly unlikely that it will be. Generally, they are saying that a payment for less than seven days is unlikely.
4382. **Mr Brady:** What you are saying is that that is an administrative difficulty of the Department. It is making a unilateral decision. It may cost us money administratively to pay that. The claimant is losing out. The Department is not losing out. It is making that kind of decision because it may cost it money.
4383. **Ms M Campbell:** It is about the cost to the taxpayer as well.
4384. **Mr Brady:** It is all a cost to the taxpayer. The point is that the person who is on benefit is still entitled to benefit, and they are also entitled to the passported benefits that that miniscule amount may bring them into. That is a matter for discussion. I just wanted to flag that up.
4385. **Ms M Campbell:** Next is the basis of awards, which is dealt with in clause 7. The issue is about monthly payments, and so on. We have already covered that.
4386. **The Chairperson:** Members, that is in your CBC folder. By CBC, I mean clause by clause, not a new digital channel.
4387. **Ms M Campbell:** Clause 8 concerns calculation of awards. This is about benefit cap. Citizens Advice raised an issue about statutory sick pay and statutory maternity pay. It said that the first six months should be categorised as earnings. The proposal is that they will be treated as earnings.
4388. There are different rates for younger people, and this is the same as the position in the current system. Younger people will receive lower rates, and that is proportionate and justifiable because younger people have expectations of lower wages and are more than likely to live at home and have fewer expenses.
4389. **The Chairperson:** There is a reference to the fact that the potential restriction of EU jobseekers to standard allowance may be unlawful. There is a general sense around EU people, and that has been referred to on a number of occasions as being quite discriminatory. That is one point, and other points might arise later.
4390. **Ms M Campbell:** I will cover that now. People from within the EU are free to come to live and work in any country and enjoy the benefits. However, they are not entitled to be supported by the benefits system unless they are working or actively seeking work. To be entitled to universal credit, you have to have a right to reside and be habitually resident. EU workers have a right to reside if they are not seeking work or are a student, but they must be self-sufficient. This is a way of testing that EU workers are actively seeking work by putting them in the all-work requirement so that they are proving their right to reside and receive benefits.
4391. **Mr Brady:** I have a couple of questions. There is an assumption that younger people, or people under 25 — *[Inaudible due to mobile phone interference.]* There has always been a bone of contention — *[Inaudible due to mobile phone interference.]* — the difference between someone who is 24 years and 364 days and someone who — *[Inaudible due to mobile phone interference.]* The other thing is the self-employed. A lot of self-employed people who have small businesses — *[Inaudible due to mobile phone interference.]* Would the minimum amount be based on the minimum wage and would it be predicated on people — *[Inaudible due to mobile phone interference.]*
4392. **Ms M Campbell:** The minimum income floor rate has not been decided yet. That will be in the autumn statement.

- However, all the indications are that it will be based on the national minimum wage, which is £6·19 an hour.
4393. **Mr Brady:** That would make more sense, because that applies in Britain and here, the argument being —
4394. **Ms M Campbell:** Not the median wage.
4395. **Mr Brady:** OK. You will earn less than £7 an hour.
4396. **The Chairperson:** We have had a response around EU stuff.
4397. **Ms M Campbell:** I also point out that the Bill has a slightly different wording to GB, in that we have tweaked it. Paragraph 7(a) of schedule 1 states “asserts a right to reside”, rather than the GB legislation, which contains the wording “has a right to reside”. There is a slight difference, in that ours is slightly less onerous.
4398. **The Chairperson:** Less onerous or less obligatory. I do not have the Oxford English Dictionary here, but someone who has a right and someone who asserts a right — *[Inaudible due to mobile phone interference.]* People may assert that right but they may not have that right. *[Inaudible due to mobile phone interference.]*
4399. **Mr C McLaughlin:** In the GB legislation — *[Inaudible due to mobile phone interference.]* We investigate it anyway. It clarifies the investigation process.
4400. **The Chairperson:** Where is right to establish — *[Inaudible due to mobile phone interference.]* Do you investigate?
4401. **Mr C McLaughlin:** We investigate.
4402. **The Chairperson:** *[Inaudible due to mobile phone interference.]*
4403. **Mr C McLaughlin:** And he has a right — *[Inaudible due to mobile phone interference.]*
4404. **The Chairperson:** *[Inaudible due to mobile phone interference.]*
4405. **Mr C McLaughlin:** *[Inaudible due to mobile phone interference.]* — get the evidence to ensure that he has a right.
4406. **The Chairperson:** Why would the Department — *[Inaudible due to mobile phone interference.]*
4407. **Mr C McLaughlin:** *[Inaudible due to mobile phone interference.]* — clarification, more or less. *[Inaudible due to mobile phone interference.]* Investigation mechanism has to take place to find out whether he has a right or not.
4408. **The Chairperson:** *[Inaudible due to mobile phone interference.]*
4409. **Mr Pollock:** *[Inaudible due to mobile phone interference.]*
4410. **The Chairperson:** *[Inaudible due to mobile phone interference.]*
4411. **Mr C McLaughlin:** There has to be evidence or proof that a person has a right to reside — *[Inaudible due to mobile phone interference.]*
4412. **The Chairperson:** To put it to you another way — *[Inaudible due to mobile phone interference.]*
4413. **Ms M Campbell:** We will write to you further on that.
4414. **Mr Brady:** *[Inaudible due to mobile phone interference.]* Will that change with the right to reside? If you assert the right to reside, you have to prove it. In that sense, it is a two-sided coin: you have to prove to the Department that you have the right to reside and the Department accepts that. It used to be that if you wanted to prove habitual residence, you had to show that you were on the housing list and show your passport and your aeroplane ticket if you were coming from America or Australia. You would also have to have your kids registered in schools. That was all proof that you were here to stay, rather than coming over for a month’s holiday and heading back. I suppose what I am asking is whether that will be more clearly defined.
4415. **Mr C McLaughlin:** Habitual residence?
4416. **Mr Brady:** Yes.



4417. **Mr C McLaughlin:** It will be the same. A person will still be able to come here and provide evidence after two weeks that he is going to be a habitual resident.
4418. **Mr Brady:** At the moment, one office could decide that two weeks is enough for it to accept your claim while another could make another decision. The Newry office could decide that it is two weeks, the Banbridge office could decide that it is four weeks and the Lisburn office could decide that it is three months.
4419. **Mr C McLaughlin:** It depends on the circumstances of each individual case and what evidence is produced to the decision-maker. For example, if people register their children in a school and register with a doctor, that would provide a lot more evidence a lot more quickly that they are habitually resident.
4420. **Mr Brady:** With the European Union stuff, someone has the right to reside here for work. Some people who are not from the accession countries, such as those from Romania, have the right to reside here, but they do not have the right to access public funds. Therefore, there are all sorts of permutations around that. I think that that needs to be clarified by the Department in the guidelines, as opposed to necessarily the regulations. You need to clarify all that.
4421. **Mr Pollock:** In the guidelines that are given to decision-makers, it was never the intent that there would be anomalous situations.
4422. **Mr Brady:** Anomalous situations are prevailing at the moment.
4423. **Mr Pollock:** Part of the underlying trend of the Welfare Reform Bill is to simplify things —
4424. **Mr Brady:** Allegedly.
4425. **Mr Pollock:** — so that claimants know what is required of them, and, in turn, that the decision-makers and everybody else should be able to apply the rules consistently.
4426. **Mr Brady:** I want to flag that up, Chair. It is a bone of contention with a number of people, and it will continue to be so unless it is dealt with.
4427. **Ms M Campbell:** We will write to you and try to provide further clarification on that one.
4428. Moving on to the calculation of awards, I do not have anything in my version, so I am looking at the clause-by-clause stuff. Sorry, that is about the different rates, and we have done that.
4429. Clause 10 deals with the responsibility for children and young people. There is a concern that, under the new arrangements, families with a disabled child may see a reduction in the disability element of their child tax credit from £54 to £27 a week. If they are in receipt of child tax credits, they will have transitional protection when they transport on to universal credit. Therefore, there should be no disadvantage. The whole reason that the disability premiums are being reconfigured is to bring them more into line. There will also be higher disregard for disabled people within the earnings disregard. That is probably all that I want to say on that.
4430. **Mr Brady:** I know what you are saying about someone who already gets it.
4431. **Ms M Campbell:** Transitional.
4432. **Mr Brady:** That will obviously affect people who come on to benefits.
4433. **Ms M Campbell:** Yes.
4434. **Mr Brady:** The rationale from the Government appears to be that by cutting it from £54 a week to £27 a week —
4435. **Ms M Campbell:** There will be two rates. The £27 is the lower rate.
4436. **Mr Brady:** That will spread it wider. However, really, that misses the point. It is about the degree of disability. That is the issue, Although there is transitional protection, it will be the people who come on to benefits who are going to be affected. By spreading it, you are not necessarily helping. If the child is disabled, families may lose out. That is the issue, and that is what the

- stakeholders were arguing, reasonably in those circumstances.
4437. **Ms M Campbell:** That point is noted.
4438. **Mr F McCann:** On the back of that, Martina, you said that people will be transported. However, if there is a break in their benefit, that will impact on them just as if it is a new claim. What the people said to us last week was that, over time, that will come into effect. Over time, benefits will change, so there will be an impact on people's benefits.
4439. **Ms M Campbell:** I do not think that we have ever denied that there will be some winners and some losers. That will inevitably be the case. What we have to look at is what we can do to mitigate that. The whole point of this is to try to make the system simpler and fairer, not only for the claimant but for the taxpayer. There needs to be some work done on that. As far as I know — I will confirm it tomorrow — DWP has committed to undertaking a review of the disability rates in 2015, when there will be enough evidence to show whether the action has achieved the intended aim.
4440. **Mr F McCann:** The point that Mickey and I are making is that as this rolls out over time, everybody will eventually be affected by what people have said to us: a lower amount of benefit will be paid to people. There will be that transitional protection, but, as your benefits change, the payments that you get will change along with that.
4441. **Ms M Campbell:** I accept that point. There are elements in the award that are supposed to mitigate that. There will be higher earnings disregards, and the taper is more generous. In the published equality impact assessment (EQIA), the incentives to work are higher for disabled people than for non-disabled.
4442. **Mr Brady:** The only question would then be whether there are incentives for an employer to employ them.
4443. **Ms M Campbell:** That is different. You are into employment equality legislation. That has nothing to do with the Bill.
4444. **Mr Brady:** I understand.
4445. **Mr G Campbell:** You said that DWP would be conducting a review.
4446. **Ms M Campbell:** I think so. I will confirm that tomorrow for you.
4447. **Mr G Campbell:** If that is the case, what automaticity or otherwise would there be in any outcome of a review that DWP conducts into the impact that we find in Northern Ireland? Would there be a degree, or would the Minister just review the outcome of that review?
4448. **Ms M Campbell:** I think that we would probably seek to be part of that study in the same way as we were part of the Harrington review. Obviously, we would seek to influence it here. The Minister may decide to do a similar review, which would feed into the DWP one, but it probably makes more sense from a cost-effectiveness point of view that we be part of its study. DWP would bear the bulk of the cost of the review, and we would feed in.
4449. **The Chairperson:** OK. Thank you for that.
4450. **Ms M Campbell:** Clause 11 concerns housing costs. It is on the underoccupancy stuff. There is a suggestion to defer the general implementation of the clause until there is a sufficient supply of appropriate housing stock. That is not an option. Housing division colleagues are conducting a number of pieces of research that will inform this. An interdepartmental group, made up of the Housing Executive, the Council for the Homeless and other stakeholders, is looking at how we can manage the outworkings.
4451. **Mr Pollock:** The outcome of some of the research is probably due very shortly. A cost is attached to all the options to defer or delay. We have some figures. I cannot find them in the myriad papers, but I will come back to you if you have not already received them by way of our responses. Significant amounts are attached to not implementing the underoccupancy provision. Some safeguards have been mentioned in the past, such as discretionary

- house payments. Obviously, individual circumstances and things like that will be taken into account. Members raised concerns about the segregated society still in Northern Ireland. All of that has to be factored into the implementation.
4452. **The Chairperson:** Before I bring in Fra, I want to ask about two things that are on the minds of members. The first was the Housing Executive's presentation, in which its representatives talked about the need to balance the implications of the Welfare Reform Bill as drafted with people's needs. Secondly, and more importantly, the Minister confirmed that David Freud will be here in person at some point, I think, in November.
4453. **Ms M Campbell:** He will be here on 27 or 28 November.
4454. **The Chairperson:** OK. I am not sure what guidance, if any, your Department has received on how to proceed on this. There will certainly be a difficulty for this Committee, because the Committee is due to report by Tuesday 27 November. It means that the issues of underoccupancy, and so on, will be difficult for us to deal with.
4455. Have you had any guidance? You said a minute ago that you did not think it would be possible to defer. The bullet points that the Committee Clerk has provided are a synopsis of points that have been put by various stakeholders. Have you been given any further guidance on what you may or may not be able to do about this issue in the context of the Minister's announcement that David Freud is coming here at the end of November? I see us as being in limbo until 27 November because, in theory, we will not be able to have a full deliberation. The Minister may well announce something later on, but I do not know what the outcome of that discussion will be. We are in a difficult position.
4456. **Ms M Campbell:** I appreciate that. We will try to get you some costs attached to each of those bullet points.
4457. **Mr Pollock:** We have probably already provided those in the formal responses.
- I can check that, but in the past couple of days, I have seen the figures that we have been attaching to non-implementation.
4458. **The Chairperson:** It is just that a moment ago you were saying that it would not be possible to do something, and you may be right, but we have had an announcement from the Minister that David Freud will be here to look at all this. Can you qualify whether you may not be able to do anything with it at the moment? I am looking for any guidance that you have. Under the current time frame, the Committee will have to make a decision by 27 November on what it thinks of the Bill as drafted and what it might look like.
4459. **Mr Pollock:** We provided figures on the numbers of households affected. Latterly, as I said, we have put a cost figure on those. There are some figures available.
4460. **Ms M Campbell:** The discretionary housing fund has been increased. Is that what you were talking about?
4461. **Mr Pollock:** No, the actual cost attached to it.
4462. **Ms M Campbell:** We will have that with us tomorrow, hopefully.
4463. **The Chairperson:** It is about not just the cost but the policy intent. The Bill provides for certain things. Stakeholders, including the Housing Executive, have given us counterarguments to that. The Minister has announced that the Department will have a look at that with David Freud in November.
4464. Are you coming here to argue for the provisions as they stand, without any guidance to say that you should hold off for a few weeks until you have had another look at it?
4465. **Mr Pollock:** No, there is guidance. There are some exemptions; for example, for families with disabled children.
4466. **The Chairperson:** That is in the Bill.
4467. **Mr Pollock:** That will be carried forward in the same way as the provision for

- overnight carers is. We need to spell all that out for you, but we will also spell out the costs attached.
4468. **The Chairperson:** I am just making the point that our deliberations, at some point before 27 November, have to come down to what we have in front of us. I am asking you for the record whether you are able — you are probably not — in light of the Minister's recent statement that he is going to look at some of this with David Freud in late November. Are you in a position to tell me to hold on to this for a while or to work on the clauses as they are because you have no guidance on whether we can change anything? I am presuming that that is your position.
4469. **Mr Pollock:** The policy intent, which we went over, is clear, in so far as it is not expected that benefits would be paid for an individual or a household to overoccupy a particular premises.
4470. **The Chairperson:** You do not know that.
4471. **Mr Pollock:** We know that that is the policy intent.
4472. **The Chairperson:** *[Inaudible due to mobile phone interference.]* — 28 November. You have no deviation from what is on the table?
4473. **Mr Pollock:** At the minute, no.
4474. **The Chairperson:** I do not expect you to, but I need it on the record.
4475. **Mr F McCann:** You have asked part of my question. I was a bit concerned when Martina said that it is not an option, because the facts remain that considerable numbers of people will not be able to move because of the property that they live in. One of the big issues that was raised was that, within the next two or three years, housing associations want 150 units to become available, and the figures range from 25,000 people to 30,000 people. I take it from what you are saying that, regardless of whether anything is going to be built, people are still going to be penalised.
4476. **Ms M Campbell:** No, that is not what I am saying. I am saying that the interdepartmental group, which includes relevant stakeholders, is looking at options. As far as I understand it, a pilot scheme in Lurgan is ongoing, and the group is looking at that model, as well as other options for mitigation, including the use of discretionary payments.
4477. **Mr F McCann:** My understanding is that the pilot scheme in Lurgan is a survey of people rather than an active scheme to find out what would happen. Secondly, by the very nature of discretionary payments, they are made over a short period, so people will be hit two years down the line rather than six months. Therefore, it is going to have an impact. I have spoken to people, and it seems that the increase in benefits will not meet the need that will be there for the number of people who could be impacted on by this right away. There is a direct impact, and people will be faced almost immediately with some severe problems.
4478. On the legacy of the conflict, I know that, in certain areas of Belfast, houses are lying empty. If people wanted to move into them or put their names down for them, the Department and the Housing Executive would be the first to say that they cannot move into them because they are designated as different. There are serious problems here that go far above what might exist elsewhere.
4479. **Ms M Campbell:** Yes, and that is why the Department has set up an interdepartmental group with key stakeholders to look at the matter. We will confirm all those points and the costs, but I take what the Chair has said about the Minister committing to discuss this further with Lord Freud and that we do not know the nature of those discussions or their possible outcome.
4480. **Mr F McCann:** Martina, you said that it was not an option. Last week, we had in some of the people whom you are talking about sitting on the key stakeholders' group, and the Council for the Homeless in particular was very opposed to what is going on here.

4481. **The Chairperson:** The point has been made.
4482. **Mr F McCann:** The point is that Martina said that it was not an option. All the stuff that comes after it seems to say that it will not have any impact on it at all.
4483. **Ms M Campbell:** Can I provide clarification? Anything that the Committee or Assembly chooses to do is an option within the legislative context, but there is a cost attached to it, and that has to be considered. The point that I was making was that some of these bullet points would, in all likelihood, be cost-prohibitive, but we will come back to you with costs for each of them. All of that is notwithstanding any discussions that the Minister has with Lord Freud on flexibilities around this issue.
4484. **The Chairperson:** The point that Fra is making is that we all have to work out and consider the implications of all of this.
4485. **Ms M Campbell:** Absolutely.
4486. **The Chairperson:** And take our decisions accordingly. We are still trying to clarify the final aspects of the Bill.
4487. The issue of foster carers was raised by a number of organisations in the context of underoccupancy. It seemed to be quite restrictive or problematic for people who are long-term foster carers but have a room for a child that is not currently being used. At the moment, that would be classified as underoccupancy. That seems difficult.
4488. **Ms M Campbell:** I appreciate that point. That is one of the considerations that are ongoing.
4489. **The Chairperson:** OK.
4490. **Ms M Campbell:** I move now to the shared accommodation rate. Again, just to clarify, the shared accommodation rate for under-35s is not in the Bill; it is already in place. Members will remember that when there was a debate on this, the costs attached to the shared accommodation rates were in the region of £9 million.
4491. **Mr Pollock:** It was about £10 million, I think.
4492. **Ms M Campbell:** However, that is not within the Bill.
4493. In terms of support for mortgage interest — *Inaudible due to mobile phone interference.*
4494. **Mr Pollock:** Again, that is probably — *[Inaudible due to mobile phone interference.]* I think I mentioned previously — *[Inaudible due to mobile phone interference.]* The jury is still out on that. We have not come to a decision — *[Inaudible due to mobile phone interference.]*
4495. **Mr Brady:** The issue around somebody getting a part-time job and losing their support — *[Inaudible due to mobile phone interference.]* Surely, that flies in the face of the policy intent, which is to encourage people into work. Who is going to take a part-time job if it is going to cost them, because they are going to lose their mortgage interest? They probably would not be getting enough, if they are on the minimum wage, to pay the mortgage anyway. How does that square with the policy? I know that that is not — *[Inaudible due to mobile phone interference.]* I am just raising the point. It seems that you have a policy intent in all of this to encourage people — *[Inaudible due to mobile phone interference.]* — but then you come down to the nuts and bolts, and it actually discouraging people — *[Inaudible due to mobile phone interference.]*
4496. **Mr Pollock:** It is basically — *[Inaudible due to mobile phone interference.]*
4497. **Ms M Campbell:** Exempted accommodation or supported accommodation. That is paid through the Department of Health. As far as I am aware, it is demand-led. I am not sure what the issue is there.
4498. **Mr F McCann:** I appreciate that — *[Inaudible due to mobile phone interference.]*



4499. **Mr Pollock:** *[Inaudible due to mobile phone interference.]* — definition of social housing.
4500. **Mr F McCann:** No, what I am saying is that the problem with supported housing is that — *[Inaudible due to mobile phone interference.]*
4501. **Ms M Campbell:** Their housing costs are outside of universal credit. Therefore it does not apply, because it is paid from the Department of Health, Social Services and Public Safety. That is how I understand it.
4502. **Mr F McCann:** There is going to be — *[Inaudible due to mobile phone interference.]* The question was raised last week by some of the disability action groups. They said that the difference existed because houses that had been paid for special adaptations by the Housing Executive, for the likes of chairlifts —
4503. **Ms M Campbell:** I get your point that in a lot of cases it would be nearly cost-prohibitive to move and make the same adaptations to another property. That is one of the issues in the mix of options for dealing with under-occupancy. In terms of those people in supported accommodation being affected by under-occupancy, we will confirm that position, but their housing costs are outside of universal credit.
4504. **Mr Brady:** Do you know whether there has been any discussion with the Department of Health? Supported housing is under Transforming Your Care for people with a disability and older people. The premise of ‘Transforming Your Care’ is to keep people at home in the community rather than having to go into acute hospital care. That will become a bigger issue because a lot of those people will presumably, because of the nature of their disability, be on benefits and, by definition, be claiming housing benefit. Has there been any discussion at this stage? The consultation period for Transforming Your Care finishes in December, and we will start to get detail from January as it rolls out. Has there been any discussion, because that will certainly have some impact on the issue of supported housing? One issue from stakeholders was that money for that should be ring-fenced. That will become a bigger and bigger issue and cannot be done in isolation. It needs to be addressed at this stage.
4505. **Ms M Campbell:** Yes, I appreciate that point. I am not aware of whether colleagues in housing have been having any of those conversations, but —
4506. **Mr Brady:** Far be it from me to suggest that they should, but it might be an idea.
4507. **Ms M Campbell:** Absolutely. I totally agree.
4508. **Mr Brady:** Thank you.
4509. **The Chairperson:** All right.
4510. **Ms M Campbell:** Moving on to clause 12, “Other particular needs or circumstances”. We have already discussed removal of the severe disability premium. The rates are not yet available. We hope that they will be available on 10 December in the autumn statement. The general thrust is that claimants in receipt of severe disability premium will have transitional protection for as long as that lasts. Couples will be able to claim a limited capability for work element. One member can claim that, and the other can claim a carer element. There are higher earnings disregards for disabled people. Finally, anyone in receipt of disability living allowance (DLA) is exempt from the benefit cap.
4511. **The Chairperson:** Martina, can I just take you back a wee second for clarification on the housing costs of run-ons and extended payments? Under the current —
4512. **Ms M Campbell:** I beg your pardon. For clarification, as far as we understand the position, there is no provision for run-ons under the new system. That comes back to the whole idea that work is going to pay and that the higher earnings disregards, etc, will enable the claimant to meet all their commitments.
4513. **The Chairperson:** OK, thank you.

4514. **Ms M Campbell:** Moving on to clause 14, "Claimant commitment". I discussed that earlier. Where one member of the couple refuses to sign the claimant commitment and the other is willing to sign it, there is no claim. That is the current position.
4515. **Mr Brady:** Just on that, can I just check with you. Under the guidelines, if one member of the couple does not sign, it would seem reasonable that the reason why that person has not signed may be that they have mental health problems that may not have been diagnosed. They may have had a particular run-in. I am only trying to think of reasons. It would be ridiculous for someone not to sign it if it would mean that they were not going to get any money.
4516. **Ms M Campbell:** That is why there will be a cooling-off period. Obviously, the other partner will try to highlight any such issues.
4517. **Mr Brady:** The difficulty with the cooling-off period is that it could run for two to four weeks, and they would not get any money.
4518. **Ms M Campbell:** No.
4519. **Mr Brady:** So, therein lies the difficulty. The reason why that person is not signing needs to be addressed. Is it just because they are an idiot or is it because they have particular reasons for not signing?
4520. **Ms M Campbell:** I have said that the claimant commitment will be drawn up in consultation with the claimant and will be tailored to their particular circumstances. Where there is a known mental illness, obviously that will be taken into account. Where there is an undiagnosed illness, I do not understand how a claimant adviser could possibly diagnose it if it is undiagnosed.
4521. **Mr Brady:** With respect, if you are a claimant adviser and deal with people on a regular basis — I did as an adviser, as did many other people here — there is, possibly, a way of finding out whether that person is doing it for a particular reason or whether they are just being bolshie about it and saying that it is the system and they are not —
4522. **Ms M Campbell:** Complying.
4523. **Mr Brady:** It goes back to the point that we have been making for a number of years —
4524. **Ms M Campbell:** It is common sense.
4525. **Mr Brady:** Training.
4526. **Ms M Campbell:** Absolutely; I agree.
4527. **Mr Brady:** Thanks.
4528. **Mr Copeland:** This is a very small point. Where a claimant has surrendered or given up their status as a claimant to someone, say, with a power of attorney, has any thought been given around who is entitled to say whether they should sign?
4529. **Ms M Campbell:** Whether they should be?
4530. **Mr Copeland:** Let us say, for example, that someone has a vested interest in keeping someone at home and they have power of attorney —
4531. **Ms M Campbell:** Right.
4532. **Mr Copeland:** Under this, you are saying that if the person who is the subject of the power of attorney wishes to do one particular thing and the person with the power of attorney refuses to sign the document, then that, effectively, deprives the person of the right to claim.
4533. **Ms M Campbell:** Yes. There is something covered under power of attorney, but I imagine that it is in the guidance, rather than in the Bill.
4534. **Mr Copeland:** The reason I ask is that I had a very specific case to do with power of attorney that took months to sort out.
4535. **Ms M Campbell:** Some consideration has been given to that, and I will try to dig out the correspondence with DWP.
4536. **Mr Pollock:** It would not be markedly different from what is already happening in practice.
4537. **Ms M Campbell:** Yes.

4538. **Mr Copeland:** It took about three months.

4539. **The Chairperson:** OK.

4540. **Ms M Campbell:** In a partnership approach to the claimant commitment, what we are saying at the outset is that one of the aims of universal credit is that it is a partnership between the claimant and the Government, and it is about setting out what is expected and what is reasonable. There is no right of appeal against what is in the claimant commitment, because it is felt that that should be drafted in consultation with the claimant; therefore, there should be very little debate around what is in it once the claimant signs it. However, there is, obviously, a right of appeal around any sanction that would be subsequently imposed if the claimant failed to comply.

4541. **The Chairperson:** OK, Martina. Thank you. That is the provision where, if someone does not sign a claim — a partner does not sign the commitment — then the whole claim falls.

4542. **Ms M Campbell:** The claim falls.

4543. **The Chairperson:** There is no provision for dealing with that beyond that?

4544. **Ms M Campbell:** No.

4545. **The Chairperson:** OK. Thank you.

4546. **Ms M Campbell:** No comment was made on clause 15, which is on the work-focused interview. Clause 16 is on work preparation. The Law Centre has raised issues around the need to reintroduce a work-focused health-related assessment for people with limited capability. I should advise the Committee that this is under consideration, so this may change. It is based on the fact that there has been a two-year suspension for employment support allowance (ESA) claimants. That lapsed in August, and DWP is considering the evidence gathered during this period. This will possibly change.

4547. **The Chairperson:** Thanks for that.

4548. **Ms M Campbell:** I totally accept the point about the work-search requirement

that the policy intention is that the claimant should be available to search for work 35 hours a week. We all accept that proving that and doing that will be, I would suggest, very hard. That is where the guidance and an element of common sense comes in. As the legislation states, the claimant is expected to spend all their working hours looking for work.

4549. **The Chairperson:** Thank you.

4550. **Ms M Campbell:** I am not sure what the point was on work availability.

4551. **Mr Pollock:** It is to do with the lack of jobs.

4552. **Ms M Campbell:** As the Chair said, this is an Executive Bill. Benefits are intended to be there for people who are in need, but the overall aim is to get people and support people back into work. That is an Executive function as well, so welfare reform does not exist in a vacuum. It is a priority one commitment under the Programme for Government, and it ties in with the priority two commitment of the Department of Enterprise, Trade and Investment and the Department for Employment and Learning (DEL) — *[Inaudible due to mobile phone interference.]* It is about the Executive working together — *[Inaudible due to mobile phone interference.]* The time frame for that is set out in the regulations. I am not sure whether it is in the draft that is available. *[Inaudible due to mobile phone interference.]* As I said when I was speaking to that clause, there will be no change to the current system where lone parents with a child under the age of five will only be subject to a work-focused interview — *[Inaudible due to mobile phone interference.]* Couples will obviously be able to nominate a responsible carer, so that person, for sake of argument the mother, will be able to restrict their availability for work to suit the childcare arrangements. *[Inaudible due to mobile phone interference.]* — programmes to help disabled people.

4553. Clause 22 deals with claimants subject to all work-related requirements. We have already discussed that regarding the EU workers being placed in that group, so I do not think — we have agreed to write and provide further clarification on that. Claimants who are in part-time work are currently, under tax credits, not expected to seek any other work on top of their part-time commitments. It is unclear how that will work in practice. When the claimant makes their claim they will obviously come in to discuss their current work arrangements and will sign a commitment saying what they will do to either increase their hours or get a better-paid job. However, obviously, we will take into account their obligations and limitations in getting those hours. Again, that will be covered in guidance.
4554. Somebody has suggested that the commitment is in consultation with the claimant and with reasonable regard to the circumstances. We do not believe that that needs to be on the face of the Bill. That is within guidance. It is what happens now, and we can certainly expand the explanatory memorandum on that point. That is not an issue.
4555. Clause 24 is about the definition of domestic violence. It encompasses other forms, such as emotional, psychological and financial. The definition will be the same as that used in the current JSA regs, so it covers all of those. DWP has made it known recently that it is extending that to cover those issues raised around hate crime and race stuff. That is not in the published regs, but it will be in the draft that comes to you early in the new year.
4556. That covers all those points, so we are on to clause 25, dealing with compliance and sanctions. There are sanctions in the current system, but these obviously strengthen the system. There are provisions in the Bill to introduce a stronger sanctions regime for the existing benefits. The sanctions will only be applied where people persistently and repeatedly do not comply with the requirements of their claimant commitment. It is certainly not the intention for people to be penalised on a whim. They will be given every opportunity to explain, and good cause and all of that will be taken into consideration. On the point about leaving people destitute, people who have been sanctioned will be able to apply for a hardship payment. Also, it is only their personal allowance that will be affected, not the rest of their award.
4557. I will ask Conrad to comment on the point about the double whammy where somebody, having been convicted of fraud and subject to a sentence, is then subject to a three-year sanction after they have come out.
4558. Regulations in GB suggest a period of five working days to establish good cause, but stakeholders believe that that is not enough time. That point is probably best covered in guidance, or we can put it in the explanatory memorandum. We accept that there will be cases, particularly if there is some medical or mental health reason, where it may take longer than five days. We suggest that it is better not to define the number of days, because that restricts you. We will look at that in the guidance.
4559. **The Chairperson:** OK.
4560. **Mr Brady:** On the hardship payments, you say that people will not be destitute because they can get a hardship payment, but that is recoverable. So when a person's benefit kicks in again, they will be paying back x amount a week, which means that they will be living below subsistence level and could be left destitute in the future.
4561. Obviously, the guidelines will designate how much is to be recovered. Historically, in the North, people on benefit have paid back proportionately more in overpayments and stuff like that than those in Britain. That kind of knocks the parity argument a wee bit. I am just wondering whether that will be considered. Presumably, hardship payments are there to get people over a bad period until their benefit comes in. Take, for instance, the social fund: in some cases, people were asked

- to pay back huge amounts that were totally disproportionate to the amount of benefit they were getting.
4562. **Ms M Campbell:** The hardship payment will be recovered. The plan is to recover it in 12 equal installments, but obviously that will depend on the period of the sanction.
4563. **Mr Brady:** It will depend on the amount of hardship payment given.
4564. **Ms M Campbell:** Yes.
4565. **Mr Brady:** That could vary from person to person.
4566. **Ms M Campbell:** Yes.
4567. **Mr Brady:** I just wanted to clarify that.
4568. **The Chairperson:** Thank you. Sorry, Martina. Go ahead.
4569. **Ms M Campbell:** On the point about access to childcare, I think that we are on record, a number of times, as saying that we are not aware of any claimant being sanctioned for not having access to childcare. That will certainly be covered in the guidance. Again, as I have said before, there is protection there for lone parents and for members of couples to restrict their availability around their child's school hours. Is that fine?
4570. **The Chairperson:** Yes.
4571. **Ms M Campbell:** I will move on then to clause 27, which deals with other sanctions. As to whether hardship payments go back into a hardship fund, I should put it on record that there is no such thing as a hardship fund. That payment is demand-led.
4572. Paragraph 32 deals with the concurrent exercise of functions by the Department. I think that that has been covered. If DEL is dissolved before the Bill comes into place, the transfer of functions Order will pick up all those points and set out how the functions will be carried out.
4573. Delegation and contracting out is mainly for DEL, but I see that there are issues there about the personal independence payment (PIP). Any issue arising in connection with a contracted-out function is a contractual issue. It is not a legislative issue per se.
4574. **The Chairperson:** That is clause 30, and paragraph 33 of our document.
4575. We will adjourn now. There will be lunch at 12.30 pm.
4576. **Ms M Campbell:** So you want us back at 4.00 pm? That is fine.
4577. **The Chairperson:** Thanks very much.
- Committee suspended.*



*On resuming —*

4578. **The Chairperson:** We have reconvened for our scrutiny of the Welfare Reform Bill. I thank the officials for kindly being with us again this afternoon. Mark, this is for your benefit: Hansard has advised us that this morning's recording was quite poor due to interference from telephones. Therefore, I ask people to switch off mobile phones and other electronic devices.
4579. Martina, over to you. We got to clause 30.
4580. **Ms M Campbell:** I think that we had completed it.
4581. **The Chairperson:** I think so. A great deal of time was taken up by the first 30 clauses, which is understandable, given the nature of them. We have moved through some of the parts a bit more quickly. With members' and officials' indulgence, we should try to work through and get much, if not all, of this completed this afternoon. I do not think that we will go through every clause. Bear in mind that this is for clarification, for the most part, or further explanation. Can we proceed on the understanding that we will work through until people's heads drop?
4582. **Ms M Campbell:** Clause 31 is about supplementary regulation-making powers, and the query is about clarification on whether there is any further change around the issue of deprivation of capital. That clause power is actually more beneficial, because it is better and clearer for the claimant than the present position. It introduces specifics such as the capital can be used to reduce or to pay a debt. It includes reasonable spending, which would be day-to-day living expenses and, obviously, a requirement to look at everything together. That is spelt out further in clause 47 of the DWP published regulations, so I do not think that there is any issue.
4583. **Mr Brady:** There will be an infinite or a finite list in the guidelines, presumably, for what is reasonable spend. Years ago, it used to be holidays, cars and all sorts of miscellaneous stuff.
4584. **Ms M Campbell:** Yes. There are issues specified in the regulations, but it is then back to the guidance and our good friend common sense.
4585. **Mr Brady:** There is a certain discretion.
4586. **Ms M Campbell:** Yes. It leaves the claimant more scope. Probably taken into account is the fact that —
4587. **Mr Brady:** Depending on the decision-maker.
4588. **Ms M Campbell:** We are straying off the point, but there is an independent decision-making standards committee that scrutinises decisions. That report is published. We have a very high degree of accuracy in that regard.
4589. **Mr Brady:** I have no reason to think otherwise.
4590. **Ms M Campbell:** Clause 32 gives us powers to make regulations. It makes consequential amendments. That would pick up any amendments to primary legislation required by other Departments, for example, around passported benefits. There was an issue about the claimant commitment. I have clarified that already. Where one claimant is over pension age and the other is under, only the working-age person will be subject to a claimant commitment. Is any further clarification required?
4591. **The Chairperson:** No.
4592. **Mr Durkan:** While we are on this, I nearly raised the issue of mixed-age couples earlier in the very early clauses. It is around the passported benefits associated with pension credit. When there is a single household claim, how is it intended that the likes of the winter fuel payment will be processed?
4593. **Ms M Campbell:** Winter fuel payments will continue.
4594. **Mr Durkan:** To the individual or to the household?
4595. **Mr Pollock:** If you are an individual who is over pension age, you will get a certain amount under the winter fuel

- payment; if you are both over pension age and you live in the same household, it goes up.
4596. **Ms M Campbell:** There is also a couple rate.
4597. **Mr Pollock:** There is a couple rate as well.
4598. **Ms M Campbell:** Clause 33 provides powers to make supplementary and consequential amendments. With regard to the query on transitional protection and the cash top-up being eroded unless it is index-linked, if I understand the point that Citizens Advice is trying to make here, it is talking about the fact that benefits are up-rated by virtue of the consumer price index as opposed to the retail price index. That amendment is already in place. The consumer price index is considered to be more reflective of inflation rates.
4599. With regard to the cash top-up being eroded, I will give you an example. If the claimant is entitled to £100 under current benefits but is entitled to only £70 under universal credit, the claimant will get transitional protection of £30 for whatever time it takes during which he or she does not have a material change of circumstances. Therefore, when the universal credit payment is up-rated the following year, it will go up to, say, for the sake of argument, £75, to keep the numbers round, the claimant will still get £100. Therefore, the claimant is still £25 better off by virtue of his or her transitional protection. I am not sure that the point about the cash top-up being eroded by inflation really stacks up because the claimant is still better off. It is like a marked time thing.
4600. **Mr Brady:** Can I clarify that? There is transitional protection for those who are already on benefits. However, someone who comes onto benefits in the same circumstances will be £25 worse off.
4601. **Ms M Campbell:** In that example, yes. However, that person never had the £25.
4602. **Mr Brady:** I know that. However, they will be £25 worse off than someone else in exactly the same position.
4603. **Ms M Campbell:** Yes. However, that will always be the case in life.
4604. **Mr Brady:** Only if the change is made. It is an issue of equality. You could reasonably argue that although two couples are in exactly the same position, logically, under the same benefits system, one is £25 a week worse off. There is something inherently unfair about that.
4605. **Ms M Campbell:** They are not the same benefits because there are different rules.
4606. **Mr Brady:** However, it is the same “social security”.
4607. **The Chairperson:** There are rights and wrongs. The provision is that it is a transitional arrangement.
4608. **Mr Brady:** I understand that. I was just making the point that one couple will be much worse off than another.
4609. **The Chairperson:** I understand that.
4610. **Mr F McCann:** Earlier, the point was made about transitional payments that if there is any break in your benefit — that is, where people are mostly caught in it over time — you will lose the £25.
4611. **Ms M Campbell:** Yes.
4612. **Mr F McCann:** That is the point that I am making.
4613. **The Chairperson:** I understand that. That is clear. OK. Thank you.
4614. **Ms M Campbell:** Clause 34 deals with the abolition of benefits. It relates to reinstating the reduction in tax credits for childcare by 10% from 70% to 80%. As the Committee Clerk has pointed out, that is an excepted matter and is not for the Executive. Therefore even if there was a will to do that, we could not do it. However, the Executive could decide to do something outside social security, which is their prerogative. The estimated cost of reinstating the 10% is £17 million. That would give an average of £12 extra per claimant. If we were to do that, DWP would have to take a view on that, we think. The total cost of our meeting the 80% cost

- is £117 million. In the last Employers for Childcare report, which I think was based on 2011 rates, Northern Ireland had the lowest average cost of childcare in the UK and the highest number of childcare tax credits claimed back. That is down to some of the work done by the Office of the First Minister and deputy First Minister and Playboard, Jacqueline O'Loughlin's group, and funding under Executive funds. When they go in to help organisations, they make it a condition that parents must claim child tax credits. That is one reason, along with our good advice service in pointing claimants towards tax credits.
4615. There were no comments on clauses 35 or 36.
4616. Clause 37 is "Migration to universal credit". As we said, the migration strategy is being developed, and no decisions have been taken about the stage at which claimants will migrate, whether all ESA or all JSA. None of that has been decided. The point was made on a number of occasions by Committee members about the transitional protections. We are aware of those concerns.
4617. Clause 38, "Capability for work or work-related activity", is about the work capability assessment for work-related activity, and about medical records being given primacy in a medical-based assessment. Medical evidence will be taken into account and given due consideration, but there are other factors to be considered. It is about what work the claimant is capable of doing, obviously taking into account fluctuating conditions.
4618. **Mr F McCann:** I do not want to distract the meeting, but I happened to listen to a debate in Westminster yesterday regarding work-related assessments and especially about Atos and the number of people who have died as a result of decisions that were made. It must concern officials and others that these people are maintaining those assessments when all that is happening around them. That concern has been continuously pushed by this Committee.
4619. **Ms M Campbell:** Yes, and it is a concern that is shared by the Minister and us.
4620. **The Chairperson:** OK, fair enough.
4621. **Ms M Campbell:** I think that was and/or "physical or mental condition". Mr Copeland asked for clarification that it included physical and mental. I think that I confirmed that when the issue was raised; it is in the regulations.
4622. **Mr Brady:** When we were talking about the primacy of medical evidence, it was not necessarily medical records. For DLA purposes for appeals here, medical records are made available with the permission of the claimant. That has never been the case for DLA appeals in England. It just seemed that it was better to have an overall picture of the medical condition. If you are being assessed primarily on a medical condition, which is what the assessment is all about — or what it is supposed to be about — you know that it is not because it is a tick-box exercise looking at what you can do rather than what you cannot do.
4623. The object of the primacy of medical evidence was if the decision-maker, who is a civil servant who is not medically qualified, would have that at hand as well as the tick-box exercise carried out by the assessor, which is useless in the sense that it has been accepted as being not fit for purpose. Therefore our argument was that if the decision-maker was making the decision, it would be an informed decision based on that particular person's medical condition. You have mentioned fluctuating conditions, which could be MS, bipolar disorder, or many other things. That medical evidence would be available to the decision-maker. The argument was that, at the moment, it is not available. Decisions are made, people are turned down, they then appeal, the medical evidence becomes available and they win their appeal. It is to cut out all that peripheral stuff. It just makes sense. It is a money-saving exercise as well, because, to get back to the taxpayer argument, it all comes out of the same pot. It is not necessarily about

- the medical records; it is about good, informed medical evidence that the decision-maker would have to hand. That would come along almost as an add-on at some stage later down the line.
4624. **Ms M Campbell:** It is a good point, and we will certainly feed it back.
4625. There is no comment on clause 39. Clause 40 deals with couples. That is when a relationship has broken down but the parties continue to share the house. There is no change on that; the position is as now. We all recognise that that is more and more common and that, because of negative equity and such, people cannot move out of their house. There is a great deal of commissioner case law already on that. All of that will be carried forward in the guidance.
4626. **Clause 41 is just about interpretation, so there is no comment on it.**
4627. Clause 42 deals with the pilot schemes, apparent differences between Northern Ireland and GB and the relevance of the results. When I looked at the stakeholder comments, I saw that the crux was about the direct payments on the demonstration projects that DWP is running, the direct payments to the landlord, the frequency of payment, the split payment, and the pathfinder. The pathfinder starting in GB in April will inform events in Northern Ireland, but that is really more about testing the IT, for example. We expect DWP to release the early findings from the demonstration projects any day now. There has been something on its website from 30 October, but I could not find a link, and my contact person was on leave, so I could not check it yesterday. As I said, there has been a press release on DWP's website on the demonstration projects from 30 October. We expect some learning reports to be published, and we will provide the Committee with them as soon as we get them. We take into account the learning from any pilots in GB, and we would have to build in local differences in infrastructure, etc.
4628. **The Chairperson:** The crux of the issue was that there are no such bespoke projects here.
4629. **Ms M Campbell:** There are no projects here.
4630. **Mr Brady:** That is the question that I was going to ask: why not? That was raised during the last mandate by one of Paul and Sammy's colleagues in the Social Development Committee. We are constantly told about parity and that what happens in London or Oxfordshire or wherever may have some relevance, but the argument is that prevailing conditions here are so much different. There does not seem to be any logic. The Department has not come up with any rationale, as far as I can see, for why there should not be one here.
4631. **Ms Martina Campbell:** As I tried to explain last time, it boils down to costs. Many of those pilots are expensive.
4632. **Mr Pollock:** There is also the issue of validation. It is about having statistically valid samples and ensuring that you have enough of a cohort to draw statistically valid conclusions.
4633. **The Chairperson:** We are getting into a discussion about this. The question was whether there is a bespoke project here, and the answer is no.
4634. **Ms Campbell:** No.
4635. **The Chairperson:** Therefore, you cannot really tell us much more about how to extrapolate that because you do not have enough of a cohort here to do a single project. How do you extrapolate it from somebody else's project? To my mind, the answer is no, you do not have a bespoke project. We can discuss whether it is a good or a bad idea later.
4636. **Ms M Campbell:** At the minute, we have no legislative cover. Therefore, in any event, the Bill will need to be in place and then the regulations will need to be brought forward in order to give you cover to do a project.
4637. Clause 43 is about the regulations. The Department was asked to clarify whether it anticipates providing different levels

- of support for housing costs in different areas, and, if so, on what basis will that be made. The current position is that local housing allowance rates are based on eight broad market rental areas. Each month, the Housing Executive monitors rent in an area and decides the local rate for that area. Therefore, there is no change on that really.
4638. The final one is about Assembly control for the various regulations. I have already submitted the timetable for when we expect to make the list of regulations and the different types of control attached to them. We have been alerted by the Examiner today of an error in our delegated powers memorandum around clauses 110 and 112, so we will take steps to rectify that.
4639. **The Chairperson:** Thanks for that, Martina.
4640. **Ms M Campbell:** That is my bit. I will pass over to Michael.
4641. **Mr Pollock:** Thank you, Chairman. Again, thanks to Martina, because she has ploughed much of the ground on the common issues with working-age benefits.
4642. Clause 45 deals with the claimant commitment for jobseeker's allowance. Members should note the Department's response. The unions are opposed. Citizens Advice wants the claimant commitment drawn up in consultation with the claimant. That is the case; it was always the intention to draw up the commitment in consultation with the claimant. There is nothing to suggest that it will be drawn up — *[Inaudible due to mobile phone interference.]* — or anything like that. There is nothing much more to say about that. It is deemed to be an improvement on the existing jobseeker's agreement in so far as it spells out more clearly what is required of the claimant and what would be the result if someone did not comply with the requirements of the claimant commitment.
4643. Clause 46 deals with the different ways in which to conduct interviews. It is seen as a future-proofing exercise, in legislative terms, to allow the Department to conduct interviews of that nature by telephone or online. There are no immediate plans for anything like that at the outset. However, as I say, it is a future-proofing exercise in line with the Government's move towards conclusion through IT. Clause 47 deals with sanctions. Martina has covered the ground on the different levels of sanctions and clarified what is expected of an individual. The higher-level sanctions apply for misconduct, dismissal and those types of things. Individuals who are able to look or prepare for work should be required to do so as a condition of receiving benefit. So, it is not something that is deemed to be punitive, as such.
4644. Members should be aware that the sanctions regime has been deemed ineffective for some time. Therefore, irrespective of welfare reform, there were plans to review the sanctions regime to make it more effective. The different level of sanctions and the clarity on the claimant commitment are all part and parcel of that process.
4645. **The Chairperson:** OK.
4646. **Mr Pollock:** Clause 48 deals with the procedure for regulation-making powers. There are no comments on that, and the same applies to clause 49.
4647. We received stakeholder comments on clause 50 from Citizens Advice about work experience programmes. All those points have been well made. It wants to ensure that the client advisers are adequately trained on those programmes. We will provide quite a bit of clarification about what DEL and the employment service do to ensure that there is no job substitution and to ensure that employers take work experience placements seriously. Employment staff have a robust monitoring regime for any programme of work placement. That includes on-site visits to support the participant and to confirm that the placement is operating within the guidelines.
4648. **The Chairperson:** OK.



4649. **Mr Pollock:** Are there any questions on that?

4650. **The Chairperson:** I do not think so, so you can move on.

4651. **Mr Pollock:** Comments were made about the dual entitlement arrangements under clause 51, which could see a person sanctioned under not ESA but universal credit if they had dual entitlement. That is where an individual would be entitled to ESA of around £50, with a top-up of universal credit of £10 or £15. We are trying to bottom that out to what the sanction would refer to. However, if an individual were sanctioned for £20 and had a top-up of only £15 of universal credit, depending on why they were being sanctioned, such as being in breach of the universal credit rules and the JSA or ESA terms and conditions, logically, you would say that the amount comes out of both. However, we are going to bottom that out and come back to you on it.

4652. **The Chairperson:** Thank you.

4653. **Mr Pollock:** Clause 52 deals with ESA time limiting and is pretty controversial. For clarification, we talked about the prescribed number of days and the 365-day limit starting to run from when the claimant is notified of the change in regulations. This measure has been introduced in the rest of GB, and it has been in operation since April, I think.

4654. **Ms M Campbell:** Yes.

4655. **Mr Pollock:** People in the rest of GB were notified towards the end of November last year, I think, that time limiting was going to be applied to ESA contributory. So, in that way, there is nothing any different here. The agency has plans for a couple of mailshots to notify people about time limiting once the Bill goes through. The first of those might be in January after the Bill has completed its Assembly passage but before it receives Royal Assent. Depending on the IT, a further mailshot could be done later but before May, which is when the provisions kick in. Some serious costs are attached to not introducing those time-limiting

measures. The overall programme for welfare reform has something like £36·5 million in 2013-14 earmarked for cost savings that would be made by introducing this measure. In 2014-15, that figure is £51 million, and it is £62·2 million in 2015-16. Those are the result of saving on costs that would be incurred where individuals are compensated by income-related employment and support allowance. So, there are serious issues and serious costs attached to this provision. Any increases in the length of the time limit would erode savings, so that is something that we have to think seriously about.

4656. Clause 53 is about further entitlement after time limiting. The stakeholder comments on the clause are about some of the people who are not affected by time limiting. In that respect, there are quite a few exemptions, such as people who are in the support group, and so forth. I do not have too much detail on the comments, but I will come back to you.

4657. Clause 54 deals with conditions relating to youth. We have some figures to clarify the savings that are attached to that measure and to the people who are part and parcel of the ESA youth cohort and who would not be affected by the change. At the moment, the figure that we have is that 90% will be affected, but the latest figures indicate that, of the 16- to 24-year old cohort, somewhere in the region of 96·9% would not be affected by ESA time limiting.

4658. **Mr Brady:** I was going to ask about the 10%, which has now been reduced to roughly 4%. What will be the difference? The whole idea of the severe disablement allowance and the incapacity in youth benefit was that they were for kids who would never be able to work in the normal sense, so the contribution conditions were waived. They are now going to be put into that employment pool, if you like. You are saying that 96% will go to income-based ESA. The conditions will not be waived for those people, because they will then have to qualify under the normal criteria

- for income-based ESA. What is the difference between those people and the ones who will not have to do that?
4659. **Mr Pollock:** It would obviously be considered on a case-by-case basis. Part of the philosophy has been that individuals have been condemned to a life on benefits — at least, that is what the Government are saying.
4660. **Mr Brady:** With respect, they are condemned to a life on benefits because of their conditions. It is not a lifestyle choice. That was the whole issue behind the severe disablement allowance. I am wondering about the policy intent of moving these people into the work-related area. Presumably, their conditions are not going to change overnight, and in most cases, they will still have the same conditions that they were born with. I suppose the question that I am trying to ask is: how bad will you have to be before you do not have to go into that work-related group? Has that been decided upon? Is that in the guidelines and regulations or whatever?
4661. That is just something that I wanted to flag up now because it is going to affect a large cohort of those young people.
4662. **Mr Pollock:** It is going to apply to all new claims. I do not have an answer to how we will differentiate between individual claims. I think that that is for —
4663. **Mr Brady:** I know. I understand that, because each case is going to be individual. I am just wondering about it in the general sense. It is a general intent, so some thought — or maybe lack of thought — has to have been put into how it is going to affect those young people. It was always accepted that there was a group of young people who, because of their condition, would not be able to work in the normal sense. Those people are going to be expected to go into an employment pool, if you like, where all that will have been taken away from them. That is really what I am saying. Obviously, it may be something that you have to come back to us with. However, I just wanted to flag it up.
4664. **The Chairperson:** All right. Thank you.
4665. **Mr Pollock:** Clause 55 deals with the claimant commitment for employment and support allowance. It mirrors what I said about JSA and what Martina said this morning about simplifying the process for universal credit.
4666. There are a couple of points relating to disability groups, which want assurances that proper support will be provided. We envisage that that would be the case. We would need to look at that to see what assurances we can give the Committee on the details of that. We will do that when we get back to you formally on all those issues
4667. **The Chairperson:** OK. Thank you for that.
4668. **Mr Pollock:** Clause 56 relates to work experience. Placements are to be included as part of the customer obligation. I think that we went over the work experience previously when we discussed its nature. It is voluntary in that sense. As such, no one will be press-ganged into it. I spoke earlier about the response from DEL on client advisers. DEL imposes quite an onerous regime on employers who participate in those sorts of employment schemes and work experience schemes, as it tries to ensure that the individual, as well as the employer, gains from it and that no one abuses the system. A fairly robust checking system is in place for that as well.
4669. **The Chairperson:** OK.
4670. **Mr Pollock:** Clause 57 relates to hardship payments. It introduces hardship payments under ESA, if I am thinking right, where previously they were not in place.
4671. **The Chairperson:** That was a part of the NIPSA presentation. Have you seen page 159 of the submission?
4672. **Ms M Campbell:** Our version uses slightly different page numbers, because we started to fill in the response.
4673. **Mr Pollock:** We started to fill in the blanks.
4674. **The Chairperson:** I am sorry about that.

4675. **Mr Pollock:** There was no hardship regime under ESA previously. Is that not right, Colm?
4676. **Mr C McLaughlin:** Yes.
4677. **Mr Pollock:** The claimant commitment and, I suppose, the potential for sanctions, essentially now affords the opportunity for someone who would be sanctioned under ESA to avail themselves of hardship arrangements.
4678. **Mr Brady:** Can I just ask whether that applies to both contributory and income-based ESA?
4679. **Mr Pollock:** I do not know, but I can find out.
4680. **The Chairperson:** OK. Thanks for that.
4681. **Ms M Campbell:** Another important point to note is that hardship payments are not recoverable for ESA claimants.
4682. **The Chairperson:** OK.
4683. **Mr Pollock:** Clause 58 deals with claimant responsibilities for employment and support allowance. Members should note that that clause relates to delegation and contracting out, and they may wish to view that clause in the context of their previous deliberations on the matter. I think that that is essentially —
4684. **The Chairperson:** Is that not a timing issue?
4685. **Mr Pollock:** I can only assume that the contracting out relates more to DWP in GB and the delivery of some particular aspects of its work. It relates to the privatisation of functions that are connected to work-focused interviews, and so forth. Again, there is absolutely no intention at the moment of doing that in Northern Ireland. So, it is a legislative future-proofing process.
4686. **Mr Brady:** As I said, we were told that in 2007, and three weeks later —
4687. **Mr Pollock:** I was not here in 2007.
4688. **Mr Brady:** No, I know. Forgive me for being sceptical.
4689. **Mr Pollock:** Earlier, when I was talking about alternative interview arrangements and such things, such as — *[Inaudible due to mobile phone interference.]* I said that DEL adopts the philosophy that face-to-face contact is better in all those things. I cannot see anything happening on that in the near future. It is something that we, as civil servants, are also interested in.
4690. Clause 60 deals with claimant commitment for income support. There are no particular issues under that clause. I think that NIPSA raised the same types of issues about contracting out, and so forth.
4691. **The Chairperson:** I am sorry, Michael, you skipped clause 59.
4692. **Mr Pollock:** Is that the clause that deals with work experience?
4693. **Ms M Campbell:** No, it deals with lone parents' entitlement to income support. Is this the childcare issue?
4694. **Mr Pollock:** As Martina pointed out this morning, there has not been a raft of people who have been sanctioned because they have no childcare. We did have one blip, and a clutch of people were supposedly sanctioned for a lack of childcare, but we are investigating that. The overwhelming evidence is that decision-makers and everyone else look very sympathetically on anyone who cannot fit in work placements or whatever because of childcare responsibilities. There is flexibility in the legislation, and we envisage that that will be carried forward under any new arrangements.
4695. **The Chairperson:** OK. Fair enough.
4696. **Mr Pollock:** Where are we now?
4697. **Ms M Campbell:** Clause 60.
4698. **The Chairperson:** Is it not really clause 64?
4699. **Ms M Campbell:** No, we are on clause 60.
4700. **The Chairperson:** I do not think that there is anything under that clause. You can skip clauses 61, 62 and 63 and

- move to clause 64 in Part 3, which deals with industrial injuries benefit. You may not need to cover that.
4701. **Mr Pollock:** I do not think that I would particularly raise anything else about those clauses. I have looked through the material that you provided on clauses 60, 61, 62 and 63, but no particular issues have been raised.
4702. **Mr Brady:** Where industrial injuries are concerned, elements such as unforeseen aggravation will all go. Is that the case?
4703. **Mr Pollock:** Unforeseen aggravation?
4704. **Mr Brady:** If you were to suffer an accident, such as breaking your arm, and if, as a direct result, arthritis were to set in 10 years later, you can claim retrospectively. That is called unforeseen aggravation, as it could not have been foreseen at the time. From my reading, I understand that that will all go.
4705. **Mr Pollock:** I am not sure, Mickey. Colm, do you have any notion of that? Is that Jane's area?
4706. **Mr C McLaughlin:** It is Jane's area.
4707. **Ms M Campbell:** Yes. She is behind us.
4708. **Mr Pollock:** I do not know about that. Jane will join us now anyway. Does she want to come forward?
4709. **Mr Brady:** I asked that question only because I knew that Jane is looking forward to getting into the debate.
4710. **Mr Pollock:** You knew that she was chomping at the bit to get in.
4711. **Ms M Campbell:** We will have a quick changeover.
4712. **Mr Pollock:** Jane, do you know anything about industrial injuries?
4713. **Ms Jane Corderoy (Department for Social Development):** As I said previously, the changes on industrial injuries are largely technical to clarify legislation. Maurice, would you like to take that question?
4714. **Mr Maurice Byrne (Department for Social Development):** You asked about unforeseen aggravations, and that is a feature of the post-1948 scheme rather than the pre-1948 scheme. That will not change. The clauses will abolish only the —
4715. **Mr Brady:** When I read the Bill initially, it seemed to me that that was going to change. That is what I wanted to check.
4716. **Mr M Byrne:** No, the post-1948 scheme will not change in that respect.
4717. **Mr Brady:** There are changes on other accidents.
4718. **Mr M Byrne:** There are changes on industrial accidents, payments to under-18s and trainees. However, unforeseen aggravations will remain unchanged.
4719. **Mr Brady:** I just wanted to clarify that. Thank you.
4720. **The Chairperson:** We are nearly halfway there.
4721. **Ms Corderoy:** Do you want us to go through the queries in your table about industrial injuries? There are a couple. We could discuss the query about the reduced earnings allowance.
4722. **The Chairperson:** Yes.
4723. **Ms Corderoy:** As Maurice said, the reduced earnings allowance is a feature of the post-1948 scheme. It is not affected by the abolition of the pre-1948 scheme.
4724. We have come back to the Committee on a couple of queries that were raised the previous time. The first is whether bereavement benefit would still be paid under this clause. As I said previously, the clause will remove redundant legislation from the statute book. Industrial death benefit is payable only when the death occurred before 11 April 1988, so claims for deaths that occurred before that date are no longer being made. Deaths that occurred after that date are dealt with through bereavement benefit.

4725. There was also a question about what would happen if people were pursuing long-term cases for respiratory illness that were proved after the legislation has been commenced. When we looked at that, we felt that persons who found themselves in that position may have already received benefit for it.
4726. There was another question on clause 68 and the determinations.
4727. **Mr M Byrne:** That is to do with the — *[Inaudible due to mobile phone interference.]* — of the declaration of death in industrial accidents and how evidence would be gathered. At the moment, claims can be made without a previous declaration for industrial accidents, and there does not seem to be a problem with them. Most employers are required to keep accident books, which is one source of information for the Department. Other than that —
4728. **Mr Brady:** I was thinking about experiences that I have had with claimants over the years. When an accident is not reported or recorded, difficulties are created. If a person then, for instance, makes a civil claim for injury, it becomes more difficult. It is really about enforcing that. Do they have to have accident books? Is it a legal requirement?
4729. **Ms Corderoy:** Yes.
4730. **Mr M Byrne:** Yes, it is a legal requirement to have an accident book. It is then about enforcing whether it is actually used. If a person is going on to make a claim and possibly a civil claim for damages, those are the important issues.
4731. **Mr M Byrne:** Depending on the severity of the accident, the Health and Safety Executive may be involved. So, there is another source.
4732. **Mr Brady:** That is where unforeseen aggravation came in. It may have seemed relatively innocuous at the time but became much more serious down the line.
4733. **Ms Corderoy:** Our discussion can go up to clause 68, so it is back to you for the clause on housing benefit.
4734. **Mr Pollock:** It is back to me for housing benefit? I missed that. We have been through quite a bit on housing benefit. Under-occupancy is the housing benefit measure that is particularly exercising everybody. As we said this morning, quite a bit of work is ongoing in trying to quantify the issues on under-occupancy. We have some facts and figures regarding the groups and numbers that would be affected, the number of people who would be exempt from the under-occupancy measure, and the cost attaching to some of the things that we mentioned, such as the schemes, pilots or trials that were ongoing with conversions and such. We will be providing those facts and figures to the Committee for clarification.
4735. An awful lot of work is being done on this issue, and, hopefully, we will be able to give you as much clarification as possible to inform the Committee's decisions and the discussion with Lord Freud before the end of the month. Is there anything in addition to that?
4736. **Mr Brady:** The issue of couples who live in the same house but separately came up earlier. That may have an impact on under-occupancy. I wonder whether two people who are occupying two bedrooms in a three-bedroomed house will impact on the Department's interpretation of under-occupancy. Will it influence one interpretation of one issue having a bearing on under-occupancy? Has that been factored in or thought about? Martina mentioned it, and she talked about negative equity and seemed very magnanimous about how that might be addressed. However, when it comes to under-occupancy, people are up against the cold, hard fact that they are going to have a house that the Department may say they do not need because they are not using two bedrooms, or whatever. So, it could well have an effect.
4737. **Mr Pollock:** I assume that it would be a case of taking all the evidence in the round. If the individuals were claiming



- as individuals, presumably why they were claiming as single people and not as a married couple would have been explored when the claim was made.
4738. **Mr Brady:** To finish, those decisions might have been made in isolation. A decision on under-occupancy may have been made for housing benefit and a decision on whether the couple is living together or separately may have been made for benefit purposes. There needs to be some coming together of the two —
4739. **Mr Pollock:** Certainly, everybody needs to be talking to one another.
4740. **Mr Brady:** It is not necessarily about joined-up government but joined-up administration in the Department. I just wanted to flag that up.
4741. **Mr Pollock:** That is a good enough point.
4742. **Ms Corderoy:** Clauses 70 to 73 —
4743. **The Chairperson:** I am sorry, Jane. Michael, you said that you are going to try to come back with some additional information on that. When we come to the clause-by-clause consideration, we will have to deal with what is in front of us. Any evidence that you provide will be quite pertinent. I know that you understand that, but I am just putting it on the record.
4744. **Mr F McCann:** I intended to raise some issues, but in light of the earlier questions, I take it that they will still be in the mix when Lord Freud comes over. I know that local housing allowance is set at the thirtieth percentile. If under-occupancy kicks in and quite a number people have to seek other accommodation, the thirtieth percentile is at the lower end of the private-rented sector in which some of the accommodation is atrocious. I just want to make the point that people are being forced out of houses into what is probably the worst of living conditions. On top of that, they might have to pay a top-up after losing their housing benefit. Has the Department taken that into consideration?
4745. **Mr Pollock:** Yes. The Department has to factor in all the information that is available. The thirtieth percentile is not in this Bill. It is already on the statute books.
4746. **Mr F McCann:** It says it in front of us, Michael. I am raising it because it says it in relation to the local housing allowance.
4747. **Mr Pollock:** It is a factor in setting the local housing allowance, but that legislative change is already in and implemented. My Department is looking at the impact of all the housing benefit reforms in the round to try to assess the best way forward. Under-occupancy raises issues around the housing stock and segregated housing and all the things that we discussed this morning. So, all those factors are in the mix in that respect.
4748. **Mr F McCann:** The point that I am making is that, if the local housing allowance is set at the thirtieth percentile, it is usually in and around the lower end of the private rented market. If people lose their house through under-occupancy and falling into arrears and they apply for housing benefit to move on, they will only be paid enough to go into the group that falls into the thirtieth percentile. Therefore, they will be forced into the worst elements of the private housing sector.
4749. **Mr Pollock:** I know that that is a point. Part of the agenda as far as the housing benefit reforms and the spiralling costs of housing benefit in particular are concerned is to try to create some sense of fairness for the taxpayer, in so far as benefit recipients would not have access to a level of accommodation that, say, a low-income family would have access to. That has to enter into the overall consideration as well. The state of the accommodation is something different again.
4750. **The Chairperson:** From the Committee's point of view, evidence has been presented that there is very limited accommodation within that thirtieth percentile.

4751. **Mr F McCann:** Even the recent housing bulletin released by the Department showed an increase of 870 in the number of people presenting as homeless, and 40% of them were single males. That is a clear indication that what happened in and around the shared-room allowance is starting to bite. When we talk about percentiles, we are actually talking about people and about families.

4752. **Mr Pollock:** I understand that. None of that is lost on us.

4753. **The Chairperson:** Fair enough. Obviously that is a big issue and a big area of work.

4754. **Ms Corderoy:** Clauses 70 to 73 deal with the abolition of the discretionary part of the social fund. The majority of the stakeholders' comments relate to the replacement scheme, which is the new discretionary support scheme. Our colleagues are taking that forward with great urgency, and they are due to come up later this week, so they will be able to answer those questions.

4755. **The Chairperson:** We were supposed to — *[Inaudible due to mobile phone interference.]*

4756. **The Committee Clerk:** I remind the Committee that it took a briefing from the SSA on the social fund a few weeks ago, and we have a paper from it. I meant to put it in the tabled items folder, but we will have it for tomorrow's meeting just to remind members of the agency's intention in respect of developing that.

4757. **Ms Corderoy:** Maternity payments, funeral payments, cold weather payments and winter fuel payments are outside of all of that. They are just staying the same. They are not affected by those clauses.

4758. **Mr Pollock:** Clauses 74 and 75 deal with state pension credit. NIPSA had some comments:

*"Amends the State Pension Credit Act (NI) 2002 but instead of Invalid Care Allowance being the measure of entitlement it has changed to a definition of 'regular and*

*substantial caring responsibilities'. This has yet to be defined"*

4759. In response to that, we say that there will be a degree of discretion, which will be defined in the regulations and guidance. If the member giving the care is under pension age, they would have to claim carer's allowance, the same as it is now, to receive the additional carer's premium as they are not receiving a state pension. So, there is no overlapping benefit rule. If the member of the couple who is giving the care is over pension age, the new rule would apply.

4760. The Law Centre had a couple of issues about the clause appearing to extend entitlement to the additional amount of the guarantee credit beyond claimants receiving carer's allowance. It says that it is not clear what the extension would be as that is being left to the regulations. Again, that would be specified in the regulations, and a degree of discretion would be spelled out in the guidance.

4761. **Mr Brady:** The Bill talks about "regular and substantial caring responsibilities". At the moment, I think that 35 hours is the minimum. It is possible that that may be changed, affecting people who are over pensionable age. Pension credit age is 60 at the moment, so people are still entitled to claim carer's allowance until pension age. Then, you have an underlying entitlement. Is that likely to change? I am a bit wary of the talk about changing the definition, which the Bill is essentially doing, and the talk of "regular and substantial caring responsibilities". At the moment, 35 hours is the prescribed minimum. If, for instance, that was extended to maybe 40 or whatever hours, that would put people in a position where carers might, possibly for therapeutic purposes, want to take on part-time employment to have a balance between their caring responsibilities and doing something else. Will that be contained in the regulations?

4762. **Mr Pollock:** I do not know that, Mickey, at the minute, but it would be contained in the regulations and there would be

more detail in the guidance. Certainly, we will try to check it out as much as possible for the clause-by-clause scrutiny. *[Inaudible due to mobile phone interference.]*

4763. **The Chairperson:** We move to Part 4.

4764. **Ms Corderoy:** Anne had wanted to say a few words about some of the issues that had been raised in the stakeholder sessions, but she is not here. She has had to go to a meeting with the Minister. If it is OK, I will read a bit of what she had wanted to say.

4765. She wanted to emphasise that the personal independence payment assessment would be very different from the work capability assessment (WCA). The assessment for PIP will focus on the ability to carry out key everyday activities, the challenges people face and the support they need, rather than on the functions linked to a person's ability to work, as is the case with the work capability assessment. The work capability assessment looks at an individual's ability to work, whereas as the personal independence payment would be payable to disabled people regardless of whether they are in work. She wanted to say that ESA and PIP are very different benefits paid for very different reasons. That fact alone means that the assessments will be different. In most cases, the assessment for PIP will involve face-to-face consultation with an independent health professional. That will give customers the opportunity to explain how their health condition or impairment affects them on a daily basis. Customers will be encouraged to bring a family member, carer or advocate with them to the consultation if they wish. Where enough paper evidence is held to make a fair and accurate assessment without the need for face-to-face consultation, that will be done.

4766. The Department is seeking to learn from the experience of delivering the work capability assessment to ensure that we get the personal independence payment right from the start. As part of that, we are looking at the findings of the independent reviews of WCA

carried out by Professor Harrington to ensure that, where appropriate, his recommendations are fully taken into account. The assessment will continue to be monitored to ensure that it reflects any further best practice arising from future recommendations that may be appropriate. Guidance will make it clear to the assessment provider that customers must feel that the assessment is a two-way conversation and that they have been genuinely listened to. We will have a monitoring regime in place to ensure that that type of service is delivered.

4767. The PIP assessment criteria have also been the subject of extensive consultation. All the consultations were issued here at the same time as the consultations in Britain, beginning in May 2011. The second draft of the assessment criteria document was published in November 2011 and a further supplement was issued in January 2012. The consultation closed earlier this year. The Minister and the Department continue to make representations to GB and DWP to make them fully aware of the particular circumstances that we are facing here and to ensure that they are factored into the design of the new benefit. That is important, given the differences, of which we are all aware in Northern Ireland, in the disability living allowance customer base, with its much higher proportion of mental health cases. Following the latest consultation exercise, the Minister wrote to DWP and secured a commitment from its Minister that all views and concerns expressed from Northern Ireland during the most recent consultation exercise would be given careful consideration as DWP evaluates what further changes need to be made to the personal independence payment assessment criteria to ensure that they are a fair reflection of disabled people's needs.

4768. Anne felt that it was important that that be put on the record, given some of the concerns that came back from the stakeholder evidence. People were seeing mistakes — I am sorry; I should

- not say that, being from the Department — seeing issues with the work capability assessment. *[Laughter.]*
4769. **The Chairperson:** You were right the first time.
4770. **Ms Corderoy:** We did not want to replicate them.
4771. **The Chairperson:** You will not be back tomorrow. You just lost two brownie points.
4772. **Mr Copeland:** I just wanted to check that the skills base of the healthcare professionals will be matched to the perceived primary disability condition of the claimant.
4773. **Ms Corderoy:** I understand that that is the intention.
4774. **Mr Mickey Kelly (Department for Social Development):** It is the intention that the provider will be asked to consider in certain circumstances who is best placed to do the face-to-face consultation when it arises. It may be a health professional from a specific profession or it may be a health professional with particular skills and expertise, for example, in mental health. Given the prevalence of mental health issues in Northern Ireland in the existing caseload, the provider will have to blend its resources to deal with the scenario.
4775. **Mr Copeland:** Is there any difference in the tender document that was issued in connection with PIP to reflect the need for more people, perhaps, in Northern Ireland who are skilled in mental health diagnosis and assessment?
4776. **Mr M Kelly:** I will confirm that for definite for you, but my understanding is that the contract would not have been specific. We were part of a national framework that was drawing down a contractor. The documentation would not have been specific; I think it would have mentioned that there is a higher proportion of mental health issues in Northern Ireland, but it would not have said, at that stage, that we needed more of a specific type. That will come during the discussions with the provider when we announce the successful bidder.
4777. **Mr Copeland:** So, the successful bidder, on the assumption that people who are qualified in mental health may be more expensive than others, will have to take a judgement, but your view is that anyone who has mental health issues should be seen by a skilled mental health professional.
4778. **Mr M Kelly:** For the record, I said that the provider will consider who is best placed to say. I cannot give you a categorical assurance that x will be seen by y. Those are the sorts of things that we will work through as part of the operation of the provider's contract to ensure that skills are best matched to the people, taking into account the particular circumstances here.
4779. **Mr Brady:** The fear is that the disaster that has happened in Britain with Atos will be replicated here. We have been told over the past couple of months that we are going to find out to whom the contract has been awarded, but it seems to be moving away from us all the time. Have you any idea about when that might happen?
4780. **Mr M Kelly:** I think we would probably expect to be able to announce the provider towards the end of this month.
4781. **Mr Brady:** I live in hope.
4782. **The Chairperson:** That is fair enough. You do not know the answer.
4783. **Ms Corderoy:** I hope that what I read out earlier answers those first three or four queries in your document. The assessment criteria have been extensively consulted on and disabled people and disabled people's organisations have been involved in designing those criteria. We have sent our analysis of the consultation responses to the Committee, and we have sent it to DWP. The Minister there has written to our Minister saying that it will take on the various points that have been raised in Northern Ireland, consider those and evaluate what further changes may need to be made to the assessment. We hope that that response to the consultation will be published next month.

4784. **Mr M Kelly:** I should add that a lot of the comments raised during the meetings with stakeholders were about the monitoring and performance within the contract. I know that people might have reservations, but the contract will include an annual review. It will include monthly performance reporting on service levels. Penalties are in place for scenarios in which thresholds are breached. Obviously, those penalties are commercial in confidence, but I want to put on record that there is a system in place through which the agency and the Department will be monitoring the providers' performance.
4785. **Mr F McCann:** You say that there will be monthly reviews. Have you the ability to change anything? Has that been built into the contract as well?
4786. **Mr M Kelly:** It may not be explicitly built into the contract, but there are penalties in place for underperformance and the breaching of thresholds. A number of thresholds have been set. The provider would, obviously, be given an opportunity to redress below par performances before we would, I imagine — I am not a commercial expert — move in with some sort of contract variation.
4787. **Mr F McCann:** When you say underperformance, it throws up all sorts of concerns.
4788. **Mr M Kelly:** I do not expect it, and we do not want it. That is not what we want to deliver, in any shape or form, for the people who are going to go through the assessment process. I am conscious and mindful of the concerns that members have about the current WCA and the performance of the provider. It is to set in context that there will be a vigorous performance management regime in place to ensure that the standards that we want are delivered.
4789. **Ms Corderoy:** The first bullet point in the paper asks that the severest cases be dealt with by a paper exercise. We can reassure the Committee that the legislation provides for that.
4790. The second bullet point recommends that the required waiting condition
- *[Inaudible due to mobile phone interference.]* We know that the qualifying period has changed from six months to three months. The combined effect — *[Inaudible due to mobile phone interference.]* — definition of long-term disability for equality and disability legislation.
4791. Next one down is clause 86 to ensure — *[Inaudible due to mobile phone interference.]* — subsequently released, or whose conviction is quashed. The withholding of that is nothing to do with the presumption of guilt or innocence. *[Inaudible due to mobile phone interference.]* Next is the mandatory requirement for independent advice. Obviously, people are entitled to independent advice through this.
4792. **The Chairperson:** That arose from a number of stakeholders — *[Inaudible due to mobile phone interference.]* — access to that as a right. That is what the monitoring requirement relates to.
4793. **Mr M Kelly:** I know that some members will be aware that the agency has developed a series of customer journeys for people who are claiming personal independence payments. We will intervene with people at a number of junctures. Whether that is perceived as being independent advice is another matter, but there will be a number of instances where we have conversations with customers.
4794. **Mr F McCann:** It would be interesting to find out how that works in practice.
4795. **The Chairperson:** It is a separate thing, but independent advice is outwith the Department. We will have to consider that as well.
4796. **Mr Douglas:** Chairman, are we putting a price on this? One of the agencies told us that its work is going to increase by at least 30%, and there have been cutbacks already. It is not just a matter of saying, "We will get you support." There has to be something to say that we are going to support this financially.
4797. **The Chairperson:** In fairness, the stakeholders are putting the case for



- such statutory access to independent advice. In one sense, it is up to the Department to say it can work with that. It is also up to the people who are making the proposals to suggest how it might look to have them delivered. It is a two-way process. We do not have a model from the proposers of the idea, so we can invite them to suggest one if they wish. The key thing is whether the Department will be willing to embrace that. The detail of it could be a bit like the detail in the universal credit or housing benefit discussions elsewhere.
4798. **Ms Corderoy:** The next point is that DWP proposes that, after four weeks abroad, DLA and PIP should no longer be payable and entitlement should end unless the absence is for medical treatment, when the period of absence can be extended to a maximum of 26 weeks. The proposal for the temporary absence rule for PIP and DLA is to be brought into line with incapacity benefit and employment and support allowance. Around 75% of working-age claimants are also in receipt of incapacity benefits, including JSA. Those benefits will only allow an absence of four weeks abroad. Also, I think there is research that shows that those DLA recipients who are in work are unlikely to be able to take more than a four-week holiday abroad, but we have noted that comment and will take it back to the Minister.
4799. **Mr McClarty:** Are those four consecutive weeks or four cumulative weeks?
4800. **Ms Corderoy:** Consecutive.
4801. The next thing is to ensure that people of 65 or pensionable age who are in receipt of PIP continue to receive it, and they will do. That is exactly the same as DLA, and it will continue.
4802. The current rules allow people who have come off DLA to reclaim the benefit within two years if they need it again without having to requalify. The Government plan to limit that to one year for PIP. The Committee may wish to consider a proposal. Those are the current proposals, but we certainly noted that comment and the comments made by stakeholders.
4803. The next bullet point is:
- "Address concern that people held on remand (clause 86) and are not convicted do not lose motability component."*
4804. That is the same as the provision for people who are in hospital. Payment will continue for the first 28 days of detention. As I said, the clause is not a reflection on perceived guilt or innocence; rather, it is a measure that aims to prevent duplication of provision. DLA and PIP are intended to contribute towards the extra costs associated with disability, and it is important to ensure that funding of those extra costs is not being duplicated. Disabled prisoners have their disability-related daily living and mobility needs met by the Prison Service or through healthcare provided by health and social care trusts. To pay PIP on top of that would be to duplicate public funding.
4805. **Mr Brady:** One of the criteria for people in residential accommodation was that the Motability component would be used for visits and that kind of thing. So, that will not happen for somebody on remand.
4806. **Ms Corderoy:** They will have it for the 28 days.
4807. **Mr Brady:** Yes, but after that they could be on remand for quite a long time. So, that is not going to happen.
4808. **Ms Corderoy:** The next bullet point is the recommendation:
- "the mobility component for adults is brought into line with the extended timeline provided for children under this clause".*
4809. I think that the Equality Commission mentioned that.
4810. **The Chairperson:** It did, yes.
4811. **Ms Corderoy:** PIP is for working-age people only. It does not apply to those under 16. Extension to 12 weeks for children under 16 is a condition and recognition of the additional special needs they may have for support from

- their parents while they are adjusting to hospital life. I think it is possibly linked to continuation of child benefit as well.
4812. Clause 88, “Report to the Assembly”, refers to making a report to the Assembly within two years.
4813. **Mr M Kelly:** To clarify for members, the Welfare Reform Act stipulated two years. The reason for that was to allow, I suppose, for the system to bed in and to allow a sufficient number of people to go through the assessment to get a feel for it. That was the rationale and thinking behind that. Because the assessment criteria are UK-wide in how they operate, if we thought about conducting a review earlier than that, it is unlikely that we would get any changes through until GB conducted its full review and necessitated changes to the overall criteria. There is consideration of a period of a year, but I am just not sure what the benefits of that would be at this particular juncture.
4814. **Ms Corderoy:** A couple of suggestions came through from stakeholders about what that review might include or look at.
4815. **Mr M Kelly:** In the context of what the review consists of, we are quite happy to work with customer representative groups. We work with them quite a lot on the PIP stuff that we are doing. We are quite happy to involve them in discussions about how the review would look.
4816. **Mr Douglas:** Are you saying that, in GB, the period is two years?
4817. **Mr M Kelly:** Yes. It was just a comment on the rationale for that and the impact of having an earlier review. We might not get any benefits from doing that.
4818. **Ms Corderoy:** The next bullet point is to do with “competent state”. I am trying to think of an easy way to say this. The EC regulation co-ordinates the social security schemes of member states and sets out in detail the persons and matters covered. The regulation applies directly to all member states and is open to interpretation by the European Commission and the Court of Justice of the European Union. Therefore, we feel that it would be inappropriate for domestic legislation to seek to expand or limit European law, which has a direct effect here, although we do provide guidance to decision-makers.
4819. There might be stuff that we can reassure people on. It was the cross-border aspect. If somebody is living here, we are obviously the competent state, but the query was about what happens if they are working over the border. I think that was the particular issue to do with the Republic. If they are working over the border and they are paying the equivalent of national insurance there, that would be the competent state for them, but they would be covered either way. We checked out the specific issue that somebody raised about somebody who gets paid DLA here but then takes a job in the South. That is exportable. They have already qualified for it here. I hope that is clear.
4820. The final point is:
- “The Committee may wish to clarify that the definition of ‘care home’ under clause 84(3) and the reference to ‘personal care’ ... does not include establishments such as hostels where people might receive such services.”*
4821. That is correct. It is the same as DLA, and there is no change to it. At the last meeting, you mentioned an issue to do with supported housing. It is not counted as a care home, so those people will still get their allowance.
4822. **Mr Brady:** That happened locally a few years ago. Praxis had supported housing, and the severe disability premium was taken off people because the Department argued that they did not need it because they were not living alone. That was sorted out. It was brought up under the same kind of argument because there is obviously a difference between a care home and a hostel. The Department has used that argument in the past.
4823. **Ms Corderoy:** It has been confirmed to us that, if recipients are not in a care home or hospital and receive domestic care in their own home or in rented

- accommodation, they will continue to receive payment of anything they are entitled to.
4824. **The Chairperson:** That has completed Part 4. We will now move on to Part 5.
4825. There was an argument or a suggestion from the stakeholders about adding to the list of potential exemptions. We will take your views on carer's allowance, widow's and bereavement benefits and contributory-based ESA.
4826. **Mr Pollock:** In respect of benefits, 620 households, which equates to less than 1% of claimants, were affected. People in receipt of working tax credits were exempted from the cap in the analysis. Therefore, that rules out the majority of in-work households. Some clarification is provided on what is included in the benefit cap: for example, bereavement benefit, care allowance, child benefit, and child tax. There will be a full list of everything that contributes to the benefit cap, and some commentary will be provided on the actual amounts there: for example, £350 for a single person with no children or if the children for whom you have responsibility do not live with you. There is clarification on when the benefit cap will not apply. That will be the case, for example, if you qualify for working tax credits or get any of the following benefits: DLA, which will be PIP from April next year; attendance allowance or industrial injury; ESA if paid with a support component; and war widows or war widowers pensions.
4827. There are quite a few comments from the various stakeholders. The Law Centre said that the clauses paved the way for the benefit cap and that regulations will set out how the cap will be calculated under universal credit. There is not terribly much more that I can say about that at present.
4828. **The Chairperson:** OK, thank you. We move on to clause 96.
4829. **Mr Pollock:** Clause 96 is supplementary to clause 95. Citizens Advice is concerned that the decision to apply the benefit cap relates to a particular award of benefit and may not be appealed
- should the cap be applied incorrectly. If the cap has been applied incorrectly, the claimant can challenge the decision. Therefore, any errors in the application of the cap can be corrected. The only aspect that cannot be appealed is the right to apply the benefit cap, which will be applied to all benefit claimants unless they fall into the categories listed under the exemptions in clause 95. The exempt categories are quite extensive, and they are listed in our formal response.
4830. **Mr Brady:** I assume that, where that cap has been applied incorrectly, those affected will be sent an assessment sheet detailing that. That is really how most people find out whether their benefit is correct or not.
4831. **Mr Pollock:** I would imagine so, particularly stating how much the various components are.
4832. **Mr Brady:** It is really the only way that people can find out. If one of those was exempted, that would be discoverable when going through the assessment sheet.
4833. **The Chairperson:** OK, we are happy enough to move on.
4834. **Ms Corderoy:** Clause 97 deals with claims and awards. There is a question about the context of default payments made by a secondary earner. I know that Martina answered that this morning. However, I suppose that we could say our bit, which is that a move to single monthly household payments will be a significant change for some, and an alternative payment arrangement may be needed. The Department has powers to split payments between members of a couple in joint claim cases. The regulations will provide that the Department may, in any particular case where it considers that it is in the interest of the claimant, their partner or any child in respect of whom universal credit is payable, arrange that universal credit payable in respect of joint claimants be split between the couple in such proportion as the Department sees fit.

4835. **The Chairperson:** OK.

4836. **Ms Corderoy:** Clause 98 deals with powers to require information relating to claims and awards. The Committee wanted to clarify whether the Department was clear about which Departments, agencies and service providers the clause might cover. As far as I understand, this is really for the verification of claims. The regulations are not finalised, but we have a list of those whom we think it likely to cover.

4837. **Mr M Byrne:** The clause deals with possible information requests from HMRC, landlords, childcare providers, and so on. It is just to substantiate information that has come forward already. However, until we see what is in the regulations, we cannot be definite about how exactly that clause will be applied.

4838. **The Chairperson:** Fair enough. Thank you.

4839. **Ms Corderoy:** Clause 99 relates to payments to joint claimants, and it was covered well enough this morning, too.

4840. Paragraph 76 in the Committee's paper relates to clause 100, which concerns payments on account. There was a question about whether the clause relates to legislation that will bring about the social fund's replacement. The answer is that it does not. The replacement social fund will be a Government amendment. As I said, colleagues from the agency who deal with that discretionary support will be here to speak to the Committee on Thursday.

4841. Clause 101 relates to the power to require consideration of revision before appeal. This is the mandatory reconsideration. The point of the clause is that too many disputes that could have been resolved earlier use the appeals service and so put additional pressure on it. In addition, as Committee members said this morning, it is stressful for appellants and costly to the Department. The reconsideration process is proposed to enable the earlier resolution of more disputes. It will allow a claimant's decision to appeal to be informed by whether reconsideration had provided

them with clear justification and a clear explanation for the original decision. It will also enable new information or evidence, which may not have been available when the original decision was made, to be taken into account within the reconsideration. If that information were provided earlier, the dispute could be resolved earlier than would be the case when going through the whole appeals process.

4842. There is a suggested amendment in the Committee paper that relates to a claimant being left without income. We think that, in practice, it is relatively unlikely that someone would be left in that situation.

4843. The final suggested amendment concerns the application of a time limit. There are, as you know, operational time limits and targets that have to be met internally, and probably the most appropriate place for that would be in the guidance. We would not necessarily place time limits on the Department at this point.

4844. **Mr M Byrne:** There are time limits in place within which an appeal has to be made. I think that the current time limits will remain in the new system.

4845. **Mr Brady:** I just want some clarification: are you talking about a time limit for the Department to process an appeal or a time limit within which a claimant must appeal, which is 28 days?

4846. **Mr M Byrne:** Yes, or a month.

4847. **Mr Brady:** Is that also applied to the Department to ensure that an appeal is dealt with in a timely fashion?

4848. **Mr M Byrne:** From when the appeal is lodged to when it is heard by the appeals tribunal?

4849. **Mr Brady:** Yes.

4850. **Mr M Byrne:** There is no time limit on that.

4851. **Mr Brady:** That is what I want to confirm or clarify. The suggested amendment states:

*"A time limit should be applied to the Department "*

— not to the claimant —

*“to ensure an appeal is dealt with in a timely fashion.”*

4852. It also refers to the fact:

*“The Department of Work and Pensions and HMRC are both considering a 42 day time period in Britain.”*

4853. There is no way that I experienced appeals being dealt with within 42 days: what happens is that, if the Department can deal with an appeal within a reasonable time, that is fine; if they cannot, it goes to the back of the box. That is a fact.

4854. **Mr M Byrne:** It is up to the president of the appeals service, I suppose, as to how appeals are managed after they get into that system.

4855. **Mr Brady:** I just wanted to clarify that.

4856. **Mr M Byrne:** I am not aware of any current plans to introduce a time limit for that.

4857. **Mr Brady:** All I am saying is that it is not feasible.

4858. **Mr M Byrne:** No. Well, maybe that is why it will not be introduced.

4859. **Mr Brady:** That is OK. I just wanted to clarify that.

4860. **The Chairperson:** OK. Thank you for that.

4861. **Ms Corderoy:** Under clause 102, there is a query about the security of electronic communications.

4862. Amendments being made by this clause have nothing to do with the electronic sharing of information between Departments and HMRC. The amendments are designed to enable the Department to include provision for electronic communication in relation to claims to benefits and in relation to notification regarding changes of circumstances in regulations. That is rather than our having to make a separate Order under the Electronic Communications Act 2000. The clause will simply allow provision to be made under social security legislation

rather than having to use electronic communications legislation. It will be a more effective approach to introducing something new or making changes, for example, if you wanted to make provisions for additional benefits regarding electronic communication in the benefit system.

4863. Clause 103 concerns the recovery of benefit payments, and the Committee paper advises:

*“Members should note that this will also include the recovery of overpayment where the claimant was not at fault and is unaware that an overpayment has been made.”*

4864. There will be guidance on that, particularly on whether the claimant is eligible for a hardship payment.

4865. **Mr Brady:** Essentially, you are saying that an infallibility will be visited upon the Department. It will always be right, regardless of who made the mistake. That has always been a bone of contention. A person who does not know that an overpayment has been made will, through no fault of their own, still be penalised.

4866. **Ms Corderoy:** The Department has to take responsibility for its mistakes. At the same time, if the Department makes a mistake, that money does not belong to the person to whom it has been paid.

4867. **Mr Brady:** The person may have a different opinion because, essentially, they will be penalised through money being deducted from their weekly benefit, which will put them below the subsistence level. That is more than grossly unfair. If a person makes a false statement, or something similar, they would expect there to be recovery eventually. However, you are saying that it does not matter who makes the mistake; the individual is responsible.

4868. **Ms Corderoy:** It is definitely worth putting on the record that an individual's personal financial circumstances will be taken into consideration when the money is being reclaimed.



4869. **Mr Brady:** The general point is that the recovery would still be made from their benefit, even though it was not their fault.
4870. **Mr M Byrne:** There is guidance in place on the circumstances in which the Department will or will not pursue recovery. All the circumstances of a case will have to be taken into account. The overpayment of a claimant, without their realising it, is not a regular occurrence.
4871. **Mr Brady:** With respect, the figures for customer error and departmental error are now higher than those for customer fraud. The Department makes mistakes more often than customers commit fraud, allegedly.
4872. **Mr M Byrne:** In pursuing recovery, the Department will have to take into account all the circumstances of a case, including the amount overpaid.
4873. **Mr Brady:** I just want to finish on this point: irrespective of what the Department takes into account, clause 103 still gives it the right to recover overpayment, regardless of who made the mistake.
4874. **Mr M Byrne:** Yes, it does.
4875. **The Chairperson:** That was a simple question and a simple answer.
4876. **Mr Durkan:** Maurice, will you give an example of the sort of circumstances that might lead to the Department not seeking to recover an overpayment? Would it be very unusual for it not to do so?
4877. **Mr M Byrne:** It would be unusual for a claimant not to realise that they had been overpaid. They would normally see that an extra amount was coming into their account every week, month or whatever.
4878. **Mr Durkan:** In circumstances in which there is a single household payment, one member of the household might not know how much of that is theirs. Should, for example, their partner die, how do they know what should be left?
4879. **Mr M Byrne:** The payment may increase for no apparent reason or someone may receive a second payment for no apparent reason.
4880. **Mr Durkan:** Yes, but what happens if the payment does not decrease when it should or by as much as it should?
4881. **Mr M Byrne:** If the person expects their payment to decrease but it does not, should they not query that, too? All those circumstances need to be looked at.
4882. **The Chairperson:** I think that Mark's question is whether you have in mind any circumstances in which the Department may decide, having taken into account everything in the round, not to seek recovery of the money. Do you have an example of that?
4883. **Mr M Byrne:** A health condition might be a major consideration. You have to take into account a claimant's health, state of mind and whether they are capable of realising that they should not have got the money.
4884. **The Chairperson:** Would those types of circumstances be written into guidelines or regulations?
4885. **Mr M Byrne:** As far as I am aware, they are in the guidance.
4886. **Mr Brady:** You gave the example of money going into an account. However, there is an assumption by claimants, rightly or wrongly, that the Department actually knows what it is doing when it pays people. That might sound a bit simplistic, but, in my experience, people consider the Department to be, for the most part, competent.
4887. **Mr M Byrne:** If claimants are told that they are getting x pounds a week, month, fortnight or whatever, and, all of a sudden, get more —
4888. **The Chairperson:** We are now clear that clause 103 provides for the recovery of benefits overpaid to people by way of a Department error. Exclusions and exemptions to that will be drafted in guidelines. That is what we are being told. Are we happy enough that we understand?

4889. **Ms Corderoy:** There are no comments on clause 104.
4890. Clause 105 concerns the application of the Limitation Order and puts beyond doubt that the Department can recover overpayments by means other than court action. However, it also secures that time limits do not apply to that. One stakeholder suggested that time limits should apply to prevent unnecessary hardship to claimants. The Department has a duty to protect public funds and recover overpayments on social fund loans. Therefore, it is right that it should be able to do so over an extended period. Without that, there could be higher repayment rates to enable the debt to be recovered sooner, which could put undue financial pressure on those repaying a debt. We think it appropriate that there should be no time limit on that.
4891. **The Chairperson:** OK.
4892. **Ms Corderoy:** Clauses 106 to 115 relate to fraud policy. Colleagues from the agency are due to come before the Committee on Thursday.
4893. **The Chairperson:** Sorry, I missed that point.
4894. **Mr Pollock:** Clauses 106 to 115 are to do with fraud. We can omit the detail of those, as Conrad McConnell from the fraud policy unit will talk to them on Thursday.
4895. Clauses 116 to 120 are on information sharing. There is quite a bit of concern that the right people get the right information to facilitate the delivery of benefits.
4896. These clause relate to the information-sharing gateways needed to deliver benefits, in particular passported benefits, under the Welfare Reform Bill. Stakeholders relayed the same sort of concerns that we had about collecting personal information, ensuring compliance with the Data Protection Act 1998 and ensuring that the gateways are regularised to facilitate the delivery of mainstream benefits and passported benefits, which include the likes of free school meals and school uniforms. There is nothing really else to say.
4897. “Welfare services” are covered in clause 117, and that is a fairly broad term to try to encompass many of the passported benefits. In many situations, it will be for the relevant Department or organisation to say that they need access to the computerised information system that holds the social security information for such and such a purpose, whether that is to deliver a rates scheme, for school uniforms, free school meals or whatever. In that sense, we hope that we have captured all the needs at this point. We have certainly been round the Departments and their satellite bodies to try to ensure that everybody knows that some of the legal gateways for information sharing will close when the Bill is enacted and that others need to be opened to ensure the continued delivery of service. We will bring forward regulations on information sharing, probably as soon as the Bill achieves Royal Assent.
4898. **The Chairperson:** Is that OK, Fra?
4899. **Mr F McCann:** I would like clarification on clauses 116 and 117. At an evidence session, the Northern Ireland Federation of Housing Associations (NIFHA) mentioned that housing associations were not included in the groups that can be given information. Do you review who fits into that category?
4900. **Mr Pollock:** It depends on why they need the information, Fra. Anyone who requires access to your information or my information has to specify what information they need and what purposes they need it for, and then access is granted or not granted. Currently, housing associations are not included, because they are a further step removed.
4901. **Mr F McCann:** I take it that, if they made an application, there would not be any real opposition, given the wide range of housing and care that they provide.
4902. **Mr Pollock:** As I said, it depends on why they need the information. The information that we are talking about

- is personal information held on the benefits system.
4903. **The Chairperson:** OK, Michael. Thank you for that. Would there be any point in talking to NIFHA about that, as it made the point? I accept entirely the very strong data protection argument, but it might be useful to ask NIFHA specifically why it thinks that it needs to be included. We could then go back and say that we accept its argument for being a qualifying person, or not, as the case may be.
4904. **Mr Pollock:** We will take a wee look at that to see what we can come up with.
4905. **The Chairperson:** We are happy with that action, so you can fast forward to clause 121.
4906. **Ms Corderoy:** Clauses 121 to 125 relate to child maintenance provisions. The Committee has commented on supporting maintenance and whether it may wish to consider the clause in the context of its response to the consultation. I do not know whether you want us to say anything about that, or do you want me to address some of the queries raised by stakeholders?
4907. **The Chairperson:** There was a specific query, if I remember rightly, about the process.
4908. **Ms Corderoy:** The gateway process.
4909. **The Chairperson:** Some people were asking if it could lead to something additional. I think that you might have responded to that point at our previous meeting. I am trying to remind myself of it.
4910. **Mr Douglas:** Sorry, but we have been notified that we need to go to the Chamber for a vote.
4911. **The Chairperson:** Is there no buzzer in here?
4912. **Ms Brown:** We will hear it in here.
4913. **The Chairperson:** Thank you, Sammy, for bringing that to our attention. We are on clause 121. If there is a vote, it will take about 10 minutes. Members, we could complete this in a very short time,
- so we will work away until called to vote. If we run down to the Chamber and run back up again, we could complete this process, and it would be a job well done.
4914. Sorry, Jane, go ahead.
4915. **Ms Corderoy:** The Committee raised four specific queries at the previous meeting. Two related to payment in kind and the maximum amount allowed to be taken from the non-resident parent, and I can cover those now. I will begin with a clarification of whether payment in kind can be included in the regulations. Regulations will not be made under clause 123. It merely provides for a calculation to indicate how much maintenance a person might expect to pay or receive, based on the circumstances at that time. Maintenance calculations will be based on the gross income figures supplied by HMRC and will, therefore, not reflect payment in kind. The clause allows parents to apply to the Department for a calculation of what child maintenance would be under statutory rules — *[Inaudible due to mobile phone interference.]* We have a list of what payment in kind covers, and we can send that to you. The second query was about the maximum amount allowed to be taken from a non-resident parent. I think that we already supplied that information to the Committee.
4916. The other two queries were to do with company directors and cases in which a non-resident parent lives in another jurisdiction. We did quite a lot of work on that, but our response was issued to the Committee only today. As you will not yet have received that, I can cover those issues now if you want me to.
4917. **The Chairperson:** If you can, although, as Michael Copeland raised that —
4918. **Ms Corderoy:** It is quite complicated.
4919. **Mr M Byrne:** Maybe, if Michael is not here, we can leave it.
4920. **Ms Corderoy:** OK, we can send that in writing.

4921. The answer to the cross-border query is a good one: the European Council regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and co-operation in matters relating to maintenance obligations provides for the reciprocal enforcement of maintenance between EU member states. So existing EU legislation covers that. There is a procedure — I cannot remember its name — by which the central authorities share information between one another to allow that to be resolved in cross-border cases.
4922. As you know, we have received your response to the public consultation as well as several others. We will do as we did with PIP, which is that we will make representations to DWP on the particular issues raised here.
4923. **Mr Pollock:** Clauses 127 to 130, Chair, are the final few clauses. There is nothing in your pro forma about clause 127, which concerns the use of job centres by the sex industry; clause 128, which is the reduced fee for dog licences; or clause 129.
4924. The only comments relate to clause 130 and the concern expressed by Citizens Advice and the Law Centre about a replacement for the rates element of housing benefit. Things are moving on in that respect. The Executive have agreed to preserve any shortfall in the existing entitlements for up to two years out of public expenditure. That was discussed by the Executive subcommittee on welfare reform and agreed around the Executive table. The Department of Finance and Personnel and our Department are working closely on that. We are conscious of the issue and will share any details that emerge with the Committee as soon as possible.
4925. **The Chairperson:** OK, thank you.
4926. **Mr Pollock:** That is our lot, then.
4927. **The Chairperson:** That completes the examination today. Thank you very much for your attendance, responses and explanations and for the work that you put in to help us with ours. With the exception of the section on fraud, we have gone through the whole process, which means that the Committee's schedule is firmly on track.
4928. **Mr Durkan:** I certainly found today extremely useful and helpful, particularly your outlining of various costings. Would it be possible for the Committee to have sight of the outline business case for universal credit, which contains, one would presume, all the costings?
4929. **Mr Pollock:** The business case for universal credit is with the agency.
4930. **Ms M Campbell:** I think that you or the Committee Clerk has written to the agency to ask for that outline business case, and it will reply shortly. I will send an e-mail to remind it.
4931. **The Chairperson:** We are always one step ahead, even if we do not realise it. Well done to the Committee Clerk. On the basis that members have nothing further to say, that ends today's meeting.

## 8 November 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

### Witnesses:

Ms Martina Campbell      *Department for*  
 Ms Jane Corderoy        *Social Development*  
 Mr Conrad McConnell  
 Ms Leonora McLaughlin  
 Mr Michael Pollock

4932. **The Chairperson:** With us are Conrad McConnell, Leonora McLaughlin, Angela Clarke, Jane Corderoy, Michael Pollock and Martina Campbell. I thank all of you who are here to support the Committee. We will further examine clauses 106 to 115, which relate to fraud and error. This will also be an opportunity for the officials to talk to us about the social fund. Members will recall that there are some outstanding matters from the discussions over the past number of days.
4933. The following papers are in members' tabled items folder: advice from the Examiner of Statutory Rules; the paper provided by the Committee Clerk on issues relating to clauses; and a paper from the Social Security Agency on the social fund.
4934. Without any further ado, Conrad, I think you are on now.
4935. **Mr Conrad McConnell (Department for Social Development):** OK, Chair. I was going to work through the points that were brought up by the advice sector and others. Is that how you want me to do it? You have provided a table of comments, and I was going to start to working through them. Would that be OK?
4936. **The Chairperson:** OK, thank you, Conrad.
4937. **Mr McConnell:** The first of the clauses that deal with fraud and error, on which points were made, was clause 109. Clause 109 relates to penalties that tend to be applied to people who attempt to commit fraud. It is the administrative penalty part of that. Some of the points that were made were that the introduction of the administrative penalty in response to attempted fraud was disproportionate and draconian in its application. A particular point was made that the minimum penalty will be £350, which is disproportionate, given that people would have received no money and we would not have incurred an actual loss. I think that that is a fair summary of the points that were made.
4938. The key point that I would make on the administrative penalty for attempted fraud is that it is not in place at the moment. Currently, if someone attempts to commit fraud, we have no option but to take that case through the courts. The clause will not take away from taking cases through the courts. Rather, it will provide an alternative when we might consider that it would be disproportionate to take cases through the courts and that the administrative penalty would be a better way of dealing with it. It provides an extra option, rather than taking away from something, and that is the key point.
4939. People will have their own view on whether a minimum penalty of £350 is disproportionate for suspected fraud. Frauds can run to many thousands of pounds, and someone who attempts to commit a fraud offence can get away with many thousands of pounds before anyone cottons on. We sometimes bring people to court who have had



- overpayments of up to £50,000. That is at the extreme end, but fraud can keep going and end up costing big sums of money. To provide some context, the average level of fraud that we find in the system is around about £4,000. The question for members is whether the £350 minimum penalty is disproportionate to that scale of fraud. Fraud is, of course, intentional and deliberate behaviour and it is criminal. Are there any questions on that?
4940. **Mr Brady:** To clarify, you said that if someone attempts to commit fraud, at the moment, you have to take them to court. Presumably, there has to be an overt act for you to act on. If there is no overpayment, but someone does something that you consider to be alleged fraud, you can do something in the legal context. Will you give us an example of that?
4941. **Mr McConnell:** The offence stands when, for example, someone has attempted to defraud the system by providing false information. That could be on the claim form, where someone has claimed their income to be x amount of pounds when it is actually much higher. The offence is attempting to gain access to the benefits system.
4942. **Mr Brady:** If that is the case, that is fraud. I am not condoning fraud. Is this, really, in mitigation, rather than taking someone to court —
4943. **Mr McConnell:** Yes.
4944. **Mr Brady:** So it will, in a sense, provide a civil penalty?
4945. **Mr McConnell:** It will provide an alternative to court. Where we have found someone who has committed that act, it will allow us to deal with them by alternative means.
4946. **Mr Brady:** Obviously, there has to be an overt act that would indicate attempted fraud?
4947. **Mr McConnell:** Absolutely. There has to be attempted criminality. This is not about making mistakes or anything else.
- It is about people who have attempted to commit a criminal act.
4948. **Mr Brady:** I just wanted to clarify that.
4949. **Mr F McCann:** Following on from that, I think that we have all dealt with cases like this. People get the forms in front of them, and I know that when they go in, they are told that they should have read every piece of documentation, including the small print. However, a lot of people are semi-literate or cannot read or write, and they are embarrassed to say so. In cases like that, genuine mistakes can be made. How do you distinguish between genuine mistakes and attempted fraud?
4950. **Mr McConnell:** We would never take someone through the fraud route if there was no criminality. Furthermore, if someone takes a different view to us as to whether there was criminality, there is a court procedure and course for them to take. People do not have to accept that penalty; they can go to court and say that that they were not guilty of that or did not do it intentionally as the Department suggested. The Public Prosecution Service (PPS) is in the middle of that process, and it makes the decisions on whether there is sufficient evidence to go to court in the first place. All those safeguards are there if someone believes that they did not act in that criminal way.
4951. **Mr F McCann:** I have sat through a number of hearings. It has been a while since I have done that, and I think that a couple of them were with you. People come in, and their benefits claims are in a bag. They are taken out and the people are asked whether they signed the forms. They are also asked whether they have read them and they might reply, "No". However, ignorance is not a defence. If they could not read the form or could not understand it, that is not an excuse. That is what I am talking about.
4952. **Mr McConnell:** Ultimately, if there is any question of guilt, there is recourse through the courts system, with the PPS deciding in between times whether there is physical evidence to prove the

- offence. The courts, not the Department, make the ultimate decision. Whether it is non-intentional behaviour or a mistake, the courts can decide that.
4953. **Mr F McCann:** Mickey mentioned people filling in their forms wrongly or giving wrong information. I take it that it would be taken on board if someone was spoken to by officers and said that not only did they not understand the form but they could not read or had difficulties reading?
4954. **Mr McConnell:** Of course; absolutely. Every case is dealt with on its merits. If someone has a circumstance that would point us to believe that the act was not intentional, we would not, of course, think about fraud. That would be something very different.
4955. **Mr F McCann:** Thanks.
4956. **The Chairperson:** OK. We are happy enough with that one.
4957. **Mr McConnell:** Clause 110 relates to the increase in the administrative penalty from 30% to 50%, and it introduces the minimum figure of £350. Some have commented on the fact that £350 is too high, especially, to go back to the same point, if no actual loss has been incurred by the Department. Some people have said that it may deter people from taking up benefit. In the summary, the comments were that the increase is not justifiable. From our perspective, we want to deter people from committing fraud. This goes back to the point that administrative penalties are in response to people who have committed fraud; they are not about mistakes. They are about non-intentional behaviour and about people who have tried to do that or have actually done it.
4958. You made the point earlier: in the benefits system, fraud in average cases is about £4,000. They are big sums of money, increasing up to £50,000 and beyond. The desire is not to apply a penalty to people: the desire is for people not to commit fraud in the first place and to maintain the integrity of the system.
4959. There is probably not much more to say. It is a view as to whether £350 and an increase to 50% is disproportionate against the drive to deter people from committing fraud in the first place.
4960. **The Chairperson:** Is that on top of the recovery?
4961. **Mr McConnell:** It is, yes.
4962. **Mr Brady:** For information purposes, in the distant mists of time when I worked in the Department, if an error was committed by a member of staff, an overpayment was raised. Obviously, he did not have to pay it back, but it was on his record if he went for promotion or that kind of thing. Obviously, if somebody had a continuing record of errors, it would be held against them. The reason why I am raising this is that the figures that we get from the Department are that error — customer and departmental — is now more than fraud. It is kind of a unilateral thing. Is any provision made for staff error? This is not a criticism of staff, because they are under pressure and a lot of the errors may be because of that. As far as I know, that has been removed.
4963. **Mr McConnell:** As far as I am aware, there is no penalty for staff who make mistakes.
4964. **Mr Brady:** I am not saying that there should be, but it seems very unilateral to say that if a mistake is genuinely made by a member of staff or by a member of the public, the member of the public still has to pay money back if there is an overpayment. It is very unequal.
4965. **Mr McConnell:** I will make two points. The penalty referred to in this clause is in respect of fraud; it is not in respect of mistakes by any party, whether customers or staff. The distinction for this is that it is about intentional behaviour. There is an element of staff error in the system as well. Last year, staff error for 2011 was at its lowest point ever. It was down to 0.6%, which is an accuracy of 99.4% in such a complex system. I make the general point that staff accuracy last year hit its highest

- point ever and is much less than the 1% of spend overall. Obviously, from our perspective, it is good news that error is down to its lowest level. However, the distinction still stands: error is not fraud.
4966. **Mr Brady:** I am not suggesting that it is. The good news is that fraud is going down as well.
4967. **Mr McConnell:** Fraud is down to 0.4%.
4968. **Mr Brady:** Happy days all round.
4969. **Mr McConnell:** We had one comment about clause 111 regarding reduction from 28 days to 14 days for people to decide whether they want to choose the administrative penalty or not. One comment was that it will take away people's ability to take advice before they make their decision. The issue here is that we are trying to get the balance right between not having a system that runs on too long. After a length of time, people may decide not to take an administrative penalty. At the minute, 28 days is built into the system, and that has not advanced anything to any point. This is about trying to streamline the process in the best way that we can but still give people sufficient time to get advice before they make their decision, and 14 days is the suggestion for that, if that is the right balance. Members may take a different view as to whether it needs to be 14 days or 28 days. We believe that 14 days gives you sufficient time to seek the necessary advice before you decide.
4970. **The Chairperson:** Is any discretionary provision available if someone had good cause — I cannot think of a specific example — for not being able to do that within 14 days?
4971. **Mr McConnell:** I cannot say at this stage whether there is or is not. From the administrative perspective, we would want to give people extra time if there were good cause to do so. I am not sure whether the Bill allows that to happen. I will have to check.
4972. **Mr F McCann:** If someone comes to me after you tell them that they have 14 days to pay the penalty, the first thing that I would advise them to do would be to see a solicitor to show that they have had the best possible legal advice before making a decision on whether to take the penalty. Sometimes, that cannot be done within 14 days.
4973. **Mr McConnell:** That might be an issue. In practice, very few people decide not to take the administrative penalty as an alternative to prosecution.
4974. **Mr F McCann:** If someone comes to me, I would advise them to see a solicitor and get the best possible advice.
4975. **Mr McConnell:** I will need to find out whether the Bill allows that discretion.
4976. Clause 112 deals with civil penalties, and quite a lot of comment was received on it. This, of course, relates to the application of a £50 penalty to people who have not committed fraud but have failed to take reasonable care or have been negligent in respect of their claim and have not told us pertinent information that is necessary for the correct payment of their benefit.
4977. Comments were made by individuals that the penalty would be punitive, may put people off claiming benefit in the first place, and may push up the appeal process. The suggestion was made for a civil penalty to apply the second time around but not on the first occasion that someone makes some sort of error that we deem to be negligent. The provision for civil penalties is not about genuine mistakes but about people who really do fail to take reasonable care and are negligent. It is not, perhaps, at the point of fraud, but, at the other end of the scale, it is not for a genuine mistake.
4978. Obviously, we will have to issue guidance to our staff on the application of this provision, and it will be up to the decision-makers in each case to decide whether, in their view, the actions of an individual in not reporting have or have not been negligent. There will be a whole range of circumstances in those regulations in which that may or may not be deemed to be the case.

4979. We have not got to that kind of level of detail yet, but I can use an example of where people say that they forgot that they had to tell us that they were working or where they forgot to say that their income had gone up. We would deem that to be without reasonable excuse or to be negligent. On the other hand, in cases where someone has had some sort of trauma, a bereavement or some reason for not reporting something because of some other circumstance in the background, we would deem that to be a reasonable explanation for why they did not come forward at the time. It will be a matter of guidance and about us trying to be reasonable in our application of this provision. The point is that we want to deter people from not telling us about things that they need to tell us about, otherwise we will be into overpayments, potential fraud and all the rest of it if these things continue.
4980. **Mr F McCann:** It just seems a bit crazy that all these types of fines are being introduced for people who are being paid at subsistence level. Whether it is a family unit or an individual involved, I am trying to work out who will feed them if they have to pay all that money back? It also goes back to the question of literacy, when genuine mistakes are made. I know that you say that all these things will be written in, but there does not seem to be anything in the Bill to convince me that, if someone comes in with what they believe is a genuine excuse, they will not be subject to a penalty. I have come across situations in which I thought that it was perfectly unreasonable for a sanction to be applied and the person on the other end of the phone thought that it was perfectly reasonable. After the argument, it was found by another person that it was unreasonable. Measures need to be built in to ensure that people are not being penalised because of their level of education or their ability to understand what they are dealing with.
4981. **Mr McConnell:** Certainly, we would always say, most definitely, that this is not about targeting people who make genuine mistakes. It was never the intention to do that; it would not be the intention to do so. This is about negligence, not about genuine mistakes. To my mind, the detail about those circumstances, as you suggested, in which some people may not be literate would point to a genuine mistake. It would not point to a civil penalty, which is about negligence and about not having a reasonable excuse for failing to report something. The detail on how it will be applied will come forward in regulations and guidance. The appeal process will also be there, and people will be entitled to appeal against a civil penalty decision as well. If, as you said, the view is taken that this was reasonable but we said that we thought that it was not, the appeal process can provide a second opinion on the matter.
4982. **The Chairperson:** OK. Fair enough, Conrad, thank you for that. You may have covered this matter earlier. I was flicking through some of the notes. Some housing organisations raised a couple of key points around third-party verification, etc.
4983. **Mr McConnell:** I received that question this morning. I have asked for information and I will get back to you. I am sorry; I do not have the answer just yet.
4984. **The Chairperson:** OK, Conrad. Thank you for that.
4985. **Mr McConnell:** Clause 113 deals with the increase in the loss of benefit period — or “one strike”, as it is sometimes known — from four weeks to 13 weeks, and introduces the first offence three-year benefit sanction in serious fraud cases. Again, the comments made are twofold: first, that it is disproportionate, and secondly, that it could lead to financial hardship for some people. I think that those comments were made particularly in relation to the three-year figure for a first offence.
4986. The point that we would make on this is that we have observed a distinction, up to now, between error and fraud. Fraud is intentional, and the penalties apply to that behaviour. This is about taking

- it to another level — not only fraud, but serious fraud.
4987. The Bill sets out the definition of how “seriousness” might be interpreted in the application of this issue: for example, someone who commits an offence which results in 12 months’ imprisonment by the courts; or someone who commits some sort of ID fraud, or where the money involved exceeds £50,000 or where the fraud has gone on for a long period, say two years or more. So, the Bill sets out what “seriousness” means. It is the distinction that we would make; a response that we would make to that sort of behaviour, which amounts to criminality. The end decision is whether three years’ loss or withdrawal of benefit is the right response to that sort of behaviour. We would say that we want to deter people from all frauds and, most particularly, from serious frauds, where money can get into extremes.
4988. The issue of hardship is dealt with in all of the loss-of-benefit regulations, whereby, it does not apply to some benefits such as state pension. As regards some of the means-tested, low-income-type benefits, loss of benefits applies only as a 40% reduction, or 20% reduction in some other cases. It is not a full withdrawal. Full withdrawal only applies to the rebating benefits such as jobseeker’s allowance. However, in saying that, there are also provisions in place whereby one can seek financial hardship assistance if it is needed.
4989. Those are the points that I will make in relation to this matter. The key point is that this is about serious fraud in the benefit system, which takes that kind of message one step further.
4990. **The Chairperson:** OK.
4991. **Mr McConnell:** I will move on to clause 114, which deals with the increase in the current “two strikes”, or loss of benefit from 13 weeks to 26 weeks. Some of the points made before relate to loss of benefit generally. Also, it was thought that people should have access to independent advice before they could be subject to that sort of penalty.
4992. The point I will make, whether it be one strike, two strikes or any penalty in relation to fraud, is that the fraud process is completely transparent, in which we may allege such behaviour and the courts are there to make decisions where there is any doubt about guilt. So, there is advice available to people to discuss all that. The point was made earlier that, if someone does not choose to go to court but takes the administrative penalty, time should be built in for them to seek advice on whether he should do that. We always say that loss of benefit should follow a fraud offence. The fraud process carries the safeguard that there is an opportunity to seek advice before you admit to fraud or go through the court process. So, advice is built into that. It is there already.
4993. **Mr F McCann:** I have been accused, over the past couple of months, of picking on bank robbers as examples in some of these things. Here is another scenario. A guy gets done for £600 million worth of fraud and gets three years in jail.
4994. **The Chairperson:** It was, Conrad, not you. *[Laughter.]*
4995. **Mr F McCann:** He gets out of jail, and if he goes to the dole office, he would be able to get the dole.
4996. **Mr McConnell:** Yes. I think this goes back to the key point that I made before, about some of these other penalties. The whole theme of all this, in some respects, is to put people off committing fraud at all. The whole aim is to get fraud out of our system and to keep the system secure and safe, and to try to deter people from such behaviour. That is ultimately what I would say.
4997. **Mr Brady:** I suppose that this is like saying that the Welfare Reform Bill is a good piece of legislation if it can get fraud out of the system. Part of the difficulty that we have with the double whammy, or “three strikes and you are out” thing, is that it impacts on the



- family. If someone makes a conscious decision to continually commit fraud or alleged fraud, that is his decision. However, the sanctions affect the people with him, who may have had absolutely no input into that. Therein lies the difficulty. The Law Centre suggests that it be left to the justice system, which seems appropriate. However, in this case, people who have committed fraud and been charged are getting a double whammy, which is grossly unfair in that sense, because it impacts on their dependants, etc.
4998. As Fra says, if someone is accused of a £600 million fraud, is sentenced, and then gets out, he has been dealt with by the justice system. There is fraud, and there is fraud. I do not think that you can differentiate between someone committing financial fraud, and someone committing social security fraud. The justice system deals with them, presumably, in an equitable way. However, this is making a distinction. That is where it is unfair.
4999. It is reasonable enough argument.
5000. **Mr McConnell:** The only point that I will make to that is that the courts will be made aware that if they find a person guilty, that person would then be subject to this provision. The court can take that into account when deciding what penalty to impose for the offence.
5001. **The Chairperson:** Fair enough. Thank you.
5002. **Mr McConnell:** Finally, on the fraud elements, there is removal of cautions. The clause takes away cautions as a means of dealing with benefit fraud and leaves only two options: taking the administrative penalty, which is the internal way of dealing with fraud, or the court process. The intention behind this is to bring home the seriousness of fraud. There will be clear knowledge that anyone intent on committing fraud and found to have committed it faces one of two paths. There will be some sort of internal administrative penalty, or the court process. There will be an outcome to that. You will face a penalty of some sort, having committed the offence.
- That is why the proposal is to take away cautions as a means of dealing with fraud.
5003. **The Chairperson:** OK. The Department is obviously maintaining that argument. All right, members?
5004. You are glaring at me, Fra.
5005. **Mr F McCann:** I glare at you all the time, Alex.
5006. **The Chairperson:** OK. I thank Conrad and his colleagues for being here morning. I appreciate that this morning's meeting has gone on a bit longer. Thank you for your patience, as well as your attendance and your responses on those particular clauses. Thank you very much.
5007. **Mr McConnell:** Thank you.
5008. **The Chairperson:** OK, members. Moving on then —
5009. **Mr Michael Pollock (Department for Social Development):** I am sorry, Chair, the Department has some outstanding matters such as social problems and discretionary elements.
5010. **The Chairperson:** Oh, I see. Sorry, my apologies.
5011. **Mr Pollock:** Jane wants to say a couple of wee words on that.
5012. **The Chairperson:** Forgive me; I had an element of gate fever there.
5013. **Ms Jane Corderoy (Department for Social Development):** The Committee has looked at clauses 70 to 73, which deal with the abolition of the social fund. A few weeks ago, members heard from my colleague Angela Clarke on the proposals for the new scheme because it sits outside social security. I think that she would have told you today that, as you know, a Government amendment to introduce a new discretionary scheme is to be proposed at Consideration Stage. That will provide for a broad power to enable payment to be made and provide support under the new scheme. The Department will establish that and it will be delivered by the Social Security Agency.

5014. In relation to our stuff, the Sure Start maternity grants, cold weather payments, funeral payments and the winter fuel payments will not be included in that. They will be retained and are not being done away with. The majority of the stakeholder comments that you have heard concern the new scheme, and Leonora is with us to talk you through them.

5015. **Ms Leonora McLaughlin (Department for Social Development):** I guess that what we have here are stakeholders providing evidence in a vacuum. They see in the Bill that there is the potential to repeal crisis loans and community care grants, but there is no content relating to the new scheme. If you are happy, I will pick up on common themes in the evidence, and you can come back to me if you think that we have missed anything.

5016. In relation to budget allocation for the new scheme and the issue of ring-fencing, as you may recall from our briefing a few weeks ago, we have a broad indication of next year's budget for the new scheme. We have also had agreement from the Executive to ring-fence that for an interim period, which we interpret as extending to the end of this spending review period. Some organisations were seeking assurance that that ring-fencing would extend through to the implementation of universal credit, but we are simply not able to give that assurance now. As I said, the Executive have given the Department interim approval to establish a scheme and to ring-fence the money that is to be transferred across from the Treasury for that period.

5017. Nevertheless, as I said on 11 October, we are in a much better financial position with the budget for the new scheme than we felt we might have been. We know that the Treasury will not impose a 10% reduction on transferred funding; that we are not going to be liable to a potential 3.5% annual subsidy on outstanding loan balances; and that, in addition to the transferred funding, we have secured recoveries from legacy crisis loans to fund the new scheme.

We have additional customer groups to whom we are opening up access to the replacement scheme. However, at the same time, we are looking at broadly £29 million now, with the caveat that the final figures are yet to be confirmed.

5018. I apologise; I obviously have a project manager for the new scheme, who is responsible for its development. I can touch on some of the policy issues here, but it is not my domain. I am happy to come back to the Committee if such assurances are necessary. The role of the social protection fund is —

5019. **The Chairperson:** Sorry, Leonora; Fra wants to come in.

5020. **Mr F McCann:** I know from one of the presentations to the Committee, and the Minister touched on this, that the scope of people who can apply for what were crisis loans is to be widened.

5021. **Ms L McLaughlin:** Yes.

5022. **Mr F McCann:** Is there any estimation of how much that will cost? With a £29 million budget, you may find yourself quickly under pressure, even in the present system. Has the yearly cost of adding claimants been estimated? I know that that may be difficult to do —

5023. **Ms L McLaughlin:** It is difficult. The social fund is a well-established scheme, so it is relatively easy to predict annual expenditure and demand. You are right to say that we are widening the scheme. The intention is that eligibility for the new scheme will be based on income rather than qualifying benefit. So, working customers on low incomes will be entitled to apply, as will customers in contributing benefits, who are excluded at the minute. Our difficulty is we know broadly the sort of catchment we would have for those customer groups but we do not know what proportion of those customers will apply.

5024. On the other side, there are restrictions in the new scheme over and above what we do for the social fund at the minute, which would mean that, potentially, the number of applications from existing

- social fund customers will reduce. For example, we are proposing that we lower the maximum social fund debt threshold from £1,500 to £1,000 under the new scheme. That is in response to feedback that customers are having difficulty managing their financial commitments and the levels of debt they already have. We know that that will have a downward pressure. We estimate that 21% of customers have social fund debt above £1,000.
5025. **Mr Brady:** People tend to use the social fund as a top-up system. When you are reducing the debt, will that involve reducing the weekly amount deducted? In my experience, the trend has been that the more you owe, the more the Department will try to get back in a shorter time. However, if your debt is reduced from, say, £1,500 to £1,000, it would seem reasonable that less would be taken back because, again, we are back to the whole subsistence level issue.
5026. **Ms L McLaughlin:** As I say, there was a strong strand of feedback around debt and issues with existing debt coming through the phase 1 research that we did at the very early stage of the project. I suppose we are looking at a number of measures. The reduction of the maximum debt would also help customers to repay, so, yes, we are developing proposals —
5027. **Mr Brady:** A reduction in the maximum amount, possibly?
5028. **Ms L McLaughlin:** One thing we are looking at is the duration of the debt. We will try to recover in a shorter period, so instead of spinning it out to two years, we will look at 52 weeks, for example, where that is possible. The amount that the customer will be able to borrow will be proportionate to that and based on their ability to recover.
5029. **Mr Brady:** If you are going to have a period of 52 weeks in which the debt has to be repaid rather than two years, people need to have that explained to them so they understand that they may get more deducted because they have to pay it back in a shorter time. Part of the difficulty with the social fund for a lot of people is getting a loan and not realising the implications. With pay day loans, the money is there, great — but what happens over weeks or months?
5030. **Ms L McLaughlin:** That is it. There are issues with the existing scheme that we will hope to learn from and develop proposals to remedy. As I said, there are a number of things —
5031. **Mr Brady:** I do not want to break your train of thought but another important point is that social fund staff are long-term and experienced. It would seem to be reasonable that they will be retained in any new scheme. Customers are familiar with them and they know how the system works, albeit it is a new system. However, that is important because that experience is invaluable. Of the people I deal with, two of them, at least, in Armagh have been there since 1988, since the social fund was established.
5032. **Ms L McLaughlin:** I confirm, not to interrupt, and I think Northern Ireland is in a much better position than some of the devolved administrations in that we have delivery capacity and staff on the ground. The intention is that we will re-use those social fund staff on the ground at the minute to deliver the new scheme and harness all that expertise.
5033. **Mr Brady:** Some of them are near retirement age, it has to be said.
5034. **Ms L McLaughlin:** We will start to develop our succession plans.
5035. **The Chairperson:** We wish them well.
5036. **Ms L McLaughlin:** I have scant comment on the social protection fund except to indicate that the Department is looking at a range of things: how the Department contributes overall to, for example, the financial capability strategy, and the effort will be to try to join up proposals. We are developing the scheme closely with policy colleagues and now have the overarching policy that this scheme sits within.

5037. Another theme emerging from the evidence of a couple of organisations is the provision for a second-tier review facility to allow customers who have exhausted the review process within the Department to go to an independent organisation in the way that they would go to the Office of the Social Fund Commissioner now. The Department has made the commitment that that facility will be available for the new scheme. We are looking at options for where it might sit, which is a bit more difficult than making the commitment, but there will be second-tier review. The provision for that is in the draft regulations.

5038. **Mr Brady:** There is going to be specialist advice. Under the old single payments, going back many years, there was a specialist circumstances officer, who was the person designated in the office to deal with the cases of people who found it very difficult to manage. That was not done in a patronising way; it was done in a practical way. Most people at the time accepted that. Is that the intention of the specialist advice? In the past, that person would have been a visiting officer who was designated to deal with particular types of cases and would have developed a rapport and relationship with the claimant.

5039. One of the measures in the pilot is the provision of goods. I have difficulty with that, not so much with the practical nature of it, but because, going back many years, it was exploited, and not by the customer in my opinion or experience, but by some of the retailers. We have all heard tales, and I have anecdotal evidence of people getting a £500 giro for goods, even though they would have rather had the money, going into a shop and somebody giving them £300 and taking the giro. That is the sort of thing that we need to be aware of. People will say, "Well, that didn't happen", but it did. It opens the avenue for people to exploit the vulnerable, and it is something that needs to be addressed.

5040. **Ms L McLaughlin:** There are two points to pick up on there.

5041. First, the intention is that the specialist advice will be delivered internally by the agency within the scope of the discretionary support scheme as it stands or the decision-maker's role. We will be asking decision-makers to be vigilant for opportunities to offer assistance to customers, whether that is on debt and money management or an underlying issue. Where there are early warning signs, some of the evidence suggests that we can pick up on them and offer assistance. Obviously, that will not be mandated in any shape or form: we will be offering the customer the opportunity. The intention is that decision-makers will be well acquainted with both statutory and voluntary and community advice services that are operational in their areas. We will be seeking to foster close links with those sorts of services and to offer those organisations an opportunity to refer customers to us. So, it is kind of a two-way arrangement.

5042. In relation to the goods pilot, we sought to provide assurance to the Committee previously that it will be a very low-key, small-scale pilot. That is simply because the stakeholders in the research indicated that they would be receptive to that kind of service, not as an alternative to cash payments but along with cash payments. We will obviously be very careful about how we establish that scheme.

5043. There are two reasons for doing it. We got evidence from customers, who were brutally honest in their focus groups and said that they apply for things that they do not need because they know that they are more likely to get an award. That is not to say that there is not an underlying issue of some other kind that causes them to do that. We also know from organisations that deliver this kind of service that, because of the bulk quantities involved, they benefit from a discount from a national supplier, for example. That is the sort of service that we are looking to put in place, not something with individual local retailers.

5044. **Mr Brady:** You have a list of priorities in the social fund. Clothing was mentioned

- in the Assembly, which I found astonishing. People were saying that without the social fund, people would be deprived of clothes for their children. Clothes is the lowest priority and has been since 1988, so I did not see that as a huge issue. However, there are priority items, such as cookers, beds, mattresses, bed clothes and that type of thing. Are there any plans to revise the priorities? It seems to me that it is something that needs to be looked at again, particularly in relation to clothing. People, through illness or having to diet, may lose weight. There are people on special diets who require refrigerated foods and possibly medicines.
5045. **Ms L McLaughlin:** The aim is that customer circumstances will be taken into account irrespective of —
5046. **Mr Brady:** I am asking you to rewrite the whole thing. It is not the intention.
5047. **Ms L McLaughlin:** Oh no, we are not far away. Our issue will be that this is a cash-limited service, and there will always be the necessity to prioritise in terms of regulations and guidance but even within months where you have more demand than you had anticipated and a pressure on your budget. However, I will be happy to take those comments on board.
5048. **Mr Durkan:** You spoke earlier about how widening the criteria for applications for the social fund would increase pressure. I imagine that it will also be increased by more people becoming eligible through job losses, etc. My question is more a technical one, and it is around eligibility or accessibility. In a household, can a claim or application be made by the nominated person for universal credit (UC)?
5049. **Ms L McLaughlin:** We are mindful of the direction of travel for universal credit, but, at the minute, the proposal for discretionary support is that the application will be an applicant, and we will take into consideration income for the applicant and their spouse or partner. So, we are not looking at a household as such.
5050. **Mr Durkan:** The applicant might not necessarily be the nominated person to receive universal credit.
5051. **Ms L McLaughlin:** I may need to come back to you on that. We are delivering the new scheme in April, so I would need to talk to some universal credit colleagues to see what the implications are, because we will be in for a while before universal credit hits.
5052. **The Chairperson:** That is helpful, Leonora, thank you.
5053. **Ms L McLaughlin:** We have covered the absence of legislation to cover the discretionary support. Regulations are being developed and will very shortly go for solicitors' scrutiny. The intention is to come back to the Committee in January with those regulations.
5054. There were a couple of specific queries. One was in relation to housing and rent in advance, and the other was in relation to customers potentially in a crisis because of domestic violence. Just to confirm, while we do not have provision for those groups specifically, they would fit within the eligibility criteria, and our aim will be to provide assistance for those customer groups in the same way as we do through the community care grants system at the minute.
5055. There is a range of different eligibility criteria. In order to safeguard the fund and make sure that we are targeting resources at the people who really need it, one of the criteria is the availability of another source of meeting need. For example, colleagues have pointed out that there is provision in the existing budgeting loan provision for rent in advance. So, as long as customers have no other way of meeting their needs, we will cover rent.
5056. **The Chairperson:** OK. Thank you.
5057. **Ms L McLaughlin:** I will move on to the consideration of debt. There was a suggestion from one of the stakeholders that support should be available to families without any consideration of debt that they may have accrued. That would run contrary to the feedback that



- we are getting from the research, where the indication is that we strongly need to take account of levels of existing debt. Under the scheme, we will take account of debt that customers have for the existing social fund system, for example, because that is a demand. They are making a repayment for that, and that needs to be taken into account.
5058. Finally, in respect of access channels, the feedback from the research is that it is very important that this service would continue to be delivered on a face-to-face basis, specifically for loans and needs that have to be met urgently for living expenses or where there is a crisis that needs to be reacted to very quickly. That is the case. We will continue to deliver from the agency's network of local offices. There will be a telephone service, but that is a secondary access channel. We intend that to be used by customers who have mobility issues and find it difficult to attend their local office or for working customers or new customer groups who do not habitually use the agency's offices.
5059. **Mr Brady:** In terms of the phone aspect, in Newry, the social fund moved to Armagh some years ago, and people who apply for crisis loans have to get in touch with Armagh. They can go into Newry, but then they are put in touch with Armagh. There is a difficulty in accessing the social fund in Armagh. It may well be the same in other offices. In my recent experience, a lot of people on benefit have pay-as-you-go mobile phones. I know of one case, a few weeks ago, when a woman trying to contact the local office had to top up her phone with £20 and it cost her £17. That is an area that needs to be addressed, whether that is by having more landlines, a local office getting in touch with the social fund or by having some provision for people to use their mobile phones. Access is an ongoing problem.
5060. **Ms L McLaughlin:** I am not familiar with specific issues in Armagh, and we are straying into quite low operational arrangements, which are still to be finalised. There are two types of social fund call. The first is from someone who is simply making an enquiry about an application, in which case we expect that customer to ring the office. Where a customer needs to make a claim, there will be a system. We are conscious that, even on a landline, that could be a lengthy call, and particularly on a mobile, so the arrangement will be that a member of staff will phone those customers back and the cost will then be for the Department.
5061. **The Chairperson:** OK; thank you for that.
5062. **Ms L McLaughlin:** That is all that I wanted to cover as a result of the evidence. Is there anything else that members would like to pick up on?
5063. **Mr Brady:** It is good that the social fund is being retained in the Department, because you have the infrastructure there. It is an opportunity to be innovative and actually improve the system. During the consultation period, I spoke to the company that was doing the consultation, and the feeling from stakeholders who were interviewed was that it was an opportunity to be innovative and do something while retaining the fabric to do something even better and more beneficial, because, ultimately, it has to be more beneficial to the customer.
5064. **Ms L McLaughlin:** The fact that it is a non-parity project means that there is a recognition in the Department that it is an opportunity for us to meet the needs of our own customers.
5065. **Mr Brady:** Plus the fact that the 10% is not going.
5066. **Ms L McLaughlin:** Our timescales for the implementation of this are very tight. When we briefed you last time, we were quite open that what we deliver in April is the start of a process. We will work with stakeholders and the Committee, but it is likely that that service will need further refinement.
5067. **The Chairperson:** OK, Leonora, thank you for that.

5068. **Mr Pollock:** Moving on, Chair, the Committee had some questions that it wanted clarification on. I appreciate that we have not been away for terribly long, so we have not got answers to all those questions yet, but we have in a few areas. Jane, do you want to kick off, because you have other commitments?
5069. **Ms Corderoy:** No, I have missed that anyway. I do not any more. I am too late. The Minister will not forgive me, but there you go.
5070. **Mr Pollock:** We will just go by clause then.
5071. **Ms Martina Campbell (Department for Social Development):** As Michael has said, we understood that we were picking up on questions outstanding from Tuesday. We have not got a response for you yet for most of them. However, I can answer some of them.
5072. As regards the payments, claims will automatically be paid monthly to the nominated person unless they satisfy exceptional circumstances, which are yet to be defined. The Minister stated on 22 October that he intends to consult on what “exceptional circumstances” means. We understand that the agency is organising an event in the Long Gallery for 15 November, which this Committee will be invited to, to kick off that consultation.
5073. As regards direct payments to landlords, the position as we understand it is that all claimants will automatically get their housing costs paid to their landlord unless they opt out. We understand that the delay in the introduction of universal credit is to help to ensure that the IT systems’ functionality is in place to deliver that. Obviously, tax credit customers coming into universal credit are used to managing their own money, and there may be circumstances where they wish to continue to do that. However, we are seeking to clarify the default position with the agency on the IT, and we hope to provide a definite answer before Tuesday.
5074. Only the working-age member of a mixed-age couple will be required to sign the claimant commitment. The person over state pension age will not. If the member over state pension age is entitled to contributory pension in their own right, they will continue to receive that, and that pension will be taken into account as unearned income under universal credit. Existing mixed-age couples will move to universal credit and be given transitional protection as long as their circumstances remain the same.
5075. We talked about the fact that, under state pension credit, there is no limit or the limit is higher for capital costs. I have some figures from the Department for Work and Pensions (DWP). It is in its universal credit briefing note number three, which is on its website. I will send it to the Committee, but the key fact from that briefing note, which refers to the GB position, is that one in three pensioner households have capital in excess of £16,000 as compared to working-age customers, 13% of whom have savings in excess of that. The average capital held by a working-age customer is £300. By setting the cut-off at £16,000, the Government believe that they are striking the right balance between protecting people with modest savings and placing responsibility for their own support on those with substantial capital.
5076. The capital rules have increased in income support from £8,000 in 2006 to £16,000, and the proposed threshold is in line with those increases. Mixed-age couples in receipt of tax credits at the minute with capital over £16,000 — as you know, there is no limit on the amount of capital a tax credit customer can hold — will transfer on to universal credit and get transitional protection for as long as their circumstances remain the same. According to DWP, 52% of claimants — I am not sure from the briefing note whether it means all age claimants — in receipt of tax credits with savings over £16,000 earn over £40,000 per annum and a further 30% earn over £50,000 per annum.
5077. As regards changing the capital limits, DWP estimates that the difference between setting a cut-off at £25,000

- compared with £16,000 would be £60 million per annum. I said that I thought that it was around £50 million. Removing the capital rule altogether would cost £500 million per annum.
5078. As regards sanctions and hardships for mixed-age couples, sanctions will apply only to the working-age member. If the working-age member is sanctioned, there will clearly be an impact on the household budget, and they will be able to apply for a hardship payment. The aim is that that would be recovered in 12 equal installments. I will give the Committee an example. I have used an example of a single jobseeker, and the sanction amount that applies to a couple is slightly lower, but it will give you the gist of it. If a single jobseeker gets sanctioned, their award is reduced by £65 a week. If they applied for a weekly hardship payment, they would get 60% of the amount of their sanction, which is £39. If the sanction was for three weeks, the total amount would be £117. Dividing that by 12 gives you £9.75 a month, which is what they would pay it back as. That works out at roughly £2.25 a week. That is an example of how the hardship payment and the recovery would work.
5079. I confirm that underoccupancy for mixed-age couples does not apply where one or both members are over state pension age. If one member of the couple reaches state pension age, they are entitled to claim contributory pension in their own right.
5080. I said that I thought that DWP was considering temporary absence. I need to write to you about that; I do not have that information to hand.
5081. If I just cover my bits, Michael will do his.
5082. **The Chairperson:** We will hold it there, Martina, because members have a couple of questions.
5083. **Mr Brady:** On the capital cut-off of £16,000, essentially, what it means now is that if someone is 1p over, that is it gone. I presume that, with DWP, we are talking about Britain.
5084. **Ms M Campbell:** Yes. I think so.
5085. **Mr Brady:** The savings of people of working age is approximately £300. We live in a much lower-wage economy. This is part of the whole difficulty; there are different circumstances. The number of people who you and I know who earn £30,000, £40,000 or £50,000 — apart from senior civil servants, of course —
5086. **Ms M Campbell:** Not us, anyway.
5087. **Mr Brady:** I was not suggesting that it was. On a serious point, those figures are predicated on the south-east of England.
5088. **Ms M Campbell:** Yes.
5089. **Mr Brady:** It really does not bear any resemblance to here.
5090. **Ms M Campbell:** I have asked our statisticians to try to get us some figures. I think that those figures were taken from the family resources survey.
5091. **Mr Brady:** Figures for here would be helpful.
5092. **Ms M Campbell:** We probably have some figures. However, the problem with getting the Northern Ireland figures on that is that the sample is so low. Our statisticians will not release figures when the confidence level is below a certain amount.
5093. **Mr Brady:** Maybe that highlights the issue.
5094. I have another point. On the one hand, you have a Government telling people to save and to be frugal and all of that. However, this will be a disincentive for older people to save; £16,000 really is not that much for people who are going to have to top up their income by dipping into it or whatever. It is going to be a disincentive, because people are going to limit what they save. It does not make sense.
5095. **Ms M Campbell:** I appreciate the point that there are two sets of rules.
5096. **Mr Brady:** It is contradictory to the policy principle.

5097. **Ms M Campbell:** However, for the person who is over the £16,000 but not by much, when the regulations come to you, you will see that the definition of “deprivation of capital” is being widened to the claimant’s advantage.
5098. **Mr Brady:** Spend and enjoy.
5099. **Mr Pollock:** It is to allow you to settle debts and things like that.
5100. **Ms M Campbell:** It will allow you to pay off debt, which it does not do at the moment.
5101. **Mr Brady:** That is beneficial. The other day, I made a point about passported benefits. Some people on pension credit, because there was no outer limit, may have qualified even though the tariff was for a small amount, which then brought them into line with rates and all of that.
5102. **Ms M Campbell:** I am checking that point about underlying entitlement for you.
5103. **Mr Pollock:** I want to make a point about the £40,000 to £50,000 thing. The upside for Northern Ireland is that, although there might not be many people earning that, the benefit rates for universal credit are predicated on the national median range, which is beneficial because those rates are higher than the Northern Ireland median.
5104. **Mr Brady:** Well, if we accept that benefit rates are high, I suppose that that is a contradiction in terms.
5105. **The Chairperson:** We are moving into debate. We are not at that point yet.
5106. **Ms M Campbell:** On Tuesday, there was a question about 16- and 17-year olds. Under the current system, there is provision for 16- and 17-year olds to get a discretionary hardship payment under jobseeker’s allowance. This applied to young people who are 16 or 17 and are registered on a training scheme but have not yet got a place. It also applied to children leaving care. Even though, under the leaving care order, DHSS is supposed to look after those children, there were exceptions where they could get a discretionary hardship payment. As I understand it, under universal credit, those two categories of people are out and are not entitled to anything, and neither will their parents be entitled to claim for them. I asked DWP for clarification, but I was not satisfied with its reply. I sent a further clarification request, and I am waiting for a response, which I hope to receive today. That is the position on that.
5107. **The Chairperson:** Have you finished on that one?
5108. **Ms M Campbell:** Yes.
5109. **The Chairperson:** I neglected to bring Mark in on a previous point.
5110. **Mr Durkan:** I am sorry, Martina. I want to take you back to under-occupancies. You said that you were reconfirming that if one member of a mixed-age couple was of pensionable age, they would be exempt.
5111. **Ms M Campbell:** I said that before. I just meant that I was confirming what I had said, which was that if one member of a mixed-age couple is over pension age, they are exempt from the underoccupancy.
5112. **Mr Durkan:** I had not heard that before. That is good. Thank you.
5113. **Ms M Campbell:** OK. We have talked about capital costs already. I was to clarify about the entitlement waiting days. I will come back in writing on that, because we are still arguing that point out.
5114. **Mr Brady:** That was about the small amount under seven days.
5115. **Ms M Campbell:** Yes. It is more to do with the fact that universal credit relies on a monthly assessment period. I think that the intent of that clause is that they would not consider an assessment period for less than seven days. However, I want to get that absolutely crystal clear, and I will come back in writing on that.
5116. **Mr Brady:** That tied in with the passported benefits as well.

5117. **Ms M Campbell:** Yes. I am also checking the underlying entitlement, because that is a very good point; there is nearly a double whammy there.
5118. There was something about the severe disability premium for children.
5119. **Mr Brady:** It was being reduced.
5120. **Ms M Campbell:** Again, we will get back to you in writing on all these points. The severe disability premium is being removed for adults. Obviously, anyone currently in receipt of that will get transitional protection as long as their circumstances last. It is intended that the severe disability premium be abolished as part of the simplification process. There have been serious problems with the administration of that premium over the years, and there are significant questions as to its rationale and whether it is targeted at the right group of people. Aligning the rates and making sure that the proper payments go to the right people are part of the issue. At present, the severe disability premium overlaps with social care provision.
5121. That is more or less what I want to say on the issue. I will provide you with details on the difference between the premium for children under tax credits and under universal credit.
5122. **Mr Brady:** You said that there are questions on whether the severe disability premium is being targeted at the right people. I would not agree with that for a moment, because there is a very clear avenue to claim. People fill in an IS10. If someone is found not to be living alone, that is fraud. It is incumbent on —
5123. **Ms M Campbell:** It is a different mechanism.
5124. **Mr Brady:** Nor do I accept that it is overlapping with social care. I am going by my own experience. Levels of social care either are or are not provided. The whole idea and policy intention of the severe disability premium was to enhance the quality of life for people with specific disabilities. People have to be getting middle or high care for the disability. That is being abolished with no reasonable rationale.
5125. **Ms M Campbell:** The coalition Government believe that there is a clear rationale, and, obviously, the increased earnings disregard for disabled people is supposed to offset that. I take your point.
5126. **Mr Brady:** I do not think that it will make a huge deal of difference to the coalition Government, whatever you say, but I think that the point is worth making. I know that you had no input into this, but we are dealing with facts rather than opinions, and, unfortunately, you said something with which I totally disagree, and I wanted to put that on the record.
5127. **Ms M Campbell:** I take your point.
5128. I also said that, as far as I was aware, a DWP review was ongoing, and I undertook to provide you with some clarification.
5129. There are eight or nine bullet points on underoccupancy in the Committee Clerk's paper on issues for consideration. We are trying to cost those for you and give you numbers. They concerned such issues as deferment, general implementation and people being exempted.
5130. We will try to get you the possible numbers and costs that will be impacted by the support for mortgage interest (SMI) and the zero earnings rule. However, I can confirm that, once people take up any job, their support for mortgage interest will cease. Under the current rules, there is extended entitlement to housing benefit or SMI for four weeks after people take up a job, but that will not be the position in universal credit. Again, we will try to get you some costs and numbers. The rationale will always be that there are higher earning disregards in universal credit, and evidence proves that people will do their utmost to protect their home, and those who can pay should pay.
5131. **Mr Brady:** Of course people will do their utmost to protect their home. They



- will make sure that they do not take a part-time job that will stop their support for mortgage interest. That is common sense. You wonder where the policy intent went there.
5132. **Ms M Campbell:** Yes. We talked a little about supported housing. I confirmed for you that housing costs for people in supported housing would be outside universal credit. DWP Ministers announced that on 17 September. We are still trying to work through the impact of that in Northern Ireland. As far as I know, supported housing costs are paid by the Department of Health, Social Services and Public Safety and are demand-led. We think that underoccupancy and shared room rates would not apply to those people, but we will confirm that for you. We will also try to get some costs and numbers. Supported housing represents 5% of the housing benefit caseload, which is roughly 8,000 cases.
5133. We have already talked about —
5134. **Mr Brady:** Sorry, Martina; I do not mean to interrupt you all of the time.
5135. **Ms M Campbell:** No, I am sorry. I keep forgetting to look up.
5136. **Mr Brady:** I want to ask you about supported housing. Paula and I also sit on the Health Committee. One of the planks of Transforming Your Care is to maintain people in the community. You mentioned 8,000 cases. Presumably, the projected figure would be much higher when houses start to be built that are suitable for supported housing. That will be an important issue. Perhaps, there needs to be —
5137. **Ms M Campbell:** I do not really know enough about it. However, I think that, in most of those cases, people in supported housing are in one-bedroom flats.
5138. **Mr Brady:** However, we are again talking about displaced costs. If people do not get proper support through supported housing, they will go back into residential care or hospital, which costs a lot more. That is one issue about displaced costs that another Department will have to pick up. In a sense, it is not a sensible approach.
5139. **Ms M Campbell:** Again, it is about joined-up government and our good friend common sense.
5140. **Mr Brady:** While we are working towards it here, it seems that it is more disjointed in Britain.
5141. **Ms M Campbell:** In the longer term, DWP plans to localise supported housing. Obviously, we would want to consider very carefully whether that is appropriate here.
5142. **Mr Brady:** In England, in particular, there is an existing infrastructure that is ready to deal with housing, social services, and so on. We do not have that.
5143. **Ms M Campbell:** That is why I would suggest that it is probably not appropriate for us. However, localisation takes the matter out of the social security area.
5144. I think that that is all. I will come back with further information on that and will take Mr Brady's points on board.
5145. An issue was raised about power of attorney. If I understand what Mr Copeland was saying and picked him up correctly, it concerns someone with power of attorney having a vested interest in not signing the claimant commitment. I really did not understand the point. If such a person did not sign the claimant commitment, he or she would not get any money. His or her vested interest in the power of attorney would presumably be money-driven. Perhaps Mr Copeland could clarify that for me.
5146. **The Chairperson:** If Michael wants to come back on that, he can do so.
5147. **Ms M Campbell:** I think that the Law Centre raised the issue of work-focused interviews being reintroduced. I said that I believed that DWP was conducting a review, and I undertook to come back with further information. We were expecting a response from DWP last week. I think that it is supposed to

- make a decision by 2 November, so we are following that up.
5148. I will write to the Committee about the time limit for someone taking up employment after being deemed fit for work and the definitions in regulations.
5149. In clause 19, there was an issue around childcare, lone parents with children under the age of five, and lead carers. I gave you some figures and said that the intention is to continue the current operational flexibility, which is that lone parents with a child under the age of five will be subject only to a work-focused interview, which might be only one interview a year. Similarly, couples will be able to nominate a lead carer and restrict that carer's availability to fit around their child's school hours.
5150. I will write to you and set out our position on EU migrants.
5151. There was an issue about the definition of domestic violence. On Tuesday, I confirmed that the definition will replicate that in the jobseeker's allowance regulations that were recently passed by the Assembly and the Committee. That satisfies that query. I also confirmed that the definition of hate crime refers to violence in the home, which is taken to mean any attacks from an ethnic or any other perspective, but I will confirm that for you.
5152. We note that a number of stakeholders have suggested a statutory right to provide advice. We also note that advice services estimate that there will be a 30% increase in their workload. As far as I understand it, the agency is in discussions with colleagues in the voluntary and community unit, and the Department already provides more than £5 million to advice services. Again, we will come back to you in writing with a firm position on that.
5153. In terms of sanctions —
5154. **Mr Pollock:** We need facts and figures on the matter. We are working on that, and we hope to come back to you before next Tuesday.
5155. **Ms M Campbell:** This morning, Conrad provided clarification on the double-whammy effect. An issue was also raised about claimants who have dual entitlement to employment and support allowance (ESA) and universal credit being sanctioned under UC. A question was asked: if there were insufficient funds, would we deduct from those people's ESA award? We believe that the position is that we can deduct only from the UC element, but we are getting clarification.
5156. We take the point about separated couples living in the same house and from which member of the couple the underoccupancy rate will be deducted. We are working on that.
5157. **Mr Pollock:** Procedures are in place for interviews to determine if, for example, you and Fra were living in the same house —
5158. **Mr F McCann:** God forbid.
5159. **Mr Pollock:** We would ask you some questions.
5160. **Mr Brady:** That would be over-occupancy. It is quite a difficult issue. In fraud terms, it is the same as people who are being accused of living together as a couple, which has always been contentious. I want to put on record that the £5 million spent on advice services is money very well spent, and it is still not enough.
5161. **Mr F McCann:** He should have declared an interest in that.
5162. **Ms M Campbell:** When and how will claimants be advised that they are affected by the benefit cap? In England, as soon as the Act was passed, DWP undertook an exercise and wrote out to affected claimants, approximately a year in advance. We are seeking confirmation from the agency on its position and whether it will do any work with claimants to give them a year's notice. However, it is proposed that the benefit cap will come in from April 2013, so they will not have a year.

5163. **Mr Pollock:** There is a communications plan for universal credit and welfare reform in general. I spoke to housing division colleagues this morning about under-occupancy, for example, and they intend to write out to those whom they believe would be affected to offer advice and services. The same applies to any of these issues: a plan is in place, which we will share with you. Tommy and agency colleagues have probably outlined that already.
5164. **Mr Brady:** If parity were to be maintained, and people in Britain got a year's notice, should people here not get a year's notice? Perhaps you should put universal credit back to facilitate that. We hear a lot about parity, and it seems unfair, without being too facetious about it. However, it is a valid point.
5165. **Mr Pollock:** We are already a year behind.
5166. **Mr Brady:** Yes, but we are told all the time that parity is paramount and that we cannot interfere with parity.
5167. **Ms M Campbell:** I have not mentioned it yet. I have been very good.
5168. **Mr Brady:** I know, but I am trying to keep you in line.
5169. **Ms M Campbell:** My last point — actually, it is Michael's point — is about state pension credit and the definition of carers. Is the definition of "substantial and regular caring" — the 35 hours — changing? No, it is not. That finishes all my points.
5170. **Mr Brady:** Is it still 35 hours?
5171. **Ms M Campbell:** It is still 35 hours. Again, we will confirm in writing.
5172. **Mr Pollock:** Martina was on a roll there, so she covered most of my points as well, for which I am very grateful.
5173. I just want to mention the ESA youth provision, in which facts and figures are again involved. Somebody mentioned 390,000; we are checking that and will come back to you in writing.
5174. I will flesh out what we were saying about underoccupancy. There is an exemption. There was some concern about couples in which one partner is over the pension age and another is under, and whether they would be exempt. The Department has —
5175. **Mr F McCann:** Would the younger person also be exempt?
5176. **Mr Pollock:** Yes; the couple would be exempt from the underoccupancy rule. The Department is working with the Housing Executive to establish an advice service to try to look at that in tandem with identifying the number of households and the people involved. It is looking at the categories of exemptions and trying to offer options that individuals might want to consider.
5177. There is a mention of ESA in clause 53, which deals with time-limiting. A check is in place to ascertain whether an individual is placed in the correct group, and whether that is a support group or a work-related activity group. Again, that is a procedural issue, and we will come back to you in writing. That is all that I have to say at the minute.
5178. **Ms Corderoy:** Members were concerned about the recovery of benefit payments. We have just had some guidance material on that. I can clarify that a waiver is considered when there is reasonable evidence available that the recovery of an overpayment would be detrimental to the health and/or welfare of the debtor or his or her family, or that recovery would not be in the public interest. Apparently, there are particular criteria that would satisfy us to make any decision to waive recovery if an overpayment were made. Maurice mentioned the health issue yesterday. However, if a payment is below a certain limit and is deemed non-recoverable from a customer, the debt is automatically written off.
5179. **Mr Brady:** For once, may I just give praise where praise is due. In my recent experience, particularly when overpayments have arisen with older people and have caused trauma and anxiety, the Department has been fine and got above that. We criticise a lot, so

it is important to make those points. I have had about five or six recent cases in which the Department was willing, and it saves people an awful lot of hassle.

5180. **Ms M Campbell:** Especially with older people. Thank you. We will pass that on.

5181. **The Chairperson:** Thank you, Martina, Maurice and Michael, for your support of the Committee's work this morning.

## 8 November 2012

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

5182. **The Chairperson:** Members will recall that we debated Standing Order 35 some weeks ago. The Committee divided four in favour and four against, so no decision was taken. Standing Order 35 will provide for the establishment of an Ad Hoc Committee to ensure the conformity of equality requirements in a broad sense.
5183. **Mr Brady:** I propose that Standing Order 35 be considered again.
5184. **Mr Campbell:** I am trying to get my head round the rationale for that. Are we voting on it again because there was an undetermined outcome last time?
5185. **The Chairperson:** No decision was taken last time, so it is within the gift of members to put it forward as a proposal again. As no decision was taken, there is no decision to rescind. It is competent to put it forward. Members, including me and others, are still concerned about provisions of the Bill and its overall content and direction. That is in light of evidence that was presented to the Committee from a range of stakeholders. The Bill is complex, and, to some people, contentious. People have their own views on it, but there has been a varying degree of opposition, and concerns have been expressed about the Bill. Some members felt that they wanted to table the debate again about the establishment of an Ad Hoc Committee. I remind members that, as was

expressed on the previous occasion, its purpose was to establish an Ad Hoc Committee to do a short, time-limited and discrete piece of work on this. We had advice from the Assembly officials that it could not be run in parallel with the Committee. This has never been done by the Assembly before, and I imagine that the Assembly has the right to make the decision. For me, it is within the gift of the Assembly to do whatever we want, but that is another discussion. You heard the formal advice; I am giving you my opinion.

5186. **Mr Campbell:** My query is on the procedural process, Chairman. At the conclusion of the previous vote, I asked what happens now, given that it was a four/four split and that you did not have a casting vote. I remember that you or the Committee Clerk said that it just falls. Obviously, we will not know until the outcome of this vote, but if there were a repeat, would we then be faced with a possibility of it falling again to be tabled at a subsequent meeting?
5187. **The Chairperson:** Technically, it would be up to members to put any proposal that they want. We are at a fairly advanced stage of the business. My support for such a move would be in the context of whether we can get it done and whether it is worth doing. All that I am saying is that I support it for now; that does not mean that I will support it next week.
5188. **Mr Campbell:** It is to try to get the procedural proposition. Our vote was a four/four split. The response, after a query by me, was that the proposition then fell. It now appears to be on the table again. We can take a vote, and that will certainly answer it, but if that does not sort it — if it is a re-run of the previous time — do we, it having fallen twice, have the potential for a third run?
5189. **The Chairperson:** Technically, yes, we could. However, I am not sure that that is anyone's intention, although I



- cannot read somebody else's mind. If no decision is taken, the Committee can have that discussion again, but I am not sure that that is anyone's intent.
5190. **Mr McClarty:** Chairman, could you outline just why this vote is being put out to form an Ad Hoc Committee? What would its purpose be?
5191. **The Chairperson:** I would support such a motion, and I made this point a few weeks ago, only if it were a time-bound and discrete piece of work. It is not intended by any stretch to supplant the work of the Committee, which has a formal statutory obligation. On behalf of the Committee, I have made it clear, publicly and privately, that the Committee will give maximum scrutiny to the Bill, given its nature and the interest expressed in it by a wide range of organisations and sectors. We have made it clear that we will give the Bill full and robust scrutiny, and I am satisfied that we are doing that. This Committee will complete that task.
5192. I support the proposal to establish an Ad Hoc Committee on the evidence that we have heard from the Human Rights Commission, the Law Centre, and all the various mental health organisations and charities. They made compelling arguments, and I am not prepared to go forward on a Bill that I am not satisfied in my own mind is compliant with a wide range of rights and entitlements. I want to satisfy the many organisations that came here — and myself — that we are doing our job.
5193. If the vote is successful and agreed by the Committee, an Ad Hoc Committee will be established. My support for it is basically on the clear premise that it is a short-term piece of work. My assumption is that it will require two or three meetings of an Ad Hoc Committee because it does not have to talk to all those organisations. It will talk to the legal people and to the two commissions and report to the Assembly in short order.
5194. **Mr McClarty:** How do you envisage the make-up of an Ad Hoc Committee?
5195. **The Chairperson:** The Assembly will determine that. An Ad Hoc Committee would have members from outside this Committee, so we would not be doing it. In a sense, it is a belt-and-braces exercise. I presume that all Committees established by the Assembly are populated by d'Hondt, which will mean a proportionate Committee. It is a discrete piece of work; it is not an overhaul of all the provisions of the Bill. Specific concerns were raised by credible organisations; they are not people who would be out on the streets every day of the week. The organisations that I heard here made compelling arguments, and I want to make sure that I am doing my job.
5196. Whatever the work of the Ad Hoc Committee, it will come back to this Committee and we will take it on board. However, there is no intention, either on my part or my colleagues', for this to be a delaying tactic. This is not the reasoned amendment. The reasoned amendment was a deferral for negotiation; it fell and is over and done with. This is a discrete piece of work, and I believe, and am certainly advocating, that we would be well advised to make sure that we cover all the bases on this one because of the complexity and the contentious nature of the Bill.
5197. **Mr Campbell:** On the timing, Chairman, I think that the Minister made clear, as did the departmental officials, the exceptionally tight timescale. As you outlined in response to David, if the Committee was minded to proceed down that route, I presume the very earliest that the Assembly could debate the matter and decide would be next Monday or Tuesday, or would it be the following week?
5198. **The Chairperson:** I am sorry, Gregory, I do not want to interrupt your flow, but there is a timeline in your information folder.
5199. **Mr Campbell:** That would be Monday week, which would be eight days before we had intended to have our conclusions forwarded to the Assembly. I do not know how long an Ad Hoc

Committee would take to deliberate, although I appreciate that a timeline is there. Given the difficulties that we have already faced and the complexities of the arguments that will undoubtedly be put and have already been put on previous occasions in other jurisdictions, I find it, as I said several weeks ago, exceptionally difficult to establish how we will keep within the time frame. It is exceptionally unrealistic.

5200. **Mr Brady:** This is not introduced to supplant, as is stated, the work of the Committee. It starts with the premise that when the debate was held initially a couple of weeks ago, every party expressed discontent with the Bill. You voted against it in the House of Commons, as did your party's Members of Parliament. The stakeholders have expressed a great deal of concern about the Bill. It is the most wide-ranging Bill on social welfare since 1948, so it is important that all aspects of it are covered.
5201. With Standing Order 35, an Ad Hoc Committee could be established to do a forensic analysis of human rights and equality issues that have been raised about the Bill. It is not my intention to reintroduce this ad infinitum. A conclusion was not reached last time; it was almost stalemate. It will give people the opportunity to have another look at it. The Bill is wide-ranging and will affect the lives of my constituents, yours and everybody else's, and those people need to realise that we have covered all the angles of equality and human rights and how that will impact on the most vulnerable in our society because that is the vast majority of people who will be affected. That is my considered opinion. It is not a ploy to delay necessarily. At the end of our scrutiny, we have to be able to say that we have covered all the angles so that people cannot say, "You should have done this or that." Ultimately, it is up to the Assembly to decide, and an Ad Hoc Committee would give it the opportunity to do that. It is not mischievous; that is not the intention. I want to put that on

the record. It is for the right reasons, from my point of view.

5202. **Mr F McCann:** The difference between the first vote and the second is that all the groups have explained their positions, and in each of them there was an opinion against various aspects of the Bill for different reasons. I give guarantees to anybody whom I meet outside that I will give the fullest possible scrutiny to the Bill. This is just an extension of that, and I remind people that the Chair has actively worked to ensure that we keep within the timeline. It is within the Committee's power to ask for an extension to the Bill, but you have added the work to the Committee, and everybody here has abided by that. I think that we should go to a vote.
5203. **The Committee Clerk:** Can I point something out to the Committee? The Ad Hoc Committee would have a statutory 30-working day period unless it is constrained if a motion is agreed by the Committee to go to the Assembly. The motion might be, for example, to establish an Ad Hoc Committee in conformity with equality requirements and observance of human rights and report by 15 November or 23 November, or whatever date you consider. The Committee can place no constraints on how an Ad Hoc Committee carried out its work. It could decide to speak to a whole range of organisations as well. Moreover, the procedural advice that we have — I know that there is some debate over this — is that the work of this Committee would have to stop. That is what the Clerk Assistant has indicated. We can reflect on that, but the procedural advice has not changed. I am just letting members know that.
5204. Just on the position of the vote, we still have the wording from the previous motion, but, just for procedural purposes, we need a proposer of a motion to establish an Ad Hoc Committee, and a seconder; and then we can read the more formal wording of such a motion.

5205. **Mr Durkan:** Having heard the evidence, I think that the need for this piece of work is even more glaring now than it was when it was first proposed. It is important that we utilise everything at our disposal to ensure the fullest and most thorough scrutiny of the Bill as possible.

5206. As regards the Committee Clerk's statement on the need for the Committee to stop, I look at the forward work plan and see an extensive piece of work coming up on the Business Improvement Districts Bill. Does it mean that the Committee itself has to stop work or that the Committee's work on the Welfare Reform Bill must stop?

5207. **The Committee Clerk:** The scrutiny of the Bill must stop.

5208. **Mr Durkan:** Therefore, we could bring forward some of the work on the Business Improvement Districts Bill in the interim?

5209. **The Committee Clerk:** That is certainly possible. It is only the work of the Committee that relates to the Welfare Reform Bill that would stop. So, for example, the earliest date that the motion could be considered by the Assembly would be 19 November. Assuming that the motion is passed on 20 November, the work of the Committee on the scrutiny of the Bill would have to stop. However, that is on the assumption that the Committee wants to refer just to equality issues — if you put it like that — and not the entire work of the Committee on the Bill. Subsequently, this Committee would have six working days exactly to scrutinise the Bill when it comes back to it.

5210. **Mr Campbell:** The Committee Clerk made an important point about the Committee's scrutinising role in relation to welfare reform, and then about the other important issues. However, that work has to stop for the duration of any Ad Hoc Committee. Effectively, we will be voting now on the establishment of a Committee whose work and outcome we cannot determine; the Ad Hoc

Committee will determine that. The duration of the Ad Hoc Committee we cannot determine. We know how long it can go for: 30 days. However, there has been no resolution from the Assembly to shorten that. I am not accusing anyone of using a delaying tactic. This is not a case of "Let us, at no risk, comprehensively analyse this through an Ad Hoc Committee, and there has been no risk taken or expended by claimants or others." The Department has made it clear that there is a risk, and that is what we are being asked to vote on.

5211. Mickey Brady made the point about opposition at Westminster. That is absolutely right, and there is a potential in the next few weeks for the issue to be raised again. My party intends to raise it. We welcome any assistance from people who have not gone to Westminster to try to get changes to the Bill. They may want to come and help us again; they absented themselves last time. We have to do what we have to do in the Committee here. The point that I making is that we are going to vote, and it would probably be better to take a vote, but there is not a zero-cost option. It is not a case of "Let us do whatever we can, go to the nth degree to analyse it and get the Ad Hoc Committee — and there is no risk attached to doing that."

5212. If that were the case, I would certainly vote for it. However, the Committee and the Minister have been clear that there is a risk. Therefore, for us, the question is whether we take that risk, not knowing the outcome or the duration, but knowing that this Committee cannot do anything to further examine or scrutinise the Bill in the time allotted for the duration of the Ad Hoc Committee. We would almost certainly be into February by the time we recommenced the scrutiny of the Bill, not knowing what the outcome of the Ad Hoc Committee would be.

5213. **The Chairperson:** I will just finish off a couple of points. From my party's point of view, the reasoned amendment debate was about a deferral of the Bill. Like colleagues, I made it clear that it was not about having an open-ended,

- long-term deferral, nor was it about delay; it was about trying to get people's shoulder to the wheel to negotiate what we thought could have been a better deal.
5214. That proposal was not supported in the Assembly. This is an entirely different piece of work. In my view, the only basis on which we are proposing it and being prepared to support it is in pursuance of full scrutiny. Speaking as the Chairperson, there is no question but that the Committee will be able to stand over the fact that we have provided absolutely robust scrutiny and will continue to do so until we finish our job.
5215. I am confident, speaking on behalf of every member of the Committee, that by the time we finish our report, we will be able to demonstrate fully to everyone who has concerns that we left no stone unturned in scrutinising the Bill to the best of our ability. Members have given their time and worked through the recent recess, and, I presume, if needs be, we will work through the next recess for a few days.
5216. We are at an advanced stage of our Committee Stage scrutiny; we have had our stakeholders in, we had a full discussion on this yesterday, and we have another scheduled for today. I am convinced that we could finish the Committee's work in a few days. That is what we have realistically left to us.
5217. **Mr Campbell:** That is this Committee, Chairperson.
5218. **The Chairperson:** Yes, but for me, whether that is strung out over another couple of weeks or an additional three or four weeks is not the most important thing. There are a set number of days left that we need to apply ourselves to this. I believe that, if needs be, we can condense the time frame within which all this done, making the point that establishing an Ad Hoc Committee does not take away one iota from the absolute responsibility that we have, and which we are, in my view, shouldering well, to make sure that there is full scrutiny of the Bill.
5219. I have heard evidence from witnesses, I have read the evidence of the Joint Committee at Westminster, and I have heard the evidence that people have presented here. I believe that it would be unwise to proceed unless we get a discrete discussion on the compliance issues, after which a report will be brought back here.
5220. This is not a delaying tactic; it is intended to get this done ASAP. If we can have that discrete, dedicated report back on our table, we can put it into our deliberations, which will be complete in a number of days. Whether it is completed by 27 November, it will require a number of days for us to do that.
5221. It is not our intention that any delay should be caused by the establishment of an Ad Hoc Committee. My party's point of view is that if an Ad Hoc Committee is established, we will participate in it. There is no intention to do anything other than to get that piece of work done as quickly as possible. It would not be widespread; we would not be going out to stakeholders again. It would be about speaking to two or three stakeholders and advisers; that would be the height of it. It is about doing an important, dedicated and discrete piece of work with which to come back to the Committee. That is the only reason that we are supporting it.
5222. **Mr Durkan:** Should a motion be tabled in the Assembly, we will stipulate a time frame reduced from 30 days.
5223. **The Chairperson:** If people want support for it, they would have to make that position known clearly to the other parties. Obviously, parties may or may not be convinced of supporting it on the basis that it is not an open-ended thing and that we have to get this job of work done as quickly as possible.
5224. **Mr Douglas:** The Human Rights Commission had some serious questions, as did many others. The Minister assured us in the House that the Bill was human rights compliant. I asked their representatives whether they had a copy, and they said no. When

- I asked whether they had requested a copy, they said no. I also heard this morning — I think that Gregory said it, as did Tara Caul from the Assembly's Legal Services — that the Speaker was assured about that.
5225. I am concerned that even though our Committee has worked very well to date and we have had a consensus on most things, I think that this has the potential to undermine that good working relationship. At the end of the day, right is right and wrong is wrong. You do what is right. The longer this goes on, the more it will undermine that good working relationship. Chair, I think you have done very well; you have been very independent. *[Interruption.]* Does the member want me to give way?
5226. **Mr F McCann:** I am just saying —
5227. **The Chairperson:** Let Sammy finish.
5228. **Mr Douglas:** As we heard this morning, this is an enabling Bill. The Legal Services representative told us this morning that, at this time, she is assured, and she assured us, that this is human rights compliant. As Gregory said, the Speaker is assured, the Minister is assured and, having listened to Tara Caul this morning, I am assured.
5229. The Bible says:  
*“for such a time as this.”*  
  
We were happy with the first phase of this. She said that, when we complete the work, it will be scrutinised. Is that right, Kevin? She said that it would be gone through from a legal point of view. The Minister will also be assured by whomever he gets legal advice from.
5230. **The Committee Clerk:** The senior legal adviser said that this is an enabling Bill and that it has to be compliant with human rights for it to be competent. The Speaker has been reassured of that. Once the regulations come forward, they will also have to be scrutinised to ensure that they are compliant. The Department cannot bring forward regulations that are not compliant with the UN Convention on Human Rights, etc, as you mentioned.
5231. **Mr Douglas:** I know that Gregory talked about the cost. Is there a financial cost for this? If you were to bring in legal expertise, who would pay for that? How much would it cost? Have we worked that out?
5232. **The Chairperson:** We have not been given any cost. The arguments around the cost to the social fund, and so on, were in the context of a reasoned amendment discussion, and that could defer the Bill for a number of months. That is not the intention; it is far from it. This is a discrete piece of work to be done ASAP. If I were on the Ad Hoc Committee, I would be telling the two commissions to come back in here to go through all of that. I would be putting them through their paces on the arguments that they made. Both of them sat in this room and told us that —
5233. **Mr Douglas:** Are we talking about solicitors and barristers? Is that the sort of people we are talking about?
5234. **The Chairperson:** I am saying that, if I was on the Ad Hoc Committee, I would be talking to Legal Services. They are the people who are here at our disposal; it is their responsibility. The commissions that have the statutory responsibility for this matter raised very serious concerns. I specifically asked the Equality Commission, for example, “Of all the assurances that you have been given, can you give me one example of one thing that has been met?” The answer was no. I am going to cover my responsibility by making sure that I take those two organisations back through their paces again and go through the concerns that have been raised and, if needs be, talk to the Department again.
5235. If I was on that Committee, I would be asking them to come into this room and to hammer it out together. For me, it seems easy to do. The fact that it has not been done sounds alarm bells, and that is why I am supporting this. It is a short-term, dedicated piece of work. It



is not, by any stretch of the imagination, designed to delay. I am sitting here as the Chairperson. You are right; I endeavour to do my job as Chairperson professionally and impartially. I want to be able to stand up in the Chamber and say, hand on heart, that we did our job on this, regardless of what the outcome is. I am satisfied that we will be able to do that, regardless of whether the motion is agreed. We will do it, because we will take the Bill through its paces, and rightly so, because of the contentious nature.

5236. **Mr Campbell:** I think we should take a vote, Chairman.

5237. **The Chairperson:** If members are content, we will take a vote on the motion. Mickey Brady and Fra McCann are the proposer and the seconder.

5238. If members wish to abstain, they may declare an abstention.

5239. The Question is, That under Standing Order 35(2)(b), the Committee recommends that the Welfare Reform Bill be referred to an Ad Hoc Committee on conformity with equality requirements.

*Question put.*

*The Committee divided:*

*Ayes 5; Noes 4.*

#### **AYES**

*Mr Brady, Mr Durkan, Mr F McCann, Mr Maskey, Mr McClarty.*

#### **NOES**

*Mr Campbell, Mr Douglas, Ms Brown, Ms P Bradley.*

*Question accordingly agreed to.*

5240. **Mr Campbell:** On the outworking of that, I take it that that is now referred to the plenary session. Obviously, the Business Committee will have to decide how that is handled.

5241. **The Committee Clerk:** I will make one further point on that. The restriction on the time limit for that particular

Committee may be an issue. The Committee has agreed that it should be established. The Committee will consider the time in which that Ad Hoc Committee should report. If a simple motion goes like that to the Business Office, then that Ad Hoc Committee will have, in effect, 30 working days, unless the motion that is placed before the House is that the Ad Hoc Committee reports by a certain date. I have given examples of the standard 30 working days and 15 days just to give a broad indication of when that Committee would have to report by. However, if this Committee wants to shorten that time period to five working days, for example, it is entirely up to the Committee to propose that, and that motion will be debated in the House.

5242. **Mr Campbell:** When is that likely to be?

5243. **The Committee Clerk:** I refer members to the timeline that I indicated, based on the Committee agreeing the motion today. Those first four dates. If the Committee agrees the motion today, the motion will be referred to the Business Committee for scheduling on 13 November. The earliest date that the motion could be considered by the Assembly is 19 November.

5244. **Mr Campbell:** That is the earliest date?

5245. **The Committee Clerk:** Yes. Then, on 20 November, assuming that the motion is passed by the Assembly, the motion before the House would be that the Committee has agreed to refer the Welfare Reform Bill to the Ad Hoc Committee on conformity of equality requirements, etc, and that that Committee reports by such-and-such a date.

5246. **Mr Campbell:** Chairman, now we are in even deeper waters, because 19 November is the earliest date, and there is an assumption, which is the only assumption the Committee Clerk can make, that the motion is passed that the Ad Hoc Committee be set up, and then that this Committee's work on the Welfare Reform Bill ceases for the duration of that time, whatever that

might be. What happens if that motion is not passed?

5247. **The Chairperson:** We will go back to our work again.

5248. **Mr Campbell:** But between now and then?

5249. **The Committee Clerk:** Between now and then, the Committee continues its work —

5250. **The Chairperson:** We continue our work from now. This is not a motion passed anywhere, so we are still in work, if you know what I mean. We have to take some more evidence on the Welfare Reform Bill, particularly in relation to fraud, for example. Officials are here, and, notwithstanding the vote that was passed a moment ago, we will start that session in a couple of minutes. So, we will continue our work until and if the motion is passed in the Assembly. What I would like to do, if members would consider it, is go to the Speaker on behalf of the Committee, because the timeline that we are dealing with can, I personally believe, be truncated. That is the timeline in front of us, so it may not be. From the point of view of supporting the motion, our party colleagues will go to the Speaker to see how quickly it can be done. I believe that it can be truncated. I accept that when it is returned to us as a Committee, there will be no delay at our end of it. In other words, if we need to take a couple of longer days to finish our work, we will do that. I am speaking with the indulgence of the members, but the evidence to date has been that members have made their time available to do that work. We are very well advanced in our deliberations, so I would like to be able to return to the Speaker's office on the time frame.

5251. **The Committee Clerk:** I will explain it just one more time. This is a motion that is going to the Assembly. If members want to take time to consider what date would be more appropriate, they have to remember that amendments could be made to the motion in the House in order to put a date in subsequently

for debate. So, the motion that will go to the Business Office will be that an Ad Hoc Committee on conformity with equality relations, etc, be established. Then, a subsequent amendment will be put down after Consideration Stage to say that the Committee is to report by whatever date a member — whichever member — feels is more appropriate.

5252. **The Chairperson:** We will do that.

5253. **Mr Douglas:** May I just check something, Chair? You talked about extra days. In the past, there was agreement around the table that we would commit as much time as it takes. The only thing is that all of us have been pushing work commitments back to December. So can we get some sort of projected timeline and cost details as soon as possible? I am still not quite sure who will actually pay for this if there is a cost. Where will that come from?

5254. **The Chairperson:** At this moment in time, the Committee has agreed a motion, which will go to the Business Committee, and so on and so forth. I am committing to go to the Office of the Speaker, and I am asking party colleagues to do so too just to clarify how this can be processed. Whether the motion is eventually passed or is amended, the consensus around the table, even from those who do not support the motion, is that it should be dealt with as quickly as possible. That is the clear consensus, and it is certainly the intention. Subject to when we get that information, we will obviously revise our time frame. Certainly, I am making a personal commitment to get this back on track again as quickly as we can. It is a dedicated area of work, and there are literally only a number of working days left to deal with it, be that before or after the work of an Ad Hoc Committee. So it is a finite process. From my point of view, I just want to assure members that there is no intention to prolong the agony any longer than necessary, because we all have to pick up our work schedules and the rest of it.

5255. **Mr Durkan:** I just want to back you up on that, Chair. When you compare the

- 15-day timeline and our forward work plan, you see that we are effectively going to lose three sessions on the Welfare Reform Bill.
5256. **The Committee Clerk:** The clause-by-clause stage of the Committee's work is to conclude on, I think, 20 November. We can see from the timeline that the earliest date on which the motion can be considered by the Assembly is 19 November. There is every possibility, of course, that the Committee will have concluded that work by that stage. If successful, the Bill will be referred to an Ad Hoc Committee on 20 November. So Mr Durkan is right: there will be a small number of days left for the Committee to consider this, but by that point, it will have concluded almost all its deliberations. It will then consider the Bill clause by clause — Patricia may correct me if I am wrong — in the context of the report by the Ad Hoc Committee. The Assembly will consider the Ad Hoc Committee report, and then the Committee will consider it and whether it has implications for its considerations to date.
5257. **Mr Campbell:** Following on from what Mark said, that minor slippage is dependent on the 15-working-day period and on the Assembly debating and then agreeing to the motion at the earliest possible opportunity. Those are three fairly significant suppositions to bring us to a small timeline, and we do not yet know the cost of this.
5258. **The Chairperson:** They are. However, as I pointed out earlier, for what it is worth, everybody, even those who do not support the motion, wants to get this done ASAP, and I presume that that will be reflected in the Business Committee. Yes, it is an assumption, but it is an informed one in so far as we know that everybody wants to get this done.
5259. **Mr Douglas:** Apologies if you have already answered this question, which relates to David's one. What will the make-up of the Ad Hoc Committee be?
5260. **The Chairperson:** It will be established by the Assembly under the normal rules.
5261. **Mr Douglas:** Will it include members of this Committee?
5262. **The Chairperson:** No, I do not think so. That probably is not advisable.
5263. **Mr Campbell:** It would be better if that was not the case.
5264. **The Chairperson:** I thought the general view was that it would be a better if a group of members, external to this Committee, would look at it. It is a discrete piece of work. Members, thanks for that.
5265. Sammy, I take your earlier point about the potentially divisive nature of some of this stuff. However, I think that the Committee has very diligently —
5266. **Mr Douglas:** As least we have reached a decision. We may not agree with it, but that is clear anyway.
5267. **The Chairperson:** We want to continue on the basis of maximising consensus around the table.



# 13 November 2012

## Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

## Witnesses:

Mr Maurice Byrne            *Department for Social*  
 Ms Martina Campbell      *Development*  
 Ms Jane Corderoy  
 Mr Michael Pollock

5268. **The Chairperson:** We will now continue our deliberations on the Welfare Reform Bill. We started to look at what the key issues may be for the Committee. We are not doing the clause-by-clause consideration today, but we need to follow on from the discussion that we started the other day, which was about identifying the key issues.

5269. The Committee Clerk prepared an issues paper, which members have in front of them. We will continue to use that as a framework for identifying the Committee's key issues of concern, which we started to detail the other day. I want to make it very clear that members are totally free to suggest any other issues for consideration. This document is not the end of it, obviously; it is just a best guide.

5270. **Mr Copeland:** I have a question about the meeting of 16 October 2012. It has already been said that this is a Northern Ireland Bill, yet the paper that we have that covers the meeting on that date quite clearly answers the question that I asked about Creutzfeldt–Jakob disease (CJD) and how it relates to clause 35.

However, it also discounts payments to those who were tragically injured in the 2005 London bombings. If this is indeed a Northern Ireland Executive Bill, why does it refer to how the regulations will cover the London bombings but not any of the bombings that we unfortunately suffered?

5271. Holders of the Victoria Cross and George Cross are also mentioned in that answer. I would be curious to know whether the joint and several principle applies to holders of the George Cross. In other words, where multiple awards have been given to those who served in a particular organisation or unit, I would like to know whether the joint and several principle applies to the ownership of the George Cross for the purposes of the benefit.

5272. **Ms Martina Campbell (Department for Social Development):** I do not know the answer to that, so I will have to come back to you on it.

5273. **Mr Copeland:** I know that this is a Northern Ireland Executive Bill, but it just looks to me as though that provision has been lifted straight out of regulation 68(2) of the draft Universal Credit Regulations. Having gone through what we have gone through, I think that a substantial basis of our difficulty with some these proposals is that the Bill is patently not a piece of Northern Ireland legislation, even though it is coming through the Executive. If some consideration could quite rightly be given to those who suffered in the 2005 London bombings, I would have thought that some should also be given to some of those who suffered in similar incidents here. Thank you for that, Chair.

5274. **The Chairperson:** Not at all, Michael. The paper that the Committee Clerk provided contains the key issues that were raised in oral and written submissions to the Committee. Members can, of course, add to that



- anything that they wish as we go through it. Are people happy enough for us to continue working our way through that paper and to confirm or otherwise whether these are, indeed, the key issues for the Committee?
5275. We intend to work our way through this paper and identify whether we are happy enough with it now or whether we want to add anything. The paper begins with Part 1 of the Bill, which deals with universal credit (UC). The first issue is the frequency of payment. I want to get some indication of the way that you want to deal with the process. Obviously, we are at the point where we want to indicate what we would like the Department to do on some of this material. In other words, at this stage of the game, everybody around the table is agreed that there is an issue with the frequency of payment. So, do we want the Department to, for example, come back to us and say that it is prepared to undertake to work on that? The Department is likely to tell you that the Minister is launching a consultation on the issues in Part 1 of the Bill on Thursday night and that everything is subject to that. I am stressing that we have a Bill in front of us, so we have to go back to what we actually have.
5276. You might want to ask the Department various things. The purpose of this session is for us to start working our way through the Bill. Do we agree that the issues in the paper need to be addressed? Do members have anything else that they want to include? We can work through the paper, and, once we have completed that, we can go back to things that members want to raise but that are not in this document. For example, do we agree that more frequent payments should be made? The purpose of today's session is to identify the issue and to ask the Department whether it is prepared to deal with it and come back to us on how it intends to do so. On the basis of our garnering that information, we will then go through the Bill clause by clause. We will then have to make decisions that nobody else will take for us.
5277. **Mr Brady:** We have been told that there may be concessions, if you like, or flexibility on the frequency of payment and recipient of payment. However, it seems that we will be getting regulations and guidelines that we have not seen. Can we not have written into the Bill specifically what we decide is the best way forward on the frequency of payment and the recipient of payment, whether that is the main carer or whatever? Where the frequency of payment is concerned, people should have choice. I think that that needs to be fairly clear in the Bill, as opposed to being affected by some nebulous guidelines that may come down the line. Somebody in a local office can decide whether somebody is vulnerable or in need of more frequent payments, and so forth. That should be written into the Bill as a choice for the person concerned. I think that that is the sort of thing that we should be looking at.
5278. If we do not, the Department is going to tell us, "This will all be in the guidelines and the regulations." We do not know that yet, and we need to be sure. The point that you have made frequently, Chair, is that we can deal only with what is in front of us, not with what may come down the line in the form of a guideline or regulation or whatever. I just wanted to mention that so that we can focus on that kind of area initially when we are talking about universal credit.
5279. **The Chairperson:** On the frequency of payment and the recipient of payment, there were different views from stakeholders on how you might split payments, for example, and whether payments should be made on a weekly or fortnightly basis. The common theme of agreement was that that would be the default position, in the same way that the direct payments will be made to landlords. I want frequency and split payments to be the default position. That is the common ground, whatever the precise detail of who the recipient might be, such as the main carer or whoever else. If we are thinking about a way forward, that is a clue to the

arguments that stakeholders have been making.

5280. **Mr F McCann:** A number of aspects of the Bill stand out that people have tapped into with concern. One is split payments and how they will deal with weekly or fortnightly difficulties. The other issue is who the money is paid to, such as the main carer in the house. The Minister has dealt with that. Those three issues seem to sit together to form people's main complaints and problems. It would be good if we could get an agreement around the table that that is the course of action that we will push for.
5281. **Mr Douglas:** I agree with Mickey. One person's flexibility is another's dogma. However, the documentation says very clearly that there will be flexibilities. I think that it was Martina who mentioned a number of weeks ago that, even if we get guidelines that we are happy enough with, in practice, it might work out that we need additional guidelines. That will then mean that we can come back to this at some stage. Is that not right? I think that the situation with all these clauses is that there will be an opportunity for us to come back to them if they are not working. I can imagine people coming into my office and saying, "You said that there would be flexibilities, but there is no flexibility whatsoever." They could have a good case.
5282. I think that it will be very difficult to have guidelines that will cover everything. However, we definitely need some flexibility, which the Minister has agreed to. So, I certainly support Mickey on this point.
5283. **Mr Copeland:** I just want to express some sympathy for Mickey's view. Knowing what you are agreeing to, deciding on or talking about in the absence of the regulations is like playing snooker with a bit of rope. There will be a policy intent behind most of these clauses. Is there a single policy intent for the whole Bill or is there a policy intent for each clause? Is there a difference between the policy intent

for GB and that for here, or is the policy intent the same?

5284. **Ms M Campbell:** Right. The overall policy intent of the Bill is, obviously, to make work pay and to make the system fairer and simpler.
5285. **Mr Copeland:** I understand that.
5286. **Ms M Campbell:** Those are all our overarching objectives. Each clause, obviously, has a policy rationale. However, they all interlink with the aim of meeting the overarching policy objectives. The original aim behind having the whole issue of monthly payments and direct payments to landlords and all those things in the Bill was to get people used to the world of work and to how people in work manage their money.
5287. We also have to remember that we are going to have a new set of claimants as a result of this who are working and used to managing their money. We will make it the default position for everyone, with the exception of direct payments, which is the position, to automatically get their payments paid to the landlord unless they opt out. However, if you start to chip away at different elements, you will undermine the original policy intent. The Minister has listened to people and to members of this Committee, and he listened to what was said at the debate. He has secured flexibilities on monthly payments and split payments, as well as direct payments to landlords.
5288. **Mr Michael Pollock (Department for Social Development):** Part of the rationale for the delay in the introduction of universal credit is to allow the IT functionality to deliver on those elements.
5289. **Mr Copeland:** I understand all that. What I am asking is whether there is a document somewhere that explains the policy intent behind the Bill and the individual clauses.
5290. **Mr Pollock:** The explanatory and financial memorandum is probably the easiest.

5291. **Mr Copeland:** The explanatory and financial memorandum? Is that as far as it goes? Are there any differences between the explanatory and financial memorandum that is attached to the Northern Ireland Executive's Welfare Reform Bill and the one that is attached to the GB Act?
5292. **Ms M Campbell:** There is not much difference. However, I have said consistently throughout my evidence sessions that we can put some of the issues that members are concerned about into the explanatory and financial memorandum rather than on the face of the Bill. That is because putting them into the face of the Bill will, in many circumstances, restrict others who do not need that type of flexibility.
5293. We are on record as saying that there is provision in the Bill for split payments. I think that that is in clause 99. I accept that members have not seen the claims and payments regulations yet, but there is provision in them for payments to be made more frequently. The Minister has committed to consulting on exceptional circumstances that would lead to people availing themselves of the flexibility of either split payments or more frequent payments. Members have been invited to that consultation, which starts this Thursday. Those circumstances will be defined in consultation with stakeholders.
5294. **Mr Brady:** Obviously, one of the policy intents is to make work pay. However, one of the other policy intents is to cut benefits. They have said frequently that the system is costing too much, and the Bill is their excuse for introducing cuts.
5295. **Ms M Campbell:** We see it as delivering efficiency savings and making the system fair to the taxpayer.
5296. **Mr Brady:** With respect, you are not here to justify welfare reform. You are not a policymaker. The Bill has been made by a British Government that have a particular intent, which is to cut benefits. In an ideal world, everybody would love to be working. I have no doubt about that. However, we are in the deepest recession in living memory. To try to justify the Bill by saying that it is designed to get people back to work does not make sense. They are cutting £18 billion off the social security budget. That is the policy intent.
5297. Part of the policy intent is, of course, to get people back to work. We all agree with that. However, do not sell the Bill as an altruistic measure that the British Government have introduced to help people. The Bill will affect the most vulnerable in our society, and we cannot get away from that, whatever way we dress it up.
5298. **Mr Pollock:** With respect, there is a wider policy intent that stems from the fact that the present social security system is not sustainable. We have an ageing demographic, probably more so in Northern Ireland than elsewhere.
5299. **Mr Brady:** With respect, Michael, they are not saying the same thing about Trident, and they are prepared to spend £100 billion on that. I do not want to get into policy discussions, but it is very difficult to justify what is in the Bill. We know that there is an ageing demographic, and there is a duty of care on the state to look after people as they get older. The state should not shove them to one side and say, "We are not going to look after you, because we have other priorities." It is a matter of priorities. We all agree that we should help people to get back to work. That is not an issue.
5300. **Mr Pollock:** The balance for the taxpayer is part of that policy intention.
5301. **Mr Brady:** We are taxpayers as well. We are all entitled to our views as taxpayers. However, that is another issue.
5302. **The Chairperson:** We are dealing with a government Bill, and people will agree or otherwise with the intent of its measures as they see fit. There is no point in exploring that any further because it is a political argument. We have a Bill to deal with.
5303. **Mr Douglas:** Going back to the policy intent, I think that Martina is right. We

all agree that the system needs to be much more efficient, particularly for those who are receiving benefits or making benefit applications. I heard John Kyle from the PUP say recently that, as a doctor, the best thing that he could do for some people who come into his surgery would be to give them a job. I know that there is an imbalance between the number of people who are unemployed and the number of jobs that are available. I suggest that, as we go through this, our policy intent should be that we have compassion for the most vulnerable. It would be so easy for the perception to be that we are railroading this through on behalf of the Tory Government. There is little compassion in some of what has been handed down from Westminster, so I think that the most vulnerable in our community should be one of the overriding factors as we look through the Bill.

5304. **The Chairperson:** This is it. In fairness to all members of the Committee, everybody has stated that on record. I have listened to the Minister, and I have spoken to David Freud. Both of them are categorical that although they will be looking at flexibilities, it will not be the norm to do so. So, we will have to prove a point. That brings me back to the first concern I had about the Bill, going back a year ago, when Paula and I did a NICVA panel. One thing jumped out at me, and I am going to give quite a basic example. A man and woman are in a partnership in which the woman is often the recipient of abuse. That person is going to be expected, as was the case years ago, to go along and argue that there are special circumstances in her case. I think that this is disgraceful, personally speaking. It is a very socially and politically regressive step in the Bill, and I am not supporting it.

5305. Is the Department prepared to look at split payments and the recipients of payments as being the default position? This is similar to the situation in which landlords are going to be paid directly. In my view, the landlord is now being facilitated because payments will be made directly to him. No landlord is

going to lose out as a result of this. However, a person in a potentially abusive relationship will have to go along and fight their case. We reversed that situation 40 years ago. We are going back to it, and I do not want that to be the case.

5306. Such a default position would not cost any money. The Government already agreed with the Minister for Social Development that they will look at the nature and types of flexibilities. In fact, implementation of universal credit has been put off for six months to facilitate that. I do not see why there cannot be a default mechanism. I want this to be the default mechanism, and then people can opt out of it if they wish to do so. It is very regressive and changing it is not going to cost any money. It has already been agreed that the IT can facilitate it. Why not just go ahead and do it? If we can sort things out for the landlords, why can we not sort things out for people in a potentially abusive relationship? For me, it is quite simple. That is my opinion.

5307. **Mr F McCann:** Obviously, we argue every day about the drive for efficiency in all Departments. However, there is a big difference between driving efficiency in Departments and driving efficiency in a benefits system that pays people at subsistence level, which would automatically mean a reduction in the amount of money they have to live on and bring them well below the poverty line. That is the point I am making.

5308. Martina, as far as fortnightly payments are concerned, there is no comparison between people on benefits and a person who was in a good job and who has lost that job. You would be able to manage a monthly payment if you were getting a good wage, but when you are getting £220 a month, there is a huge difference in trying to manage that amount of money. There are people who will not be able to do so. In their minds, they can do so only on a weekly or fortnightly basis. Monthly payments will lead to serious difficulties.



5309. **Ms M Campbell:** I accept all those points. That is why the Minister secured the flexibilities that, in those circumstances, people will be able to avail themselves of a more frequent payment, namely a fortnightly payment.
5310. **Mr F McCann:** However, concerns have been raised about the other flexibilities. We have not seen anything from Freud to really say that people will be able to tap into fortnightly payments “under certain circumstances”, which were, I think, the words that the Minister used. This needs to be clarified because it could mean many things to many different people.
5311. **Ms M Campbell:** That is why, on Thursday night, the Minister is kicking off the consultation to see what those circumstances should be.
5312. **Mr Brady:** The difficulty with flexibilities is that — and going back to what Sammy said — it is all a matter of opinion unless they are actually enshrined in the Bill. If there were to be a different Minister next week, he could come out with a totally different view. However, if the flexibilities were enshrined in legislation, things could not be done in some arbitrary fashion in the future.
5313. In many ways, this is not fair on staff because they have to make very pertinent decisions at the right time, whereas, if this was in the Bill and then in the regulations, staff could quote them. It was not that long ago, in the 1970s, when I worked in the Civil Service. They kept the legislation locked in a drawer, and you had to go and look at the wee bits. It was like the ‘Book of Kells’, and I am surprised they did not keep it under glass. Things have moved on, but, as Alex said, a lot of the Bill is regressive. We need to move on from that. If flexibilities were enshrined in legislation, people could say that they are in the legislation and that, therefore, this is the way that it is going to be. I think that this is important.
5314. **Ms M Campbell:** I take on board all the comments, Chair. I will bring those back and try to get a definitive position for you before the clause-by-clause scrutiny.
5315. **The Chairperson:** Thank you, Martina. I would like the Department to tell us whether it is willing to embrace split payments, and so on. The precise detail can be dealt with by way of the wider consultation, but I would like clarification on whether the Department is prepared to embrace the concept of split payments being the default position.
5316. Direct payments will be made to landlords as the agreed default position. For the life of me, I cannot understand why any Department, Minister or Government would say: “We are going to sort out the landlords, but we are not going to sort out, as the default position, someone who could be in a possibly abusive relationship.” To my mind, the basic problem is that the person in a potentially abusive situation will have to go along and argue their case. That was confirmed to me by David Freud. I am sorry, but I am not supporting this. That is another discussion, but I would like the Department to get back to us. Everybody seems to agree that they want this issue resolved. It will not cost any money. It is a policy decision, and the computers can fix it. I would like the Department to tell me whether it is prepared to deal with the frequency and recipients of payments — whatever about the precise detail — and that that will be the default position. I believe I know what the answer will be, but I have to wait until I get that answer. Then, I will make a judgement, when I am going through the clause-by-clause scrutiny.
5317. **Ms M Campbell:** Can I just clarify what you mean when you say default position? My understanding of what you mean by default is that everyone will automatically get a fortnightly payment and a split payment unless they opt out.
5318. **The Chairperson:** That is what I mean, and it would not cost any money. The fact is that if two people are making a claim, there should be a split payment facility, which should be the norm unless they opt to say no. It will be the same as the situation in which a person’s



rent support will now go directly to the landlord. That is the default position in that situation unless people decide to take the money and pay the landlord themselves. It is their choice, but they are protected from day one.

5319. Everybody made the argument that people will go into debt. How do you stop them going into debt? You do so by paying the money directly to the landlord. Somebody could be being abused. How do you stop that? My position is that you give them the money, and then they will not be financially dependent on anybody else. If people want to choose to get their money jointly, that is fine; that is their choice. For me, it is very regressive. If somebody has to go and make an exceptional circumstances argument.
5320. **Ms M Campbell:** I just wanted to clarify that. Thank you.
5321. **The Chairperson:** I appreciate that, Martina. I know the difficulty of what we are dealing with, but that seems to be the mind of the Committee so far, and certainly that of all the key stakeholders who presented to us.
5322. **Mr Douglas:** Perhaps Martina could check whether there are any implications for the IT system if we go to the new default position.
5323. **Ms M Campbell:** Yes, there are.
5324. **Mr Douglas:** Will there be a cost?
5325. **Ms M Campbell:** There is a potential cost. That is what we are trying to bottom out in all that.
5326. **Mr Pollock:** There would probably be a transaction cost. Instead of one payment, there would be two. There would be some cost.
5327. **The Chairperson:** That brings us back to the business case. I ask that you come back to us, in the round, on that.
5328. I remind members who came in late that we are working through the paper presented, now dated Tuesday 13 November. Essentially, we are going through the bit on the way forward, which

tries to encapsulate the arguments put to the Committee by the range of stakeholders. It is not a definitive list. Therefore, as we work our way through it, members are free to raise any issue not included in the paper.

5329. Are members content that we have dealt with the frequency and recipient of payment issues and that we await a response from the Department?
- Members indicated assent.*
5330. **The Chairperson:** For members who were not here at the start, we are at the point of going through the list to determine the Committee's mind on the issues, and then asking the Department to come back and tell us what its deal would be. Subject to the answers we get, we will commence clause-by-clause consideration. If I remember correctly, there was an issue about whether housing payment would be paid in arrears. The issue we were looking at was whether the trigger would be set at six weeks' arrears, as it currently is, or eight weeks.
5331. **Ms M Campbell:** It is set at six weeks, but the issue has been overtaken by events, with the default position now being that claimants have to opt out.
5332. **The Chairperson:** OK, so it is not a problem.
5333. **Mr F McCann:** On a point of clarification, housing associations said that if you are paid six weeks in arrears, then by the time they send out word to you that you are in arrears, you can actually end up being eight or 10 weeks in arrears. One thing that the voluntary housing sector said was that many people are often three months away from eviction. This near enough kick-starts a court case. Is there any way that the period can be reduced?
5334. I think that, at one stage, the period was four weeks' arrears. I know that the Housing Executive, if someone were four weeks in arrears, automatically took them off the transfer list if they had applied for a transfer. It usually sent a letter telling people that they had been

- removed from the list because they were four weeks in arrears. Someone from the Housing Executive should sit down with people, explain that they have fallen into six weeks of arrears and ask whether there is anything that they can do to help.
5335. **Ms M Campbell:** As I have said already, the vast majority of claimants are not going to be in that position because their payments will be going directly to their landlords. You are talking about a small minority of claimants who will opt out and receive the payment directly.
5336. We already have a flexibility by virtue of the fact that when the IT system was being built, we negotiated that the current position should remain; that once the claimant hits six weeks' of arrears, payment automatically defaults to the landlord. Reducing the period further would require another intervention in the IT system, which would have a knock-on effect in two aspects: first, there is the time involved in trying to get this into place; and, secondly, there is the cost of developing the IT functionality for a number of cases that, in all likelihood, is going to be very small. I accept what stakeholders and the Committee are saying; that people are three months away from eviction. However, we feel that, by virtue of the flexibility that the Minister has secured, this will be a very small issue.
5337. **Mr Pollock:** The six-week trigger here is a lot tighter than it is in the rest of the UK. It is eight weeks over there before anybody has defaulted.
5338. **Mr F McCann:** I appreciate that, but some landlords would be at your door after four weeks if you had not paid, and many would tell you to get out. It was a point of clarification. It will have an impact on people because of the six weeks extending to 10 weeks or 12 weeks. Obviously, you are saying that —
5339. **Mr Pollock:** It is an automatic default after six weeks.
5340. **The Chairperson:** There was an issue with clause 2 about who is making the claim. If it is a joint claim, and one person does not sign the commitment, the entire claim falls. I think that you, Martina, said last week that there is no fallback position. I think that everybody was taken aback by that. I presume that the mind of the Committee is that this cannot be an acceptable position.
5341. **Mr Brady:** I think that Martina said that there would be a cooling-off period of four weeks but that, during that period, people would not get paid.
5342. **Ms M Campbell:** That is right.
5343. **Mr Brady:** If a couple have a family, and one of them, for whatever reason, decides not to sign, there has to be a position in which the person who does sign gets — not rewarded, necessarily — their benefit for being willing to do so. If the other person, for whatever reason, decides not to sign, I am not sure why that should impact on the person who is willing to stay within the rules and regulations.
5344. It seems grossly unfair. The person may have a good reason for not signing or they may have no reason whatsoever; they might just throw the head up. There are people like that, and we have all met them. They are out there. It seems grossly unfair. It has to be addressed. Sammy talked about compassion. This is showing a distinct lack of compassion. People may have no control over the situation.
5345. **Ms P Bradley:** I agree fully with Mickey on this matter. Members of the Health Committee talk about duty of care when they discuss many things. It is a big thing in the Health Committee and in 'Transforming Your Care' and things such as that. Where is our duty of care here, especially for vulnerable children? If the scenario were that the male partner did not sign, for whatever reason, the female and the children are left. We are showing no duty of care whatsoever. Part of government's role is to do that. We need to look at that a bit more strenuously.
5346. **The Chairperson:** Martina, I do not know whether you have been able to put

- any more thought into this issue since last week or whether the Department's position remains the same. You are hearing that the Committee wants you to reflect on this position because it is not content with it.
5347. **Ms M Campbell:** We will take this back and look at it. I cannot give you an answer now.
5348. **The Chairperson:** Fair enough.
5349. **Ms M Campbell:** It would be breaking parity — that is the first time that I have used that word.
5350. **Mr F McCann:** The first of many.
5351. **The Chairperson:** It is one of those issues that does not appear to have a price tag on it.
5352. **Ms P Bradley:** There is no financial implication because had the person signed it, they would have been claiming it anyway. There is not a knock-on effect.
5353. **Mr Brady:** If people are paid at a lesser rate, such as for one person with children, for instance, the Department would be saving money.
5354. **Ms M Campbell:** That is how it is in the current system.
5355. **The Chairperson:** Thank you. We will move on to what is called third-party verification. A number of organisations have raised issues.
5356. **Ms M Campbell:** Yes. We are actively considering the issue. We take the point fully. The Department for Work and Pensions (DWP) is doing some work with the Post Office to see whether we can find a way round it. It is under active consideration. I cannot give you a definitive position and I am unlikely to be able to do so before you come to the end of your report. However, I reassure you that it is a live issue.
5357. **Mr Brady:** This ties in with what you said last week. With universal credit, if there are 10 pieces of information, they wait until the last piece is in before they pay you. Your claim does not date from the date on which you make it, it starts on the date on which your last piece of information slots in.
5358. **Ms M Campbell:** The claim starts from the minute you push the button and submit it. You can go in and out over three days to complete the form if you wish, but your claim does not start from day 1, when you start filling it in; it starts from day 3 when you push the button.
5359. **Mr Brady:** If it takes a month for the last piece of information, you will start getting paid only from —
5360. **Ms M Campbell:** Yes.
5361. **Mr Brady:** The difficulty is with homeless people particularly, because they are vulnerable by nature of their circumstances. They may not have access to any information because of their particular circumstances. That is why third-party verification is so important.
5362. **Ms M Campbell:** I am not sure about this — Maurice may be able to help me out — but they may get a payment on account, which is like the old crisis loan.
5363. **Mr Maurice Byrne (Department for Social Development):** There is the facility to pay short-term advances.
5364. **Mr Brady:** Is that discretionary?
5365. **Mr M Byrne:** Yes. They look at the possible entitlement, and, from that, if the person is in need, they will decide how much can be paid in advance of the entitlement being decided.
5366. **Ms M Campbell:** Is that around clause 100?
5367. **Mr M Byrne:** Yes.
5368. **Mr Brady:** What you are saying is that there is a facility to —
5369. **Ms M Campbell:** Yes, just the same as there is now.
5370. **Mr Pollock:** The current provisions will be carried forward.
5371. **Ms P Bradley:** You have probably just answered this question; it follows

- on from what Mickey said. There are various reasons why people have to leave their home. One of the big ones is because of domestic abuse. When people leave because of domestic abuse, they do not necessarily think that they must lift this and that because they will need them for whenever they present themselves at the office. You have answered the question for me: there are certain circumstances in which things will be taken into account when people do not have documentation. They will be highly unlikely to get that documentation within any time frame.
5372. **Ms M Campbell:** The explanatory and financial memorandum, starting at paragraph 480, sets out the circumstances. Payments on account are recoverable. Paragraph 482 mentions a payment on account made in additional circumstances. It provides for where a claimant is in need — for example, where benefit has been claimed but the first payday has not been reached or where a claimant is receiving benefit but encounters difficulty in budgeting between benefit payments. That issue is probably covered well enough.
5373. **The Chairperson:** Are members happy with that?
5374. **Members indicated assent.**
5375. **The Chairperson:** Last week, we sought more clarification on the entitlement of mixed-age couples to universal credit. That is in clauses 3 and 4. Do members want any more clarification on that issue or are you content with what you have heard?
5376. **Members indicated assent.**
5377. **The Chairperson:** We move to temporary absences, which is point 8 in the table.
5378. **Ms M Campbell:** I was to come back to you, which I will, on that issue. I said that DWP was considering it, but we are doing so and are liaising with the IT people. There has been what we are calling a realignment of the periods of absence between all the benefits. As I understand it, there is no change, and the only change will be for people who are getting tax credits, housing benefit and income-based benefits. I think that the rules are the same, but I will give you a definitive position on that.
5379. **The Chairperson:** OK, Martina. Thank you for that.
5380. We will move on to the issue of 16- and 17-year-olds. I am looking for some clarification on that. NIACRO suggested an amendment. Have you have been able to consider it?
5381. **Ms M Campbell:** Yes, we have confirmed with DWP the issues about both cases of hardship payments for 16- and 17-year-olds. The first is where people have signed on for training but have not got a place, and the second is where they are coming out of care and, for whatever reason, the Department of Health, Social Services and Public Safety (DHSSPS) is not sufficient to meet their needs. In the current system, there is provision for them to claim a hardship payment under jobseekers' allowance (JSA). That provision has been removed, and it is partly to do with the whole government intent that people under 18 should be in education or training. Do we have figures on the number of 16- and 17-year-olds on JSA?
5382. **Mr Pollock:** We just have the figures for employment and support allowance (ESA).
5383. **Ms M Campbell:** I cannot give the Committee any more information on that. We are exploring with colleagues whether those people are able to apply for the new discretionary scheme, and we have not got an answer back on that. If they are not able to apply for the new discretionary scheme, they are out under the current legislation.
5384. **The Chairperson:** The issue was raised by organisations such as NIACRO. It talked about the definition of "receiving education".
5385. **Mr Brady:** Under the current system, child benefit is a controlling benefit. So, if parents are getting child benefit, they are responsible for the child for whatever reason, but, in cases such as

- this, nobody is claiming any benefit for that person. Surely, this again goes back to Paula's point that there is a duty of care to those children. At the moment, if you are estranged from the family home —
5386. **Ms M Campbell:** That will carry forward.
5387. **Mr Brady:** That would need to be one of the things—
5388. **Ms Campbell:** That is in the legislation.
5389. **Mr Brady:** — that would need to be addressed. Otherwise —
5390. **Ms M Campbell:** These are two matters that are —
5391. **Mr Brady:** Too specific?
5392. **Ms M Campbell:** — over and above. The exceptions are for cases of estrangement, lone parenthood or things such as that, where those rules are carried forward. This is particular to these two sets of cases.
5393. **Mr Brady:** It seems, again, unfair to single out two specific cohorts of youngsters who will be penalised through no fault of their own. They are probably in the position of waiting for a placement but not being paid. They will have absolutely no control over that placement.
5394. **Ms M Campbell:** Yes; I accept that point.
5395. **Mr Brady:** They must be included. I cannot see how they can be excluded. Surely, there are human rights and equality issues involved.
5396. **The Chairperson:** I presume that Martina is restating the Department's decision.
5397. **Ms M Campbell:** I am trying to see whether they will get in under the discretionary scheme. If that works, it should take care of that point.
5398. **The Chairperson:** OK, fair enough. Members seem happy enough that we have explored that clause, so we will move on to clause 5, "Financial conditions". I think that this is to do with the cap.
5399. **Ms M Campbell:** Yes; I have got figures for you on that. This clause would affect older people. Last week, I gave you figures based on the DWP briefing note. I told the Committee that to move the capital limit from £16,000 to £25,000 would cost £60 million and £500 million or something. We cannot yet give you figures for that. However, based on the 'Family Resources Survey' 2008-09, approximately 15% of benefit units with one or more persons over pension age had capital of more than £16,000. Although 7% of working age units had capital of over £16,000, the average working age household has capital of £7,100. I talked last week about the DWP figures for tax credit claimants. Again, based on the family resources data for 2008-09, 45% of tax credit claimants with capital in excess of £16,000 had earnings of over £40,000 per annum. A further 21% earned £50,000 or more. The majority of the 3,958 mixed-age couples 3,620 had capital of less than £6,000; 263 had capital between £6,000 and £16,000; 36 had capital of between £16,000 and £25,000; and 39 had more than £25,000 in capital. However, not all of those will be impacted because existing state pension credit claims by the younger person in a mixed-age couple will continue unless they work and have to make a claim for universal credit, in which case they will transfer over.
5400. **Mr Brady:** I raised the point about the passported benefits.
5401. **Ms M Campbell:** Yes.
5402. **Mr Brady:** Are the figures that you have for us from —
5403. **Ms M Campbell:** Northern Ireland.
5404. **Mr Brady:** You know the thing about £40,000 and £50,000 earnings
5405. **Ms M Campbell:** Yes, that applied to Northern Ireland.
5406. **Mr Brady:** How many people did that apply to here?
5407. **Ms M Campbell:** Of tax credit claimants, 45% had in excess of £16,000 capital,



- as had a further 21% with earnings of over £50,000. That must be all the MLAs.
5408. **Mr Brady:** Not if you are a Sinn Féin MLA that is for sure; industrial wage and all that.
5409. **Ms M Campbell:** Ah —
5410. **Mr Brady:** Yes; believe it or not.
5411. **Mr McClarty:** Take that up with Sinn Féin and not us.
5412. **Ms M Campbell:** I diverted you, sorry. *[Laughter.]*
5413. **The Chairperson:** That is not in the Bill; you are right.
5414. **Mr Brady:** It is a point that we do not make often enough, but that is another issue. My point is about what happens if you are 1p over. One of the suggested amendments is that it should not apply to people over 60.
5415. **Ms M Campbell:** Yes.
5416. **Mr Brady:** Obviously, working age people —
5417. **Ms M Campbell:** We cannot give you the cost for that bit. I think that the cost of that in GB is somewhere in the region of £60 million.
5418. **Mr Brady:** That kind of figure would not be relevant here.
5419. **Ms M Campbell:** No, it would be much smaller here. Obviously, you would be talking about a smaller cohort.
5420. **Mr Brady:** However, it has a big impact because of the loss of passported benefits, etc. That is my point.
5421. **Ms M Campbell:** Again, I would say that the new capital provisions are slightly more advantageous to claimants in that the definition of what is reasonable in deprivation of capital is wider.
5422. **Mr Brady:** It is a bit like quiz questions: they are easy if you know the answer. Savings are fine if you have them, but lots of people simply do not. It will be neither advantageous nor disadvantageous to them. Those who have sacrificed and saved and go 1p over the £16,000 will not just suffer monetarily but will lose out on all the other passported benefits.
5423. **Ms M Campbell:** Yes.
5424. **Mr Brady:** That is my point.
5425. **The Chairperson:** So, you may come back with a bit more information on that.
5426. Moving on, there were a couple of issues on the restrictions on entitlement. There was a specific issue about six days and three days and the general issue about whether the regulations intend to go further than the current exclusions under income support, JSA and ESA.
5427. **Ms M Campbell:** Again, I will need to write to you to set that out. However, as I understand the position, there will be three waiting days as is the case in the current system. As there will be a monthly assessment period under universal credit, if the amount payable is for less than seven days, we will not pay it. The cost of administering that would, in all likelihood, exceed the amount of money the claimant is entitled to. The idea is that they should have wages that would tide them over. That is the theory.
5428. **Mr Brady:** Again, the issue was about the passporting of benefits.
5429. **Ms M Campbell:** Yes. I am checking that out. I think that that underlying entitlement will still be there, but I will try to get that resolved for you.
5430. **The Chairperson:** Do you have anything further on clause 7, which deals with the basis of awards? There was a previous question from the Committee.
5431. **Ms M Campbell:** I think that that goes back to the monthly payments and the whole issue of the banking products that we were sourcing for people. All those issues were about frequency and split payments. I think that we have covered that.
5432. **The Chairperson:** OK; fair enough.
5433. **Mr F McCann:** I am a bit confused about what the banking products actually are

- and how it will work in practice. Do you have any information that would allow us to see how it will work in practice? I have raised this a couple of times in the Committee; people are unsure about what it actually means.
5434. **Ms M Campbell:** I think that I came back to you and told you that DWP had issued what it calls a prior information notice, which is like an invitation to tender, on —
5435. **Mr F McCann:** I thought that you were going to say a D notice for putting any information out to begin with.
5436. **Ms M Campbell:** I cannot remember the date offhand, but it is in your responses. That notice set out DWP's request to financial institutions, including credit unions and the Post Office, to come up with products. DWP's suggestion is that there should be what are termed jam jar accounts. That is where the money goes into a claimant's bank account and immediately fires off into — it is like direct debits, really. The money would automatically go into an account to pay the landlord, utility companies, mortgage providers or whatever else.
5437. **Mr F McCann:** Forgive me, but it is a bit baffling. Given the amount of money, people will continuously be in arrears. Is the response from DWP? Have people been asked locally? Are we dealing with local credit unions and financial institutions? What response —
5438. **Ms M Campbell:** We are hooked into that. All the Northern Ireland banks are members of the British Bankers' Association, with, I think, the exception of one of the Irish banks.
5439. **Mr F McCann:** My understanding is that they have totally rejected any connection with facilitating this because of the costs involved.
5440. **Ms M Campbell:** There will be costs attached to it. The invitation to tender has not yet closed, so we do not know. That discussion is still —
5441. **Mr F McCann:** Do you expect a late rush?
5442. **Ms M Campbell:** It is still a live issue. The Department is also working with colleagues in the Department of Enterprise, Trade and Investment on the financial capability strategy, which is a Programme for Government commitment. As part of the service that we can provide to customers, we are looking at giving them advice and helping them with budgeting and how to manage their money.
5443. **Mr Brady:** Presumably, there will be a charge involved when benefits are paid through the banks in whatever way they are paid.
5444. **Ms M Campbell:** To the Department?
5445. **Mr Brady:** The question is whether it will be levied on the Department or the person. The population in the North, in British terms, is about 3%. So, the bigger banks would not see that as a huge way of —
5446. **Ms M Campbell:** Yes; chicken feed.
5447. **Mr Brady:** I cannot imagine them rushing to tender for something that may not be that profitable for them.
5448. **Ms M Campbell:** Yes, but if, for example, Danske Bank, which owns Northern Bank, gets the contract in England, that product will be available in all their branches for all social security customers. I do not think that it is a question of a bank in Northern Ireland not participating. They are all members of that association.
5449. **Mr Brady:** I suppose that it goes back to the issue of the charges.
5450. **Ms M Campbell:** That issue is being looked at.
5451. **Mr Pollock:** It would be a guaranteed income stream for the banks, in the same way that if you make default payments to landlords, you guarantee their —
5452. **Mr Brady:** If you follow the logic of people getting paid monthly, they are more likely to go into arrears and have overdrafts and will be charged even more.

5453. **Ms M Campbell:** I think that one of the conditions would be that they would not be allowed an overdraft. The accounts will be a bit like the Post Office accounts that exist at the moment and are very limited in their functions. As the accounts will have automatic direct debits — let us call them that — claimants will not get into arrears with their —
5454. **Mr Brady:** My point, I suppose, is that banks make a lot of money out of bank charges. If you and I are overdrawn, we pay for that. One example of charging relates to the use of ATM cards. Some banks do not charge you if you are in credit, but if you go 1p overdrawn, you are charged for all your transactions. That is how they make money.
5455. **Ms M Campbell:** Yes, but the whole point of the system will be that safeguards will be built in. A claimant will not be able to go overdrawn. As is the case now with the Post Office account, they will be able to withdraw only what they have in their account.
5456. **Mr Brady:** It makes the argument even more for fortnightly payments.
5457. **The Chairperson:** With respect, we do not have the arrangements in front of us.
5458. **Mr F McCann:** That is the important thing; we need to know what the arrangements are.
5459. **The Chairperson:** We are getting into speculation and all the rest of it. To be honest with you, I do not think that we can usefully explore that much further.
5460. **Mr F McCann:** Chair, the general point is about managing the single person's allocation for benefit. I am not sure whether it is at £63 a week, but how do you actually manage that £240 a month? How will that money being put in the bank benefit a person or teach them how to deal with working out the money that they get? How is that going to work? Even if there was a bank charge against it, you already have paid a subsistence level. You are throwing people deeply into —
5461. **The Chairperson:** The point was made about the frequency of payments, the ability or non-ability to budget and the policy intent. That was dealt with earlier. We do not have the banking promises, as they are nicely called, in front of us.
5462. **Mr F McCann:** Can we get any information that is there?
5463. **The Chairperson:** OK. At this stage of the game, we are still dealing with speculation. At best, it could be described as a work in progress.
5464. **Mr F McCann:** If we wait until the tenders are won, we have no opportunity or possibility to include anything like that, from our perspective, in the Bill.
5465. **The Chairperson:** We can specify that we want to have a view on that, if members are happy enough. OK, Fra?
5466. **Mr F McCann:** Yes, certainly.
5467. **The Chairperson:** We move now to the calculation of awards. This dealt with a range of issues, including the notion around EU workers, if I remember correctly.
5468. **Ms M Campbell:** I said that I was going to write to you on that to try to explain it further because I seem to get myself in knots here.
5469. **The Chairperson:** A number of issues were raised, and I am trying to look quickly at some of them. Citizens Advice, for example, talked about statutory sick pay, maternity pay, and so on.
5470. **Ms M Campbell:** Those are treated as earnings.
5471. **The Chairperson:** Are members happy to move on?
- Members indicated assent.*
5472. **The Chairperson:** Clause 10 deals with the responsibility for children and young people. There was a suggested amendment, which was to insert:
- “Such additional amount to be paid at a higher rate, a middle rate or a lower rate. The middle rate shall be no less than two-thirds of the higher rate as may be prescribed. The*

*lower rate shall be no less than one third of the higher rate”.*

5473. I think that that came from Disability Action; I am not sure, but it was a suggested amendment. Has the Department been able to look at that?
5474. **Ms M Campbell:** Under universal credit, support for children will be provided in the form of a child element. That will replace child tax credit and be paid in addition to child benefit. The child element in universal credit will comprise two rates, unlike tax credits, which pay the same rate for each child, irrespective of the number in the family. That is the norm for all children. So, there will be one rate for the first or only child and a reduced rate for second and subsequent children.
5475. The maximum amount of universal credit is to include an addition to the child element, which will be called a disabled child addition. That is similar to the current disability premiums under child tax credits. There will be two rates — lower and higher. The lower rate will be awarded for a child who receives any rate of either component of disability living allowance, apart from the highest rate of the care component. The higher rate will be awarded for a child who receives the highest rate of the care component. That, I understand, is the same position that exists in the tax credits.
5476. I think that the issue is about the actual amount of the payment. The policy thrust of this is that it is intended that there will be greater support for most severely disabled children. Payments for disabled children and adults will be aligned, because, between 2003 and 2010, the uprating of child payments increased at a faster rate than it did for adults.
5477. I told you that this was under review. There are 5,360 families receiving the severely disabled child element in child tax credit and 5,710 disabled children getting the severely disabled child element. Under universal credit, a non-disabled child would receive £3,180 a year, based on the current published

rates, which may be subject to change in the autumn statement. A disabled child would receive £4,580 a year, and a severely disabled child would receive £7,200, which is double the amount that a non-disabled child would receive. There is going to be a phasing-in period for the higher rate for severely disabled children. I think that they are saying that it will be increased over time.

5478. That is all I can say on that. Again, I will put it in writing.

5479. **The Chairperson:** Thank you for that, Martina. Members have heard that, but the Committee will receive it formally in writing. Are members happy enough?

*Members indicated assent.*

5480. **The Chairperson:** We move now to clause 11, which relates to housing costs. This is also relevant to clause 69. We touched on this issue earlier, when we were talking about the direct payments to landlords. The key issues raised are noted in your paper. I do not want to rehearse them. We need to discuss the proposals with regard to deciding on the Committee's way forward, on the back of the information that we had. It is more acute now, following the Minister's statement of the past couple of days.

5481. **Ms M Campbell:** I can tell you very little on the bullet points that are listed. The Housing Executive has advised us on the proposal to defer general implementation of the clause — the first bullet point. The underoccupation figure for the social sector is estimated at 32,500 households. Given average current rent levels, that figure is estimated to equate to approximately £17.3 million per annum. That does not take account of any potential rent increases or provision of discretionary housing payments. It has undertaken some kind of a pathfinder analysis, which has identified that less than 10% of tenants affected would be willing to move to a smaller property.

5482. Information is not held on the other bullet points in your paper, so the Housing Executive cannot get any

- information on that. As regards exempt separated parents who share caring responsibilities, it says that it cannot identify those impacted from the current housing benefit information, but pathfinder analysis has identified that approximately 9% of underoccupying households required an additional room to facilitate excess children. That comes with a heavy caveat. It also reckoned that less than 1% of underoccupying households required an additional bedroom to facilitate foster care arrangements, but that also comes with a heavy caveat.
5483. I told you last week that DWP had just made an announcement on supported accommodation. We have written to the Minister about the way that DWP is going. Supported accommodation is outside UC, and DWP's intention is that it will be localised. We had a discussion with Mr Brady about whether that applies in Northern Ireland. All of that, and whether it should be localised here, needs to be explored.
5484. I can tell you that there are 8,239 claimants in receipt of housing benefit for supported accommodation, which equates to £30 million.
5485. That is all that I can tell you on those bullet points.
5486. **Mr F McCann:** I have a couple of points. One of the relevant things being dealt with this morning was the Minister's stuff at the weekend. It puts back the information that we require. You said that that would not be until after Thursday night. Also, the Minister discussed the whole question of underoccupancy before some other things were happening.
5487. It still throws into question the whole issue of deferring the likes of underoccupancy because, first, there is not enough accommodation to deal with people. Secondly, the legacy of the conflict here will have an added impact, and I wonder whether that was taken into consideration.
5488. The Minister touched on something yesterday during Question Time in relation to room size. I have raised this a number of times; it is about the size of a box room.
5489. **Ms M Campbell:** I think that it is 40 square feet.
5490. **Mr F McCann:** What is that?
5491. **Mr Copeland:** It is four feet by 10 feet.
5492. **Mr F McCann:** I thought that he said yesterday that they would look at whether that would be designated as a cupboard or a large storeroom rather than as a bedroom. That would have a knock-on effect for many people, especially those who live in older Housing Executive and housing association houses that have those types of rooms. He said that during Question Time yesterday.
5493. **Ms M Campbell:** Colleagues in housing division are carrying out two or three pieces of research on this.
5494. **Mr F McCann:** Mickey said that you have to sleep diagonally in those rooms.
5495. **Mr Pollock:** What Martina says is right. There is an awful lot of research activity going on to do with housing and the changes that have been made recently to housing benefit. The changes that are being put forward in this Bill, whether they are to do with underoccupancy or the operation of the consumer price index, are going to have an impact on that environment.
5496. All the issues to do with the Troubles, such as segregated housing and the lack of suitable housing for people who would be deemed to be underoccupying, are exercising people's minds at the minute.
5497. **Mr F McCann:** Do you see the point, Michael? It is said that 32,500 people will be affected. The figures that we have show that only 300 or 350 units will be built over the next two years to facilitate people. There is a huge gap between what is being provided and what is required.
5498. **Mr Pollock:** We have come back to you on some figures. Before you get to the



- clause-by-clause consideration, so that you can take an informed decision, we want to give you the rounded picture on the numbers of people, on the fact of whether we will not count a box room or a 10 feet by four feet or a five feet by eight feet space as a bedroom, on exemptions for people of mixed age, and those types of things. We should also put into the mix all the other work that is going on as regards the advice that is available to people who would potentially be affected by all this.
5499. **Mr F McCann:** There is just one other thing, which fell outside the remit of supported housing. I had asked a question about houses that were adapted, where the person may have need of a special adaptation and where their family has moved on and they live alone or with a partner in a three-bedroom house. Would there be an exemption there?
5500. **Ms M Campbell:** That is in the whole consideration. Obviously, our good friend, common sense, should prevail, because the money spent on adapting that house —
5501. **Mr Pollock:** And the money that it would cost to provide suitable accommodation somewhere else —
5502. **Ms M Campbell:** — should cancel each other out.
5503. **Mr F McCann:** You and I know that unless it is down in black and white in the Bill, anything could happen.
5504. The other issue, which I raised this morning, is the discretionary payments. The Minister talks about them a lot and says that we have increased discretionary payments to cover the cost of the change. However, it is a short-term solution to a long-term problem. We need to point out to people that the measure may not go beyond six months. I thought that it was two sets of 13 weeks, with one at full-rate and the other at 80%. I was told last week or the week before that it is a six-month thing.
5505. **Mr Pollock:** It can be six months. As you say, it is discretionary. There can be an application for a further discretionary payment, which would be looked favourably on, as there is some money specifically carved out to identify —
5506. **Mr F McCann:** It is £6.9 million to deal with those already affected by the shared-room allowance and the 32,500 people who will be affected — *[Inaudible.]* It is not a big amount of money.
5507. **Mr Pollock:** It is pro rata but it is available in GB.
5508. **Mr F McCann:** All I am really saying is that it is a short-term thing. It is discretionary. At the minute, it is allocated at the discretion of the heads of housing benefit in different areas. It needs to be pointed out to people that it is not the saviour because all you are really doing is putting the problem off for six months.
5509. **The Chairperson:** The Housing Executive was referred to earlier. Its representatives made it very clear to the Committee that if people who were deemed to be over-occupying a house presented themselves asking for alternative accommodation, they would not be able to facilitate that. They also said that they were very anxious about a scenario in which people who had lost money towards their rent could be forced into non-payment and then face eviction. They were very concerned about the prospect of evicting people who did not have the “wherewithal” — that was the term they used — to pay their rent. You then get into the nonsense of people being forced into a position where they cannot afford to keep a roof over their head.
5510. The Department has said that people will make sure that they pay their rent and have a roof over their head. However, the Housing Executive paints a dire picture in which we could be faced with forcing people from their homes as a result of the Bill’s provisions. That goes back to Sammy Douglas’s point earlier. I noticed last night that the Spanish Government have put a two-year

- moratorium on evicting any family from their home.
5511. **Mr F McCann:** They have an agreement with the banks, too.
5512. **The Chairperson:** A general concern has been expressed by the Committee routinely on this issue. I re-emphasise that that concern was presented to us by the Housing Executive officials, who are the people with the facts and figures in front of them.
5513. **Mr Brady:** Michael, you were talking about going back and looking at box rooms and all of that. Presumably, if any decisions are made on that, they will become part of the Bill rather than some discretionary guideline.
5514. **Mr Pollock:** Decisions on what?
5515. **Mr Brady:** You were saying that you are going to look at the size of the rooms and decide whether they are box rooms.
5516. **Mr Pollock:** That would not be in the Bill. It would be in regulations and guidance on the outworkings of the policy intent.
5517. **Mr Brady:** The policy intent is to move people to smaller houses, if they are available.
5518. **Mr Pollock:** The policy intent, allegedly, is to ensure that people on benefits are faced with the same sorts of decisions as people on low incomes.
5519. **Mr Brady:** One of the ways of doing that would be to properly control the private-rented sector, where landlords can charge whatever they want.
5520. **Mr Pollock:** That is the other side of the coin insofar as that criterion already applies in the private-rented sector; it is the social-rented sector that we are talking about.
5521. **Mr Brady:** That is one of the issues that people will have to deal with. If the only alternative accommodation is in the private-rented sector, you are back to the same vicious circle.
5522. **Mr Pollock:** Due to the spiralling costs of housing benefit, not just in Northern Ireland but UK-wide, one of the policy intents was to influence private sector landlords to try to push rents down.
5523. **Mr Brady:** The example used was that of a three-bedroom terraced house in London, for which the landlord was charging the local authority £2,000 a week. That was given as an example of why housing benefit is so expensive, but it does not apply here.
5524. **Mr Pollock:** It does not apply here, granted. However, by the same token, when it comes to the number of bedrooms, the size of accommodation, and so on, some of the thresholds that have been applied in previous housing benefit regulations have had little or no impact in Northern Ireland simply because our rents are decidedly lower than elsewhere.
5525. **Mr Brady:** Therefore, the policy intent should not really apply here.
5526. **Mr Pollock:** Why?
5527. **Mr F McCann:** Picking up on the point that Mickey raised, you are saying that rents are lower here and comparable to rents in the north of England. The figures used for justifying this are predicated on the rents in the south-east of England, which are high. However, everybody who applies for and gets housing benefit has to top up their benefits to pay a landlord, and that point should not be lost. Sometimes, that can be £80 a month coming from someone's benefits to make sure that they have a roof over their head. People on housing benefit are already paying a top-up.
5528. When Mickey was talking, I had a vision — look, Mickey is jumping back. You mentioned people looking at the size of rooms, five by 10, or four by 12, or whatever. If you go into a box room, there will be only a single bed, because you cannot fit in anything else. How do they work out the proper size of a room for people to sleep in? Some rooms may have two people sleeping in them. I cannot work out how they decide whether the size of a room is adequate for people to sleep in it. Do they go into a room and fit furniture into it?

5529. **Mr Pollock:** The size of the room is fairly straightforward; it is whatever size it is. The size will determine whether the room is designated as a box room.
5530. **Mr F McCann:** How do you decide that a room is a box room?
5531. **Mr Pollock:** If it is decided that a box room is room that is 40 square feet or less, every room that is 40 square feet or less is a box room.
5532. **The Chairperson:** The size for a box room has been set.
5533. **Mr F McCann:** I am baffled as to how they come up with that. It was obviously done by people who do not live in houses with box rooms.
5534. **The Chairperson:** You said that when you looked at Mickey, you had vision; I thought that you were going to say that you had had a nightmare.
5535. There were a couple of other issues in respect of housing, namely the shared accommodation rate, support for mortgage interest, housing cost run-ons/extended payments. There are a couple of key issues there, and they are part of the housing cost part of the Bill. After we have addressed those issues, we will adjourn for lunch.
5536. **Mr Douglas:** I want to clarify a few things about the so-called bedroom tax. You mentioned the moratorium in Spain, Chairman, which has come about as a result of two people who were going to be evicted taking their own lives.
5537. The Northern Ireland Federation of Housing Associations talked about a two-year freeze. However, at its conference last week, its representatives talked about six months, so they have reduced it. Perhaps Martina or some of the team could give us an update on discretionary payments. I know that there is some work on that. Finally, as I mentioned earlier, I was told that implementation of the clause will happen on the same day right across the United Kingdom and that that was one of the biggest problems. As someone said, a switch goes on, so everybody goes on to the new legislation. Is that the case?
5538. **Mr Pollock:** Yes, for the application of the underoccupancy provisions in clause 69. That is tied into the IT solution that we are talking about.
5539. **Mr Douglas:** What about discretionary payments?
5540. **Mr Pollock:** In what sense? Discretionary house payments or —
5541. **Mr Douglas:** Yes, for underoccupancy. Will people get help through discretionary payments? I think that it was for six months, but there was talk that that could be extended. Has there been any work on that?
5542. **Ms M Campbell:** Discretionary payments are now —
5543. **Mr Pollock:** There are two. There is a new discretionary [Inaudible.] scheme, which is separate from this. Discretionary house payments can last for six months, but there can be further application. Again, that will be looked at. As I mentioned earlier, some money was earmarked specifically to address some of the impacts of underoccupancy.
5544. **Mr F McCann:** All of that is predicated on the assumption that there will still be money in the budget to deal with this. The indications are that that will not be the case.
5545. **Ms M Campbell:** As we understand it, the discretionary housing payment budget has not been exhausted for quite some years.
5546. **Mr F McCann:** That is because it has not been hit by 32,500 people.
5547. **The Chairperson:** Does support for mortgage interest affect people who may take part-time work? Will they be excluded? The final one is about housing costs and run-ons.
5548. **Ms M Campbell:** I confirmed for you last week that anyone who does part-time work will lose their support for mortgage interest (SMI). That is the position. The policy rationale for that is that because

of the earnings disregard and the taper, they will theoretically have more money from their earnings and they can direct that towards their support for mortgage interest. I have some figures for you. At the moment, there are 5,560 claims in income support, getting an average of £27·66 support for mortgage interest. In jobseeker's allowance, there are 1,850, getting an average of £38·77, and in pension credit, there are 5,000 people getting £14·35. Obviously, the pension credit support will continue. It does not apply to those people but only to UC claimants. I just did a very crude calculation and I apologise as maths is not my forte. With 5,560 income support people getting an average of £27·66, I make that £15,378·96.

5549. **The Chairperson:** No.

5550. **Ms M Campbell:** Is that wrong?

5551. **Mr Pollock:** We will do them again.

5552. **Ms M Campbell:** I did say that maths was not my best point.

5553. **Mr Pollock:** Thirty times 5,500 is  
[Inaudible.]

5554. **Ms M Campbell:** OK, we will come back after lunch with those figures, because obviously my maths is not to be trusted.

5555. **The Chairperson:** It would be OK to go home to you a fiver short in your wages.

5556. **Ms M Campbell:** My apologies for that. That is all that I have on SMI. I again confirmed that there is no provision for extended payments. That is because when somebody starts work, the earnings disregards and the taper should mean that they do not need that additional protection because they will be keeping all their wages.

5557. **The Chairperson:** OK. I think that you have already dealt with the issue of exempted accommodation in respect of supported housing.

5558. **Ms M Campbell:** Yes.

5559. **The Chairperson:** Are members content?

*Members indicated assent.*

*The sitting was suspended at 12.10 pm.*

*On resuming —*

5560. **The Chairperson:** Welcome back, and thanks again to everyone. I ask everyone to switch off all electronic devices, including telephones. It is important to remind people that we are very tight for time. It is not going to happen today, but we need to move on as quickly as possible to the clause-by-clause consideration. That is on the presumption that there are likely to be a number of amendments, so we need to allow the Bill Office and the system here to turn around a report for us for completion by 27 November. That simply means that any information that we need from the Department will be sent as soon as possible. Therefore, we have to work with what we can get. Where did we leave off?

5561. **Ms M Campbell:** We left off with support for mortgage interest and my counting. Following my learned colleagues' takeover of the calculator at lunchtime, I can confirm that my decimal point was in the wrong place. I told you that there were 5,560 income support cases, and the average support was £27·66. That equates to £153,789·60, as opposed to £15,000, which I told you. Jobseeker's had 1,850 cases at an average of £38·77. That equates to £71,724·50. Pension credit is not really relevant in this situation, but there are 5,000 cases at £14·35, which equates to £71,750·00. I should also have said that DWP is not due to finalise the policy on support for mortgage interest until January.

5562. **Mr Pollock:** That is taking into consideration the waiting period for that.

5563. **The Chairperson:** What do you mean by the waiting period?

5564. **Mr Pollock:** It predates me in this post, but about two or three years ago, people had to wait for 39 weeks before they qualified for support for mortgage interest. That was reduced to 13 weeks because of the property slump and the economic downturn. That is an interim

- provision that would lapse in January if it were not extended.
5565. **The Chairperson:** Thanks for that.
5566. **Ms M Campbell:** That is all that I have for you. On SMI extended payments, I have confirmed that there will be no provision under the current legislation for extended payments. We have covered exempted accommodation.
5567. **Mr F McCann:** I have read that people on income-based jobseeker's allowance will not be able to apply for help with mortgage payments. Is that right? Is it that they cannot go onto it or that it will stop after two years? What will happen to it?
5568. **Mr Pollock:** That does not ring a bell.
5569. **Mr F McCann:** We will come back to it.
5570. **Ms M Campbell:** We will see whether we can get anything on that. Perhaps it is to do with the waiting time.
5571. **Mr Pollock:** During the passage of the Welfare Reform Act in GB, there was a debate about only providing SMI assistance for a [*Inaudible.*] but I think that that was dropped.
5572. **Mr F McCann:** It may have been in England, when people were on income-based jobseeker's allowance but were not eligible to apply for housing costs for mortgage payments. I do not know whether it applied here. I think that it may have come up in evidence from one of the groups.
5573. **Ms M Campbell:** We will have a look at that. We are not aware of it, but we will check
5574. **The Chairperson:** We move on to clause 12.
5575. **Ms M Campbell:** Clause 12 is about the removal of the severe disability premium, which we have discussed already. I said that I will write to you setting that out and, hopefully, provide a little more clarification.
5576. **The Chairperson:** You know that the Equality Commission suggested an amendment.
5577. **Ms M Campbell:** Yes.
5578. **The Chairperson:** So you will address that. We move on to clause 14.
5579. **Ms Campbell:** This was about a situation in which one member of a couple did not sign the claimant commitment, so I have made that clear. There is no claim.
5580. **The Chairperson:** We move on to clause 16.
5581. **Ms M Campbell:** I am sorry: there are two other comments about material being considered within the work-focused interview. That is relevant and reasonable, and it is implicit. We have said repeatedly that the claimant commitment will be drawn up in consultation with the claimant and will take into account their particular needs and circumstances.
5582. **Mr Pollock:** That is the same for the claimant commitment for jobseeker's allowance and under employment and support allowance. The same issues were raised in later clauses — clause 45 and, I think, clause 52 or 53.
5583. **The Chairperson:** Thank you for that. Are we happy enough to move on?
5584. **Ms M Campbell:** The Law Centre raised an issue about the need to reintroduce the work-focused health-related assessment. I told you that DWP was considering that issue. It is connected to the suspension of the work-focused interview under ESA. I will come back to you on that. We are waiting for confirmation from DWP on what the position on that is likely to be. However, we expect that before you conclude your deliberations.
5585. **The Chairperson:** Thank you. Clause 17.
5586. **Ms M Campbell:** With regard to the work search requirement, I totally take the point that the way in which an adviser will police — for want of a better word — that will be problematic, but the intention, at the moment, is that if claimants are deemed to be available for work 20 hours or 35 hours a week, they are supposed to be spending the same amount of time looking for work.



5587. If there are no questions, I will move on to the work availability requirement. Again, I told you that I would come back to you on that from the regulations, and I have to do that. Therefore, I cannot really add anything there.

5588. **The Chairperson:** OK. Thank you.

5589. **Ms M Campbell:** We move on to the issue about the claimant being responsible for a child under the age of one and under the age of five. I explained that there is no change to that position. That is an operational flexibility that we are carrying forward, that lone parents will obviously be able to restrict their hours, and the main carer will be able to restrict their hours; they are available until a child is 13 years of age. Lone parents, however, have to be available for only a work-focused interview.

5590. **The Chairperson:** Are you on clause 20 now, Martina?

5591. **Ms M Campbell:** Yes. This is a comment from Disability Action that the regulations must ensure that disabled people are given the appropriate support. The claimant commitment will be drafted in consultation with claimants and reflect their particular needs and circumstances.

5592. Clause 21 —

5593. **The Chairperson:** Clause 22.

5594. **Ms M Campbell:** Sorry, clause 22.

5595. **The Chairperson:** We sought legal advice on that with regard to paragraph 7 of schedule 1.

5596. **Ms M Campbell:** That is the EU workers again.

5597. **The Chairperson:** Yes, the EU workers stuff. Are you still going to come back to us on that?

5598. **Ms M Campbell:** Yes, I am. Clause 23 refers to work-related requirements in consultation with a claimant. [Inaudible.]

5599. **The Chairperson:** I wonder whether that would be more suited for the guidance as opposed to [Inaudible.]

5600. **Ms M Campbell:** It would be my advice that it is in the guidance. It is implicit that the claimant commitment has to be drawn up in consultation with a claimant.

5601. **The Chairperson:** Clause 24, then.

5602. **Ms M Campbell:** Yes, that was the domestic abuse issue. I confirmed that that term covers emotional, psychological and financial abuse. It is the same as in the current jobseeker's, so I think that that point is covered. We note the comment that 13 weeks is considered too short for any disregard in relation to work-related requirements. Again, that can be considered within the claimant commitment. There will be a change that includes violence in the home, which we are taking to cover hate crime.

5603. **Mr F McCann:** Will it clearly state that, in case it is misunderstood by office staff? When staff deal with various people, they could look at an issue differently unless it is stated clearly.

5604. **Ms M Campbell:** Yes. It does not specify that in the regulations. We have not heard back yet from DWP. We got it from a stakeholder website. I can come back and clarify.

5605. **Mr Durkan:** Violence in the home?

5606. **Ms M Campbell:** The issue is rehousing. If, for example, a house has been attacked in a hate crime, the residents should fall under that because it comes under the definition of violence in the home.

5607. **Mr Durkan:** So, in a similar way to the earlier suggestion on the same clause, would it cover abuse in the home?

5608. **The Chairperson:** The Department's paper gives five definitions of domestic violence, listed as a, b, c, d and e.

5609. **Ms M Campbell:** Again, this will all be done in regulations. I am seeking clarification from DWP, and I will try to get back to you this week with a firm decision.

5610. **The Chairperson:** Next is clause 25.

5611. **Ms M Campbell:** Clause 25 is on compliance. Stakeholders recommend a case-by-case approach in ensuring compliance. We would have a case-by-case approach.
5612. **The Chairperson:** Fair enough, happy enough. Next is clause 26.
5613. **Ms M Campbell:** Clause 26 is on sanctions. People who have been sanctioned will be able to claim a hardship payment. That will be recoverable. Last week, Conrad spoke to you about the double whammy. Can you remember whether he has come back with anything further on that?
5614. **Mr Pollock:** Nothing definitive.
5615. **Ms M Campbell:** We do not have anything further on that. We did say that five working days is not long enough for people to provide evidence. That is generally accepted, but it is only a guideline, and in practice we will obviously, within [Inaudible.] whatever is reasonable.
5616. **Mr F McCann:** Yesterday morning, I phoned to make an appointment with my doctor and was told that it would be 10 or 11 days. That comes into play for producing medical evidence. Sometimes, when you ask a doctor for a letter, there is a cost attached. That also has an impact.
5617. **Ms M Campbell:** Yes.
5618. **Mr F McCann:** Will that be taken into consideration? Sometimes five working days would not be long enough.
5619. **Ms M Campbell:** Yes. We have all experienced that when we phone a GP. That is a reasonable reason why someone cannot comply with the five days. It is back to our good friend common sense and good cause — sorry, good reason. I have to get with the programme.
5620. **The Chairperson:** Martina, the Welfare Reform Group proposed an amendment around sanctions. I suppose that the key issue around sanctions is that some people believe that they are disproportionate, too long, and so on.

The Welfare Reform Group proposed an amendment on that. Have you had a chance to look at that and think about it?

5621. **Ms M Campbell:** We are trying to get figures on the number of people sanctioned at the moment, and, as I understand it, this issue is about people being sanctioned when they do not have childcare. I have told you that there are existing protections for lone parents of children under the age of five and main carers being able to restrict their availability around school hours. That is still there. When somebody does not have access to childcare, we are saying that that is acceptable as good reason. I do not know that that needs to be in the Bill. I think that it is better in the guidance; that is the position. We said that we became aware only last week that there was a blip in one office where some people were sanctioned, but we are investigating that. It is in the guidance that a lack of childcare is an acceptable cause.
5622. **Mr Pollock:** One of the main things that came across when Conrad spoke to you about fraud and sanctions was that the sanctions regime is not meant to be punitive. It is meant to be a deterrent. When we were last here, I think that I mentioned that, irrespective of the reform agenda, the sanctions regime was not deemed to be effective as it set out to be. So the sanctions in the Bill are set at a level that is designed to be much more of a deterrent or to prevent people from committing benefit fraud. That said, we do not see cases that involve client error or genuine mistakes as being sanctionable. That is not the reason for the sanctions regime. The sanctions regime is for repeated offences when people do not comply with their commitments under whatever benefit entitlement they claim.
5623. **Mr F McCann:** We opposed a past batch of sanctions when they first came in. How can anybody say that they are not punitive? The very fact that people are being sanctioned and are losing their benefit is a punishment.

5624. **Mr Pollock:** They are not intended to be punitive.
5625. **Mr F McCann:** That is what they are. Let us not get into a debate about that.
5626. There will obviously be a serious increase in the length of time that sanctions last. Was any analysis done the last time on the impact of the sanctions to bring you to the conclusion that those did not work and that you need additional sanctions to punish people?
5627. **Mr Pollock:** Conrad is probably better placed to speak on the detail of that sort of thing. The levels of sanctions are regularly looked at and reported on. There is something in the Bill that says that we will lay a report in the Assembly. That is in there too. The agency itself goes behind the broad number and looks at the number who are repeat offenders, and so on.
5628. **Mr F McCann:** The Committee is of a mind to table an amendment that the present sanction regime remain and that we do not go ahead with the additional sanctions. First, I take it that the Department will not support that. Secondly, will there be any cost attached to this? Thirdly, we constantly talk about people being sanctioned and repeat offenders. Can we get exact figures for the number of people who have been reported, the number who have been sanctioned and the number of repeat offenders? That would certainly give us a good outline.
5629. **Ms M Campbell:** We have asked for those figures.
5630. **Mr F McCann:** I think that the sanctions came in three years ago. If we could get figures for each of the past three years, that would certainly allow us to look at how those people have been dealt with and how many have been affected.
5631. **Mr Pollock:** It will give you a more informed position. As Martina says, we have asked for those figures. Again, I think that Conrad mentioned some headline figures for the loss due to fraud and error when he was here last week providing evidence. So all that should give you a better insight into where we are coming from.
5632. **Mr F McCann:** He might have given us that, but we did not agree with it.
5633. **The Chairperson:** I suppose that if we are being told that fraud, for example, has been going down — that is a good story — it is reasonable for us to say that if you are going to put a more severe sanctions regime in place, we would like to satisfy ourselves that if the previous sanctions regime did not work, at least it would be good to know how many people were sanctioned.
5634. How do you make the assessment that if sanctions do not really work, they should be made worse? How will they work? If fraud is going down, the number of people being sanctioned must be relatively small. The evidence that is being given to us is that a lot of those people may fall into particular vulnerable categories, and they are going to have this very severe sanctions regime imposed on them.
5635. On the one hand, you are saying that sanctions do not really work, so we have to put these very strong deterrents in place. However, if they do not work, give us some evidence to say that they do not work. Fraud is going down, so something is working.
5636. **Mr F McCann:** I want to make a point about the existing sanctions regime. There is a difference between those who have been reported for sanction and those who have actually been sanctioned. I asked questions about that a year ago. Thousands of people were reported for sanction but were not actually sanctioned. *[Inaudible.]*
5637. **The Chairperson:** OK. *[Inaudible.]*
5638. **Ms M Campbell:** Do you wish to look at clause 27, “Other sanctions”?
5639. **The Chairperson:** *[Inaudible.]* I think that we can move to clause 28, unless you feel that there is a need to give us some more information. *[Inaudible.]*
5640. **Ms M Campbell:** No. I have nothing further to say about that. That was

- just about travel time to the South of Ireland. We confirmed that it is limited to Northern Ireland.
5641. **The Chairperson:** This is about recoverable —
5642. **Ms M Campbell:** Oh yes, this is about a hardship fund. There is no such hardship fund. It is demand-led. I should also point out that claimants who are in the vulnerable group, which will be defined in regulations, will not be required to repay a hardship payment, but others will.
5643. That is about all that I wanted to say about that. That point was about a fear that this was like the social fund at the moment — that it is cash-limited and depends on people paying back. It is not; it is demand-led.
5644. **The Chairperson:** All right. Shall we move on to clause 29?
5645. **Ms M Campbell:** Clause 29 deals with Department for Employment and Learning (DEL) functions. I think that we have answered that.
5646. **The Chairperson:** OK. We will move on to clause 30.
5647. **Ms M Campbell:** The concerns around clause 30 are a fear about the privatisation of a public service and the personal independence payment (PIP). I want to point out that this clause refers only to privatisation of the functions that are currently carried out by DEL on training and employment programmes. It does not relate in any way to PIP.
5648. **Mr F McCann:** Has a decision been made? I sit on the Committee for Employment and Learning, which has been told that there will be a big privatisation of the contracting-out of services. I take it that you are saying that a decision has been made to contract out some of the DEL services that affect training.
5649. **Ms M Campbell:** No. It just gives the Department the right to do that. There are training providers in place already.
5650. **Mr F McCann:** That goes through various job schemes or training schemes.
5651. **Ms M Campbell:** Yes. It is those programmes, so that facility can still —
5652. **Mr F McCann:** The Department still retains the core of the scheme.
5653. **Ms M Campbell:** Yes. That would still be the intention — that the Department would retain the core schemes but would contract out some of the services.
5654. **Mr F McCann:** This goes back to a question that Mark asked earlier. If it is contracted out, will that affect jobs? One of the questions that I asked about ESA and the migration of people across is this: is DEL fit for purpose to deal with the expected huge number of people who will be brought across, especially those with mental illness and severe disability?
5655. **Ms M Campbell:** You would probably need to see the DEL business case.
5656. **Mr F McCann:** It will be a bit difficult getting an answer out of DEL.
5657. **Ms M Campbell:** We accept that DEL could not provide all the programmes that are necessary to meet demand and that it has to contract out some of those functions.
5658. **The Chairperson:** The Human Rights Commission suggested to the Committee that we put in a clause to make sure that private contractors adhere to human rights provisions.
5659. **Ms M Campbell:** I will write to you to confirm this but, as I understand it, although the function is contracted out, the claimant will have the same rights as if the Department were carrying it out. Therefore, any issue that they have about their human rights is with the Department rather than the provider. The contracted providers will not be making any decisions on sanctions or anything like that. They are merely performing training or employment programmes. They are not making any decisions. That still rests with the Department.

5660. **The Chairperson:** OK; thank you for that. Clause 31 goes back to the capital rules, which we have covered.
5661. **Ms M Campbell:** Clause 32 is consequential. There are two issues here: passported benefits and —
5662. **The Chairperson:** The older claimant in a couple.
5663. **Ms M Campbell:** — the older claimant.
5664. I will deal first with the mixed-age couple. If the older person who has reached state pension age is entitled to a contributory pension, he or she can still claim that, and it is taken into account as unearned income. If the older person is entitled to be means-tested, he or she falls under the universal credit programme.
5665. I told you that the agency is chairing a cross-departmental group to look at passported benefits. I told you that the issue of deciding criteria for receipt of passported benefits lies with the individual Departments. I also told you that the Executive subcommittee is looking at passported benefits. Ultimately, in most cases, decisions will rest with the Executive because it will cut across. I imagine that it will come under paragraph 2.4 of the ministerial code. Have I answered that for you?
5666. **The Chairperson:** I think so.
5667. **Mr F McCann:** This question may have been answered earlier. It relates to the younger person in the relationship who is still claiming benefit. Is the older person still eligible for sanctions because his or her claim is directly tied into it?
5668. **Ms M Campbell:** No; the older person is not subject to any work conditionality at all. The sanction will apply only to the younger person.
5669. **The Chairperson:** Your paper states that the member of the couple who has attained the qualifying age for state pension credit may not receive state pension credit if the other member of the couple has not attained that qualifying age.
5670. **Ms M Campbell:** The issue there is the difference in money. The point that I think Age NI made is that there may be a difference in the amount that the mixed-age couple receive under universal credit as opposed to state pension credit, which has slightly higher rates. The policy intent is that the younger person will be working and that the higher earnings disregards — the taper, and so on — will make up for it. However, on the face of it, people will possibly have lower incomes than they would if they were claiming state pension credit.
5671. I will say that existing couples will continue on state pension credit. They will not be affected unless the person decides to take up a job and claims universal credit. That is the only way in which they can get into universal credit.
5672. **The Chairperson:** As someone mentioned last week, that could mean that there are two sets. Is there also a transitional arrangement?
5673. **Ms M Campbell:** Yes. They will stay on state pension credit until —
5674. **The Chairperson:** Until they change their claim and are into that new system. So, you would have two similar types of people on different levels of money. It seems unfair that the senior partner ends up disadvantaged because he or she is helping a younger partner. It is like saying that separating would make you better off.
5675. **Mr F McCann:** It is also wide open for fraud. People will sit down, look at it, and say, “I might get £40 or £50 more if I do not claim as a married person.” It throws up all sorts of possibilities in that regard.
5676. **Ms M Campbell:** It does.
5677. **The Chairperson:** Clause 33.
5678. **Ms M Campbell:** Clause 33. Citizens Advice made the point that the cash top-up will be eroded by inflation unless it is index-linked. I explained last week that the only thing that people will lose is their transitional protection. If they



- get £100 under the current benefits but are entitled to only £80 under universal credit, they will continue to get £100, but that £100 will not be uprated. They will get it on a marked-time basis. All benefits are being uprated by the consumer price index as opposed to the retail price index, as the Government think that that reflects inflation better.
5679. **Clause 34, “Abolition of benefits”:** the points were about child tax and restoring the 10%, which I think we have covered.
5680. We move to clause 37, which is migration. We have told you that there will be a migration strategy. It has not been finalised and is still under discussion. Migration regulations will be brought forward to the Committee. I am not sure what more I can say on that.
5681. **The Chairperson:** Clause 38 then.
5682. **Ms M Campbell:** The point in the paper is noted. I have said that DWP is reviewing the work capability assessments. There was an issue about giving medical records primacy. They will be considered along with other evidence. The point about “and/or” relates more to the regulations. I will confirm whether it is either physical or mental or both.
5683. **The Chairperson:** OK; fair enough. Thank you for that.
5684. **Ms M Campbell:** Clause 40 concerns couples who choose to live together, the test of co-habiting in the current system will presumably be carried forward. There was an issue about whether underoccupancy applied and to which of the couples the underoccupancy reduction would apply. We are still trying to bottom that out. I suppose that the first answer is that it is for whoever’s name is on the tenancy, but if the tenancy is in joint names, we are not sure how that will work in practice.
5685. **The Chairperson:** Let us turn to clause 42 then.
5686. **Mr G Campbell:** I am sorry, but, just on that issue, I understand that if it is a joint tenancy, you are still working out what will happen. However, if it were a couple and the tenancy was in a single name, as a result of which a perceived disbenefit was being accrued, what would happen if an attempt was made to change the tenancy? Would account be taken of the circumstances in deciding whether the tenancy could be changed?
5687. **Ms M Campbell:** I am sorry. Did you say joint tenancy?
5688. **Mr G Campbell:** No. If the tenancy was in the name of one person, and then —
5689. **Ms M Campbell:** Yes. What happens if a couple about to get hit with the underoccupancy penalty changes the tenancy to the two names has to be bottomed out. I think that that is one of the —
5690. **Mr G Campbell:** Imponderables?
5691. **Ms M Campbell:** The known unknowns, yes.
5692. **The Chairperson:** Try to ponder on it quickly before we get to the clause-by-clause consideration, if you do not mind.
5693. **Ms M Campbell:** The clause on pilot schemes is about making sure that Northern Ireland is included and taking account of our circumstances, and so on. We agreed that Northern Ireland will feed into any pilot schemes, and we will undertake to consider whether it is appropriate to have our own pilot schemes. However, any pilot schemes will need regulations, which will need to come before the Committee.
5694. **Mr F McCann:** Does that mean that if, after all this, we decided that we wanted to run a pilot scheme, you could do that within the confines of the Bill?
5695. **Ms M Campbell:** A pilot scheme has to meet three conditions, which I cannot remember off the top of my head. As long as it meets the policy objectives outlined in the explanatory memorandum, it can be run. I have found the conditions. A pilot scheme is:
- “to test whether the regulations would:*

*Make universal credit simpler to understand or administer;*

*Help people to remain in work, obtain work or increase their pay or hours; or*

*Affect the behaviour of claimants or others.”*

5696. So if the pilot scheme satisfied those conditions, in theory, that is what clause 42 allows us to do. Then, obviously, you are into the whole question of whether a pilot scheme is viable in terms of cost.

5697. **Mr F McCann:** Obviously, cost comes into everything. We have already identified, during a number of these meetings, that many factors and features of life in the North are completely different from other regions. Every one of them has its own twists. However, pilot schemes have been run in England that bear no relation to what life is like here. So would it not be better to run our own pilot scheme? If, for talk's sake, that was the road that we wanted to go down, could you suspend the Bill until such time as the pilot scheme was running?

5698. **Ms M Campbell:** No, because you need the Bill to have been passed to give you the power to run the pilot scheme.

5699. **Mr F McCann:** How will it run in England?

5700. **Ms M Campbell:** In England, the Act was passed in March.

5701. **The Chairperson:** I think that the general point has been made that, to look at, review, manage and decide policy, etc, we need a baseline. Members are saying that a whole range of pilot schemes have been run, none of which have been run here, and yet all our work here is extrapolated from them. Their point is that, surely, at some point, it must be reasonable for the Department, given its size and the fact that we have NISRA, and so on, to run some bespoke pilot projects here. Why not? I think that that is a reasonable question, and we have had no answer to it.

5702. **Ms M Campbell:** What I am saying is that you can have a pilot scheme here when the Bill is in place and gives you the power to do that.

5703. **The Chairperson:** Every single Department throughout government runs pilot schemes routinely. Are you saying that the Department for Social Development (DSD) is the only Department that does not? No matter what I have managed to get done over the years, it has always been predicated on the basis of a pilot scheme.

5704. **Ms M Campbell:** The agency is running pilot schemes on the payment of benefits: the simple payment card, PayPoint, and so on, so that is already happening under its current powers. However, if you want to run a pilot scheme on universal credit, you will have to get the Bill and the regulations through before you have the statutory authority to do that.

5705. **The Chairperson:** I am a bit confused. I am just making a general point on pay schemes, such as the pay-as-you-go scheme for oil. As most elected representatives will know, when trying to shift a policy or get a Department to do something, that Department may not be able to do it by way of a generalised policy, but it will agree to run a pilot scheme. So it can do what it has been asked but under the guise of a pilot scheme. It seems to me that government here often runs on the basis of pilot schemes, which might be fair enough. It is a learning exercise, but we are trying to establish the general principle that, surely to God, we can run pilot schemes here.

5706. **Mr Pollock:** Most Departments have generic powers that allow them to run pilot schemes in a particular area. The impacts of this Bill are so wide that it is difficult to envisage a particular pilot scheme that would make a difference. DWP has run some pilot schemes, and we are trying to find out what it learned from those. The particular reference in clause 42 is to how to make universal credit work better as it moves on. That is what the pilot schemes relate to.

5707. **Mr F McCann:** It is certainly not working better for the benefit of people.

5708. A precedent set in DSD goes back to the local housing allowance. A pilot scheme was run to establish whether the scheme would have a negative impact on people. Let us move the scenario on. If the Bill goes through, regulations are passed and we decide that we want to have a pilot scheme, which then shows that the Bill is detrimental to people here because of all the issues that we have raised, where would that leave you?
5709. **Ms M Campbell:** The Minister would have to make the decision and come forward with a proposal for a pilot scheme.
5710. **Mr F McCann:** To change the Bill?
5711. **Ms M Campbell:** No, not to change the Bill. The Bill must be in place to get the power.
5712. **Mr F McCann:** I have moved on from there. If everything has been passed and a pilot scheme proves that we were correct in raising all our issues and concerns because the Bill was having a seriously detrimental impact on constituents, what powers would we have to rectify that?
5713. **Mr Pollock:** Basically, you will be in the same position as you are now. If you say that you do not like underoccupancy, for example, you can decide either to break parity, which will cost x amount, or the Executive as a whole can put in place other programmes to mitigate any adverse impacts. Those, however, are decisions for the Executive table. What you are talking about here is in the context of the social security system. If you approve the Bill as it is, those provisions stand. However, if you decide on mitigating actions that would impact on the rest of the Departments, you would have to get Executive colleagues around the table to tell DEL, the Department of the Environment and the Department of Education to do certain things. That is where you change things.
5714. **The Chairperson:** We can have a debate on that, but the two pillars in this debate in the past year have been flexibilities at the front end and mitigation at the back end. At the front end, we have been told by David Freud and others that we can get all those flexibilities because of our difficult, different circumstances. At the back end, mitigation is to try to pick up things that cannot be changed in the Bill. Our starting point is to get flexibilities in the Bill, not to have to resort to mitigation, if you understand what I mean, Michael. Our task is to try to get the Bill changed so that the burden does not fall either on the more vulnerable people in this community or on the block grant. We were told, “Do not worry, you will get flexibilities in the Bill”, but we have not seen too many so far. Those are the decisions that we will face shortly.
5715. We have exhausted that issue for now, so we will move on to clause 43.
5716. **Ms M Campbell:** Clause 43 is about applying different levels of support for housing costs in different areas of Northern Ireland. That is the same as the position now in that the local housing allowances rates apply. It will just carry that forward into UC.
5717. **The Chairperson:** Clause 44 is the timetable for the regulation. Are members happy enough to move on?
- Members indicated assent.*
5718. Clause 45 is the first clause in Part 2, working-age benefits.
5719. **Mr Pollock:** That is over to me, Chair. Clause 45 relates particularly to the claimant commitment for jobseeker's allowance. We went over that ground pretty comprehensively this morning when discussing the claimant commitment for universal credit, and I mentioned the claimant commitment later under employment and support allowance. Are you happy enough with that?
5720. **The Chairperson:** Some union representatives were concerned about the use of the phrase “or such other person”. Their concern is outlined at point 48(ii) in our paper.
5721. **Mr Pollock:** They are concerned about contracting out.
5722. **The Chairperson:** Is there a particular problem with that?

5723. **Mr Pollock:** There are no immediate plans, as far as we are aware. Martina mentioned earlier that DEL has training providers, but they are employed and contracted purely to deliver particular programmes and job schemes on the ground. The primary responsibility still rests with DEL.
5724. **The Chairperson:** Do you think that the phrase “or such other person” does not imply what the unions are fearful of?
5725. **Ms M Campbell:** The decision on whether to apply a sanction still rests with the decision-maker in DSD, not with DEL. That will remain the case.
5726. **Mr Brady:** Michael, you said that there are no immediate plans. I accept that the decision rests with the decision-maker in the Department at the moment. However, we were told in 2007 — forgive me for being sceptical — that privatisation was not an issue. Yet privatisation happened within a relatively short time. So although the decision-maker may be in and part of the Department now, who is to say that, in a year or so, the decision will not lie with a private contractor? Medical support services were in-house and, suddenly, we have the likes of Atos. Civil servants should be wary.
5727. **Mr Pollock:** Civil servants are wary. You are talking about office jobs in jobs and benefits. Yes, we are conscious of that as an issue.
5728. **Mr Brady:** I am not being facetious, but you sometimes need to be more than conscious of it, because much of this is geared towards making the transfer to privatisation that much easier, particularly in relation to the whole IT concept and people going online. Let us be honest: people with good IT experience processing claims online would not have to have the experience that very good Social Security Agency staff already have. We need to be very careful about that, from all our points of view.
5729. **Mr Pollock:** The line that we have consistently taken when discussing this with the Committee is that DEL and the Social Security Agency do not have any immediate plans. I cannot quantify “immediate”, as I do not have a crystal ball, but they do not have any plans to change from face-to-face situations in which claimants interface with jobs and benefits staff and their particular circumstances are taken into consideration.
5730. **Mr Brady:** The Bill refers to a remote interface.
5731. **Mr Pollock:** Yes.
5732. **Mr Brady:** What does that mean? That takes away from the face-to-face situation. It is a bit like telemedicine, whereby somebody in Craigavon assesses somebody with a sore stomach in Daisy Hill. I am not being funny.
5733. **Mr Pollock:** I know what you are saying, Mickey. Again, all I can tell you is that the policy intent is to future-proof the legislation to facilitate people. Nowadays, lots of people want to access claim forms remotely. My kids rarely go anywhere: everything is done remotely, whether applying for jobs or accessing whatever information. That is what that type of future-proofing is about in the benefits system here.
5734. **Mr Brady:** I do not want to draw this out, but my point is that I have no problem with experienced staff dealing with people. My difficulty is with the parachuting in of people who have no knowledge of the situation. We now see the outworkings of that in the work capability assessment, in which the parachuting in of such people has caused and continues to cause problems. This is an enabling Bill. If it is built into the Bill that there is a possibility — even, if you will excuse the pun, a remote one — the difficulty is that it could happen. That is my problem. It could happen in six months or two months, and therein lies the difficulty. We are talking about staff in local offices who need reassurance on this because they have a difficult enough job as it is.
5735. **Mr Pollock:** I understand, Mickey. It is a point well made, and it is very relevant

- to us as civil servants. You appreciated the assurance that we gave you last week, which was that the same type of people would be dealing with the social fund. Again, that is as much as we can give you at this time.
5736. **Mr Brady:** The point that I am making is this: therein lies the need to build in safeguards. That is what the unions are talking about, and rightly so.
5737. **The Chairperson:** The concern that some of us have is with the phrase “or such other person”. Is that future-proofing or providing for privatisation further down the track? If that is implicit, why does someone not make it explicit? If they want to privatise it, why not come and tell us that they are going to do that and that it is a policy intent? If that is what they support, why should they be afraid to tell us? If people are concerned about creeping privatisation and feel that they may be walked into that, they may want to take that bit out of the Bill.
5738. **Ms Jane Corderoy (Department for Social Development):** It is worth saying that it is stated specifically that it is by regulations, so we would have to come back to the Committee anyway if there was any intent to privatise.
5739. **The Chairperson:** Yes, but it is still provided for, so any regulations will be governed by what was provided for in the primary legislation.
5740. The other wee point on clause 45 came from Citizens Advice. You may have dealt with it earlier by saying that claimant commitments are done in consultation with the claimant, but people are obviously looking for these things to be highlighted more explicitly.
5741. **Mr Pollock:** Clause 46 allows interviews to be conducted remotely. Again, the assurance that we have at present is that we are not aware of any intention to do that at any time in the future, but it is a future-proofing issue. Some employers, for example, may want to be able to interview people from a remote location.
5742. **The Chairperson:** OK. Clause 47.
5743. **Mr Pollock:** Clause 47 deals with sanctions. We had a fair run over that ground this morning. Is there anything else on that?
5744. **The Chairperson:** No.
5745. **Mr Brady:** As an aside, Chair, would it be possible to get some in-house research on the current sanctions regime and what is being proposed? A sanctions regime is in place at the moment, which is quite —
5746. **Ms M Campbell:** We have that, and we will get it to you.
5747. **The Chairperson:** Thank you.
5748. **Mr Pollock:** There was nothing on clause 48 or clause 49.
5749. There was a stakeholder comment on clause 50, which relates to responsibilities for jobseeker's allowance. I do not have that information this afternoon, Chair, but I do not envisage a marked difference between the current responsibilities for jobseeker's allowance and what is envisaged under the new regime. Clause 50 replaces provisions that relate to the responsibilities that jobseekers must meet and the imposition of sanctions. Again, the sanctions regime and the claimant commitment all hang together. In that sense, it will bring a bit of clarity to the system in so far as the individual or claimant will know what is expected of them under a particular benefit and what the outcome would be if they did not comply with that.
5750. **The Chairperson:** OK.
5751. **Mr Pollock:** Clause 51 relates to the ESA dual entitlement. Last week, a member wanted to know what sanction would apply to people entitled to ESA and universal credit. We now have some clarity on that. Basically, they would be subject to the conditionality of universal credit. Invariably, that would be beneficial to them, because they would be subject to losing only the amount of the universal credit award, and their ESA would not be touched.
5752. **The Chairperson:** OK.



5753. **Mr Pollock:** Clause 52 deals with the period of entitlement. This is time-limiting for ESA. I mentioned last week the amounts that attach to this. The costs of not implementing this clause would be pretty hefty. In 2013-14, it would cost £36.5 million; in 2014-15, it would cost £51 million; and, in 2015-16, it would cost £62.2 million. That condition is already in place in GB. Although those are significant amounts, it is also a parity issue — apologies for using that word — in so far as it relates to the conditionality under which people receive their benefit. Therefore, if I am in Newcastle upon Tyne as opposed to Newcastle, County Down, I can receive my ESA for 365 days. However, if I am in Newcastle, County Down and the Executive decide to do something different, I can receive it ad infinitum or at least for a longer period. It relates pretty closely to the conditionality of the benefit, and it is an issue that would cause some consternation because of the amounts involved in non-implementation and basic changes in client conditionality.
5754. **The Chairperson:** Fair enough, message understood.
5755. **Mr Pollock:** Clause 53 deals with further entitlement after time-limiting. Again, I do not have the particular document, but we did come back to you on how individuals would qualify for a further period of ESA. It is tied into the 12 weeks.
5756. **The Chairperson:** OK.
5757. **Mr Pollock:** Clause 54 relates to ESA and the youth condition. There were some questions about the amounts involved and whether the £390,000 saving was net of displacement costs. We received some confirmation that that was the case. We also received some information on the numbers, but we are trying to bottom those out. We will come back to you formally on the number of 16- to 24-year-olds who will be affected by it, but the figures that I have show that 695 ESA live load customers below the age of 20 and 2,977 customers aged between 20 and 24 will be affected. There is still some work to be done on who is on what in the ESA youth contribution, but we will come back to you when we get it all figured out.
5758. **Mr Brady:** The young people who will be affected and who no longer qualify for youth incapacity will be placed in the larger unemployment pool. In my experience, most of those youngsters have learning disabilities, and some will have quite severe learning disabilities. As part of the migration, a decision will be made on what a person may or may not be capable of doing. Will their particular disabilities be factored into their claimant commitment, as will be the case in all claimant commitments? I am not necessarily asking for special attention, but the fact that their condition qualified them for a benefit from the age of 16 — the old severe disablement allowance — needs to be factored in and addressed, perhaps even more so. Everyone's needs should be addressed, but a lot of those kids may not be able to articulate their needs because of their condition.
5759. **Ms M Campbell:** They will still be able to claim income-related benefit. We expect that almost all of them will transfer to that.
5760. **Mr Pollock:** That is the case. Their personal circumstances will certainly have to be taken into account.
5761. **The Chairperson:** Does that also cover clause 55, Michael? Did we move between the two?
5762. **Mr Pollock:** Yes.
5763. We provided some information on the work experience requirement in clause 56. I do not think that I have anything else on that at the moment.
5764. Clause 57 introduces hardship payments for the ESA regime. Previously, those were not available. In most cases, hardship payments will not be recoverable.
5765. Clause 58 deals with claimant responsibilities and commitments for employment and support allowance. We have nothing new to add on that.

- The Law Centre mentioned that the new claimant responsibilities will not be introduced until the introduction of universal credit, etc. However, there is a process through which many of the working-age benefits are being aligned to facilitate the introduction of universal credit in that respect.
5766. **Mr Brady:** I have a question on the work experience issue in clause 56. Essentially, it deals with work experience and placements for sick and disabled people who are declared fit to move towards work. That clause will permit officials to make people who are sick and disabled do work experience as a condition of their benefit. On one hand, they say that people are not necessarily capable of work; on the other hand, they say that they will put them in a situation in which they have to move towards work even if they have a particular condition. Is that right?
5767. **Mr Pollock:** No, I do not think so, Mickey. Whether an individual is placed in that category and whether they are required to undergo work experience will depend on their condition. As mentioned earlier, the individual's circumstances will be taken into account.
5768. **Mr Brady:** I suppose that what I am saying is that some of those people will be identified as being too sick to work, but they may be expected to attend placements and move towards work. It seems to be a contradiction in terms.
5769. **Mr Pollock:** I do not get —
5770. **Mr Brady:** Perhaps we can draw that out at a later stage.
5771. **The Chairperson:** Fair enough. Michael, I think that you were moving on to clause 58. The Committee is concerned about sanctions coming into play earlier than the introduction of universal credit.
5772. **Mr Pollock:** We are working closely with DEL on interviews and other aspects of the work programme. It stands to reason that we would not commence any of the sanctions attached to particular aspects of the work programme if we did not have that provision in Northern Ireland. They would not be introduced until the provision is in place.
5773. **The Chairperson:** OK. We will move on to clause 59.
5774. **Mr Pollock:** Clause 59 relates to lone parents —
5775. **Mr F McCann:** Are you saying that you are working towards a time frame for the introduction of universal credit? Is there any indication whether any of the high-level sanctions will come in now, next year or the year after? Has a decision been made on when the sanctions will be brought in?
5776. **Mr Pollock:** I do not think that we have anything definitive on the commencement of those particular provisions, Fra.
5777. **Ms M Campbell:** I think that it is covered in the table that we gave the Committee on the regulations. However, I will check again.
5778. **Mr F McCann:** It is just a concern. Those who work in the Department may have the best intentions. However, people are looking towards universal credit, and, perhaps as a result of a mishap or something with the way in which a benefit has been paid, they may receive a letter saying that they will be sanctioned for one year or three years. I take it that there will be pre-publicity and that people will be informed that the sanctions are about to come in and about how they will be hit.
5779. **Mr Pollock:** I think that I mentioned previously that the sanctions regime was being reviewed, irrespective of universal credit and the reform agenda. I envisage that the sanctions will probably be in place before the introduction of universal credit. However, I will have to come back to you on the exact timing.
5780. **Mr F McCann:** It is important that people know when this punitive measure will come into play.
5781. **Mr Pollock:** It is a deterrent.
5782. **The Chairperson:** All right. We are now on clause 59.

5783. **Mr Pollock:** The Department predicts that the change in lone-parent conditionality will save £11.73 million in 2012-14. I do not have a specific answer at the moment, Chair. I will come back to you on that.
5784. **Mr Brady:** I want to ask about parental flexibilities. One the big issues in all of this is the distinct lack of childcare — certainly formal childcare. Eventually, the age of the child will go down to one. If I am right, we will move from “good cause” to “good reason” —
5785. **Ms M Campbell:** It all means the same.
5786. **Mr Brady:** Presumably, the flexibilities that we are talking about would have to be built in around that. Otherwise, an arbitrary decision could be made by the person who is doing the interview, who may think that he or she knows more about childcare provision in the area than the person can access. There are all sorts of issues around that.
5787. **Mr Pollock:** As Martina has said on more than one occasion, childcare is deemed to be a good reason for not taking up a particular job or training opportunity. There are other provisions that allow lone parents to restrict their availability to school hours or when childcare is available. Ministers are discussing the whole issue of childcare and the provision of adequate and affordable childcare to address the differential between here and other parts of the UK. Therefore, mitigating action against some of the adverse impacts of welfare reform is being taken.
5788. **Mr Brady:** Knowledge about childcare in a particular area is an issue. Childcare varies from area to area, even in the North. One of the issues is that somebody interviewing a lone parent may have childcare responsibilities and think, “Well, if I can do it.” Therefore, knowledge tends to become more subjective sometimes. Having something in a local office that clearly outlines what is available in an area is important. To my knowledge, that has not been a feature to date.
5789. **Ms M Campbell:** That is a good point. You have reminded me of something. At the minute, you can phone the health trust for a list of childcare providers in your area, but there is no central database. The Department of Health, Social Services and Public Safety is undertaking some work on that at the minute and is looking at developing a central database. The information-sharing provisions in the Bill will allow us to access that database. That would obviously support someone’s decision.
5790. **Mr Brady:** I just wanted to make that point because it has not really been addressed properly. In some areas, there is not great childcare provision, but it may be better than the provision in others.
5791. **Ms M Campbell:** According to DHSSPS, a lot of childminders have come off the register because they have no children to mind. We obviously view that as an opportunity for people to start up their own business.
5792. **Mr Brady:** Years ago, I was involved in going out with the trust to try to encourage people to become registered childminders.
5793. **Ms M Campbell:** The Department of Agriculture and Rural Development has done a whole big thing on that as well.
5794. **Mr Brady:** It is a very prescriptive procedure. That needs to be addressed properly.
5795. **Ms M Campbell:** That is in the childcare strategy work of the Office of the First Minister and deputy First Minister.
5796. **Mr Brady:** Child protection is paramount, but there is still room for manoeuvre.
5797. **Ms Campbell:** That is a big issue, but all the different parts of the Executive are working together on mitigation. That is a good point, and we have been working with colleagues to address it.
5798. **Mr Brady:** I am glad that I came up with one good point for you today.
5799. **Ms M Campbell:** You always make good points, Mickey.

5800. **The Chairperson:** Do not encourage him.
5801. Members, we have a wee bit of information from the Department in front of us on clause 60, so you do not need to deal with that unless you want to, Michael.
5802. **Mr Pollock:** OK.
5803. **The Chairperson:** If members are happy enough, we will move on to clauses 61, 62 and 63. The Law Centre and NICEM commented on clause 63 in their submissions. They are opposed to some of those clauses.
5804. Is that still the EU? We kind of dealt with that this morning, so are members happy enough to move on? We have dealt with that, but we will obviously come back to it formally.
- Members indicated assent.*
5805. **The Chairperson:** We will move on to clauses 64 to 68.
5806. **Ms Corderoy:** Clauses 64 to 68 are technical amendments relating to industrial injuries. They remove unequal treatment and extend, simplify and rationalise existing schemes for those under 18 and for trainees. We had a couple of queries, but we answered those last week.
5807. **The Chairperson:** That is fair enough.
5808. **Mr Pollock:** Clause 69 deals with housing benefit changes, which we spent quite a bit of time on this morning when discussing underoccupancy and the consumer price index uprating. As I mentioned, you asked for some figures, and we have provided them. However, I think that we need to put the position to you formally so that you get as full a picture as possible of what everybody is doing.
5809. **The Chairperson:** Thank you for that.
5810. **Ms Corderoy:** Clauses 70 to 73 are to do with getting rid of the previous social fund. Last Thursday, you heard from Leonora McLaughlin about the plans for the discretionary scheme. She went through most of the questions that were in the table.
5811. **The Chairperson:** I thought that we may have had something in our tabled items, but we do not. Fair enough.
5812. Clause 74 is titled “State pension credit: carers”.
5813. **Ms M Campbell:** I did confirm that. That is not changing.
5814. **The Chairperson:** We dealt with clause 75 earlier. A number of recommendations were made on clause 76, so there is a bit of discussion to be had on that. We had a number of recommendations from stakeholders, including a recommendation that the severest cases be dealt by a paper exercise, as it was described. There was also a suggestion to amend clause 80 to change the required waiting condition.
5815. **Ms Corderoy:** On the first clause that you mention, it is the legislation’s intention that the severest cases will be dealt with by a paper exercise. Legislation allows for that in exceptional circumstances.
5816. Last week, we said that, in clause 80, the limit of three months and six months has already been changed as a result of consultation. It aligns with the definition of “long-term disability”.
5817. **Mr Brady:** How will it be determined what are the severest cases? Will it be based on medical evidence? There are degrees of severity. Sometimes the decision can be subjective rather than objective. Will there be anything there to suggest that there is medical evidence from a GP or a consultant, or from a person’s medical history. A lot of the people who will be moving over from disability living allowance (DLA) to PIP have long-term chronic conditions. In many cases, they will have progressive conditions that could get worse within the month. I am thinking of rheumatoid arthritis and such conditions. There could be people with multiple sclerosis who are in remission only to see their condition change very quickly. People with motor neurone disease can get

- worse. There are many such conditions. Sarcoidosis has been mentioned in the past. You could have one good week out of four. It is a very severe condition.
5818. **Mr Pollock:** The medical evidence will be one aspect of the overall consideration. Jane, do you want to comment?
5819. **Ms Corderoy:** My operational colleague, Mickey Kelly, is not present today. However, I can come back to you on that. Fluctuating circumstances are dealt with elsewhere in the legislation.
5820. **Mr Brady:** To extend that point slightly, if it is going to be a paper exercise, it seems logical that the best available medical evidence should be there. I do not dispute that other factors may be considered. If someone has a long-term, chronically severe condition, medical evidence will be there, and it will be long-term medical evidence, probably going back many years and possibly containing a prognosis.
5821. **Mr Pollock:** It is down to our good old common sense again, Mickey.
5822. **Mr Brady:** Sometimes it is not so common.
5823. **Mr Copeland:** Under the existing benefit, there is a mechanism called “special rules”. It applies to people who are facing end of life within a set time frame. Will that be replicated?
5824. **Ms Corderoy:** Yes.
5825. **Mr Copeland:** Are there any changes to the timescales and the criteria that have to be satisfied?
5826. **Mr Pollock:** I do not think so. There is something about cancer sufferers.
5827. **Ms Corderoy:** Bits of DLA are tried and tested on how to take forward the same rules, so the same rules apply on terminal illness.
5828. **Mr F McCann:** One of the groups raised the point that DWP has proposed that, after four weeks, DLA or PIP should not be paid to people who have travelled abroad. Does that take in pensioners and older people, quite a few of whom, mainly for health reasons, go away for a month or two in the winter? This will restrict their doing that.
5829. **Mr M Byrne:** The plans at the minute are that PIP will not apply to pensioners. PIP will apply only to people of working age.
5830. **Mr F McCann:** I did say older people, too.
5831. **Ms M Campbell:** Over 50s, say?
5832. **Mr F McCann:** I have not quite said that, but it will not affect people of pensionable age?
5833. **Mr M Byrne:** It will not affect people over 64. PIP will apply to 16- to 64-year-olds.
5834. **Mr Brady:** On that point, it really depends on defining what “medical treatment” is. Many people with arthritis go abroad for the sun. Is that, in the broadest sense, medical treatment? I suppose that it comes down to semantics.
5835. **Mr M Byrne:** I think that it would have to be medical treatment that has been recommended rather than just —
5836. **Mr Brady:** Your doctor may tell you that it would be a great health benefit if you could to Santa Ponsa for two months or whatever.
5837. **Ms M Campbell:** We are all going to go to your doctor. *[Laughter.]*
5838. **Mr Brady:** I was thinking of somebody else’s.
5839. **Mr F McCann:** I think that Jane was working her way through a number of other issues when she got sidetracked.
5840. **Ms Corderoy:** We clarified last week that clause 86, which contains the comment about people being held on remand and subsequently being released or people having their convictions quashed, is not about presumption of guilt or innocence but to prevent there being double provision and to ensure that their medical care is met while they are in prison or wherever.
5841. **The Chairperson:** Then there is the issue of statutory access to



- independent advice. It says “mandatory” here, but it was really to make provision for access to independent advice to be put on a statutory footing.
5842. **Ms M Campbell:** Apart from the fact that making independent advice statutory could prove expensive, it would be problematic. How would you determine that the increase in cases was directly related? However, the Department is discussing with the voluntary and community sector what that sector’s role will be in the implementation of welfare reform.
5843. **Ms Corderoy:** As Maurice said, people of 65 or of pensionable age who are in receipt of PIP should continue to get it, and that is the case.
5844. The next point was that current rules allow people who come off DLA to reclaim the benefit within two years if they need it again, but the plan is to limit that to one year under PIP. We said last week that if the Committee feels strongly about that, we can look at it. We can go —
5845. **Mr F McCann:** I was thinking of Mickey when I raised that point.
5846. **Ms Corderoy:** There is another question related to clause 86, and it is to do with people who are on remand. Again, it is about over-provision and avoiding paying from the public purse twice.
5847. Last week, we also dealt with the recommendation to bring the mobility component for adults into line with that extended for children. The 84 days relates to disabled children and is linked to child benefit. I do not get any sense that there is any interest in changing that.
5848. Under clause 88, a report of the assessment must be laid before the Assembly within two years. Last week, my colleague from the agency said that time was needed for PIP to bed down and for lessons to be learned as we look at the number of people going through it. We also said that we would be willing to take on some of the other suggestions from stakeholders about involving disabled people and organisations in that, and that would need to be in the legislation.
5849. Clarification on cross-border issues is there. We said that the social security entitlement of people in the EU is determined in accordance with European legislation. EC regulation 883/2004 co-ordinates member states’ social security schemes. The competent state for the award of sickness benefits is determined in accordance with the regulation, and is normally based on the European Economic Area state where the person is insured, regardless of which state in which that person resides. We are told that it is exportable if a person moves across the border. That was a particular issue that the Committee raised. We will ensure that we get clarification that that is the case.
5850. We were able to confirm the final point about the definition of a “care home”. Those in sheltered accommodation or supported housing come under the normal rules and entitlement. Proposed rules mirror those for the DLA care component. Particular concerns were raised about supported housing, but people affected will continue to get the PIP component.
5851. **The Chairperson:** Are members content with that?
- Members indicated assent.*
5852. **The Chairperson:** We move now to clause 95.
5853. **Mr Pollock:** Clause 95 relates to the benefit cap. The latest figures that we have show that 620 households in Northern Ireland would be affected by the benefit cap. We have provided the Committee with some information on the exemptions proposed under the legislation. A lot of it is to do with the vulnerable categories, which we have talked about today. We are doing some more work on the finance that is being attached to the introduction of the benefit cap and what would be saved from there. We should have that for you very shortly.

5854. **Mr F McCann:** When the cap comes in, it will obviously be an amalgamation of quite a number of benefits. I think that something like 30 benefits are being pulled together. Would the Department consider listing in the Bill all the benefits that will and will not be affected by the benefit cap?
5855. **Ms M Campbell:** That is in regulations.
5856. **Mr Pollock:** There is a list of what is to be included and what is not. Perhaps, for the stake of stakeholder engagement, it would be an idea for the Department to have something. I am sure that Tommy's people and the communications people have in mind something that will be available to customers to tell them that if they are getting DLA, attendance allowance or carer's allowance, for instance, it will not be included in their overall benefit cap.
5857. **Ms M Campbell:** The list is on the NI Direct website. Receipt of work and tax credits, DLA, PIP — when it comes in — attendance allowance, the support component of ESA, industrial injuries, and equivalent war disablement pensions and payments under the armed forces compensation scheme, war widow and war widower's pensions automatically exempts people. From memory, we gave a figure for households that came under the benefit cap at something like 13,000, but when you weed those out, the people in receipt of the exclusion benefits brought it down to 620.
5858. **Mr F McCann:** There are very few people who will know that there are 30 benefits out there. Most people would not know what they are. Can we have that recorded in the Bill? Can we have a list of the benefits that are going to be amalgamated into universal credit?
5859. **Ms M Campbell:** I am with you now.
5860. **Mr Pollock:** It is in there now, Fra. We are told what universal credit is going to replace.
5861. **Mr F McCann:** It would take you three months to find them all. It would be a good idea to have a list of those benefits that are going to be amalgamated and those that are not. I think it would simplify the thing. If people want to see it, they will see it there.
5862. **Mr Pollock:** I understand, but it will not be benefit claimants who will be reading this.
5863. **Mr F McCann:** That is like saying to Mark Durkan this morning, "Now you should read the business case", yet there are 20,000 pages in it or something like that.
5864. **Mr Brady:** One of the stakeholders proposed that carer's allowance, widow's and bereavement benefits and contributory-based ESA be added to the list of benefits exempted. It seems to me that it would be a great opportunity to make carer's allowance a stand-alone benefit going into all of this, because it should have been from the beginning. I say that because it is so related to DLA or attendance allowance.
5865. **Ms M Campbell:** Carer's allowance?
5866. **Mr Brady:** Yes. If you are on benefit, carer's allowance is taken in against your benefit. It is taken in as income. It should never have been, because DLA is not taken in as income and neither is attendance allowance. There was always the argument that carer's allowance should be a stand-alone benefit, because a carer is caring, irrespective of whether he or she is working. That is the point that I am making. It was resisted because of the obvious financial implications. Carers in the North save the Government £4 billion a year. What would happen if all the carers decided that they were not going to do it any more. I am sure that they will not, but it is an opportunity. There had been suggestions about such benefits as bereavement benefit, for instance, but it seems to me that carer's allowance is an obvious benefit to be exempt.
5867. **Mr M Byrne:** Carer's allowance is an income-replacement benefit. It is there to help people who cannot work full-time.

5868. **Mr Brady:** With respect, Maurice, that is what we were told. I would never accept that it is an income-replacement benefit. If you were working for 35 hours a week for an income of £1.24 an hour, and that is an income-replacement, you are being short-changed.
5869. **Mr M Byrne:** People in receipt of carer's allowance can still work.
5870. **Mr Brady:** They can earn only £100, so they are restricted.
5871. **Mr M Byrne:** They are not able to work full-time or to work to their full potential, so that is a benefit to compensate for that.
5872. **Mr Brady:** I cannot accept that argument. Sorry.
5873. **Mr F McCann:** I think that you said that 620 big families would be affected. At one of the meetings, you also said that 13,500 would be affected, because they are in receipt of DLA and that they could be impacted on by the changes from DLA to PIP.
5874. **Mr Pollock:** They are exempt.
5875. **Mr F McCann:** They are exempt at present but will that 13,500 still be exempt when the changes come in?
5876. **Mr Pollock:** Yes, they will still be exempt. They are in the categories that will be exempt.
5877. **The Chairperson:** The question that you were asked related to the headline figure of the benefit cap and the 13,000 that Martina said would be affected.
5878. **Ms M Campbell:** It is 13,300.
5879. **The Chairperson:** When you take out all the proposed exemptions, you take that down to 620.
5880. **Ms M Campbell:** Yes.
5881. **Mr Copeland:** I interpreted the question differently. There are 13,000 people, many of whom may be exempt because they are on DLA. Let us say that 25% of those do not transfer satisfactorily from DLA to PIP, so that figure could be 3,000 people instead of 600. That is the potentiality.
5882. **Mr F McCann:** That is the point that I am making.
5883. **Mr G Campbell:** I have a query on what its presentation will be when it ultimately rolls out. Your presentation about the cap of £500 a week is well-rehearsed. The rationale for it is that it is approximately the average GB wage.
5884. **Ms M Campbell:** It is not our average wage. The point about the figure used in the cap is that it is the GB median wage, which is an advantage to Northern Ireland claimants, because the median wage in Northern Ireland is lower, as you know.
5885. **Mr G Campbell:** Yes, I know that. From a presentational point of view, particularly when part of the rationale is to make it more productive for people to work, is it not true to say that if you had an identical couple, one of whom was on benefit at or close to the maximum cap of £500 a week, and another couple in work, the couple in work would have to earn an awful lot more than £500 a week to be the same as the recipient of the benefit, in net terms? Would it not be better to say that the cap of £500 is equivalent to a couple who would have to earn £30,000 a year, or whatever it is?
5886. **Ms M Campbell:** I think, from memory, that the figures are £26,000 to £32,000.
5887. **Mr Pollock:** That is £26,000 net and £32,000 or £33,000 gross.
5888. **Mr G Campbell:** Yes, but when you use the term "equates to", the working person will say, "Forget about the 'equates to'. That is what I have to earn to get what the person who is on benefit can get under the cap. The 'equates to' is out of the question. That is what I have to earn in wages. I have to work to earn up to £32,000 per year to get the same as someone in identical circumstances to me can get in benefit, and the cap cuts in then." Just for presentation, maybe, at that point, you could say something else rather than

- just say it is the equivalent of £500 per week.
5889. **Ms M Campbell:** Yes.
5890. **Mr Brady:** I suppose that that is the argument that Freud was using in the House of Lords.
5891. **The Chairperson:** Let us not have an argument about propagandising or promoting the Bill. Let us deal with the clauses of the Bill.
5892. **Mr Brady:** Sorry; it is about the point about the gross figure as opposed to the net figure. In fact, the figure that he gave was £35,000. I just want to clarify that.
5893. My question is on the transfer. Are we any closer to finding out who will get the contract for the PIP assessments? We have been told several times that we are near that magic contract.
5894. **Mr M Byrne:** I have not heard anything further on that.
5895. **Ms Corderoy:** No. We hope, Mickey, that it will be soon enough, within the next month or so, but we will let you know as soon as we know.
5896. **Mr Douglas:** I have two points. Someone told me that there were six people in for the contract. Is that right?
- I come back to a point that Fra made. It is a more general question and may be better left to the end. He talked about listing all these benefits in or out. We have talked before about the importance of communication. There is a lot of fear out there at the moment. What are we doing about that? For example, we talked earlier about underoccupancy. In discussions that I have had with people, I have heard their fears that this is going to happen next week and that everyone will be put out of their home. We definitely need to do something. Some people think it will happen next week.
5897. **The Chairperson:** Our dilemma at the moment is that we are simply processing a Bill. Until the Bill completes its passage, theoretically, you cannot say what the outcome will be.
- So, we are in a bit of a dilemma. There is nothing I can really do at this moment to assuage the fears of a lot of people. I am getting it every day of the week, like everyone else around the table. There is little I can do to assuage people.
5898. Arguably, if a lot of the submissions had been more widely publicised, there would be a lot more concern out there. We had the likes of the Housing Executive telling us that if all the people deemed to be within the remit of this new Bill and living in inappropriate accommodation presented themselves for appropriate accommodation, it could not meet that need. It expects that if the proposed Bill goes through as it is before us, more people will be more likely to face the prospect of being unable to pay the rent and losing their home. It is quite concerned about that in its evidence
5899. Those are the concerns. I do not know what we can do, as a Committee, to assuage them. I am not even sure what the Department can do because it is proposing the Bill.
5900. **Ms M Campbell:** What we could do is ask the Social Security Agency's communications people to talk to you.
5901. **Mr Pollock:** The agency has a wider communications strategy in place. A lot of that will kick off immediately the Bill goes through the Assembly. However, it is predicated on the legislative process, and the agency does not want to prejudice that, I suppose.
5902. **Mr Douglas:** Some of us had a chat over lunchtime. If you look at the 'The Independent on Sunday', you can see that it shows that there are clearly major problems at the moment. I had another look at it, and it relates to the whole IT system. If half of it is true, it will put the whole process back another year or 18 months. The longer this goes on, the more the rumour-mongers will get to work and the more people will talk. I understand that it is a very difficult situation. As Martina says, it might be an idea to chat with that part of the Department.

5903. **The Chairperson:** We can certainly do that. There is no difficulty about that at all. I am just sounding a wee note of caution. The Department and the agency will have their communication strategies, but I do not want to subscribe to a communication strategy that is propagandising for something. It is difficult. We have told people who have made arguments to the Committee over the past year to make their case and to be evidence-based if they can be. Some of the outworkings of the Bill will be very challenging and difficult enough for a lot of people. You do not need to elaborate on that or make it sound worse; the outcome might be difficult enough. That is obviously in the minds of all the parties that have opposed elements of the Bill until now. We could have a discussion about communication, but you will be limited in what you can do. Although there is an argument that says, “The Bill is a good thing; it is about simplification and being fair to the taxpayer”, there are counterarguments that say, “Yes, but an awful lot of vulnerable people are going to fall foul of the Bill.” How do you square that circle? I am not so sure, but, yes, we can have a discussion on communications with the relevant agencies.

5904. **Mr F McCann:** There is a valid point in what Sammy said. There seems to be indications that there are serious problems, whether they are to do with computers or other aspects. However, we are pushing ahead. When we are finished, we will go into the Assembly and vote on the Bill. If it passes and they get more and more problems over there, where does it leave us?

5905. **The Chairperson:** We have to deal with the Bill in front of us and bring those judgements to bear. When we come to the clause-by-clause scrutiny, which will start very shortly, we will have to make our judgement on the Bill based on the information that we have received from stakeholders and with the Department. That is the process that we have been involved in during the Committee Stage. The first phase was to satisfy ourselves that we know every provision of the Bill

and what it was intended to do, and all the rest of that. There was a lot of discussion, and people teased out what things might mean. We have done that. We then had stakeholder evidence sessions, and now we have reverted to talking to the Department. That is what we are working on. We clarified what the Bill is supposed to be about, and we took evidence. Now, having had the benefit of that evidence, we are taking that evidence up with the Department again to clarify aspects of it and to tease out some of the arguments. The phase that we are now in is that we are asking the Department whether it will be able to take on board some of the concerns. We have already addressed some, and we are going to come back to others. When that is completed in a day or a couple of days, we will do the clause-by-clause scrutiny. We will have to make our judgements based on what we believe the Bill to be and what our views on all that are. We will have to make our decisions on that. People have already expressed their concerns; they are worried about the impact of the Bill. It is in our hands to make decisions on the Bill. That is all that we can do, Fra.

5906. **Mr G Campbell:** We are aware of the media hype over the weekend. Is any information being fed from DWP about the scale and nature of the problems that are being encountered, and, more importantly, about what impact they may or may not have on us?

5907. **Ms M Campbell:** You would have to ask the agency. It is closer to the IT; it handles all the communications. We, obviously, are in touch with policy colleagues about the regulations, but the agency handles the specifics around the IT.

5908. **Mr Pollock:** There does not seem to be any hiatus in bringing forward the regulations arising from the Bill that passed there in March.

5909. **Mr Douglas:** Let me just quote ‘The Independent on Sunday’:

*“The programme’s director, Malcolm Whitehouse, and the DWP’s head of IT, Steve*



- Dover, last week announced they would be leaving the department."*
5910. Those are two key people. It also states:
- "The senior civil servant on the project was described as being 'on extended sick leave'."*
5911. It just shows you —
5912. **The Chairperson:** I am going to be the director general of the BBC. That is not true, by the way.
5913. **Mr Douglas:** I know that that is in the paper, but those are facts and figures. They are definitely big difficulties. The longer that this goes on, the more of a mire we get into. That is particularly the case for elderly people, who will wonder what is going to happen and what is not.
5914. **The Chairperson:** It is a point well made. Obviously, we will have to bear all that in mind when making our decisions on the Bill. That is the dilemma that we will face. Thank you for that.
5915. The issue in clause 96 was around the ability to appeal the decision if you felt that it was wrong.
5916. **Mr Pollock:** I think that we have come back to you on that. Basically, the only aspect that you cannot appeal is the right to apply the benefit cap. Everything else would be appealable.
5917. **The Chairperson:** Good enough. We move on to clause 97.
5918. **Ms Corderoy:** I think that the issues with clause 97 and clause 99 were dealt with this morning. We spoke about clause 98, which was just verification of the type of organisations that you could get information from.
5919. Clause 100 deals with payment on account. We clarified last week that that is not to do with the social fund replacement and that that would be an additional Government amendment.
5920. Clause 101 deals with the mandatory reconsideration before appeal. With regard to the third bullet point at paragraph 77 of the paper, the Department would appreciate it if the Committee could let us know which bit of the time limits you are talking about so that we can make sure that we are answering the right query.
5921. **The Chairperson:** It is the 42-day time period.
5922. **Mr Brady:** May I just clarify a point? Does that mean that you have 42 days within which to appeal or that the Department will deal with it within 42 days?
5923. **Mr M Byrne:** We are not aware that there is a proposal to introduce a 42-day time limit.
5924. **Mr Brady:** It is 28 days at the moment.
5925. **Mr M Byrne:** Twenty-eight days for the Department to deal with —
5926. **Mr Brady:** No, for a person to appeal —
5927. **Mr M Byrne:** Yes; that appeal time limit remains at 28 days.
5928. **Mr Brady:** So the 42 days would then —
5929. **Mr M Byrne:** We are not aware that there has been talk about 42 days.
5930. **Mr Brady:** I am just wondering how enforceable that would be, considering the number of appeals you are going to get.
5931. **Mr M Byrne:** You are under the impression that that 42 days is for the Department to handle the appeal.
5932. **Mr Brady:** It is ambiguous. It does not really say. It says:
- "A time limit should be applied to the Department to ensure an appeal is dealt with in a timely fashion. [The Department of Work and Pensions and HMRC are both considering a 42 day time period in Britain.]"*
5933. **Mr M Byrne:** I know that, under the appeal regime across the water, when the appeals were taken over by the Ministry of Justice, it tried to impose a 28-day time limit on DWP to get submissions to it within 28 days of the date on which the appeal was lodged. I think that there was opposition to that, in that DWP could not have met that timescale. As far as I am aware, the current rules state that the response to the appeal should be provided within

- such time as may be reasonable. As far as I am aware, there are operational targets and whatnot in place that require that submissions should be provided to the appeal tribunal within a certain time. However, once it goes to the appeal tribunal, it is up to the appeal tribunal to decide how long or how many sittings it hears. There is no time limit for it to get the appeal heard. So, I do not know just how workable a time limit would be in the process of getting an appeal lodged and then cleared. There are too many variable factors involved.
5934. **Mr Brady:** There are operational difficulties, too, because sometimes appeals require a departmental officer to be there. At one stage, the appeals people were actually sending out subpoenas to the Department to have an officer at every appeal. It did not work. The only reason I am raising that issue is that it throws up the inherent difficulties in trying to get appeals through in a reasonable time. The difficulty in this case is that, under this legislation, there will be so many more appeals than there are already.
5935. **Mr M Byrne:** The whole idea of clause 101 is to reduce the number of appeals going to the appeals tribunal. Hopefully, they will get the decisions right in the first instance.
5936. **Mr Brady:** Room 101 might be more appropriate.
5937. **The Chairperson:** The issue was raised by the Law Centre specifically.
5938. **Mr M Byrne:** I suppose it has an interest in trying to get the appeals heard as quickly as possible. At the minute, we are not aware that there is going to be a time limit for it.
5939. **The Chairperson:** Fair enough. Did we skip clause 99?
5940. **Ms M Campbell:** That was covered this morning under the payments to joint claimants.
5941. **The Chairperson:** Clause 102 was about data protection.
5942. **Ms Corderoy:** It makes it easier to include in regulations provision for electronic communications in relation to claims to benefit, notification regarding claims to benefit and notification regarding change of circumstances, rather than us having to go through a separate order under the Electronic Communications Act (Northern Ireland) 2001.
5943. **The Chairperson:** The main concern was about data protection, is that right?
5944. **Mr M Byrne:** I do not think that it is anything to do with data protection. It is not to do with the electronic sharing of information between Departments or anything like that. It is just a simplification measure to allow the Department to make provision in regulations for electronic communication as regards making claims and changes of circumstances. Currently, that has to be done by an order under the Electronic Communications Act, whereas, under the new regulations for universal credit, we can include in the claims and payments regulations all the provisions for claims and payments, including electronic communications.
5945. **The Chairperson:** People were just concerned about security, that was all.
5946. **Mr M Byrne:** As far as I am aware, there have been electronic claims since 2006, and I am not aware that any issues have been raised with the Department over the security of information given in that way.
5947. **The Chairperson:** That is fine.
5948. We will move to clause 103, which is about recovery of benefit payments.
5949. **Ms Corderoy:** The issue that the Committee raised last week was to do with whether the recovery of benefit overpayments would be detrimental to the claimant. We came back with some information that, where reasonable evidence is available that the recovery of an overpayment would be detrimental to the health and/or welfare of the debtor and/or their family, particular criteria would need to be satisfied in order to waive recovery of the overpayment.

5950. **Mr F McCann:** How is that determined?
5951. **Ms Corderoy:** It is in guidance. There are different rules for different aspects depending on whether you are on contribution-based benefit or means-tested benefit. At the moment, there is a set limit on what is considered a small overpayment, and that is deemed to be non-recoverable. At the moment, the guidance says that an amount of less than £65 will not be pursued. I think that if a claimant were getting more than £65 and there was a difference in what they get under universal credit, they would probably notice that amount early on. You were concerned about the welfare considerations and that it may push somebody into further debt.
5952. **Mr Brady:** The point was made that, historically, there have been more recovered overpayments here than in Britain. That kind of skews the parity angle, and the difficulty is that, under this, even if the person is not responsible for the overpayment, they are still penalised because the Department has made a mistake and has overpaid them. The argument that people should know when they are getting more does not wash because, in my experience over the years, as I said last week and as I continue to say, people think that the Department knows what it is doing. They think that if they get extra money, they must be entitled to it because those people are almost infallible. I did qualify that.
5953. **The Chairperson:** OK. I admire your confidence.
5954. Happy enough to move on to clause 105?
5955. **Ms Corderoy:** There was no comment on clause 104.
5956. **Mr Pollock:** Clauses 105 to 115 are about fraud.
5957. **Mr Brady:** There is a 40% maximum for deductions from earnings. Will the level of earnings be taken into account? We have a low-wage economy here as opposed to what might exist in Britain.
5958. **Mr M Byrne:** As in any case where recovery is being pursued, all the circumstances of the case will be taken into account before the level of recovery is determined. If the person will be faced with greater hardship, a lower deduction would probably be more appropriate.
5959. **Mr Brady:** The 40% figure is there to be used, and the Department can use it if it so desires.
5960. **Mr M Byrne:** I think that the 40% figure is only for fraud cases where there has been proven fraud. The maximum in the other cases is, I think, 25%.
5961. **Mr Brady:** It is still a fair bit.
5962. **Mr M Byrne:** It is still a fair bit, but that is the maximum. It is not necessarily the automatic deduction.
5963. **The Chairperson:** OK. Let us go back to the fraud section.
5964. **Mr Pollock:** Conrad is best placed to speak to this issue. He has provided some clarification, which he spoke about last week. Basically, the Department's duty is to protect public funds and recover overpayments and social fund loans. That is right, and it should be able to do so over an extended period. Again, he pointed out that there could be higher repayment rates, which would enable the debt to be recovered sooner.
5965. There were no particular comments on clauses 106, 107 and 109. There was a comment on clause 110 in relation to the penalties for fraud. Conrad pointed out last week that the claimant still has the choice to go to court rather than accept the penalty. The amount involved — the £350 or 50% of the overpayment, an increase on the current 30% — is deemed reasonable in the circumstances.
5966. **The Chairperson:** I presume that there is no change in the Department's thinking around the penalty. It will be on top of the recovery. Is that right? That was a concern that members had. It is a bit of a double whammy.

5967. **Mr F McCann:** In what circumstances would the maximum penalty of £2,000 apply?
5968. **Mr Pollock:** I imagine that it would be in extreme cases.
5969. **Mr F McCann:** Can you give me an example?
5970. **Mr Pollock:** I cannot because it is not my particular area of expertise. However, as an ex-auditor, I have to say that it would be proportionate to the amount of fraud.
5971. **The Chairperson:** Conrad may have mentioned a figure last week, but we can check that.
5972. **Mr Pollock:** We can check to see whether we can give you an example, but, as I said, I envisage that it would be an extreme case, maybe involving organised fraud or whatever.
5973. **The Chairperson:** Clause 111?
5974. **Mr Pollock:** Clause 111 relates to the cooling-off period. We are trying to get the balance right by reducing the period during which the customer can withdraw their agreement to pay the penalty from 28 days to 14 days so that the process is a wee bit more streamlined. Withdrawal means that the penalty need not be paid but also that the Department's agreement not to prosecute will no longer apply. These penalties can only be offered where there are sufficient grounds to bring proceedings. Acceptance is on the basis that, by agreeing to pay the penalty, there would be no prosecution. The offer of a penalty must be accepted in writing, and, once accepted, the additional cooling-off period applies, during which time the person can reconsider their decision to accept the penalty and seek further independent legal advice. We believe that 14 days is sufficient time for the claimant to seek any advice. Customers retain the right to seek independent legal advice and to participate in face-to-face interviews where the penalty is offered.
5975. **The Chairperson:** The issue was that if you wanted to see a solicitor, you might not get one within 14 days. Again, Conrad dealt with that, but I am trying to recall the specifics and whether there is discretion to allow a longer period. I think that he said yes.
5976. **Ms M Campbell:** I think that he did say yes.
5977. **The Chairperson:** I think he did but maybe I will stand corrected.
5978. **Mr Brady:** It goes back to that whole issue of failure to disclose, and there is a valid argument that if you do not know something, you cannot disclose it. There has been a long-running argument about misrepresentation because you can misrepresent something, but it is more difficult to disclose something that you do not know. People will be penalised for that.
5979. **Mr Pollock:** Penalised, yes, but I think Conrad was trying to bring out the fact that most fraud proceedings are not about genuine mistakes. This is not about genuine mistakes.
5980. **Mr Brady:** The point is that there are genuine mistakes, and we need to cover all aspects. If somebody is committing fraud, it is their problem if the issue is resolved through a court case or whatever. I know from dealing with people over the years that a lot of people were done for failure to disclose when they simply did not know that the issue was relevant or pertinent to their benefit. They could not disclose something that they did not know. I know what you are saying about somebody going out to commit fraud, but there are a lot of people who do not.
5981. **Mr Pollock:** Hopefully, the likes of the claimant commitment and claimants' responsibilities being spelled out a wee bit more clearly will help in that regard.
5982. **Mr F McCann:** I raised this with Conrad because I have dealt with a number of cases where people were asked whether they had read the information on the back of the form; the small print that outlines what people have to do when

- claiming benefit. You and I know that the vast majority of people do not read it. As a matter of fact, there may be serious literacy or other problems. If they fall into that category, they are being penalised, as Mickey said, for something that they have no knowledge of at all.
5983. **Mr Brady:** The classic example of that was the old order book, where you were supposed to read the yellow pages every time. If everybody had done that, it would have taken you a week to get your money because there would have been a queue in Newry, down Hill Street and round the corner. That is the illogic of this.
5984. **The Chairperson:** OK, fair enough. The issue with clause 111 was the number of days being reduced to 14 and whether you would accept a prosecution. We have been advised that if someone is not able to make that decision within 14 days, discretion is available to them. We just need to make sure we can confirm that.
5985. **Mr Pollock:** We will come back definitively on that. Again, if they can show they have a good reason as to why they could not get legal advice within that period, I am sure that would be taken into consideration.
5986. **The Chairperson:** We will have to decide on that in a few days, so we need to have that confirmed.
5987. **Mr Douglas:** Will that be in the guidelines? I think it was the Northern Ireland Association for Mental Health that talked about people who are under stress and leaving letters lying in the hall for weeks on end because they cannot face opening them. We will be looking at those vulnerable people as well. Will there be a list of those types of vulnerable people, Michael?
5988. **Mr Pollock:** I have not seen the way the regulations will be shaped, but, yes, there would be consideration of particular circumstances if there were mental health issues or whatever. That would be taken into consideration.
5989. **The Chairperson:** OK, thank you. Clause 112.
5990. **Mr Pollock:** Clause 112 deals with civil penalties for incorrect statements and failures to disclose information. The penalty is £50. It is what it is, and I think Conrad outlined the detail behind that. It is for claimants who negligently make incorrect statements or who fail, without reasonable excuse or good reason, to disclose information about their claim. That is where the face-to-face relationship with the Department comes into play in the individual circumstances and what is deemed as reasonable.
5991. **Mr Brady:** The housing groups have an issue about a third party providing documentation or information. Would the third party that gives information on behalf of the homeless person be subject to the penalty? Or, would that revert to the vulnerable person who was not in a position to do that?
5992. **Mr Pollock:** The penalty can be imposed only upon the individual who makes the claim.
5993. **Mr Brady:** I see, and, again, they would not have provided the information. The information would have been provided on their behalf, which goes back to not being able to disclose something that you do not know. It is a technical issue that could affect a number of people. If it is accepted that a third party can give that information, the person whose information it is may not be aware of the particulars of the information given. That may need to be addressed. Perhaps you will look at that.
5994. **Mr Pollock:** I think that we mentioned this morning that we are trying to bottom out the third-party verification.
5995. **Mr Brady:** That is just an additional thing to consider.
5996. **Ms M Campbell:** Another element of it, yes. Good cause would probably come in there, too, but we need to bottom that out.



5997. **The Chairperson:** We are now into clauses 113 and 114, about which the issue is, again, disproportionate approach. The Committee was generally concerned about the question of sanctions being disproportionate, but we have touched on that already. Unless you can offer any more, I think that the Department is wedded to the idea of this sanctions regime.
5998. **Mr Pollock:** There were concerns about the three-year sanction and that offences subject to such a sanction would be listed in regulations and be linked to trigger points. Those trigger points are clearly defined in the Bill and include an overpayment of at least £50,000; a custodial sentence of at least one year; or being found by a court to have committed an offence over a period of at least two years. Those are additional safeguards to ensure that a three-year loss-of-benefit sanction is not applied for anything other than something that is considered to be serious benefit or tax credit fraud offence. Full withdrawal does not apply to all benefits. Some benefits are subject to partial withdrawal, and there is also access to hardship payments, where appropriate.
5999. I am not speaking on behalf of Conrad, but what he tried to say last week about that aspect of the sanctions regime was that these are serious offences. A lengthy court process is gone through in any event to prove fraud. Cases such as these are at the serious end of the spectrum, where time in prison is imposed and/or which involve the loss of £50,000 or more.
6000. **Mr Brady:** Cautions are being taken away, presumably because more severe sanctions than that are to be imposed. Is there not a case for retaining cautions for what may be considered minor misdemeanours? A caution is cost-neutral in the sense that you take somebody into the office and give them a verbal warning of what they have done and should not repeat or whatever. It seems to be that, otherwise, another more expensive process may be undertaken.
6001. **Mr Pollock:** I do not know the details of that, Mickey. Conrad covered it when he was here last week. Is there something further?
6002. **Mr Brady:** On the minor, innocuous stuff, could the person involved be given a verbal caution rather than have it taken any further? Essentially, the Bill does away with cautions altogether. Therefore, an informed decision about whether to take the case further, either in processing the civil penalty or taking the person to court, has to be made. I am trying to make the point that the administration of that may prove more expensive.
6003. **Mr Pollock:** I was here and heard the rationale, but, for the life of me I cannot recall it. I thought that we had clarified that with you at the time.
6004. **Mr Brady:** Maybe, we are just getting to that stage where memory lapses are becoming more frequent.
6005. **Mr Pollock:** OK; we will come back to answer that definitively.
6006. **Mr Brady:** I have to say that I include myself in that.
6007. **The Chairperson:** We move on to clause 116.
6008. **Mr Pollock:** Clauses 116 to 120 are in relation to information sharing.
6009. **The Chairperson:** You were going to check about the argument from housing associations that they should be included on the list as a relevant body.
6010. **Mr Pollock:** Ordinarily, it is public bodies that share information and are facilitated by data-sharing clauses, particularly because of security information where you are dealing with personal information. Therefore, I do not envisage that housing associations would need the level of data sharing on personal information that is envisaged in these clauses. Obviously, communication channels with housing associations, the Housing Executive and bodies that provide services to or information on the housing sector are vital. Quite a bit of work is ongoing to

- ensure that that is all in place. Other than that, I do not have anything to say.
6011. **The Chairperson:** I thought that we had agreed last week that we would ask the housing associations why they are saying that they expressly need this.
6012. **Mr Pollock:** I hold my hands up; I did not have the chance to speak to anyone about that.
6013. **The Chairperson:** It would help us if someone were to come back to us on that. I know that you already dealt with it there, Michael.
6014. **Mr Durkan:** What disadvantages might there be to the Department of sharing the information? There are already people with whom this information is shared.
6015. **Mr Pollock:** Information sharing is governed by data protection legislation. When we are opening data-sharing gateways, we will be looking to ensure that the rights of the individual are protected. If, for example, the Department of Education were to look for information on benefits to passport a family or an individual onto a particular benefit, it would only have access to that snapshot of the benefit databases, so there are protections in there.
6016. **Ms M Campbell:** There are also costs attached to providing gateways.
6017. **The Chairperson:** No one sought any specific information on clauses 118 to 120, so we move to clause 121, which deals with supporting maintenance. This is around the consultation on separated families.
6018. **Ms Corderoy:** We have received the Committee's response as well. We are in the middle of analysing those responses, and we will be putting the Northern Ireland issues that were raised on that to DWP. I do not think that any particular points were raised on that. As we have said before, the issue of fees is still being explored here. It is not in relation to this Bill but in relation to the 2008 Act. The Committee raised two specific queries, and I hope that you received the response to those this week.
6019. **The Chairperson:** No.
6020. **Ms Corderoy:** It should have issued last week. It was to do with the cross-border issue of a non-resident parent who is living in another jurisdiction and on the issue that Mr Copeland raised about directors' drawings.
6021. **The Chairperson:** We do not seem to have received it yet, Jane.
6022. **Ms Corderoy:** We can chase that. Maybe it will come tomorrow or something. Those queries were separate to this legislation. They were general issues related to child maintenance. I do not know whether there were any issues related to these clauses.
6023. **Mr Brady:** I have a question on clause 122. Currently, a parent with care can ask the Department to be involved in the collection of the money. That is being taken away. The Department is suggesting that there should be an arrangement for the non-resident parent to make a direct agreement. My difficulty with that, because I have come across cases in the past, is about how that will be enforced. If the Department is involved, there is almost a statutory obligation on the person, and arrears will be allowed to run, unfortunately in many cases, for quite a while, but at least there was an input. Now, with this voluntary arrangement, the non-resident parent can just get away for a long time without paying. What redress, then, does the parent with care have to try to get that money back?
6024. **Mr M Byrne:** The whole intention behind the new child maintenance scheme is to try to encourage —
6025. **Mr Brady:** I am not arguing with that principle. The reality is that people are going to see it as a way of getting out of paying maintenance.
6026. **Mr M Byrne:** No. As soon as a voluntary arrangement breaks down, the parent with care is quite at liberty to come to the Department to seek collection.

6027. **Mr Brady:** Can they do that after the first week? They may be told that the payment is just late.
6028. **Mr M Byrne:** It may be that just one payment has been missed. If the parent with care has evidence that the agreement has broken down and payments are not forthcoming —
6029. **Mr Brady:** It is really to tighten up on that.
6030. **Mr M Byrne:** — they will be able to apply for the money to be collected through the statutory scheme.
6031. **Mr Brady:** That needs to be done fairly quickly because even one or two weeks can make a huge difference.
6032. **The Chairperson:** OK. There are a number of clauses still to deal with. Some issues were raised in relation to clause 123.
6033. **Mr Brady:** I think that that was about using the system and moving in and out of work in order to get a lower assessment of income.
6034. **Mr M Byrne:** Clause 123 provides for an indicative maintenance calculation. It does not bind anyone in any way. An indicative calculation that is made today will be based on the circumstances as at today as to what might be expected to be paid, but if the circumstances change in six months' time, they can come back and —
6035. **Mr Brady:** I understand that, but it gives an advantage, if that is the right word, to the non-resident parent to move in and out of situations where, on the day, they can produce evidence that they are earning a certain amount but on the following day, they could be earning twice as much. That is the point that I am making.
6036. **Mr M Byrne:** I suppose that if both parties are not happy with the indicative calculation, they can always come for a formal calculation, which will be based on income —
6037. **Mr Brady:** I accept the point, but it is all about people taking responsibility for their obligations. Unfortunately, human nature being what it is, a lot of people do not. This gives them the opportunity to abuse the system.
6038. **Mr M Byrne:** I suppose that there is the possibility for abuse anywhere in the system.
6039. **The Chairperson:** I suppose what you are saying, Maurice, is that if someone declares today that their earnings are at a certain level, a calculation is made on that basis, but if on the following day their earnings are increased, there would be a further calculation.
6040. **Mr M Byrne:** They could come back and ask for another one, but I do not know just how often a person would ask for an indicative calculation just to see, if they went through the system, how much they would be expected to pay so that they can come to some sort of agreement between themselves to pay a reasonable amount.
6041. **Mr Brady:** To finish, the point that I was making is that it is more advantageous to the non-resident parent than to the parent with care.
6042. **Mr M Byrne:** I appreciate what you are saying.
6043. **The Chairperson:** OK, fair enough. We will move on to clause 124; I am sorry, clause 125.
6044. **Ms Corderoy:** To clarify, clause 125 is not about introducing fees. It is about specifying where there would be a waiver for fees and that if fees were to be introduced, there would be a review within two and a half years. Again, however, no decision has been taken to introduce that here.
6045. We could probably reassure some of the stakeholders who commented on this issue that there are no plans to privatise the child maintenance service. I do not know where that impression came from.
6046. **Mr Brady:** There are no plans at the moment.
6047. **Mr F McCann:** There are no immediate plans.

6048. **Ms Corderoy:** There are no immediate plans.

6049. **Mr Brady:** That is almost becoming a mantra.

6050. **The Chairperson:** There was another issue around the 30-month period.

6051. **Ms Corderoy:** The review, yes. That is included in the consultation document that the Committee responded to. The period of 30 months is not up for review in the consultation. It is just in respect of what should be looked at as part of that review and what sort of issues should be raised.

6052. The only comment from stakeholders about clause 126 was positive; NIPSA welcomed that. This is where parents who are declared bankrupt still have to meet the debt owed on their child maintenance.

6053. **The Chairperson:** Fair enough. Are members happy enough with that? There were no comments on clauses 127, 128 or 129. Are members happy enough with clause 129? It is the one where there was a wee bit of argument about jurisdiction, the Secretary of State and stuff like that.

6054. Clause 130 concerns any shortfall in the public expenditure for an interim period of two years in relation to the rate relief scheme. It relates to subordinate legislation, and that will be subject to normal scrutiny. I take it that you have no further information on that?

6055. **Ms Corderoy:** The information that we have is that the Executive have agreed to preserve the existing entitlements for up to two years and fund any shortfall out of public expenditure for an interim two-year period.

6056. **The Chairperson:** OK; fair enough. There were no comments on clauses 131, 132, 133 or 134. Is there anything that you want to add?

6057. **Mr Durkan:** I will just go back to clause 130 on the rate relief schemes. The Department told the Committee:

*"The Executive has agreed to preserve the existing entitlements for up to two years and fund any shortfall out of public expenditure for an interim period. That provision will provide the legislative cover for that holding operation, but it will also provide for any new rate support scheme that may emerge beyond then."*

6058. When you say that it will also provide for any new rate support scheme, does that mean that it will provide the legislative cover or that it will fund any shortfall?

6059. **Mr Pollock:** It is just the cover.

6060. **The Chairperson:** A couple of points were raised about schedule 1, one of which was from Citizens Advice.

6061. **Ms M Campbell:** We covered that earlier. Those will be treated as earnings.

6062. **The Chairperson:** Are Members happy enough with this so far? You will be very pleased to know that we have covered it all.

6063. As I said this morning, it is important for members to note that the document was provided by the Committee Clerk on the basis of all the written and oral submissions received and the points raised by members. It is very important that people do not see it as a definitive document. If you wake up after your supper tonight and realise that there was something that you did not raise, you can raise it in the morning. The document is a best guess. It is very good and efficient, and I want to thank the Committee Clerk for it. However, it is not definitive. There may be issues that members want to raise, and you are totally and utterly free to do that. If it is not in this document, feel free to raise it.

6064. **Mr Brady:** I thought that the Committee Clerk was going update the document for tomorrow.

6065. **The Chairperson:** I am reminding members because I do not want them to say tomorrow, next week or next month that they did not get a chance to raise something. If you have any issues of concern with the Bill that are not contained in the paper presented by Kevin, this is your chance to raise them,

whatever they might be. Sammy, it is just important that you say this to your colleagues as well. I am concerned that people think that this is what we are working on exclusively. I do not want any omissions by default. I am making that very clear to members. We will be back here tomorrow morning.

6066. **Mr Douglas:** Chair, is there any word from the Business Committee? It is meeting today.

6067. **The Chairperson:** I have not heard anything. I am very diligent about keeping my phone switched off. I have not received any text messages. I think that the debate is scheduled for Monday.

6068. I thank the witnesses for the full day's work today and for helping us in our deliberations once again.

6069. **Ms M Campbell:** Will we be starting formal clause-by-clause consideration tomorrow?

6070. **The Chairperson:** I want members to reflect on whether there is anything else in the Bill that is not covered in the paper that they need to pursue in the way that we have done today. Tomorrow morning, we will start with any further points of information that you can provide us with. We will take any outstanding information as early in the deliberations as we can.

6071. Members, please reflect on it overnight, and if there are any issues that you have not been able to raise today, raise them tomorrow morning. We will start tomorrow's meeting with any further information that is available to us and any outstanding issues that are not contained in the paper. Following that — at whatever time that might be — we will start the clause-by-clause consideration of the Bill.

6072. **Ms M Campbell:** Okey-doke; thank you.

6073. **The Chairperson:** Thank you very much.

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# 14 November 2012

## Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Sammy Douglas  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

## Witnesses:

Ms Martina Campbell     *Department for Social*  
 Mr Mickey Kelly         *Development*  
 Mr Conrad McConnell  
 Mr Michael Pollock

6074. **The Chairperson:** I formally welcome everybody to the meeting as we resume our scrutiny of the Welfare Reform Bill. I remind members, and urge everyone in the room, to switch off all telephones and other electronic devices. I remind people that this particular room is the worst for interference from phones. You heard the presentation from the Hansard people telling us that there is very bad reception in here, so will people switch off their phones, please? I ask members to declare any interest relevant to the agenda today. If nothing is to be declared, we will move on. There are no apologies and nothing under Chairperson's business, so we are straight into the Welfare Reform Bill.

6075. There are a couple of procedural positions to remind ourselves of today. Today's meeting is for the Committee to try to establish a clear position on each of the key issues considered at yesterday's meeting and, in fact, throughout the Committee Stage of the Bill and to decide how it wishes to proceed on those. Having decided on how it wishes to proceed, the Committee will then forward those

issues to the Department and ask the Department whether it is willing to make the changes as requested by the Committee. On receipt of the Department's responses — for example, the Department may refuse to amend a particular clause as requested by the Committee — the Committee can then decide how it wishes to proceed. For example, the Committee may lay down its own amendment, seek assurances from the Minister or include any recommendations in its report.

6076. The papers you have in front of you today are the issues paper based on yesterday's discussion, which also includes a range of general options open to us; the Committee Clerk's original issues paper; the report by the Examiner of Statutory Rules on the delegated powers memorandum; and the Bill itself. The Committee Clerk has prepared a summary of the issues discussed yesterday, which you have in front of you, identifying, as best he can, where the Committee may wish to consider further action. Again, those may or may not be relevant to the Committee, or members may want to take action on other parts of the Bill in addition to those. It is entirely in the hands of members. I stress that the paper presented by the Committee Clerk is a best guess of where the Committee is at, but that does not mean that it is not open to any member to raise any other issue that is not referred to in the papers you have in front of you. It is entirely open to every member to raise any issue in the Bill for discussion or amendment. We will start off today using the Committee Clerk's paper just to inform ourselves of where we left off yesterday.

6077. Quite a number of officials are kindly here this morning. I thank them for being here. The purpose of their attendance is to help us if we need any further assistance as we go through the Bill. Obviously, the Department is

not involved in the discussions. Those are entirely and exclusively a matter for the Committee. I thank the Department for being here in such numbers and seniority. I am not sure how often we might have to avail ourselves of your information. Hopefully, it will not be that much.

6078. **Mr F McCann:** They are ganging up.

6079. **The Chairperson:** There are more of you than there are of us.

6080. I propose that we work through the issues in the paper that the Committee Clerk has tabled this morning. That picks up from where we were yesterday. I suggest that we work our way through particular clauses today. There may well be some amendments that people want to put forward that will be easily agreed unanimously — there may be no contention — but there may be others that require a little bit more thought from members or to which members have direct opposition. Notwithstanding any of that, I suggest that, as has been done quite a few times before, if someone wants to put an amendment forward, we can discuss it. If there is direct opposition, people might want to push that to a vote, but I recommend that, if people want to table amendments, they can table them and discuss them, and we can seek information from the Clerk of Bills over the next couple of days on whether or not they are actually competent. That is without prejudice to how members would eventually vote on the amendment that is formally tabled.

6081. In other words, if someone has an amendment that they want to put forward, let them do so and have a discussion around that with the rest of the members. Then, let us seek from the Clerk of Bills information on whether that amendment would be competent if formally put to the meeting. It is without prejudice to anyone's eventual voting on it. That allows people to fully explore that. We do not have any extra days, so we have a tight time frame to work through, but we are still within our time to table amendments, discuss them, check them for competency and then

formally vote on them, if that is what people want to do. So, I am asking for people's indulgence, if you like. If there is an issue that they are not entirely sure about, at least let us go and check for competency. There may not be that many of those, if any. I am just giving that as general guidance this morning.

6082. OK. So are members happy enough to start? The way we left it yesterday was that the Department will get back to us on some issues, but I am presuming — in fact, I have been advised — that we do not have any updates at this moment in time. I did not really expect there to be any for obvious reasons; it was only yesterday that we were here. So, for the record, I just wanted to say that there are no further updates from the Department at this stage. We will get those updates at a later stage in the next few days.

6083. I reminded members yesterday that the issues paper presented by the Committee Clerk was not necessarily definitive. So, do members want to raise any issues at this point that were not included in that paper? If not, are we happy to move on to the paper in front of us today?

6084. **Mr Brady:** There are some amendments that I want members to discuss without those necessarily going to any sort of formalised vote or anything like that. I think that we need to bear in mind that the Standing Order issue will come up on Monday, hopefully, and depending on what happens there, the Ad Hoc Committee may have some bearing on any decisions, suggestions or anything else that comes out of today. So it is really about throwing out some suggested amendments for members to discuss. I think that there is consensus on the issues in the legislation that are causing members problems.

6085. **The Chairperson:** I take that on board. That will obviously be on members' minds. However, for the record, we have to work on the basis that we are at scrutiny stage and, therefore, have to complete our work programme within the time frame envisaged, with the report

finalised and forwarded by 27 November. There are a number of factors for members to bear in mind, not least the consultation on universal credit, David Freud's intervention, and so on and so forth. Members will have all those issues in mind. That is why I am saying that members should feel free to raise any issue of concern today by tabling an amendment. As I said, if there is any contention, it does not have to be voted on today, but it needs to be checked for competency. That is the way I want to proceed today.

6086. **Mr F McCann:** I just want to make a point about today's proceedings. You said that members may table amendments, but that does not take away from our right to table amendments from a party perspective. I just want to put that on the record, because we fell once before when this was brought up and we were accused of not dealing with it through the Committee.

6087. **The Chairperson:** It is the Committee's responsibility to fully scrutinise the Bill in the here and now. We can seek to amend it in any way that members feel is necessary. Ultimately, any amendments will be voted on. I remind members that the Committee has a number of options open to it. It can table amendments and then either agree to those or not. It can also provide a narrative to the Assembly, with recommendations, observations and suggestions. The Committee may not necessarily feel that amendments are necessary or appropriate for some issues, but I imagine that there will be unanimous support for amendments on a whole range of issues. Let us work our way through that. Those are the options. Members can table amendments, go for direct opposition, introduce new clauses or provide a narrative with recommendations. We have all those options, so members should not feel in any way inhibited.

6088. That is why I am asking for the Committee's indulgence in that — this has been done before and it is good practice — if members table

amendments and we are all agreed on those amendments, let us just agree them and put them forward for competency checks, and so on and so forth. However, if there are amendments that members are not 100% sure of, we will let those amendments be tabled so that we can have a discussion about them, and then we will send them away for competency checks, and so on and so forth. Such amendments will then be brought back here, and members will vote on them, if they are tabled. All that will be done without prejudice to members' ultimate voting intentions. Members should feel free — in fact, it is your job — to seek to change the Bill. There is no point, in six months' time, saying, "I could have tabled an amendment". I certainly want to make sure that nobody in the Committee stands accused of not putting their points forward here. Everybody around this table promised that they would give full, maximum and robust scrutiny to the Bill. They have done that so far. That will continue to be the case, because we, as a Committee, need to be able to stand over the work that we have done so far. That is our job, and we are doing it professionally. We will be judged against that.

6089. If members are happy that that is the general approach that should be taken, we will move on. It will be important that members put forward amendments, if they have them. They can have them recorded and checked.

6090. I will take members through the papers. One details the issues that the Committee may wish to consider in the context of possible changes to the Bill. The first item in the issues paper is clause 2, which is in respect of claims. The main approach that was discussed by the Committee was that applicants should have the choice. In other words, the default position should be a fortnightly payment, and in the case of joint applications, there should be the choice to receive a split payment. There are a number of issues around the recipient and the nature of who the recipient might be. If I remember

correctly, the discussions around this revealed that some of it could be a split payment. It does not have to be, but it could be down to the recipient and what category of person the recipient might be, and whether it is a main carer or whatever. Again, there are a number of issues around the claims.

6091. **Mr Brady:** As regards frequency of payment, the Minister stated:

*"the IT system functionality will be developed to enable the computer system, where necessary, to split the payment between the two parties in the household and, again where necessary, to make two smaller payments a month rather than the single full monthly payment. In the majority of cases, there will be a single monthly payment to each household in receipt of universal credit, but these payment flexibilities will allow for different payment arrangements where necessary, not least where vulnerable customers will find budgeting difficult. With that in mind, I have tasked my officials to develop and consult public representatives and voluntary sector representatives on a set of guidelines for determining the circumstances when the universal credit payment should be split or made on a twice-monthly basis."*

6092. We should not rely on guidelines. We do not know what may or may not be in the guidelines or regulations. I suggest that it needs to be written into the Bill. The guidelines or regulations can then adhere to that, but it needs to be part of the Bill. A lot of the stakeholders talked about various issues around the regularity of payments, including the issues of the main carer, the second earner and the split payments, particularly in cases in which there is the potential for domestic violence. I throw that out to get people's views on it. Obviously, there is a default position. If people want to be paid monthly, there should be a choice. That needs to be part of the Bill as opposed to some nebulous idea that it may be in the guidelines.

6093. If you are going to talk about vulnerability and who does or does not need more or less frequent payments, it very much comes down to subjective decisions that are made by front line social security officers as opposed to

being able to follow actual legislation. That is important. I do not think that it is contentious. They have talked about the banking systems that are undeveloped. If the wherewithal is in the IT system, why do you need to rely on some untried system that they have been talking about or that they may or may not talk about? It seems to be unnecessary. Are there any views on that?

6094. **The Chairperson:** OK. Patricia, I just want your guidance on some of this, if you are happy to do that.
6095. **Mr G Campbell:** I am unclear about what is meant by the reference in clause 2 about the choice of fortnightly payment and then the default position. Is the amendment suggesting that the default position is fortnightly?
6096. **The Chairperson:** I think so because that would mirror the views of most of the stakeholders.
6097. **Mr G Campbell:** Would that mean that for what I presume would be the bulk of claimants who would simply want things to remain as they are and would not be proactive in trying to change them, that they would, upon commencement of the new system, be recipients on a fortnightly basis unless they chose otherwise? Is that the effect of this?
6098. **The Chairperson:** I presume that that would be the outworking, yes.
6099. **Mr G Campbell:** Right, and for them to want to change, they would have to say, "No, I prefer to have it monthly"?
6100. **The Chairperson:** Yes.
6101. **Mr G Campbell:** Just so we are clear.
6102. **The Chairperson:** In the same way, Gregory, that the Department's initial view was that people would get their rent paid to them. That was a change, and the flexibility was agreed that the rent would be paid directly to the landlord. That is the default position; you can opt out of it.
6103. **Mr G Campbell:** For me, there are two issues. One is the choice of the claimant, which would be met in that,



although because the default position is fortnightly, I think that would mean, human nature being what it is, that most people would just have the default position because most people do not proactively ask for change if they have been accustomed to a particular system for a long time, rather than the default position being monthly unless they chose fortnightly.

6104. Cost is another issue. What would the greater cost be if the default position is the one that is likely to pertain for most claimants? I have no figures, but I assume that only a minority of people would proactively say no. What is the cost implication of that as opposed to the reverse being the case? I presume that the Department will tell us in due course.
6105. **The Chairperson:** I think that the Department said yesterday that there would be a handling charge or something of that nature. One thing that will guide me in this is that there will be some things that I would like to see being done, whether in this Bill or in something else. So, if that is what I want to see done, I will try to secure that. Of course, when the Committee completes its report and puts it to the Assembly, that report is not binding on the Assembly or the Department, as you know. In the course of debate, the Minister or the Department may say that that is all very well but that it will cost x number of pounds, and that, therefore, it is prohibitive. You will get arguments about whether the amendments are appropriate, costly or involve parity. I presume that all those issues will come into the debate. It will then be up to all Members and all parties in the Assembly to vote according to the outworkings of those discussions.
6106. What will guide me is that some things we will eventually be told cost x number of pounds. When I looked at the issue of the handling charge a while ago, the figures that you would be talking about across the whole of the North would be less than some regions in England, Scotland and Wales. The exceptions in, say, the north-west of England would

be larger than the whole cohort here. Therefore, if it is accepted over there that it will cost more than the whole budget here would be for the handling of it, I do not think that that is a credible argument. However, that is my opinion. The figures will be presented to us in the debate by the Minister and Department accordingly. I expect that there will be a lot of twists and turns in those arguments. At present, my approach is that if I want something changed, I will try to get it changed. I may have to be convinced in the course of arguments that that is not sustainable or cannot be delivered. You have to make your choices eventually.

6107. **Mr Durkan:** I am sympathetic to the suggestion or proposal — it is perhaps just a suggestion — but you mentioned the very point that I was going to mention about the cost per transaction. Gregory raised concerns that we do not have figures in front of us — [Inaudible.] — based on them. It was discussed for long enough yesterday whether we should have those figures in front of us at this stage.
6108. **The Chairperson:** We should be clear that if we put forward ideas, suggestions, proposals and amendments, the Department will say whether it will endorse them and why it will not. You will then vote on it on the basis of that information.
6109. **Mr Douglas:** I asked the question yesterday of how much it will cost to change the whole IT system. From what I know, the Department was saying that it is very much about encouraging people to go on to a monthly payment if they want to go into work. Is there any evidence that if people get monthly payments, it will help them when they get a job? They would probably be paid monthly anyway.
6110. **Mr Brady:** Iain Duncan Smith spoke in the Houses of Parliament — I am sure that Gregory heard him — and his rationale was that if people get paid monthly, they will get used to being paid a monthly salary. The difficulty is that we have a low-wage economy where many

people are paid weekly or fortnightly because they are paid the minimum wage.

6111. The Minister said that the IT system functionality will be developed to enable the computer system, where necessary, to split the payment between the two parties in the household and, where necessary, to make two smaller payments a month rather than the single full monthly payment. That will be an integral part of the IT system, and you would presume that if that is effective and fit for purpose, you press a button and you are either paid monthly or fortnightly. I do not think that it will be a huge cost. In the context of England, Scotland, Wales and the North, that is 3% of the population. Therefore, you would imagine, to follow on from what the Chairperson said, that the cost will be greater in, for instance, the north-east of England where there will be divergence and, presumably, people will ask for fortnightly payments. The IT system has the functionality. Sammy asked yesterday about the difficulties. We will need time to sort this out, but if it is sorted out properly, I am not sure why it should be a problem.

6112. **Mr G Campbell:** I am not hard and fast on this other than if the cost proves to be prohibitive. However, I want to pick up the point that Sammy made. I take Iain Duncan Smith's rationale that when people are preparing to get into work, you would like to think that the welfare benefit payment system would allow them to make that transition more smoothly by giving them their benefit payments monthly and allowing them to move into work and get their pay monthly. Where a large cadre of people, whether it is because of their geographical disposition or because of their age profile, is unlikely to get permanent employment, that is probably less of a relevant consideration. However, for somebody who is 23 and is temporarily unemployed but hoping to get employment, it may become more of a consideration. I am not hard and fast. The issue is about the default position. Should it be monthly,

which will help people who may or who are likely to get into work, or should it be fortnightly, which would facilitate those who are unlikely to get into monthly paid employment and have become accustomed to more frequent payments?

6113. **The Chairperson:** There is a proposition on the table that we look at an amendment to make that the default position. Is that right, Mickey?

6114. **Mr Brady:** Yes.

6115. **The Chairperson:** I do not hear any other people, and my sense of the Committee's discussions until now is that most people broadly agree with that. That is my clear sense, and nobody is indicating to the contrary. Patricia, does that help you to design the amendment or to check it for competency?

6116. **The Clerk of Bills:** Yes. You might want to consider letting the Department know that that is your idea and see whether it has any concerns. If I am reading this correctly, you had suggested that there would be a choice of fortnightly payments, which would mean that a person could decide or be given an option one way or the other. However, you now seem to be moving to the point that everyone would move to a fortnightly payment unless you opt otherwise. Is that correct?

6117. **The Chairperson:** Mickey is making that argument.

6118. **Mr Brady:** Patricia, could I add that universal credit would be payable monthly or twice monthly as requested by the claimant?

6119. **The Clerk of Bills:** Are you suggesting that the choice should be written into an amendment?

6120. **Mr Brady:** Yes.

6121. **Ms P Bradley:** For the likes of tax credits that choice is there already.

6122. **Mr Brady:** Yes.

6123. **Mr Douglas:** That is a good point.

6124. **Ms P Bradley:** I agree with the twice monthly payments because when we read it, it seemed that you would only get that sort of payment in exceptional circumstances. If that had not been the case, we would not have gone on about it so much. Again, put it to the Minister and let him come back to us.
6125. The part about the split payments is a must. That is in the same clause that you were talking about. It definitely has to be put in to protect the vulnerable and children.
6126. **The Chairperson:** Is it the mind of the Committee that we move forward on the basis of what Mickey has suggested, subject to there being a competent amendment and the Minister's response? Are members content that that is how we proceed?
6127. **Members indicated assent.**
6128. **The Clerk of Bills:** I will summarise that and draft something for members that will provide a choice of payment and an ability to have split payments if you so wish.
6129. **Ms P Bradley:** With a joint application?
6130. **The Clerk of Bills:** Yes.
6131. **The Chairperson:** There was an issue about the recipient and the main carer. I am trying to think of the precise details, but a range of organisations raised that issue. They did not all raise the same point, but some sectors argued about the recipient. That might even be on a joint application if you know what I mean. Some of those things are related, but they are not all tied together.
6132. **Ms P Bradley:** The point about the joint application needs to be a little more steadfast. Those in abusive relationships will have no choice about who gets the money. We need to look at that a bit more and what we say on it needs to be a bit more steadfast. As many of the witnesses said, the person with the main responsibility of care should be the one who gets the — I do not know; I think we need to be a bit more — *[Inaudible.]*
6133. **The Chairperson:** I think that that was quite strongly put by all —
6134. **Ms P Bradley:** If it is left as the payment going to the household in which there is an abusive relationship, you can rest assured that the abuser, whether the male or the female, will take control of the money. It could be either/or.
6135. **The Chairperson:** That was quite universally put.
6136. **Mr Copeland:** I want to make sure that I am reading this correctly. Where a joint application is made, they will be able to choose to receive a split payment. Does that mean that they, as individuals, can choose to have a monthly or a fortnightly payment? Do you follow what I mean? In other words, if the payment is split and one person in a couple says that they want it fortnightly and the other wants it monthly, will that option be available?
6137. **The Chairperson:** You might have to look at that as a consequence. That may or may not happen. I do not know.
6138. **Mr Copeland:** Complications.
6139. **Ms P Bradley:** You are already complicating things.
6140. **Mr Copeland:** I know of people who have to make mortgage payments and who may like to do it like that. I was asked to ask that question.
6141. **The Committee Clerk:** I just want to clarify that there are at least two distinct issues here. The first is that the default position will be that there will be fortnightly payments. The second is the split payments. Perhaps the view of the Committee might be to make that the default position as well so that when a joint application is made the payment will be split.
6142. **The Chairperson:** There are three related issues regarding claims. There is the frequency issue, which we have dealt with; there is the option for split payments; and there is the option as to who the money goes to in the first instance in a joint application, and people have, largely, argued for the main carer. That is the point that you were

- making, Paula. Therefore, there are three issues, and we have dealt with the first one, which is the frequency. We are now on to the question of split payments. If I remember correctly, people have agreed that there should be the option for split payments. However, there is also the third issue, which is about the main carer being the recipient in a joint application. Is that right?
6143. **Mr Brady:** We have some suggestions on that, Chair, as well.
6144. **Ms P Bradley:** I would say so, Chair.
6145. **Mr Brady:** This is one that I prepared earlier.
6146. **The Chairperson:** Just one second, Mickey.
6147. **The Clerk of Bills:** With regard to the recipient option, if you were moving towards a potential amendment, there would need to be some discussion about how you would define “preferred recipient”. To refer to our discussion last week, there are other options for the Committee to raise a concern, make a recommendation or seek an assurance from the Minister as well as an amendment. It may be that you want to have a discussion about other options that you feel are suitable in certain circumstances.
6148. **The Committee Clerk:** At the risk of too many cooks spoiling the broth, it is on the back page of the issues paper and is referred to as general approaches that the Committee can take. That lays them out in broad terms.
6149. **The Clerk of Bills:** Members can do more than one of those or they may have a mixture. For example, you might decide that you want potential amendments on the frequency and the split payment in relation to the recipient. You may want the Department to do more work on that and it may be suitable for a recommendation, if that was the way that you were moving.
6150. **The Chairperson:** As I said earlier, we have a number of options. At present, we are going through two or three, and
- we seem to have agreed on the first two. We have to see whether those amendments are competent and what the Department’s responsibility will be.
6151. **Mr Brady:** My point deals with gender equality and personal wealth, as some stakeholders talked a lot about that. It is where one or both members are in paid employment with the payment being made to the main carer or second earner. With regard to the split payments, members will be coupled separately in cases where both members are not in paid employment, but the payment will be split on an equal basis — or words to that effect. That is dealing with the split payment and dealing with the main carer and second earner, which is usually the woman.
6152. **The Chairperson:** Obviously, those are options.
6153. **Ms P Bradley:** I wanted to talk about what we were saying before Mickey came in there. Would it be a better idea for us to go through all of this today and decide between us what we would like to see changed and then look at it after that to see what we would want to be in an amendment or in a recommendation? We could just look at the changes first. Would it be easier to work it that way rather than trying to pick something and say that we are doing that?
6154. **The Chairperson:** If I read the Committee, it seems that people have agreed on the need for greater frequency as a choice; they have agreed split payments as a choice; and it seems that we are now agreeing on the main carer or a similar format as being the recipient in a joint application. There may be other issues. It seems that there are those three areas of agreement. As I said earlier, Patricia will look at those over the next day or two for competence and for amendments, and the Department will give us its formal response. Then we will formally vote on whether you want those amendments.
6155. **Ms P Bradley:** That is better.
6156. **The Chairperson:** In a way, that is what you were saying, Paula.

6157. **Mr G Campbell:** Chairman, the issues set out on the back page are very helpful. It is set out in bullet points and covers the issues fairly comprehensively: you can put forward an amendment, written clarification, etc. However, if we went through the issues and then came back and categorised each — if we are definitive about a series of them and we want to put forward amendments, then we do that. If another series of them requires further elaboration, they will fall under a separate category, and so forth, rather than dissecting each individually and going through a navel-gazing exercise in each sector to see where they fit. That may help us to progress the clause-by-clause consideration.
6158. **The Chairperson:** Sorry, Gregory, I do not totally follow that. I am working on the basis that we consider clause 2, which is around the claims, and then move to clause 4. For example, three issues came up in the first section around clause 2, and people have agreed that that is what they want to go to, and the Department may, for whatever reason, say no or yes. In theory, the Department could say next week that it can embrace two of those but not the third. It will then be up to members to formalise and vote on the proposed amendments.
6159. **Mr G Campbell:** My issue is really one of housekeeping. We spent some time considering clause 2 and now move to clause 4. In relation to where clause 4 sits in relation to the bullet points at the back of the paper, are we sufficiently constrained to say that that definitely requires an amendment and here it is, or do we need more information? Rather than repeat clause 2-type discussions to and fro for 40 minutes on every occasion, we should say where the clause fits in relation to the bullet points. If the clause fits in bullet point 3, then stick it in bullet point 3 and move on to the next one.
6160. **The Chairperson:** OK, let us try to work on that basis. Members have the papers.
6161. **The Clerk of Bills:** Admissibility has been mentioned a couple of times. Ultimately, the question of admissibility is for the Speaker to decide. We will draft proposed amendments and advise the Committee on whether there is concern about admissibility. The Bill in general is very widely scoped. Therefore, some of the admissibility criteria will relate to whether your proposed amendments are relevant. The fact that the Bill is so widely scoped will make the admissibility criteria a bit easier. I will advise you on that as time goes on. I am looking for you to indicate areas where you are leaning towards submitting an amendment, just to give me as much policy framework as you can so that I can come back with something on it.
6162. **The Chairperson:** Based on the latter part of our discussion, we will work through the paper before us. As Gregory suggested, where people put forward amendments, you will consider whether we need an amendment, whether we need more information, whether the Department might embrace our concerns or whether it is sufficient that the Committee deals with it by way of a recommendation to the Assembly. We will work through the paper, but the paper is not exhaustive and people need to be mindful that we will return to anything that they are interested in when we complete this exercise. Are members content that we have dealt with clause 2 on the claims elements?
6163. **Members indicated assent.**
6164. **The Chairperson:** Clause 4 is “Basic conditions”. There was a fair bit of discussion around the fact that a claim would fall completely if one person in a joint claim failed to sign a commitment within a specified time-framed cooling-off period. I recollect that the Committee’s view, which I share, was that that was not acceptable. That is one of the issues. Do members have a view on that?
6165. **Mr Brady:** Yes. We have been told that if one of the couple does not agree to sign, there could be a four-week



- cooling-off period during which no money is paid. Would it not be possible for the willing signatory to make an application as a single claimant and have responsibility for housing costs and children tied to them and not the other person? There is a cooling-off period, but you have to assume that if someone, for whatever reason, is unwilling to sign it initially, it would be brought forward by the Department. Four weeks seems grossly unfair on the person who is willing to sign the claimant commitment and fall into line with the requirements that are set by the Department.
6166. **The Chairperson:** In the evidence that we received, people were generally, if not universally, of the view that it would be very unfair to penalise a claimant who was compliant with the commitment for someone else's failure. Are members agreed that the Committee does not think that that is fair and that we want that rectified?
- Members indicated assent.*
6167. **Mr Brady:** I do not want to be seen to be dictating the pace, but this is something that I have gone through and thought about. It is predicated on issues that stakeholders have discussed with the Committee. It is not out of kilter with what has already been discussed by the Committee and, indeed, brought to the table by stakeholders.
6168. **The Chairperson:** In fairness —
6169. **Mr Brady:** It is inherently unfair to penalise someone who is willing to do something.
6170. **The Chairperson:** The Committee agrees; you can rest your case. In fairness, the Committee has deliberated thoroughly on these matters, and members have made their positions clear. It will boil down to how many amendments people want to make and what recommendations they want to make on a mixture of any or all of the bullet points on the back page.
6171. Members and stakeholders were keen that third-party verification be available.
6172. **Ms P Bradley:** I am definitely for that. At present, your social worker or whoever else can verify who you are. As we said yesterday, there are many cases where people have had to leave their house without all the documentation that they need.
6173. **The Chairperson:** Are members content to agree that?
- Members indicated assent.*
6174. **The Chairperson:** The third point is the concern about 16- and 17-year-olds coming out of care. People are looking to see whether they can be added to the list of specified groups.
6175. **Ms P Bradley:** Yesterday, the Department spoke about those coming out of care. Until what age does the Department of Health, Social Services and Public Safety have to look after someone coming out of care? What is its cut-off age? Is it 18?
6176. **Mr Brady:** It was 18.
6177. **The Chairperson:** It is 18, I think.
6178. **Ms P Bradley:** Up until the cut off, the Department of Health is the one that financially supports you if you are coming out of care; it is not the Department for Social Development.
6179. **Mr Brady:** There may be other 16- and 17-year-olds, and if those kids have signed up for schemes but have not yet got a placement, it is unfair that provision is not made for them. It may not apply to many people. Recently, I had an issue in my constituency where social services in conjunction with a housing association will have a number of flats that children can move into and move on. It will be well staffed and looked after. There are kids who are estranged from the family home for whatever reason and who do not come under that category.
6180. **Ms P Bradley:** They will be under the health service.
6181. **Mr Brady:** It is incumbent on all of us to have a safety net for all those vulnerable

people who have a statutory obligation to be looked after.

6182. **Ms P Bradley:** I agree. There are many young people who are not academic. We see the figures for children leaving school at 16, some of whom cannot read and write for various reasons. It could be through dyslexia, for example, and we need to protect those young people as well. In an ideal world, we want everyone to stay on at school until they are 18. However, that does not happen.
6183. **The Chairperson:** Fair enough. I am getting the impression that there is general agreement on this.
6184. **Mr F McCann:** This year, it was announced in the Assembly that 36,000 young people left school with no GCSEs.
6185. **The Chairperson:** Under clause 4, “Basic conditions”, the Committee has three points of concern. Are members content that they want the Bill amended to reflect those concerns?
- Members indicated assent.*
6186. **The Chairperson:** Clause 6 relates to restrictions on entitlement. People are concerned about the prescribed period for which payment will not be made, which is that such a prescribed period may not exceed seven days. If I remember correctly, that also related to the underlying entitlements and passported benefits. If I am wrong about that, I am sure that I will be corrected. Does anyone have a specific recommendation or amendment on that?
6187. **Mr Brady:** People would not get paid in under seven days, so there was going to be an issue around passported benefits. That is bound to be a problem. That concern was expressed by a number of stakeholders and members.
6188. **The Chairperson:** Is there a remedy or proposal?
6189. **Mr Brady:** I am not sure, but it needs to be looked at. Perhaps there could be some discussion around the issue.

6190. **The Chairperson:** Members had shared concerns about entitlement. Do you want to reflect on that or ask the Department to come back and clarify?
6191. **Mr F McCann:** Mickey has laboured the concern for a considerable time that 10p could knock somebody out of passported benefits. We probably need clarification on that. Martina touched on that yesterday during one of the discussions.
6192. **The Chairperson:** Martina, are you in a position to elaborate on that?
6193. **Mr Michael Pollock (Department for Social Development):** We can clarify that although there may be no payment, the entitlement would persist. That would preserve entitlement to passported benefits. That may give you some assurance.
6194. **The Chairperson:** Thanks for that.
6195. Members will have heard that there is some assurance there, which is part of our guidance as to how we might deal with the issue. We have an assurance. People may want to test that at some point. You have dealt with that by way of an assurance from the Department. I remind members that they can table an amendment in Committee or in the Assembly. That option is still open.
6196. **Mr Douglas:** Chair, we have been through all this stuff before. I am struggling to recall what my notes were at the time and what the issues were. Is it possible to get the Bill folder? There are so many things that it is hard to remember what the issues were.
6197. **The Chairperson:** The large Bill folder is available if any members want to see it. Members should feel free to ask if they are not sure about something. This is an important part of your statutory responsibility in the Assembly, so make sure that you follow up any concerns. If members are happy enough, we will move on to clause 10, which is the issue of responsibility for children and young people.

6198. There is some concern about the possible loss of the disability element of tax credit. The Department has indicated that for those in receipt of it, the higher earnings disregard and the taper should make up any reduction in income as a result of the change. However, new claimants will not be able to avail themselves of it.
6199. **Mr F McCann:** Some concern was voiced yesterday that people who are currently on it will be entitled to it, but there will be a difference for people who go on it. Any change in circumstances for those already in receipt of benefit will knock them out of the benefit. I think that I raised that issue a couple of weeks ago. So it is not as straightforward as it states in the paper. Any change of circumstances at all will be seen as those people coming out of that benefit, so it will eventually have an impact on the vast majority of people coming through, and there will, therefore, be a reduction in the amount of money that they receive.
6200. **The Chairperson:** I suppose that that could be new claimants or new claims by different claimants. It is more appropriate to state that. That is a consequence, Fra, and you have rightly drawn attention to it. Michael Copeland, were you looking in?
6201. **Mr Copeland:** No.
6202. **The Chairperson:** You have some of the concerns in front of you. Are there any suggestions, proposals, suggested amendments or considerations that you want the Department to take on board?
6203. **Mr F McCann:** For clarification, how many people will be affected by it immediately, and how many people will be protected in the short term?
6204. **The Chairperson:** I presume that the people “protected”, as you describe it, Fra, will only be those who are currently receiving it, but they are protected only until they make a new claim.
6205. **Mr F McCann:** It is short term.
6206. **The Chairperson:** They are protected as long as their claim does not change.
6207. **Mr F McCann:** How many people will be affected by it?
6208. **The Chairperson:** I presume all of them at some point.
6209. **Mr F McCann:** Of course. I am asking for a figure.
6210. **The Chairperson:** Do we have figures?
6211. **Ms Martina Campbell (Department for Social Development):** I think that I gave you figures yesterday on the number of disabled tax credit claimants who are in receipt of the disability premium. I do not think that I gave you figures, and I do not have them with me, on the number of people currently getting the disability premium within income support, for example. We would have to request that from the agency.
6212. **Mr F McCann:** Thanks very much.
6213. **Mr Brady:** The change will mean the difference between about £58 and £27. It is a fair amount of money, and it needs to be addressed in more detail. The figures on the number of people affected will be important. It is over £20 a week. The rationale is to spread the money out more evenly, but if a child has a disability, he or she has a disability. The purpose of the severe disability premium is to enhance the quality of such children's lives. Essentially, you are lessening that by taking away a sum of money.
6214. **The Chairperson:** How do we want to proceed? We have a number of options. We can table an amendment, a statement of concern or make a recommendation. We could do a number of things. We should remind ourselves that, as Gregory pointed out earlier, we have a number of options at every stage of the way.
6215. **Mr Copeland:** We need to establish the cost before we can do anything. That will be a repeating theme throughout, because we do not have the information to take the decisions.

6216. **The Chairperson:** So members are expressing concern about the loss of money but want figures before we make a formal decision.
6217. Clause 11 deals with housing. The key issue, again, was underoccupancy. There was concern that if people take a part-time job, they would lose the support for mortgage interest. The Department outlined that that would be to do with earnings disregards, tapers, and so on. There is also an issue around the definition of a “room”. The policy intent was outlined by the Department. I was very struck by the Housing Executive’s presentation to the Committee, but *[Inaudible.]*
6218. **Mr Copeland:** There are also issues around people who have had their homes adapted by the provision of a disabled bedroom, which leaves a bedroom free. It is rather unjust to ask them to pay a levy on the free bedroom. Again, it comes down to cost.
6219. **The Chairperson:** There are options, although, later this month, there will be an intervention from David Freud, so people might want to take that into consideration. I spoke to the Minister about the issue. I was concerned by his recent assertion that he would not change this, because it seemed to fly in the face of meeting with David Freud and looking for flexibilities. I am sure that they are still looking for flexibilities. Again, take that into account. Does anyone have an amendment to propose?
6220. **Mr Brady:** The straightforward option would be to remove the underoccupancy provision. The Minister talked about Freud coming over to assess the impact, but he has already pre-empted the outcome of that visit with the information he gave to a correspondent last Friday.
6221. One of the big issues with underoccupancy here has been the lack of suitable alternative accommodation. It would not be going too far to introduce words such as “unless suitable alternative accommodation is available” in the Bill. The Housing Executive made a very good point that if the measure were introduced in the morning, it would not be able to implement it.
6222. Another issue is the nature of housing in the North in general and particularly in places such as north Belfast. In normal circumstances, it would be considered that there is suitable alternative accommodation in north Belfast. However, we do not have normal circumstances, and that is part of the difficulty. That is why there cannot be a one-size-fits-all provision. The housing situation in the south-east or north-east of England has no particular bearing on the housing situation here. That has to be borne in mind.
6223. **Mr G Campbell:** From what I can see, under point 5, we are seeking a response, although the Department has been fairly clear. This is a key issue, and I agree with the point that has been made. If push came to shove and this was implemented next week, there would be a serious issue with the practical outworking of the policy in that the housing providers would not be able to provide accommodation because there is not the practical availability of suitable property.
6224. We need something from the Department. Receipt of that, and whatever Lord Freud elaborates on, should take us to the point at which we have to make a definitive decision on how we try to remedy it. As it stands, it will be exceptionally difficult to implement.
6225. **The Chairperson:** From all the discussion so far in Committee, I take it that most people do not like the idea of underoccupancy for the reasons that you outlined, Gregory. People do not see it as fair or practical and think that it will have serious repercussions. Therefore, at this stage, the Committee does not support that provision. As a result of David Freud’s intervention, the Executive may come up with something or the Department may embrace something. However, the Committee needs to state its mind on the provision. I am taking it that the Committee does not like the underoccupancy provision in the Bill.

6226. **Mr Durkan:** There are huge practical problems that people have outlined not only today but many times previously. There will be massive financial implications in implementing the policy. It is worth establishing the cost of not proceeding with the underoccupancy provision so that it can be compared with the cost of proceeding with it. That is important when so many people will be made homeless as a result. In addition to the massive financial cost, there will be a societal cost.
6227. **The Chairperson:** That is the displacement cost that was referred to.
6228. **Mr Brady:** There are a number of options, one of which is to not introduce it at all. The second option deals with the problem of having no suitable alternatives. If you are going to introduce something about there being no suitable alternative accommodation available, you will have to write in something to reflect the particular circumstances that prevail in the North. That would have to define the criteria for suitable alternative accommodation. You have to take into account the existing housing strategy; the legacy of segregation; the right of people with disabilities to independent living, which has already been talked about with regard to adaptations; people's informal caring responsibilities; and the impact on family life. In many cases, with this legislation, you may be talking about displaced costs. You will be talking about people possibly being made homeless. There will be an impact on health, so costs will shift to other areas.
6229. There are other options, such as underoccupancy that allows one spare room without the loss-of-housing-benefit penalty or the exclusion of box rooms. I know that the Department talked about 4 feet by 10 feet, which is 40 square feet. There are issues that may open up that discussion. In some cases, people would end up sleeping diagonally in some of those small rooms. I think that the Department had originally talked about 6 feet by 10 feet, which is 60 square feet. Certainly, the most up-to-date size that we have is 40 square feet.
6230. **Mr Pollock:** It is 40 square feet.
6231. **Mr Brady:** So the size of a box room has been reduced. Those are just suggestions, Chair.
6232. **Mr F McCann:** I want to follow on from that. Mickey has covered some of the issues. The clause on underoccupancy highlights the fact that people do not understand the way in which housing operates here. There are a couple of issues. The number of people who will be affected is 32,500. Over the next two years, only [Inaudible.] units will be built to accommodate that. Since its introduction, around 12,000 people have already been affected by the shared room allowance, which taps into the discretionary payment fund. So people who are in private rented accommodation tap into the discretionary payment fund. Even the increase, if you have 32,500 people, is certainly not enough, but it is short term. So you will be picking that up.
6233. When people from the housing associations were here as witnesses, they said that although they oppose it, they still have to get money. That was in terms of evictions. At some stage, there could be large-scale evictions. In the survey that was conducted in Portadown and Lurgan, the vast majority of people said that they would not move. You will end up with direct confrontation between tenants and housing providers. It throws up all sorts of difficulties. All that needs to be taken into consideration.
6234. **Mr Douglas:** On Monday, in response to your question, Chair, the Minister said:
- "Delaying this change will directly cost the Northern Ireland Executive up to £9 million."*
6235. It is interesting. My main point is that he went on to say:
- "I will be happy to discuss with the Committee a range of measures that we will bring forward that make sure we can address this and mitigate the difficulty without the burden of a further £9 million on the Executive."*
6236. I am sure that the Committee to which he refers is us. He is saying that he would be willing to discuss that. I



wonder whether there is an opportunity. I know that time is running on for some of the issues. It would be good to have an eyeball-to-eyeball discussion with the Minister on some of those issues. The Department has done a good job. It would be very helpful if we could get the Minister to discuss some of the key issues. Have you suggested it?

6237. **The Chairperson:** I will tell you what I was going to suggest. A number of members have already raised the issue of underoccupancy and the impact that it is likely to have. The shared view in the Committee seems to be that members do not like it. They are very concerned about it. They share concerns that have already been raised by key stakeholders. We would prefer that that underoccupancy provision was not in the Bill. So, as I say, we are getting into those kinds of arguments. You can see that where a number of those issues are raised, there is broad agreement. There is no real opposition to any of them. So on that issue — I will bring in Gregory in a wee second — people around the table seem to be saying universally that they do not like it. They want the Department and/or the Minister to deal with it. How they deal with it is —

6238. **Mr Douglas:** Chair, I do not think that there will be broad agreement on all those matters. We are not quite sure what the implications are, even at this stage. However, there are certainly broad concerns, particularly on that issue. As I think that I said yesterday, that is the main issue that people have been asking me about, whether it has been in my constituency office or up here.

6239. **The Chairperson:** The only option that we have, in that regard, is to make clear our opposition to it. It is then up to the Minister or the Department to come back with a response. You have outlined some of that, Gregory.

6240. **Mr G Campbell:** It is a general point, Chair. We are coming around to the issue that is the elephant in the room. I think that there will be a broad consensus on what we would like to happen and the changes that we want

in the Bill, but when it comes down to it, there will be issues — whether it is underoccupancy or a series of other things — on which the Department will say, “Yes, we can do that, and if we do it, here is the cost.” Sammy quoted what the Minister said.

6241. At that point, every one of us can say that that is still our position. However, the man sitting down there has to take a decision. He is the man who says, “If I do what the Committee wants, I have to go and find £x million.” We can all say that we think that it is right that he should do it, but he has to go and get the money from somewhere. That is the bottom line. Whatever we do, there are consequences, alternatives, choices and costs. I am more than happy to go along to try to get a consensus to make what is, initially, a partly unacceptable Bill more acceptable, but at the end of it, a hard choice has to be made, and we cannot duck it.

6242. **The Chairperson:** You are spot on. The process of working here is that we are saying what we are unhappy with, or what we want to see done. Obviously, there may be competency or admissibility issues, as the Clerk of Bills has described it. The Department and/or the Minister will come back and say, “Yes, that is a very good idea, but it will cost too much” or “It cannot be done.”

6243. Equally, it is also up to the Minister to seek to get that flexibility. Some of it may not cost money. He may have a conversation with Mr Freud and get one of those flexibilities that he said he would grant. So it is conceivable.

6244. The Committee needs to state clearly what it is for and what it is against. We may eventually have to take decisions, which will undoubtedly involve hard choices. You are absolutely right on that, but the Committee needs to have a view on what it wants to do and what it wants to see happening. I take it that, at the moment, members are opposed to the current provisions on underoccupancy. That is what we are stating. So it is up to them to convince us otherwise. We will then take a formal decision on it,

- whether it means opposing that clause or whatever the precise mechanism might be. Subject to the response we receive, we will return to clause 11 formally. Is that fair enough?
6245. **The Clerk of Bills:** It might be helpful if the Department can clarify that voting against the clause refers to clause 11. There is no reference that I can see to “underoccupancy”. So I assume —
6246. **Mr Pollock:** It is clause 69.
6247. **The Clerk of Bills:** I was looking at clause 11 [Inaudible.] regulations.
6248. **Mr Pollock:** Clause 11 deals with housing costs.
6249. **The Chairperson:** Will whoever is going to address that come to the table to facilitate Hansard? We are not picking up the sound. I am sorry, it is not your fault. The sound in the room is not good.
6250. **Mr Pollock:** Clause 11 deals with housing costs under universal credit. The clause that introduces underoccupancy is clause 69.
6251. **The Chairperson:** Are you happy enough with that, Patricia? Thank you for that, Michael.
6252. **Mr F McCann:** I want to make a short point. I accept Gregory’s point and what you have said. We need to work towards agreeing flexibilities that allow us to deal with the issue. We also need to work out the consequences of our accepting the Bill. We could be dealing with large-scale evictions. A figure of £18 million has been quoted as the cost; Sammy quoted £9 million. However, if that is the consequence of saving people from being evicted, we must pick up the bill. We need to find the money.
6253. **The Chairperson:** I do not contradict that for a second, Fra. At the moment, the Committee has made it clear that it is against that provision because of the impact that it will have.
6254. **Mr F McCann:** Gregory has said that there is a cost consequence. You can look at the cost consequence both ways. The cost of our not dealing with that and its leading to evictions or serious problems may be a cost that we want to bear.
6255. **The Chairperson:** That is right, but it is subject to the response that we receive.
6256. **Mr F McCann:** I appreciate that.
6257. **The Chairperson:** Ultimately, those are the considerations on which you will have to base your vote. Is that fair enough?
6258. **Mr Douglas:** During this process, people have come to us and suggested things that have an attached cost. At some stage, it would be good to know the overall cost of some of the things that we want to implement, never mind clause 69.
6259. **The Chairperson:** The second point is about support for mortgage interest. That concern was fairly widely debated. The concerns included people taking part-time work that may exclude them from mortgage interest support. The Department argued that that would be catered for by way of earnings disregards and a taper. Do members have a view, recommendation or proposal?
6260. **Mr Brady:** Mortgage interest support has already caused problems for people when it kicked in about a year ago. This element of the Bill will cause increasing problems. We have seen the results of that. It was mentioned yesterday that Spain has stopped evictions for two years because of the number of people being affected. I have no doubt that if this provision is introduced, it will cause more problems. It is being suggested that if people get a job, at least their housing costs would carry on for at least four weeks or whatever.
6261. The difficulty is that if people get any type of work, their mortgage interest support stops, and they are also expected to look for a better-paid job. We all know that mortgages do not simply stop. They carry on, so people are not able to say to a building society or bank, “I will be OK in two, four or six weeks’ time or in a couple of months.” A

building society or bank will look for their money relentlessly. For many people, a mortgage can end up being a millstone around their neck, and therein lies the difficulty. A building society or bank will usually give people about three months, but if people are not in a position to keep up their payments, they are in serious trouble.

6262. **Mr Douglas:** Was it part of the problem that if someone takes a part-time job for even 10 hours a week, he or she would lose their mortgage interest support?

6263. **The Chairperson:** The Department said that that is offset by earnings disregard and tapers. I am simply repeating what the Department said. However, you are right; it is about part-time work.

6264. **Mr Douglas:** We can talk about the current situation, but we do not know how economic conditions will change over the months and years. More people could lose their jobs.

6265. **Mr Brady:** We have talked about this issue for ages and, with respect, I am not sure that even the departmental officials know what tapers are all about. Nobody seems to be clear. We talk about earnings disregards, which is fairly easy to understand, but tapers will depend on how many hours people are working, how much they are earning, and so on. Apparently, you go in one end bad and come out the other end glowing. I am not sure of the concept of tapers, which is an important part of mortgage interest support. We are being told that if you go in one end on benefits or part-time work, you will come out the other end much better off. That is what universal credit is being sold on. I am not sure how that works in practice.

6266. **The Chairperson:** I am trying to reflect accurately the views of the Committee overall. My understanding is that the comments expressed by the Committee show that we are concerned. I have not heard any contrary arguments to that. The policy intent is to encourage people to go to work. If people take a part-time job, they will lose their mortgage interest support. However, the Department said

that that is offset by earnings disregards and the taper. Why do we not ask the Department to come back in the next few days and tell us more about the taper and earnings disregards and how they will actually work?

6267. **Mr G Campbell:** That is under point 5.

6268. **The Chairperson:** The Committee is concerned about the implications of this. We do not like it and so want to make sure that it is addressed. We are told that it can be addressed by the taper and the earnings disregards. So let us have that fully explored. Is that fair enough?

6269. **Mr F McCann:** I asked the Department yesterday to come back to us about people entitled to income-based jobseeker's allowance who will lose all mortgage help.

6270. **Mr Douglas:** Chair, may I just check something that I am not quite sure about? We also talk about the potential for a review. Can we include that as part of the whole process in case there is a major change in the economic climate? Greece going belly-up, for example, would put pressure on all of us.

6271. **The Chairperson:** There is obviously the whole question of monitoring, and so forth, that will have to be dealt with in the Bill. We can also make it clear that the Committee's view is that all of this needs to be reviewed. We will come back to that at the end of this more mechanistic approach, if members are happy enough with doing that.

6272. I am working off the issues paper that we have in front of us. The definition of a box room has already been discussed. There is concern about what a box room is, how it is defined and how that impacts on underoccupancy. I take it that people have expressed their concerns and that they will be in the mix of our discussions.

6273. If that is OK, we will move to clause 12, "Other particular needs or circumstances". The removal of severe disability payment has raised concern.

- Are there any views or representations on that?
6274. **Mr Brady:** People have expressed concern about the severe disability premium being removed.
6275. **The Chairperson:** Will members speak up?
6276. **Mr Brady:** The severe disability premium was to enhance the quality of life for those with severe disability, and taking it away makes it more difficult for them to manage. Much the same as disability living allowance (DLA), which will become the personal independence payment (PIP), it is there to give people a better quality of life by enabling them to pay for things that they could not normally afford. Again, the severe disability premium is specifically for people who live alone or with another disabled person, and its removal is a matter of concern.
6277. **Mr G Campbell:** That will be under point 6, then, Chairman.
6278. **The Chairperson:** OK, the suggestion is that we will deal with that by way of point 6, which is an expression of our concern. If members are happy with that, we will move on.
6279. Clause 26 deals with higher-level sanctions. Three points of concern are highlighted in the paper, but members may want to raise others. There is a general concern about whether these sanctions are disproportionate. There is a specific concern about the fact that a convicted person's prison sentence will be coupled with a three-year sanction. Then there is the concern that the five days allowed to present "good reason" is not long enough. That concern was presented to us by a range of stakeholders who suggested that the time allowed should be more like 15 days. If I remember correctly, the Department said that it may accept that and, where good cause was proven, it would have some discretion. However, I am not 100% sure on that.
6280. **Mr Brady:** The difficulty with the sanctions proposed in the Bill is how draconian they are. There is compelling evidence from various organisations' research that sanctions do not act as a deterrent to somebody who wants to commit social security fraud on the scale that these sanctions will presumably try to stop.
6281. The question was asked yesterday about doing some sort of comparison of the current sanctions regime with the proposed one. Perhaps that needs to be done. We need to know what effect sanctions actually have, because in my experience over years of dealing with people on benefits, sanctions did not really have much effect. Organisations have done research that indicates that they are not a deterrent.
6282. **Mr Copeland:** It is also important to note that, under the current regime, fraud is coming down, which is to be welcomed. I would be keen to know the differences foreseen or implied in changing the regime.
6283. **The Chairperson:** Quite a number of stakeholders, if not all, raised the issue of the higher level of sanctions being disproportionate. Some argued that, obviously, some people are wilful but that there are many others who would be classified as vulnerable in some way or other, and it is they who are more likely to fall foul of these rules.
6284. **Mr F McCann:** It was said yesterday and again today that we await information from the Department on the amount of people who have been sanctioned. It is my understanding that there are two different methods of sanction. People can be reported by the Department for Employment and Learning (DEL) to the Department for sanction, and a decision-maker or supervisor will look at that and decide whether a sanction should be applied. I take it that that is the way that it works. That will give you the information that you need to make a decision on whether this is even necessary.
6285. **The Chairperson:** Well, members asked the Department yesterday to come back with information about the current sanctions regime, how it might change

and what they think the differences might be.

6286. **Mr G Campbell:** I was going to suggest that, under point 3, we seek correspondence from the Minister about the severity of the sanctions to see whether there is the possibility of a variation.

6287. **Mr Pollock:** As Fra said, we are gathering information. We have some, but it is only about the failure to attend cases. We can provide that to the Committee Clerk for your information, but we will try to come back with more. You were asking for information over a three-year period.

6288. **Mr F McCann:** That would give us a complete picture. We are being asked to make a decision here. There was a debate in the Assembly three years ago, and it was agreed to bring in sanctions. Complete information should give us a breakdown of the number of people whom it was proposed to sanction and those who have been sanctioned over a period. That should give us an idea of how sanctions have worked.

6289. **Mr Pollock:** I should say that there will be qualifications on some of the information. When you talked about DEL referring people, as we explained yesterday, ultimately, the decision on the sanctions should be for the decision-maker in the Social Security Agency. For long enough, a lot of people were not being referred to the decision-maker, and DEL was taking the decisions itself, effectively. So there will be a qualification on some of the figures that we provide, but we can explain that to you at the time.

6290. **Mr F McCann:** I remember an answer to a question that I raised with the then Minister, which indicated that, even over a short period, thousands of people had been reported by DEL for sanction but only about a third were actually sanctioned. It would probably be easy enough to get that information because there seems to be a fairly close working relationship at that level between

DEL and the Department for Social Development.

6291. **Mr Pollock:** I am looking at figures for “failure to attend” cases from March to August this year. There are totals of, for example, fortnightly job search reviews not attended, non-attendance at a work-focused interview and non-participation in a work-focused interview. A total of 5,407 people could have been sanctioned; a sanction was imposed on a total of 1,717. Those are the sorts of figures, but, as I say, I would rather you looked at the information in its entirety.

6292. **Mr F McCann:** I appreciate that.

6293. **The Chairperson:** In general, there is a serious concern about the proportionality of the sanctions. We will get that information back from you, Michael, and thank you for that. However, there is a proposal that we write to the Minister to ask him directly whether he is prepared to look at variations in the sanctions regime. Is that the proposal? We will wait for the information. That is, in a sense, two responses.

6294. **Mr Brady:** Initially, when the sanctions were introduced in the previous mandate, we were told that they would not be used that often, but the figures indicated that they were. The difficulty is that, once enshrined in legislation, they can be used. There is no empirical evidence that sanctions work.

6295. **Mr Douglas:** We also discussed the increase in mental health issues in Northern Ireland, particularly people who have depression and others with learning difficulties. The Department said that, where that is the case, it would be flexible and sensitive. That is in the mix.

6296. **Mr Copeland:** The guidance, or standard operating procedures, that the decision-makers apply will colour my view. I have experience of two or three such cases. Two cases were of people whose stated condition was agoraphobia, which meant that they could not come out of the house. Both were sanctioned before their cases were reconsidered.



Generally, the cases that I deal with are not of people who just could not be bothered attending; they either cannot be contacted or are not capable of understanding the importance of attending. After intervention, the system has righted itself, but my concern is about what happens to those folk in the period between an unsound decision being made and subsequently being rectified. I am concerned about what people have to do to keep the wolf from the door, for want of a better phrase. The guidance will be of massive significance to me, because the decision-maker is merely applying a set of circumstances to the guidance and giving an opinion based on both. It is important that everything is seen in context.

6297. **The Chairperson:** You make a fair point, but it is important to remind ourselves that this is an enabling Bill. Rightly, therefore, people are paying due attention to the fact that whatever goes through in the Bill will enable a lot of other things. Some of those things may be addressed by way of regulation and guidance, and it is important that we consider all that in the round. Sammy Douglas made that point a minute ago. My thinking on this is governed by the fact that it is an enabling Bill. If I am supporting the clause, I am aware that it will enable certain things to happen at a later point. So I will need to satisfy myself that what I am enabling will be appropriate and fair. Are members happy enough that we have dealt with that?

6298. We will move to clause 38, which is about the capability for work or work-related activity. All members had a major concern about the primacy of medical evidence in assessing people. That is a fundamental issue. I do not think that I am wrong in saying that we have had a lot of discussion on Atos. Concerns have been outlined about that process and how a similar situation might arise when moving from DLA to PIP. It has certainly been an area of focused discussion between the Committee and a wide range of stakeholders.

6299. **Mr Brady:** People are being assessed because they have a particular condition. Let us take the migration from incapacity benefit to jobseeker's allowance. People were on that benefit because of a medical condition. The condition may be long term, chronic or short term. If the medical evidence is available to the decision-maker, it seems common sense that they can use that to make an informed decision. At the moment, we have a tick-box exercise carried out by somebody who really does not know the person.

6300. People should be assessed by a health professional who has the competence to assess their physical and mental capabilities. I am sure that all members are hearing stories about this in their constituencies. Lord Morrow mentioned one case in which somebody was either blind in one eye or had lost an eye. I have had people coming into my office wearing medical aids given to them by Musgrave Park Hospital, and the nurse who did the tick-box exercise did not know what those aids were or their purpose. The assessor needs to be competent.

6301. The primacy of medical evidence would circumvent a lot of the problems that people experience. If you have good enough medical evidence, it makes it easier for the decision-maker to come to an informed decision. There has to be some process put in place. If you attend a consultant, that is in your GP records, all of which are now computerised. I found that when I was representing people at appeals, there was a particular code that the doctor can press on the computer that prints out the consultants' reports. That makes the information much easier to access. There is no huge logistical exercise involved. It is common sense, and it would not cost anything.

6302. **The Chairperson:** Getting to the nub of this and trying to summarise, I think that there seems to have been universal concern about the need for medical evidence to have primacy in assessments. Is that a fair reflection of what people are arguing? That needs

- to be written as a formal amendment or recommendation. It is up to the Committee to decide that. We have laboured the point with the Department. I have never received satisfaction that medical evidence will have primacy. That seems to be the mind of the Committee.
6303. On that basis, we move on to clause 42, which concerns pilot schemes. Yesterday, we discussed at length the need to have pilot schemes here. If I remember correctly, Martina, you made the point that if the Bill is enacted, you will be able to have bespoke pilot schemes here. I think that the concern was expressed by members that the Bill was predicated on a range of pilot schemes, none of which was conducted here.
6304. **Mr Brady:** In the initial stages of welfare reform, back in 2007-08, pilot schemes were introduced in Oxfordshire, Manchester and a few other places in England. Alex Easton, who sat on the Committee at that time, asked why there was not one here. If you are talking about parity, which is comparing like with like, we should have been entitled to one here. No valid reason was given for not introducing a pilot scheme here. Most of the pilot schemes have been in the south-east of England and were predicated on very expensive rental costs, different types of housing, and so on. It goes back to the whole argument about the prevailing conditions here being somewhat different — in many cases, very different — from there. Why did we not have a pilot scheme?
6305. **The Chairperson:** Point 6 allows us to express our concerns about that. That has been done. I presume that we want to make sure that pilot schemes are run here as part of any future policy deliberations.
6306. **Mr Brady:** Yes, but if the Bill is enacted and pilot schemes come along later, it does not matter what conclusions they come to because it is a fait accompli. We are now going through the Bill and there has been no pilot scheme here, but we can express our concern. If, as we are told, the Bill is predicated on what happened in the south-east of England and other places, it does not reflect the circumstances that prevail here.
6307. **The Chairperson:** I do not disagree with a word that you are saying, and I do not think that anybody else does either, but we have to deal with the Bill that is front of us. I am simply saying that there is an option to express serious concerns about that, and members seem prepared to do so. However, we also have to reflect on whether we need to make it very clear that, for any future policy decisions, pilot schemes need to be done here. That would mean requiring proper evidence from here, whatever the policy issue.
6308. **The Committee Clerk:** The Committee could express its concerns that Northern Ireland has not been included in pilot schemes to date, and it could make a recommendation that any future pilot schemes include Northern Ireland.
6309. **Mr F McCann:** [Inaudible.] It does not reflect the conditions here in the way that it reflects conditions in parts of England. When Martina was speaking yesterday, I picked up that it was like putting the cart before the horse. Martina did not say that, but I am saying that. We could end up with a Bill going through and then having the option of running a pilot scheme. It is a bit crazy.
6310. **The Chairperson:** I am not saying that we will run a pilot scheme. This is not an issue of passing the Bill and then running a pilot scheme based on the Bill. What I am saying is that, unfortunately, no pilot scheme was run before this Bill was produced and tabled here. We are universally agreed that that should never have happened. We are not happy with that at all, and we will express our concerns. We are also saying that, in any future policy deliberations, there need to be bespoke pilot schemes here.
6311. **Mr G Campbell:** I am happy enough with the thrust of that, although maybe we need to add the words “where appropriate”. It might be the case that there is some future policy decision for which we do not require a pilot. I would

have thought that, on most occasions, we probably will want a pilot, and, on this occasion, we are concerned that there was no pilot scheme. I cannot think of the circumstances, but there might be some policy decision that obviously needs to be made and so does not require a pilot scheme. I am content, as long as we do not insist that, on each and every occasion on which a policy decision is to be taken because it has been implemented in GB, we must have a pilot scheme. Where appropriate, we should have one, and we should have had one on this occasion.

6312. **Mr Copeland:** Forgive my lack of knowledge, but when we see the regulations, can we state that there should have been a pilot scheme?
6313. **Mr F McCann:** That is what Martina was saying.
6314. **Mr Copeland:** The answer is yes, then.
6315. **Ms M Campbell:** As Fra said, you cannot have a pilot scheme until the primary legislation is in place. Not only do you need the primary legislation, you need the regulations in place to enable you to have a pilot scheme. When the regulations come forward, any pilot scheme must satisfy the three conditions outlined, the first two of which are about making the process simpler or changing behaviour. I have forgotten the third one, but all the conditions are in the Bill. Any pilot scheme would have to tick all those boxes. When the regulations come forward, you will have an opportunity to have an input into any proposal for a pilot scheme.
6316. **Mr Brady:** On that point, Martina, as far as I am aware, most pilot schemes are to test systems or schemes. What you are saying is that, as the primary legislation and regulations have to be in place, it is a fait accompli. So what we would really be doing is a review of how it will work, not a pilot scheme to see how it might work. That is my point. You are simply telling us about the pilot schemes that have been carried out. However, Gregory's point is valid enough.

We would not look for a pilot scheme for everything. The difficulty here is that the Bill is life-changing because this reform is the biggest change since 1948. Yet, here in the North, people seem to be expected just to put up with whatever comes across, without any particular reference being made to the prevailing circumstances here. We have been discussing it so much that everybody is fully aware of the difficulties and differences that exist and persist here, and therein lies the problem. Really, you are talking about a review of how it might work, and if some particular area of the legislation is not working, we might tweak it, but there will be no fundamental changes made if the Bill goes through in its present form. That is the difficulty. It is really a review to see how it works. For instance, with the likes of underoccupancy, I think that it is worth including in the legislation the fact that there should be a review within a very short time to see whether it is impacting on vulnerable people because those are the people whom we are trying to protect in all this.

6317. **Ms M Campbell:** As I said, there are conditions, two of which are to make universal credit simpler to understand or administer; or where a scheme is likely to promote people remaining in work or help people to obtain work. The review and evaluation of policies is a normal part of policymaking, and I do not know whether we need, necessarily, to have that in the Bill. I do not agree with you that a pilot scheme under this would be merely a review. Generally, a pilot scheme introduces an innovative scheme.
6318. **Mr Brady:** On that point, the Housing Executive told us that it is running the pathway scheme in the Lurgan/Craigavon area. From what it says, that is to find out the possible impact of underoccupancy, etc. However, that pilot scheme may come up with the finding that it will not work in that area. Presumably, that would then be fed into any discussion on the introduction of underoccupancy.

6319. **Ms M Campbell:** Yes, and that would be reflected in the regulations where appropriate.

6320. **Mr Brady:** Yes, that is the point. We do not know what will be in the regulations or the guidance. The Chair has said constantly that we are dealing with what is in front of us, which is what is in the Bill. If we take underoccupancy as it is in the Bill now, there is no doubt that it will cause huge problems for people. Therefore, irrespective of the outcome of the pilot scheme in the Craigavon area, that will not necessarily reflect what may happen in the rest of the North. Of course, there should be a review, but it is implicit that the criteria and the context of any review should be part of the Bill because it needs to be very specific in dealing with particular issues that the Bill will introduce, particularly underoccupancy. I do not think that you can get away from that. A review could be very wide-ranging. In the context of the Bill, any review, particularly with regard to sanctions, underoccupancy and the transfer from DLA to PIP, has to be very specific in its terms of reference. That is the point that I am making.

6321. **The Chairperson:** I agree with the notion that we need to have pilot schemes available to us here, and I accept entirely the notion that that should be where it is appropriate. We are not insisting that, on every day of the week, there must be a bespoke pilot scheme on every issue. Personally, I think that the terms of reference for the three conditions are too prescriptive. They basically say, "Here is the very limited scope within which you will review." By their very nature, pilot schemes are about innovation and looking at something new and fresh. I have never heard of a pilot scheme being prescribed in this way. In my thinking, that runs completely counter to the concept of pilot schemes. Members appear to be of the view that they want to have pilot schemes available where they are appropriate. I think that the terms of reference for the three conditions are too prescriptive. I do not

hear any counterargument to that. So we are telling the Department that we are not happy with the prescriptive nature of the three conditions.

6322. We move on to clause 45. It is 12.00 noon, and I am in the hands of the Committee. Do you want to break now for an hour for lunch and return at 1.00 pm? Are members happy with that?

6323. **Mr G Campbell:** It is either that or a large dose of headache tablets.

6324. **The Chairperson:** In the afternoon session, I suggest to members that when a member makes an argument or a suggestion about an amendment, see that there is no opposition to it. They do not need to elaborate on the argument.

*Committee suspended.*

*On resuming —*

6325. **The Chairperson:** Folks, thank you for attending the meeting this afternoon. We are resuming our scrutiny of the Welfare Reform Bill. We adjourned the meeting at clause 42, so we will resume on clause 45. Clause 45 deals with the claimant commitment for jobseeker's allowance. An issue was raised about the insertion of:

*"such other person as may be designated".*

6326. Does anyone have anything to add to that or a query to raise?

6327. **Mr Brady:** It really should reflect both sides in a way. Can it not be that the claimant commitment be prepared by an employment officer in consultation with the claimant? Otherwise, it will be a unilateral and kind of arbitrary condition. Clause 45 states:

*"such other person as may be designated for that purpose".*

6328. That could be anyone. It could be someone who is walking past at the time.

6329. **The Chairperson:** What are you suggesting? Are you not happy about that?

6330. **Mr Brady:** Other members will want to comment, but a concern was raised by stakeholders and Committee members.

6331. **The Chairperson:** OK. We have a suggested approach to it. Clause 45(2) refers to that. Is it that people were afraid that this was opening the door to privatisation?

6332. **Mr Brady:** Yes.

6333. **The Chairperson:** People were concerned about that, and although the Department advised us that it had no immediate plans — I think that that was the term used — that did not rule out future plans. I am not saying that the Department was suggesting that either. Given that this is enabling legislation, members are concerned by that phrase and do not like its inclusion. That is the issue.

6334. **Mr Brady:** The point was made that that happened in the past, and there

is no doubt that it opens the door to it happening again.

6335. **The Chairperson:** Therefore, do we want to get formal clarification that this is not about privatisation? If it is about privatisation, people may want to propose that that phrase be deleted.

6336. **Mr Brady:** This is not a criticism, but all that the officials could say was that there are no immediate plans. That could change next week. It could change tomorrow. Another issue is that officials' — civil servant — jobs are potentially being put at risk, and I am sure that the unions have already addressed that. It just seems that it is opening the door.

6337. **The Chairperson:** We have options. Do we want to seek an assurance from the Minister and the Department that this is not about enabling privatisation? That seems to be the concern shared by members and stakeholders. Is that what we want to do? Then, subject to the response —

6338. **Mr Brady:** Yes.

6339. **Mr F McCann:** The Human Rights Commission wants clause 30 amended to protect against that by requiring contracted private and voluntary sector providers to comply with the Human Rights Act 1998. Therefore, a number of amendments have been suggested.

6340. **The Chairperson:** Are members happy enough to proceed on the basis that we want assurances that this is not enabling privatisation?

6341. **Mr Douglas:** Chair, do we need any legal advice? I have made a note that the unions opposed the insertion of "or such other person", because the provision suggests non-public service workers might assume that role.

6342. **The Chairperson:** We could tell the Department that we are concerned about this and that we do not want to enable privatisation. Therefore, can we get assurances that that is not what this is about? I am working on the basis that the Department told us that there were no immediate plans, but, in fairness to



the officials, it could not go any further than that. Are we happy enough?

*Members indicated assent.*

6343. **The Chairperson:** We move to clause 52, which deals with people's entitlement to contributory allowance after a period of one year. Members seemed distinctly concerned about that. What do you want to do about it?
6344. **Mr Brady:** There will be a cost involved. It is purely a cost-saving exercise. The same thing happened in 1996. Where previously people had got unemployment benefit for 312 days, it went down to six months with the introduction of jobseeker's allowance. That means that if the partner of a person — at the end of that person's contributory entitlement — is working a specified number of hours or more, the claimant will not get any benefits. It is an immediate cutback on benefit. That is where the difficulty lies.
6345. Some stakeholders and Committee members asked what happens to all the money that is saved. Where does it go? Does it go back into the social security system or elsewhere? People who have paid contributions for 30 years may unfortunately fall sick or something and get only a year's benefit, irrespective of what they have paid.
6346. **The Chairperson:** I do not think that an answer has been provided on that one. My assumption is that there is no pot of money sitting somewhere for benefit; it is demand-led.
6347. **Mr Brady:** The point was made that when she was in power in 1986, Thatcher put the national insurance fund into the red because the money was used to subsidise private pension schemes for the better-off, if you like. Therefore, there may be an element of that. Again, I accept that that is a different issue from the one that we are dealing with.
6348. **The Chairperson:** It is.
6349. **Mr Douglas:** If we oppose the clause or seek to amend the time period, will there be a cost? If so, what will it be?
6350. **Mr Brady:** There will be a cost.
6351. **Ms P Bradley:** There will be a massive cost.
6352. **The Chairperson:** We are told that there will be a cost, but we first need to take a view on whether it is or is not a good idea. If our sense is that it is a bad idea, we can say so and let the Department tell us the cost.
6353. **Ms P Bradley:** Another point to make on this clause — I am getting a bit lost with all these at the minute — concerns when people are notified of the changes. In mainland UK, people have been given a much longer run-in period than we will be giving people when the changes come into force. Was that not one of the issues around this as well? Furthermore, there is the bit to do with contributory employment and support allowance (ESA) for people who have been working and find themselves out of work. Those people are being treated in the same way as someone who has never worked. Those are two of the things that were highlighted.
6354. **The Chairperson:** There are two particular concerns. The third one is about where the money went to. The priority for us, I suppose, at the minute is to work out what will happen through this provision.
6355. **Mr Brady:** I do not think that the Department is in any position to tell us where the money goes. The points that Paula raises are more relevant.
6356. **The Chairperson:** How do we want to deal with that? There is a menu of options on the back page of the issues paper.
6357. **Ms P Bradley:** We need to find out what the financial implications are for the people being notified. I think it rather unfair that we are slightly different, in that respect, from the rest of the UK, where people were given a longer period of notification than our people will get. There will be financial implications no matter what, so we need to know what they are.

6358. **The Chairperson:** There is a table somewhere in the explanatory memorandum. Is it right to say that members are not happy with the provision whereby people lose their contributory benefit after 12 months? Subject to costs, that may determine how the Committee wishes to vote on the clause when we do clause-by-clause scrutiny.

6359. **Ms P Bradley:** For me, that issue is slightly muddier. It is not as black and white as some of the other clauses about which I feel very strongly. However, there are some issues that need to be clarified before I can come to any decision on clause 52.

6360. **The Chairperson:** OK. Therefore, the two points on which we want the Department to come back on formally are the lead-in time for this if the clause becomes law and the provision itself, as well as the associated costs. Is that fair enough?

6361. **Mr F McCann:** I do not mean to prolong this debate. We know that the entitlement period will last for a year. You said that people who have paid contributions for 30 years will be affected. Is there any way in which we can be given a couple of scenarios that set out how much this will impact on people financially? We are asking what the cost will be to the Assembly. However, what will be the cost to people who have worked all those years? Is there a possibility that those scenarios can be painted? For example, can we have for a family, someone claiming who has two children or a single person?

6362. **The Chairperson:** Are members happy enough that we ask for that?

*Members indicated assent.*

6363. **The Chairperson:** Let us move on clause 54, which deals with conditions relating to youth. Our concern here is that stakeholders generally oppose the abolition of ESA, but the Department has stated that almost 97% will move to income-based ESA. It is unlikely that new claimants will qualify for income-based ESA.

6364. You have heard evidence from a range of stakeholders and may now need to familiarise yourselves for a moment or two. Take the time to do that.

6365. **Mr Brady:** It might help to find out how many of those young people will be affected. The Department talks about 97%, but it is incumbent on us to take into account the people who will not be safeguarded. I think that the figure mentioned was £390,000. On the face of it, that is not an awful lot, but these are young people who may have quite severe learning disabilities, and the whole purpose of the old severe disablement allowance and then youth incapacity benefit was to safeguard those young people and ensure that they had an independent income from the age of severe disablement allowance, which was 16. It was accepted that they had long-term, ongoing problems that might never be resolved.

6366. The other difficulty that I have is that once they move into income support-based ESA, they are then into a pool. Once the enabling legislation is in place, and possibly regulations and guidelines, which may lead to other things, they may all be subsumed into a particular direction of work that is not there or schemes that may not be of benefit to them. That needs to be addressed.

6367. **The Chairperson:** OK. Mickey, so you want the figures for the 3%?

6368. **Mr Brady:** If that is possible.

6369. **The Chairperson:** Or not so much the figures as the impact.

6370. **Mr Douglas:** Do we not already have those figures?

6371. **The Chairperson:** We were told that 97% would be exempt.

6372. **Mr Brady:** We got the financial figure: £390,000. I am not sure of the actual numbers.

6373. **Mr Pollock:** We had some figures for ESA youth, which is for ages 16 to 20, and another figure for a cohort of 20- to 24-year-olds. We are trying to see whether we can discern from that the

population in receipt of contributory ESA youth that would be affected. Mickey mentioned the £390,000, which is the cost per annum. I do not know whether we have a figure for the actual number of claimants who will be affected.

6374. **Mr F McCann:** This is just a point of clarification. If 90% are moving across, surely, after a year, they will lose the benefit anyway.
6375. **Mr Pollock:** We think that 97% will move across to income-based ESA.
6376. **Mr F McCann:** With the new rules that are coming in, that will last for only a year, so —
6377. **Mr Pollock:** That would be income-based, Fra, as opposed to the contributory.
6378. **Mr Brady:** If the 95% are on income-based ESA, I presume that they and other people on income-based ESA who have particular medical problems will be reassessed. The point about disability allowance and youth incapacity was that it was accepted that those youngsters would never be able to work in the normal sense, so it was almost an indefinite award that carried on. It was accepted that if you had a particular condition, it was not going to go away. If those people are subsumed into that kind of a pool and reassessed, it may point them in directions in which they are not able to go.
6379. **Mr Pollock:** It is 97%, but if it is envisaged that they have a condition such as you say, I surmise that they would still be assessed.
6380. **Mr Brady:** It brings us back to the point that was raised this morning about the primacy of medical evidence. Obviously, their condition is based on a particular physical or psychological condition. It goes back to how effective or informed the decision-maker is on the evidence that is available.
6381. **Mr Pollock:** Absolutely. In all the evidence that we have presented, we have asserted that medical evidence should be given due weight and that cognisance should be taken of it.

However, there is an underlying trend as well: disability or a health condition does not necessarily dictate that an individual should be condemned to a life on benefits, which it has dictated, to some extent, in the past.

6382. **Mr Brady:** Condemning people to a life on benefits is another issue. In a lot of cases, people do not have that choice. You are saying that medical evidence should be considered in conjunction with other factors. The point that I am making is that in the current system — I presume that this will carry through if it is not changed by Atos — you have somebody who ticks a box, and then the decision-maker gets that report and bases his or her decision on that. In my experience and, I am sure, in the experience of other people, the decision-maker does not have ready access to the full medical picture. In a lot of cases, it is only at appeal that the medical evidence is presented. I have had people coming in whose appeal did not even go ahead once that medical evidence was presented. At that point, it was accepted that the medical evidence was of such benefit that the appeal did not have to go any further. The point about the primacy of medical evidence is that decision-makers have all that in front of them and they make a decision. It is not just a tick-box exercise. In fairness, the anecdotal evidence that I am getting back is that the majority of people who carry out those assessments are not interested, not particularly well-informed about the condition and do not really care. That is the reality.
6383. **Mr Pollock:** We have discussed the assessment process and the primacy of medical evidence. It is one of a range of factors. Certainly, given the sorts of conditions that we are talking about, it is a very important one. The decision should, in any case, be reasonable. If it is based on a serious health condition, you would expect that to be taken into consideration by the decision-makers.
6384. **Mr Brady:** I will give just one small example —

6385. **The Chairperson:** OK, but we do not want to be —

6386. **Mr Brady:** I do not want to drag this out, but this is an important point. I have heard of cases of people who are diagnosed with MS and who are in remission and doing reasonably well. They go for one of those tests. They still have the condition, which is progressive. One question they are being asked is how far they can walk. If they say they can walk 100 yds or 50 yds, which is a relatively short distance, they are then asked how far they could go in a wheelchair. Those are people who are doing their best to make sure that they do not end up in a wheelchair. That is the type of thing that is happening. There should be proper medical evidence.

6387. **The Chairperson:** Thanks, Michael.

6388. OK, just to recap on how we will deal with this clause; do we want to get the information on how it will impact on people?

6389. **Mr Brady:** I think Michael said they had some information but not definitive information.

6390. **The Chairperson:** OK, so we will wait for that. Is that what we are saying? Fair enough, then.

6391. We will move on to the personal independence payment. A couple of issues were raised about clause 86 and the issue of people in prison and people being out of the jurisdiction. People had some issues about the various components of allowances, and people in prison would be deemed to be having those paid for. So, it is an issue of duplication of public money. I think that is what the Department outlined. Does anybody have a view on that?

6392. **Mr F McCann:** I raised this yesterday. I just cannot understand why allowances would be stopped for people, especially elderly people, who have to leave the jurisdiction for health purposes because they have underlying problems. That could probably run to thousands of people. In Spain, they pay yearly to send their pensioners to the coast. I cannot

understand why that measure is being brought in. It has to affect the health of thousands of pensioners.

6393. **The Chairperson:** The issue was that some stakeholders and even other organisations argued that there needs to be a longer period for that, however long that may be. Am I right in saying that the current period is four weeks?

6394. **Mr Brady:** I think that officials mentioned yesterday that it depends on whether you are undergoing medical treatment. The argument could be that you have arthritis and you went abroad to alleviate your condition. Is that medical treatment or otherwise? If your doctor recommended it, it could, in a very loose fashion, be termed as medical treatment. It is a dialectic argument, I suppose.

6395. **The Chairperson:** OK, do you want to ask for precise clarification on that? The Department for Work and Pensions (DWP) stated that entitlement would end after four weeks abroad, except if the absence was for medical treatment, when the period of absence can be extended to a maximum of 26 weeks. So, we want to clarify what “treatment” means.

6396. **Mr F McCann:** How do you define “treatment”?

6397. **The Chairperson:** OK, are members happy enough with that?

*Members indicated assent.*

6398. **The Chairperson:** No members have raised any issues about the prisoners’ daily living component.

6399. Clause 88 is entitled “Report to the Assembly”. I think, Sammy, you were one of the people who had an issue with this, which was about reporting back to the Assembly at an earlier date than that which is proposed in the Bill. The Department reflected that it would take a couple of years before you would be able to have any qualitative judgements, but that does not mean to say that you might not still want to have a report earlier. If people are concerned about

the outworking of this, why not go earlier rather than later?

6400. **Mr Brady:** If you wait two or three years to review or assess a system and it is a bad system, the damage will have been done for a lot of people. Even if you change it, it may not alleviate the problems that those people have had in those two or three years. It is contentious legislation anyhow, which is all the more reason why it should be reviewed or assessed after a much shorter period than two or three years. Presumably, if you wait two or three years, people will say that the system is already here and nothing can be done about it. The difficulty is that the Bill is so wide-ranging and is going to have an impact on so many people, particularly vulnerable people, that damage could be done in a relatively short period, especially when it comes to underoccupancy and all the other issues that we have been talking about.

6401. **The Chairperson:** Well, there was a proposed amendment. I am just trying to track where that amendment came from. It proposed that a report should be produced within one year and then two years after that. Are members content that they would prefer that option?

*Members indicated assent.*

6402. **The Chairperson:** That is the recommendation of the Committee.

6403. **Mr Douglas:** I want to go back to Mickey's point. If, as part of the implementation of this legislation, one or two major issues arise that cannot wait for even a year, will there be an opportunity to review or amend it somewhere along the line? I am sure that we are not going to get it all right. As I said yesterday, there was a report in 'The Independent on Sunday' about the planning of the IT systems. It said that it could be another 18 months before the issue is resolved. The Government obviously did not foresee all the problems that they were going to have. If there is a major issue, is there some way of addressing it?

6404. **Mr Mickey Kelly (Department for Social Development):** As I said in the previous meeting, there are two issues. Mickey was talking about the first one, as were you, which is the outworkings of how the providers do the thing. There is another issue about the assessment criteria, which are part of it. In the previous meeting, I explained that it will take a bit of time for the assessment criteria to bed down and to get enough people through the system to give a qualitative analysis of what is happening. In addition, in line with what the Department for Work and Pensions is planning — we use the same assessment criteria as it does — if we do an earlier review, we will probably not be able to make any significant, Northern Ireland-specific changes to the assessment criteria until DWP has completed its study. That is what happened with the Harrington report and all those things as well. However, the agency will work through the performance management system that will be in place for the provider, which is a different issue about how the work is being done as opposed to what the criteria are. However, the timing of a formal review of the system will be a matter for the Committee.

6405. **The Chairperson:** OK. Thanks for that.

6406. Obviously, there is a suggestion that we go for a period of one year. The Bill specifies two years, but we are saying that we want a review after one year. The issue is of such importance that whatever information is available after a year should be made available. On the further point that you made, where people see evidence that there is a problem with any legislation, never mind this Bill, or any policy that a Department pursues, you would expect that there would be a facility to deal with it immediately.

6407. You expressed a general concern around monitoring and reviewing. Whatever about particular provisions in the Bill, we need to return to that by way of one of the bullet points. We need to put on the record our general view of that and that we may want to address it in



- specific clauses. We will return to that at the end, before our final report is completed. That has been a recurring theme from you, Sammy, and others as well.
6408. Whenever the Harrington report is mentioned to me, it is like a virtual report in my mind. I have never seen Mr Harrington, but I have heard about him quite often. We were due to meet him here but he never turned up. He was on the sick. [Laughter.] I do not know whether he was on contributory contributions or not.
6409. **Mr F McCann:** I think that he wants to know whether his benefits were stopped after a year.
6410. **Mr Douglas:** Was he working abroad?
6411. **The Chairperson:** It does not warm my heart, I have to say.
6412. We move on to clause 103, which is about the recovery of benefit payments. Concern was raised that claimants might have to pay back quite large overpayments that were given to them as a result of departmental error.
6413. **Mr Brady:** It is inherently unfair. The argument that the Department and the officials have used is that people should know that they are getting more benefit. My point was that people assume, rightly or wrongly, that the Department knows what it is doing. People may think that it is a windfall or a bonus — I am not being funny when I say that. In my experience over the years, when people receive extra money, they do not necessarily question it. The difference now, of course, is that rather than getting a giro, the money goes into their bank account, and people do not always check their bank or Post Office accounts regularly. When you were getting only £60 a week and you got a giro for £200, you thought, “Great”, but you might have assumed that it was an error. However, if it goes into a Post Office or bank account, you may not come to that conclusion, and it might be three or four weeks before you notice. Most people who receive their benefit into a Post Office account look at it on a fairly regular basis. However, people who have bank accounts may live on overdrafts, so it is not always obvious. A person may be penalised because of someone else’s mistake, and we have the statistics to show that customer error and departmental error are ahead of fraud. That is the reality.
6414. **The Chairperson:** We looked at what type of claimant might be exempt from some of this and whether people would have access to hardship payments, and so on. There are quite a lot of issues around that.
6415. **Mr Brady:** The problem is that hardship payments are recoverable from your benefit. So, it is a short-term solution but a long-term problem. If you get the money deducted from your benefit, you get a double whammy, because they are deducting your overpayment and then they are deducting a hardship payment. It will discourage people from going for hardship payments, so they will be even worse off than they were in the first place. I do not think that it is unreasonable to suggest that.
6416. **The Chairperson:** People had varying degrees of concern about the inherent unfairness of the type and principle of recovery.
6417. **Mr Brady:** The Department used to just write it off as a departmental error. It was the Department’s fault, and it would put its hands up and take the hit. It would be interesting to find out the actual amounts involved in individual cases. I cannot imagine huge amounts of overpayments due to departmental error. I worked with a fellow who had paid someone who had been dead for six months; he just kept issuing order books. That is the sort of thing that you would obviously want to avoid. However, that was a highly unusual case. I cannot imagine that happening now.
6418. **The Chairperson:** Conrad, do you want to come forward and say something? I want the situation clarified. I do not want to have any awkwardness or embarrassment in the room. The departmental officials are sitting in what

- is described as the Public Gallery, as opposed to sitting at the table, and that is because the Department does not want to be, and should not be, included in the Committee's deliberations. However, departmental officials are here to help us and to provide any additional clarification and information that we might need to help us. We do not want to put the Department in the invidious position of being at the table and contributing to the debate, because this debate is between Committee members. I want to make sure that everybody understands that. There is no slight intended.
6419. **Mr Douglas:** I think that Conrad said that there would be circumstances when you would not chase an overpayment. In those situations, would there be guidelines?
6420. **Mr Conrad McConnell (Department for Social Development):** I was here last week talking about penalties. That is a slightly different issue, I suppose, from guidance on whether to pursue an overpayment.
6421. **Mr Douglas:** Maybe it was somebody else who said that.
6422. **Mr McConnell:** The policy intent behind this is not in doubt, in the sense that it is to recover money from people on the basis that the money should not have gone to them in the first place. That is the basic policy intent. I was keen to help there because you asked about the figures and the level of the problem. I can maybe help out with the figures for loss. Overpayments due to staff error in the agency are about £13 million per year. That compares with £19 million for fraud and £7 million for customer error. I just wanted to clarify that. That is the scale of the loss through staff error, where money has gone to someone who should not have got it, albeit that it was a departmental fault.
6423. **The Chairperson:** The level of staff error is almost double the level of customer error.
6424. **Mr McConnell:** It is. It is £7 million for customers, £13 million for staff and £19 million for fraud. If we add the figure for customer behaviour to the figure for fraud, we get about £26 million, against the figure for staff error, which is £13 million. So, customer loss through error or fraud is double the loss through staff error.
6425. **The Chairperson:** The claimant behaviour is better than the staff behaviour, or efficiency, for want of a better word.
6426. **Mr McConnell:** It means that the loss through customer behaviour is double the loss through staff mistake.
6427. **Mr Brady:** In fairness, staff in Social Security Agency offices are under extreme pressure, and they are under-resourced. In fairness to them, they are dealing with people. The issue that I am raising is not about the level of staff efficiency because I think that they do extremely well in the circumstances in which they are forced to work. The difficulty is that I do not think that that should then be passed on to the customer through no fault of their own. In fairness, people do not have a wide-ranging knowledge of benefits. If they had, I, as a welfare rights worker, would have been out of work for 30 years. You have to take all that into account.
6428. Somebody made the point that an overpayment of under £65 may not be recoverable or may not be pursued. There may be some way of looking at that figure and making it more acceptable. Maybe the Department could look at that and come back with a comment.
6429. **The Chairperson:** There were issues around the level of recovery and the maximum amount of recovery. I accept that, in some cases, there are justifiable and understandable reasons for error; an error is a mistake. However, it highlights to me the fact that I do not know when there has ever been a benefit take-up campaign or initiative by the Department that has not resulted in people getting more money, so there is a considerable amount of error in the first instance. I am just making the point, although it is a slightly different issue.

6430. Is there consensus in the Committee that there is an inherent unfairness in this? Is that what you are saying? Would you like that to be addressed by the Department more formally?

6431. **Mr Durkan:** I fully sympathise and agree with the points that Mickey made, particularly around claimants maybe not detecting that they have been overpaid or even that they have received too much money in error. However, there might be difficulties in legislating for that if you were to say that claimants should not be required to pay back an overpayment. Suppose that someone, through some crazy mistake, got £10,000 that they were not supposed to get —

6432. **Mr Brady:** I think it is a contradiction to say that people on benefits get too much money anyway, but that is another issue.

6433. **The Chairperson:** You mentioned the figure, and Conrad dealt with it last week. There is an issue around the £65. You are talking about a reasonable amount being the trigger for recovery. Is that what people are saying? It is unfair to generalise at that level. If someone were to get a substantial amount of money, they would certainly know that that is money that they should not have received or were not entitled to under the circumstances. There is an issue around the reasonable level at which that would be triggered. Is that fair enough, Conrad? Thank you.

So, for the record, members are concerned about that issue. They want the Department to review the level at which recovery would be triggered. Is that fair enough?

*Members indicated assent.*

6434. **The Chairperson:** We now move to clause 109, "Penalty in respect of benefit fraud not resulting in overpayment". People would be penalised for intended fraud even though no fraud actually occurred and no financial benefits accrued. Basically, the question was this: how can you

penalise someone if they intend to do something but do not actually do it?

6435. **Mr F McCann:** Is that a fine on thought?

6436. **Mr Brady:** The £350 is an arbitrary figure. It may not be proportionate to the amount that may or may not have been involved. Also, even if someone in particular circumstances were taken to court, that may not be the extent of the fine. They would be paying more, and then, of course, they may have other benefit deductions. We are talking about proportion and it being proportionate to the degree of alleged fraud or whatever that may be. We are looking into crystal balls and deciding that somebody may commit fraud. I am not sure how that works.

6437. **The Chairperson:** In a way, you are rolling clause 109 and clause 110 together.

6438. **Mr Brady:** They are inextricably linked.

6439. **The Chairperson:** OK, but they are two clauses. Clause 109 is in respect of benefit fraud not resulting in any overpayment, and clause 110 deals with overpayment and recovery, the fines that are attached to that and the maximum amount. They are linked, but they are different clauses. Does anyone have a particular view on clause 109, such as that it penalises somebody for something that has not been done even though they intended to do it? It is an important stand-alone clause.

6440. **Mr Brady:** Is there a cost involved if it were not imposed?

6441. **The Chairperson:** I think that some people had wanted the retention of access to a caution. Am I right? People were making the case for a caution as opposed to a penalty because you have not actually benefited from your alleged or intended fraud. Is the Committee looking at it from that point of view?

6442. **Mr F McCann:** Are we saying that we would prefer a caution?

6443. **The Chairperson:** Obviously, there are cautions in clause 115, but if I remember correctly, people were arguing that you are going to fine or penalise

someone for intended fraud even though they did not benefit from it. That is clause 109, and clause 110 obviously comes next.

6444. Conrad, you might have another comment on that. I am concerned about putting you in an invidious position, but maybe you want to shed a bit of light on it.

6445. **Mr McConnell:** I have nothing really to say about the suggestion. I go back to the points that I made last week about the policy intent. I know that applying figures to this is difficult because no actual loss is incurred. I go back to some of the figures that I mentioned last week around what happens if we do not catch someone attempting to commit fraud and they then go on to commit fraud. Fraud, on average, can go up to maybe £4,000 per case. In some extreme cases, there can be £50,000 fraud. If we do not catch fraud at the outset, it can turn into something very serious, with lots of money involved. I simply point out that the average level of fraud is about £4,000 per case. Perhaps that helps the Committee in thinking about the £350 and whether that is proportionate.

6446. **Mr Brady:** If you are talking about £50,000, you are talking about fairly hard-core fraud.

6447. **Mr McConnell:** Oh, yes, that is what I said: in an extreme case, it is around £50,000, but the average is around £4,000.

6448. **Mr Brady:** Was it felt that cautioning people was an option? I know from dealing with people over the years that people were very scared of being taken in to be cautioned. I would have thought that that was fairly effective. That is being done away with now. I am not sure what the rationale is for removing the caution. When people are cautioned, they are taken in and the issue is very clearly explained to them. That goes back to what you said about fraud carrying on if undetected. If people are cautioned and told very clearly about the consequences, they cannot say a year later that they did not know.

If they continue to prosecute a fraud after having been warned, they have no redress. If someone is cautioned and stops what they are doing, it is an effective deterrent.

6449. **Mr McConnell:** That maybe takes us into clause 115, "Cautions", and the whole general point about cautions staying or not staying. I suggest that the internal penalty that we apply as an alternative to a prosecution does something similar to a caution in that it provides the alternative to a court. It deals with your offence as it happened and leaves you clear as to what the intention would be next time round if you were to come back having committed a second offence. So, I would suggest that the internal penalty does some of what the caution already does anyway.

6450. **The Chairperson:** Thanks, Conrad, for that. I am just stuck. I have a fairly strong view on this. If the Housing Executive has a tenant against whom there are complaints and there is some evidence that the tenant is misbehaving or not honouring their tenancy agreement, the Housing Executive will bring that tenant in and speak to them. It does not penalise them, fine them or put them out of the house. It advises them that they are acting contrary to their tenancy agreement and that there are two or three steps at the end of which, if bad behaviour is not modified, eviction or whatever else will take its course.

6451. In clause 109, we leave ourselves open to what I think is a dubious legal concept. We are saying, "We think that you are intending to defraud us and we will fine you. We have not convicted you of anything or proven anything but we will fine you." If I thought somebody was trying to defraud the system, I would be calling them in and talking to them. Experience would tell you that most people in those circumstances would fairly quickly moderate their behaviour. I think there would be more evidence to suggest that that would be the way to go. That is my assumption, so I feel uneasy about penalising someone for

- something that we have not found them guilty of.
6452. **Mr Douglas:** Apologies, Conrad, if you have already answered this, but is this clause an expansion rather than a new clause?
6453. **Mr McConnell:** It is maybe worth adding to what I said last week. There is an important element to this as well. At the minute, we have no option but to prosecute someone for attempted fraud. There is no other means open to us. This clause gives us a second choice — an alternative, another option — so it is on top of what is there at the minute. At the minute, we have no option but court. From that perspective, it gives us and the customer the option of not ending up in court for something they did.
6454. **Mr F McCann:** I am finding it difficult to work out the definition of attempted fraud.
6455. **Mr McConnell:** There is a legal definition. I would not be able to —
6456. **Mr F McCann:** It is near enough a fine for thought.
6457. **Mr McConnell:** An example would be someone who submits a claim form or provides information to us that if deemed to be true, would entitle them to money in the benefit system but it is not true information; for example, their means are not right or their income has been reduced when it is actually higher in reality or whatever. It is about telling that untruth. It is about the misrepresentation of facts that would entitle you to money if you were believed. That is the attempted fraud. It is attempting to get money to which you are not entitled because you have misrepresented your circumstances.
6458. **Mr Brady:** The misrepresentation has happened but the overpayment does not because it is nipped in the bud. It comes back to what we were talking about previously: failure to disclose and misrepresentation. The argument is that you cannot disclose something that you do not know, but you can certainly misrepresent something.
6459. **Mr McConnell:** You can.
6460. **The Chairperson:** OK. Is there any information on the number of people who are convicted of attempted fraud, Conrad?
6461. **Mr McConnell:** I do not have that information at the moment. It is not something that we regularly come across. Certainly, at the minute, when anyone goes through the Public Prosecution Service (PPS) and on to the court system, it is for actual overpayment or actual loss. I cannot think of any cases where there has been attempted fraud.
6462. **The Chairperson:** I asked where the evidence was, and suggested that that was [*Inaudible.*] as opposed to saying to people, “I think your claim might be wrong there.”
6463. **Mr F McCann:** I missed the meeting a couple of weeks ago when you were here before, Conrad. In the past, I did quite a number of cases for people, and we went down to your office to meet your officers. By and large, most of the people involved were women in very low-paid jobs, earning 30 quid a week, and they were petrified out of their skins. The relief came at the end. When they went in and got that caution, they were on the verge of nervous breakdowns. You know that yourself; people are petrified. The caution and warning — although they may have been working in low-paid jobs — was enough to frighten them into a situation where the vast majority of them never did it again. So the cautions worked, and there is probably clear evidence that they did.
6464. Most of the information on benefits is provided in a letter of perhaps 16 pages of gobbledygook, which people get through the door to explain what the benefits are and what they have to do. Most people do not read that, and do not read what is on their benefit books. A lot of people may have problems with literacy or have mental health problems. Mickey raised that the last time as well. How do you penalise or punish people who fall into that category? In



- the past, we have been told a number of things, such as, “Do not worry, it will never really happen”. We were told that about sanctions, but thousands and thousands of people have been sanctioned over the past three years.
6465. **Mr McConnell:** I will go back to my point. We made this point last week as well. We would not seek to prosecute anyone for fraud unless we were satisfied that they had actually committed fraud, and fraud has to be intentional. This is not about mistakes and is certainly, most definitely, not about people who genuinely do not understand something or make a genuine mistake on a form that is hard to read or because they have certain problems that mean that they are unable to tell us things.
6466. I go back to another key point on fraud. Anyone who believes that he has not actually committed fraud may say to the court that he did not act intentionally. Then it is up to the Department and the PPS to make a decision on whether there is sufficient evidence to go to court to say that we are satisfied that the person acted intentionally. Fraud is definitely not about mistakes.
6467. **Mr F McCann:** Conrad, you are an experienced officer, an official in the Department. Most of the people who you are dealing with do not have the wherewithal to understand or deal with the stuff that you are talking about. That is where the problem lies. You talk about the court end of it. The fact of life is that people will be fined.
6468. **The Chairperson:** Can I make the point that we are now straying into having a debate with the Department? That is not what we are doing here.
6469. **Mr F McCann:** I understand. However, I am talking about the consequences of the decision —
6470. **The Chairperson:** I understand that. I have no problem, and you are right to make that point. I am just saying that we are now engaging Conrad in a debate that he should not be a part of, and I do not mean that disrespectfully.
6471. **Mr Brady:** I think that the difficulty in this particular legislation is that it is about people who, they think, are going to commit fraud. You either commit it or do not. One cannot speculate. If someone makes a voluntary omission in giving a statement about his circumstances or anything else, if they give the wrong information, it is fraud. That is fraud clear and simple. However, you cannot speculate as to someone's intentions. Someone may have given the wrong information by mistake. So you should have a clear-cut idea of what fraud is, not this kind of nebulous definition of, “We think you might be going to commit fraud because you gave us an incorrect statement.” If that is the case, just charge them with fraud. Do not be saying that you think that they were going to commit fraud.
6472. **The Chairperson:** There are a couple of things. Obviously, part of the discussion strays into the broader issue of cautions as a tool for the Department, as opposed to it being able only to prosecute. That is the concept of and the argument around clause 115.
6473. Clause 109 is about people being penalised for intended fraud. Intention is subjective. That is a difficult clause for me to support, in so far as I see the way in which other Departments work, and I have referred to the way that the Housing Executive deals with people's tenancy obligations. I imagine that if the Department noticed a discrepancy with a file, it would speak to the claimant and get the matter clarified very quickly. I imagine that the evidence would show that if people were confronted with that and if fraud was intended, it would be stopped fairly quickly.
6474. I am encouraged by the Department's figures, which show that fraud and claimant error is down. Those are positives. Therefore, if I were the Department, I would want to build on that because those are the strands that seem to be working. For me, it is inherently difficult to levy a fine against or penalise somebody for something that they may be thinking about doing but have not actually done. That is

- different from actually committing fraud, where you have to take the consequences. On that basis, I am uncomfortable with clause 109.
6475. **Mr Douglas:** Conrad made a good point. I think we would all agree that it would be better if we could stop people getting to the stage of committing fraud, which, as Conrad said, is, on average, £4,000. Is there any evidence to suggest that the fine, which is a minimum of £350, would deter people from committing fraud any more than a caution? Let us say that we went for a caution, as the Housing Executive does, is there any evidence that that would work as well?
6476. **Mr McConnell:** Some people view these things differently. A caution goes on a person's record, so some people would view that as a very bad thing, and they would not want a stain on their record — even a caution for benefit fraud.
6477. **Mr Douglas:** When you say “record”, do you mean a criminal record?
6478. **The Chairperson:** You are not talking about a criminal caution; you are talking about the Department saying that your claim is wrong, and it is has been noted?
6479. **Mr McConnell:** Are you suggesting that that could be a formal warning? I am talking about the formal caution as we would recognise it and as I have talked about in this conversation.
6480. **The Chairperson:** I think that we are talking about the Department speaking directly to the claimant. It is like saying to Mr or Mrs Bloggs, “Let us have a wee look at your claim. Can we clarify that what you have submitted is accurate?” In my experience, that has very quickly rectified the problem.
6481. **Mr McConnell:** Yes, that is a different thing.
6482. **The Chairperson:** I think that the evidence would clearly show that that is what works. I said earlier that I am very encouraged that the Department's figures on claimant error and claimant fraud are well down. That should be welcomed and supported.
6483. **Mr F McCann:** You may find that anybody who was fined £350 or more would have to go out and do the double to pay that off.
6484. **The Chairperson:** OK. Fair enough. I am trying to get the sense of the Committee. I take it that members are not happy with that clause and would like to see the issue revisited by the Department.
6485. We move on to clause 110, which is about the amount of penalty, where you would have a fine levied against you as well as recovery, and so on. There are two or three points in there. Does anyone want to make any specific recommendations or arguments about that?
6486. **Mr Brady:** In that particular —
6487. **The Chairperson:** With regard to clause 110, which deals with recovering money that has been given to a claimant in error. Even if that money was paid to a claimant in error, that money would be recovered, and the claimant would also be levied with a fine. Do people think that that is wrong?
6488. **Mr Brady:** It is a double whammy.
6489. **The Chairperson:** Again, that goes back to what we talked about earlier, which was the level of fairness and what might be fair. If a big amount of money was paid to somebody, they would know that it was wrong and that they would have to pay it back. It would be deemed, if it was beyond a certain amount of money, as a slap on the wrist as well as having the money taken off you.
6490. **Mr Brady:** May I just clarify something, Conrad? Innocent misrepresentation is still —
6491. **Mr McConnell:** Innocent misrepresentation? Are you referring to civil penalties? We discussed that last week when we were talking about negligence. We used the example of people who did not have a reasonable excuse for not telling us about things, as opposed to an intention of fraudulent

behaviour, or, on the other end of the scale, a genuine mistake. Yes, that is still there.

6492. **Mr Brady:** If that is the case, then we are talking about the recovery of the overpayment as opposed to having two penalties. You are going to be penalising somebody. We keep going back to this, and we cannot get away from it. People on benefit are paid at subsistence level, so if you are going to have overpayment recovery of £5 a week, the person will be £5 below subsistence level. If that person then has to pay an additional fine, if you like, that is going to cause particular problems for particular people. That is one of the issues of which we have to be very mindful.

6493. **The Chairperson:** OK. What is the Committee's view? You are talking about somebody being fined £350 up to a maximum of £2,000.

6494. **Mr Brady:** Is that not a reason for looking at whether there has actually been an overpayment, where benefit has been lost from the public purse? If it has not, why would you punish somebody, particularly if you have marked their card and they, hopefully, will not do it again?

6495. **The Chairperson:** Is this in any way addressed by the earlier point about the level of money at which recovery is triggered? Are members asking the Department to revisit that? We will have to make a decision about that.

6496. **Mr Brady:** I would agree to that.

6497. **The Chairperson:** OK. That is what we are asking for. Thank you.

6498. Clause 111 is about the period for withdrawal of agreement to pay a penalty. Again, we raised the issue of the cooling-off period being reduced from 28 days to 14 days. If I remember correctly, there might have been some discussion around further discretion on that, about extending it beyond the 14 days where there was a good reason to do so.

6499. **Mr McConnell:** We said that we would consider that. I have not got an answer

for you yet, but our conversation last week was about whether that balance is right. Some members said that the longer period allows claimants time to get better and proper advice. Our view was that we did not want to get in the way of that.

6500. **Mr Brady:** It is cost-neutral as well.

6501. **Mr McConnell:** Yes.

6502. **The Chairperson:** Are members content to move on to clause 115, which deals with the general issue of cautions?

6503. Were members satisfied with the responses from the Department on clause 111, which is that, although the cooling-off period was reduced from 28 days to 14 days, if there is any reasonable reason why the person cannot get that advice or cannot get a solicitor, that is acceptable? How is that dealt with? Will it be in the guidance?

6504. **Mr McConnell:** Yes.

6505. **The Chairperson:** So, are members are content with the assurances on that?

*Members indicated assent.*

6506. **The Chairperson:** OK. Thank you for that.

6507. Clause 115 deals with cautions. Conrad referred to this clause earlier. Again, members are looking at the option of cautions as opposed to prosecutions. Do you want to revisit the main point, Conrad? This comes into the discussion on three clauses.

6508. **Mr McConnell:** I will just add that some people will view cautions as a better outcome than the internal administrative penalty, but others will see it as a worse outcome because it goes on your criminal record. For many people, especially those who are thinking about their work and their jobs, the internal administrative penalty is a better outcome because it is not a formal caution and does not go on your record.

6509. I simply make the point that people view these things in different ways. Some people think that one is worse than the other and vice versa, depending on their

- circumstances and their view and all of that. So, it is not necessarily that one is worse than the other; it depends on what you think personally.
6510. **Mr F McCann:** Would you give people the choice of a caution or a fine?
6511. **Mr McConnell:** No, we would tend to offer people the administrative penalty as a first option for cases at the lower end of the fraud scale. We would offer cautions somewhere in the middle, leading up to prosecution generally for cases over about £2,000, when there would be court proceedings. Going back to the general point, for some people, a caution may be seen as a better result; others may see the penalty as a better result.
6512. **Mr F McCann:** If there was an offer of a caution or a fine, people might like to take the caution.
6513. **Mr McConnell:** We would not offer one or the other. We would use guidelines according to the scale of the fraud and take the lower-end fraud cases for the administrative penalty first, offer a caution to the middle cases, and the more serious cases would go to court.
6514. **Mr Brady:** Just to clarify this, you said that the caution goes onto your criminal record. Surely that means that you will be prosecuted and found guilty.
6515. **Mr McConnell:** No, no. It is not a conviction.
6516. **Mr Brady:** Are you saying that the interview under caution, which is now recorded in the office, forms part of a criminal record?
6517. **Mr McConnell:** A formal caution goes onto someone's criminal record.
6518. **Mr Brady:** That is only if they already have one?
6519. **Mr McConnell:** No, a formal caution, which means at the end of your case —
6520. **Mr Brady:** No, sorry, that is what I want to clarify. You say, "At the end of your case". Presumably that means, as a result of that caution, the Department, particularly the fraud end, has to decide whether it will prosecute you.
6521. **Mr McConnell:** Yes.
6522. **Mr Brady:** So, if there is an informal type of caution, which was talked about, the formal caution that you are talking about is an integral part of the whole case against a person. That is the point I am making.
6523. **Mr McConnell:** Yes.
6524. **Mr Brady:** So, for that to go onto your record, you then have to be taken to court, found guilty and have a criminal record. Is that the case?
6525. **Mr McConnell:** No, no. Maybe I should clarify.
6526. **Mr Brady:** That is what I was wondering.
6527. **Mr McConnell:** Maybe what was described earlier as the informal caution in the Housing Executive context was about some sort of warning, some sort of, "Don't be doing that again."
6528. **Mr Brady:** Let me just clarify that. You are taken into the office and interviewed under caution, as happens. You can take someone in with you — I have been to a couple of them — and the fraud officer puts a new tape in and goes through all that, a bit like a police interview.
6529. **Mr McConnell:** Yes.
6530. **Mr Brady:** You are saying that that, standing alone, becomes part of a criminal record. Surely that is the beginning, the initial stage of a prosecution? That is the point I am making.
6531. **The Chairperson:** Yes, I know you explained, but that is not the —
6532. **Mr McConnell:** There is an interview under caution, and what the word "caution" means at that point is that you are cautioned that you do not have to say anything unless you wish to do so.
6533. **Mr Brady:** I understand that.
6534. **Mr McConnell:** That explains your position legally for the purposes of what

- you want to tell us later on, and we may use that in evidence.
6535. **Mr Brady:** I understand that but what I am saying is —
6536. **Mr McConnell:** That is interview under caution, which is a very separate thing. Interview under caution happens in a suspected fraud case. At the end of the investigation, which includes the interview and other evidence that we may or may not have, we come a point where we may want to decide what to do with the case.
6537. **Mr Brady:** If the case is not then progressed to the court, does that caution stand alone as part of that person's criminal record?
6538. **Mr McConnell:** At that point, —
6539. **The Chairperson:** Sorry, Conrad, there are three usages of the word "caution" today. One is the caution that we referred to earlier about the Housing Executive bringing in a tenant to tell them that they are under notice. We were suggesting that the Department might consider, basically, giving someone notice that it thinks there is a problem and hopes that it does not happen again. That is an informal caution. The caution that you are referring to is, when you are brought in for an interview, you are told that you are under caution, which is a legal definition. Therefore, anything that you say can be used in evidence. The caution we are talking about here is where, at the end of an investigation into alleged fraud, the Department may find you guilty; you have done it, and the Department will give you a formal legal caution that will be on your record. Is that right?
6540. **Mr McConnell:** That is it.
6541. **Mr Brady:** So, it actually goes on as part of a criminal record.
6542. **The Chairperson:** Yes, at the end, but not the caution that you would have been aware of.
6543. **Ms P Bradley:** The caution is your penalty.
6544. **The Chairperson:** When you accompanied a claimant in —
6545. **Mr Brady:** I just wanted to clarify that.
6546. **The Chairperson:** Do you want to elaborate on that or are you all right? *[Laughter.]* You are under caution if you do. *[Laughter.]*
6547. **Mr Brady:** I think that we have sorted that one out.
6548. **The Chairperson:** Now, what do you want to do about it? *[Laughter.]*
6549. **Mr Brady:** I think that I will go for the fine. *[Laughter.]* Fra said that he would help me.
6550. **The Chairperson:** You would be destitute after that. Are people content?
6551. **Ms P Bradley:** Our paper details the concern about the removal of cautions, particularly for minor offences. Is our concern about the removal of the caution for minor offences?
6552. **The Chairperson:** Yes.
6553. **Mr F McCann:** Is that a caution 1?
6554. **The Chairperson:** Conrad made the point that there are two ways of looking at this. You have an option for a caution or an administrative penalty. Is that right?
6555. **Mr McConnell:** That is right.
6556. **The Chairperson:** In the absence of that, it is prosecution. That is the point that you are making?
6557. **Ms P Bradley:** Effectively, you are trying to take away the right to a caution, so people are left with only two options instead of three. Surely it would be better to have the third option in. We should not be removing anything.
6558. **The Chairperson:** That is the view that has been expressed by the members.
6559. **Mr Brady:** That was very succinctly put.
6560. **Ms P Bradley:** Can we go now?
6561. **The Chairperson:** I could have brought you in earlier, Paula. *[Laughter.]* You are released, Conrad. *[Laughter.]*



6562. **Mr Brady:** Under caution, you might have to come back.
6563. **Mr McConnell:** Thank you.
6564. **The Chairperson:** I think that Paula's suggestion is that we want the option. That means that we are saying to the Department that we want that to be retained. We are looking for that full embrace.
6565. **Mr Douglas:** It wants to remove it.
6566. **The Chairperson:** Yes.
6567. We move on to the report of the Examiner of Statutory Rules on the delegated powers memorandum. The Examiner has recommended that the Committee amendments that would make regulations under those powers — clause 33 and clause 91 — be subject to confirmatory procedure where the supplementary or consequential provision amends, modifies or repeals a statutory provision or at least a provision of Northern Ireland primary legislation. It is really just to give the Assembly more of a say. It is about the way in which the regulations are brought forward. That would also form part of a discussion at the Executive about the overall conduct of a Bill and all the rest of it. It is as much a political decision as anything else. Are members happy enough to endorse that and note it? Basically, it suggests that we need the strongest possible say from the Assembly. We are looking for the Department to agree to that. Are members happy enough?
6568. **Members indicated assent.**
6569. **The Chairperson:** I have nothing further on the paper that was very kindly provided by the Committee Clerk earlier. Are there any other matters that members want to raise that were not in the paper? We agreed this morning that we would work through the paper and then return to any matters that members may wish to raise that are not in the paper.
6570. **Mr Brady:** Clause 44, clause 47 and clause 96 about the benefit cap.
6571. **The Chairperson:** Sorry, Mickey?
6572. **Mr Brady:** Clause 44 is about Assembly control. It states:
- "Subject to the following provisions of this section, any regulations made under this Part are subject to negative resolution."*
6573. **The Chairperson:** We have just dealt with that.
6574. **Mr Brady:** Sorry, but I just wanted to ask whether it can be changed to "affirmative resolution"? Does it have to remain "negative"? Is that something for the Assembly or Executive to debate?
6575. **The Chairperson:** We covered the point that we wanted the Department to take on board about the report of the Examiner of Statutory Rules. It specified a number of regulations, but I think that, in general, people have agreed that this will be a political discussion, obviously, for the Executive.
6576. **Mr Brady:** That is what I wanted to check.
6577. **The Chairperson:** We are asking the Department to look at that. It is really about the Assembly having the maximum authority on the matter. The Department has agreed to take that away and look at it. Martina is nodding her head quite positively. Has that answered your question, Mickey?
6578. **Mr Brady:** Yes. My other question was about the benefit cap.
6579. **The Chairperson:** What number is that?
6580. **Mr Brady:** Clauses 95 and 96.
6581. **The Chairperson:** OK. Do you want to speak to those two clauses Mickey?
6582. **Mr Brady:** Clause 95 talks about this:
- "Regulations may provide for a benefit cap to be applied to the welfare benefits"*
6583. excluding child-related benefit in the calculation. That would be an option, in the case of a single person or couple. Quite a while ago, Mark raised that point. At the end of the day, I think it is also incumbent upon us to be involved in protecting children. Essentially, if you follow that logic, in that kind of situation, the oldest child will be treated better,

- in a sense, than the youngest. We have heard quite a lot about how the cap can be predicated upon the number of children. So if someone chooses to have five or six children, it may impact upon the amount of benefit that they get. That is unfair on the children, who do not necessarily have that choice. If Iain Duncan Smith had been around when I was coming into being, as the youngest of five, I might not be here. That is another way of looking at it. *[Laughter.]*
6584. **The Chairperson:** That is an interesting thought.
6585. **Mr Brady:** It is, and I am sure there is many a one who would agree with Iain Duncan Smith.
6586. It is a form of social engineering. We have heard a lot about this being intended to discourage people from having larger families. Their benefit will be impacted upon because of that. It is something that we need to address. Have people any views? This is an important question.
6587. **Mr Durkan:** I have been thinking about those very clauses, and I think they need further discussion. There has been a bit of discussion around the benefit cap, with regard to child-related benefits and exemptions. It is important to have that discussion again and see how we can move it forward. However, as regards child-related benefits, I definitely think that the Committee should be looking at that more closely.
6588. **Mr Brady:** At an earlier stage, the people who would be affected by the cap would be a relatively small number. It might be useful to get some figures on that because they may be very few. We are talking about large families, and, historically, people here have larger families than those in England, Scotland and Wales. Therefore, it comes under the particular circumstances that prevail here. We have heard about the nuclear family, which is 2-4 children. People here tend to have very nuclear families of perhaps 4-8 children. I just want to make that point because it is something that is particularly relevant to the North.
6589. **The Chairperson:** OK. Have we any suggestions or recommendations?
6590. **Mr Brady:** One suggestion might be to try to get some detail on the numbers that might be impacted upon by the cap. We have heard a lot of talk about —
6591. **Ms P Bradley:** I know that we received the figures yesterday, and the cap will affect over 1,000 households. However, when you take away the DLA part of it, where there is no benefit cap, the figure goes down to 620 households.
6592. We are quite fortunate in Northern Ireland, because this is based upon the English housing rate, so we have come off really quite well here. We worked that out yesterday, and I have written it down here. If you are a couple with children, or a single parent with children, you are in receipt of £2,166.66 a month, which is a heck of a bit more than some of my friends' families, where both parents are working and they have children. So, I think that we will have quite a bit of difficulty in arguing this one. I take it that we are not looking at the single one; it is only the couple or the single parent with children. It affects a small number, albeit it still affects a number, regardless of whether it is only one person.
6593. **Mr Brady:** It comes back to the duty of care. There are 624, or whatever, families affected, and there are children involved. I think that it is incumbent upon us to give them as much protection as the people who are getting £2,166.
6594. **Ms P Bradley:** That is what the benefit cap is set at; it is a substantial amount of money. A lot of people who are working and have families are not receiving that amount of money. They are making decisions as to the number of children they have. I do not agree that people should be told how many children they should have; it is up to them how many children they have. Most couples, my friends or people who I know and have been with over the years, would say that they could not afford to have another child or to have three or four children. They would say that they could

- only afford to have, and to give the best start in life to, two children, for instance.
6595. **Mr Brady:** With respect, we are talking about two different things. We are talking about benefits, which are not high. They are subsistence level, by the Government's own admission. We are also talking about the low-wage economy. The report that came out in the week before last stated that a living wage should be £7·20 an hour, but the minimum wage is £6·19. We live in a minimum-wage economy, so it is as much to do with the low wages. I take your argument. People will say, "I am not earning that, and I am working." However, that is not the problem of the people on benefit; it is the problem of the people who are paying the wages. That is a different issue. We are talking about people on benefit. If we were dealing with employment legislation, we would, obviously, be talking about the minimum wage and various other things.
6596. **Ms P Bradley:** Sorry to cut in again, but if you were earning that amount of money as a salary, which equates to £32,000 a year, or something like that, for a 40-hour week, you would be getting much more than a very good wage.
6597. **Mr Brady:** How many people do you and I know who are earning that? I do not know many people who are earning that.
6598. **Ms P Bradley:** Yes, but you can get it on benefits. People are going to look at that and ask what incentive there is to work if they can get that on benefits.
6599. **Mr Brady:** I understand what you are saying, but if you follow that rationale, we could say that, if someone is earning only £20,000 a year, somebody on benefits should get only £10,000 to give them an incentive to work. That is not the issue. The issue is the benefit system. People get paid a low amount of money on benefits; they do not get a huge amount of money. The difficulty that we have is the low-wage economy. It is as simple as that.
6600. I think we are talking about two different things. We are talking about the perception that is out there of people working and getting only £15,000, while somebody on benefit is getting £20,000. In fairness, I think that that is part of the media/Government propaganda that has been stirred up and suggests that all these people are sitting on benefits and getting huge amounts of money for doing nothing, while Joe Soap is out working his backside off and not getting half of it.
6601. **Ms P Bradley:** I know that not everybody and not every household receives that amount of benefit a week. In fact, a lot are far off getting that on benefits. However, that equates to a job that receives a salary of £32,000, or whatever, a year. I know what you are saying, Mickey. Yes, we have a low-wage economy here, but even if you bring people up to the average wage of £20,000, it is still £12,000 above that. I know that a social worker is paid £16,000 for the first year after they graduate. They would need to be a postgraduate for seven years before they would get up to £32,000.
6602. **Mr Brady:** Part of it is the issue around children and saying that people should not have children unless they can afford them. What if somebody is in a reasonably well-paid job, is pregnant and then loses a job very quickly, as has happened. I am sure there are people in FG Wilson or in the Civil Service or in public service who thought that they had a good, secure job. A lot of what we have heard around this legislation is predicated on all of that social engineering and people being told that they can have only x number of children, otherwise the state will not pay them. The state has a duty of care to the children.
6603. **Ms P Bradley:** I agree with that, and I do not agree with social engineering. It is up to the individual how many children they have.
6604. **Mr Brady:** I understand that. It is the parent's choice. I am interested in the children's welfare.
6605. **The Chairperson:** Do you want to say anything else, Paula?
6606. **Ms P Bradley:** No, it is fine.

6607. **The Chairperson:** I am not sure that we are going to get agreement on this now. Perhaps members should look back on it, and we will return to it tomorrow. As there are no other issues, we will come back at 10.00 am tomorrow. I thank the departmental officials for being here all day and for their help.





## 30 January 2013

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

6608. **The Chairperson:** Members are aware that the Ad Hoc Committee concluded its work recently, and reported to the Assembly yesterday. The report was not approved in the vote, but I think it would be useful if we could take a summary of the report, bearing in mind that this Committee referred it to the Ad Hoc Committee. Paula and Mickey were the only two members of this Committee on the Ad Hoc Committee.

6609. **Ms P Bradley:** We were the two members who drew the short straw.

6610. **The Chairperson:** You obviously fell foul of your party for some reason or another. With your indulgence, members, I ask Mickey and Paula to give us their sense of it. We will not go through a formal session, with recommendations and all the rest of that, but it would be appreciated if they gave us a sense of its worth and what it might mean for us.

6611. **Mr Brady:** Unlike Lord Morrow, I did not think it was a waste of time. It was an interesting Committee; there was a lot of discussion. Obviously, Paula and I had a heads up because, as we are on the Committee for Social Development, we are as au fait with welfare reform as you can be. One of the big issues that came out was the lack of a properly completed equality impact assessment (EQIA) on some groups, for instance in respect of sexual orientation and beliefs. Some people felt that that had absolutely nothing to do with benefits, because if you are entitled, you are entitled. However, it was interesting to note that the Equality Commission had done an

analysis, and the four groups on which there was no data profile, as part of the EQIA, were the ones that the Equality Commission felt were most likely to be impacted by the changes.

6612. There were a number of recommendations. They related to such issues as who in the household should be paid, and the changed assessment from disability living allowance to the personal independence payment. The benefit cap was discussed. As you can see in the report, there are a number of recommendations on which there was a fair degree of consensus. I think people were aware that it is not straightforward. A lot of the groups who attended, such as the Human Rights Commission, the Equality Commission and the ethnic minorities group, basically said that the devil is in the detail of the regulations. My argument has always been that, because it is enabling legislation, you have to get it right, because the regulations will flow from it.

6613. Confirmatory and affirmative resolution were also discussed at length. The Human Rights Commission recommended that it should be affirmative. Confirmatory means that you have six months after the legislation is laid in which to debate it. Affirmative means that it is debated before it is laid, which seems a sensible way forward — you talk about it before, rather than when it is a fait accompli. That was one issue. One argument put forward was that it should be affirmative resolution only when there is a policy change. The difficulty with that is this: who then decides what a policy is and what a policy change is? There is some discussion to be had around that, but obviously that is contained in the context of the recommendations.

6614. There was a lot of discussion. Some people possibly had one mindset coming into it, and then maybe thought, during

- the course of the Committee's work, that things were not just as straightforward as they originally thought. It was mentioned yesterday that people came in with a closed mind. I think that, in some cases, they probably did, but maybe changed their mind to some degree during the course of the debates that ensued in the Committee. All in all, it was a useful exercise. Obviously, the Sinn Féin members of the Ad Hoc Committee felt that the Bill would not be compliant. It was said too many times that it might be or might not be. It either is or it is not. In our view, it is not. The regulations will roll out eventually, but it is incumbent on us to get the enabling legislation right, from the start.
6615. **Ms P Bradley:** Mickey has covered just about everything. From my point of view, I found it very worthwhile. I do not know whether coming at it with my social development hat on made it easier or harder. At times, you maybe knew too much and looked too deeply into things. We did stray quite a bit. We did end up talking about things that were not necessarily to do with human rights and equality. That is maybe where a lot of the recommendations then came from. Mickey is right to say that some people did come into it asking: "Why are we here, and why are we doing this?" However, the more we worked through it, the more everybody found out just how complex it is. We all came to the realisation that this is going to affect every one of us in our constituency offices, and we now have a bit of knowledge behind us as to what the Welfare Reform Bill is about.
6616. From our party's perspective, as you know, we did not find any breaches. That is as far as that goes. However, there was a good, healthy debate around the recommendations. Everything was debated at length and everyone who wanted to had their say. All of us made some sort of adjustments in our thinking along the way to come to those agreements. Sometimes, some of us wanted more and some of us wanted less, but we came to an agreement on most things. I think that that is for the better. Looking at those recommendations will benefit this Committee, albeit a lot of them were ones that we were already looking at. However, they have been reinforced.
6617. From a personal perspective, I found it beneficial. It gave certain clarity on issues and further broadened my knowledge on welfare reform.
6618. **Mr Brady:** I am having withdrawal symptoms, because I miss arguing with Peter Weir — or debating, I should say.
6619. I compliment Paula on her answer to a very political question from Mark Carruthers last night. He asked whether she disagreed with Lord Morrow that it was a waste of time.
6620. **Ms P Bradley:** I did not find it a waste of time.
6621. **The Chairperson:** Everybody speaks for themselves.
6622. **Mr F McCann:** Are we going to have a Committee hug?
6623. **The Chairperson:** The fact that 15 recommendations were agreed by the Committee is helpful, even if only to reinforce people's views on some issues.
6624. **Ms P Bradley:** It is helpful, Chair, that it has broadened it out yet again and made people aware of just how serious the impact of this will be and the work we need to do to protect people.
6625. **The Chairperson:** Ultimately, people will come down on particular elements of the Bill from a party perspective, or whatever else. That will decide people's voting patterns or decisions on the clauses and the Bill overall. That is our job as a Committee. However, it is up to every Member, right through to the completion of the Bill, how they vote. That will take its course.
6626. Does anybody else want to raise any issue or ask any questions of the two members who were on the Ad Hoc Committee?

6627. **Mr Durkan:** I just want to commend the Ad Hoc Committee on its work, not necessarily on the report that finally came forward, but we on this Committee know just how painstaking the process can be. Fair play to you.

would have been made already in the Committee's considerations up to now. I have no doubt that they will find their way into our final report. I urge all members to read that report and take it on board as part of their consideration.

6628. **Mr Brady:** No fine wine was produced at any stage, irrespective of what was said yesterday.

6629. **Ms P Bradley:** We needed it at times.

6630. **The Chairperson:** I add my thanks to the members of the Ad Hoc Committee for the work that they did. It was a busy period, part of which was over recess; it certainly encroached on recess time. It is very important to hear about the work that was done; even to hear the different party political perspectives. There is fairly substantive agreement that the issues are fundamental, very important and will have a lasting impact. Therefore, it is important that we continue our diligence in dealing with this.

6631. **Mr F McCann:** I attended two meetings of the Ad Hoc Committee when Caitríona could not make it. There was quite a lot of debate in and around the issues. It was obvious, even from the two sessions that I attended, that there was going to be division in the Committee on the way in which things went forward. That does not mean that it was not right to go through the exercise. As elected representatives, we have a duty to protect those most in need in society, and those who elected us. This is probably going to be one of the most damaging pieces of legislation that we have ever faced and are likely ever to face in how people survive in an ever-worsening economy. It was a worthwhile exercise. It is obvious that we have a job of work ahead of us.

6632. **The Chairperson:** If there are no further comments on that item, we can move on. Although the report has no formal status, per se, because it was not agreed by the Assembly, there is a body of work that people can access. I think that you, Paula, made the point that a number of the recommendations



## 30 January 2013

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Mr Michael Copeland  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

### Witnesses:

Ms Martina Campbell     *Department for Social*  
 Mr Michael Pollock     *Development*

6633. **The Chairperson:** The Minister will be here tomorrow morning. We wanted to get the Committee back into harness again and focus our minds on the work that we have to do. We have a Committee Stage extension, and we are committed to trying to deliver our report short of the time of that extension. It is in nobody's interests to delay this any longer than necessary. We are trying to schedule our work programme to facilitate expediting our work on the consideration as best as we possibly can. I will talk about that in a couple of minutes.
6634. We have Michael Pollock and Martina Campbell here. It might be useful to have some commentary on the departmental responses this morning, if you do not mind. We have to hear the Minister's response tomorrow morning, but perhaps you could give us a flavour of the departmental responses. That will allow us to put a wee bit of forethought into tomorrow. I appreciate that you will be very limited in what you can say because, obviously, you have to follow on from what the Minister will say. I am not suggesting that you can go through all of the report — far from it. It is just to get a wee flavour. The Committee needs to serve notice on ourselves that we need to get back into our work again.

6635. **Mr Michael Pollock (Department for Social Development):** It was as interesting for us as it was for members to see the work of the Ad Hoc Committee. We were there for the debate yesterday. As you say, the Minister is coming along tomorrow. That is on advice from us, in so far as, ordinarily, the process is that the Minister and the Committee reach an agreed position on where the Welfare Reform Bill stands. As you know, there was a schedule of key issues, which the Committee Clerk provided to us. We have gone through it in discussions with you and, reverting to the Department, with various stakeholders, be it operational or in respect of delivery in another part of the Social Security Agency. We wanted to see the issues around delivery that some of the recommendations that the Committee may raise would have for the Department or for the agency. The paper that has been provided in respect of the Minister is a combination of that. As I say, on advice from us, he wants to talk through that with you to try to reach an agreed position. I do not know whether we need to go through anything on the specific issues today. I am sure that we will go through them at length with the Minister tomorrow.
6636. **The Chairperson:** I appreciate that, Michael. I was not putting you on the spot by asking you to come forward; I know that what you can say is very limited. Members have the responses in front of them. I suggest that members reflect on those today, and we will hear from the Minister tomorrow morning and have our discussion with him. The Minister will be here for about 45 minutes, then he will have to leave.
6637. **Ms Martina Campbell (Department for Social Development):** We will be available to the Committee after that.



6638. **The Chairperson:** That frees you up to continue with the discussion.
6639. **Mr Pollock:** The Minister is genuinely keen to take the Committee's views. There are lots of issues that he can relate to and on which he has already had discussions with the Department for Work and Pensions, and everybody else. Tomorrow is about trying to move that forward to the next stage, because time is moving on in respect of the Bill.
6640. **The Chairperson:** Thank you for that. Does anyone want to ask Martina or Michael anything?
6641. **Mr Brady:** I have one question. The paper states that 75% of households have a broadband connection and that many customers and people use the internet regularly for complex transactions. I find that hard to believe. Where did that research come from? There are vast swathes of rural areas that have no broadband connection.
6642. **Ms M Campbell:** Yes. I am aware of that. We will get that checked for you and tell you tomorrow.
6643. **Mr Brady:** For context, contact with local offices, or whatever, will be complex, especially in relation to new arrangements.
6644. **Ms M Campbell:** It will be time consuming; that is for sure. If claimants who do not have access to online facilities communicate by phone, it will be a lengthy process. There will still be the facility for them to go into the office.
6645. **Mr Brady:** I think most people will avail themselves of that. That is my experience. It comes across as if there will be only 25% to deal with, because 75% have broadband, and that it will be easy-peasy. I do not think that that will be the case.
6646. **Mr Pollock:** It is a very fickle thing. I know that from moving house a few months ago and trying to get a broadband connection.
6647. **Ms M Campbell:** That was the bottom of the Mournes.
6648. **Mr Pollock:** I suppose that it was behind a hill, but that is beside the point. You get promised the earth, but delivery is another thing. I do not think the agency is going to be fully automated for a considerable time. The face-to-face relationship with the claimant is still something that it advocates and pushes forward.
6649. **Mr Brady:** My constituency is a huge rural hinterland. You cannot even get a phone signal, never mind anything else. We are doing our best. You move in and out of signal. In Newry, there are Wi-Fi hotspots. Some drivers park outside particular coffee shops so that they can get a connection. There is a long way to go.
6650. **Mr Pollock:** The figures that you are seeing would be unofficial statistics. As Martina said, we would not know exactly where they were sourced, as such. They would not be the official figures.
6651. **Mr F McCann:** Mickey was actually wondering why all the cars were stopping outside his house. He started to charge people. [Laughter.]
6652. **Mr Brady:** We tried that. It did not work.
6653. **Mr F McCann:** Obviously, Mickey is right to raise the issue of 75% broadband connection. There is another issue. I do not know whether any research has been done into it. Although the paper may say, rightly or wrongly, that 75% of people are connected to broadband, a huge number of people have computers in their houses who do not have the capacity to use them. You will probably find that that will add to the serious problems that people will face.
6654. **Mr Durkan:** The 25% who do not have broadband connection may be among the most vulnerable.
6655. **The Chairperson:** Will you look into that?
6656. **Ms M Campbell:** We will source that reference for you for tomorrow.
6657. **Mr Pollock:** We will if I can get onto the internet.

6658. **Ms M Campbell:** The agency is piloting a new text service. I will find out about it and get back to you on that as well.
6659. **The Chairperson:** I suppose that we will just have to leave that at this stage, Michael. Because we have the Minister in tomorrow morning, obviously, we are just having a brief look at the departmental response and how to prepare for that meeting. We will deal with that tomorrow morning when the Minister is here.
6660. **Ms M Campbell:** You can save all your difficult questions for him.
6661. **The Chairperson:** Are members happy enough that we leave that item for now?
6662. Members indicated assent.
6663. **The Chairperson:** Again, people need to read the material in the next day to prepare for tomorrow morning's meeting because it will be an important one for the Committee. Martina and Michael, thanks for your help this morning.
6664. **Ms M Campbell:** Thank you, Chair.
6665. **The Chairperson:** That leaves us in a wee bit of a — not an awkward — position. We have slight problem in that the Clerk of Bills was supposed to be here. We wanted her to take members through the amendments and a range of other technical issues that we have to deal with. However, she will not be free until after 11.00 am, so we will, obviously, have to defer that until tomorrow morning. It is important that the Clerk of Bills takes people through where we are at with regard to the Bill and the suggested amendments that people put forward before the Ad Hoc Committee was established. It is very important that she then takes us through the procedure from now and what we have to do by completion of Committee Stage. A fair bit of work will be condensed into the next couple of weeks. That is very clear. We have to wrap this up fairly quickly. I would have preferred for the Clerk of Bills to appear. However, she cannot be free until at least 11.00 am. We will just have to suspend consideration for this morning.
6666. **Ms P Bradley:** We have plenty of reading to do, Chair.
6667. **The Chairperson:** I am sure that we all have work to do anyway.
6668. **Mr Copeland:** Would it be possible at some stage for someone to give us — me, particularly — some understanding of the position if we pass the Bill in the absence of full knowledge of the forthcoming regulations and whether they conform with human rights, equality requirements, etc. I am not terribly sure whether accepting the Bill in its current form actually removes any future possibility of effects that were not apparent to us when we passed the Bill. I know that it is a very silly question. However, I am a relatively new Member, despite the fact that I was here eight years ago. Things did not actually operate in the way in which they do now. I am curious about the relationship between accepting or passing the Bill and then finding something in the regulations that we cannot do anything about, despite the fact that we have passed the Bill.
6669. **The Chairperson:** It would be helpful and important for the Clerk of Bills to explain the legislative procedure, the importance of primary legislation — in this case, enabling legislation — and what you may or may not be in a position to do when we get supplementary legislation or statutory regulations. Simply put, you can vote for or against them when they arrive. That is why people on the Ad Hoc Committee argued that some of those things should be dealt with by way of affirmative resolution as opposed to the confirmatory procedure. There are checks and balances in the legislative process, which the Clerk of Bills will probably explain. Ultimately, members have to make a decision as to whether they believe something is worth supporting or not. We will take as much information as possible on the legal arguments from the Clerk of Bills, who will be here tomorrow morning. She will take members through the legislative process. That will be helpful.

6670. **Mr Copeland:** I am just curious about what the actual implications are should we accept the Bill and subsequently find that there is something we are not happy about. It is about cause and effect.

6671. **The Chairperson:** That is fair enough.

6672. **Mr F McCann:** I think we have got to get through a lot that we are not happy about before we pass the Bill.

6673. **Mr Brady:** There is obviously the whole issue around whether it is affirmative or confirmatory resolution. If it is affirmative, regulations will be debated before they are made. If it is confirmatory, they will be debated afterwards. That is why it was felt affirmative resolution is important.

6674. **Mr Copeland:** But would that be done in light of us having accepted the policy intent inculcated in the Bill?

6675. **The Chairperson:** Legally, you would be advised that if a Bill comes through the Speaker, the Departmental Solicitor's Office, and all the rest of it, it is fit for purpose, so you can vote on it. The issue in your mind is that you might have an idea what the policy intent is, but are not sure how that would work its way out. Those are decisions that you are going to have to make. However, the Clerk of Bills will tell you that if the Bill is cleared by the Speaker and goes through all the processes, it is fit for purpose. That is why the Ad Hoc Committee was set up; some people argued that the Bill may not be compliant with equality requirements, and so on. The report from the Ad Hoc Committee has no formal status here because it was not agreed by the Assembly. We had a brief discussion earlier on that. The report is there. It does not deal with things in the way in which some people might have wanted it to. Nevertheless, there was a debate around that. You will be faced with the situation, as will all Members, of having a Bill in front of you that is legally appropriate. We have to decide whether we support the Bill, or aspects of it. The Clerk of Bills will take you through the

legal status of it; in other words, what legally allows a Bill to be on the table for debate and what the consequences are if that Bill is passed. Remember, the Bill could, theoretically, be amended between now and when it is actually finally enacted.

6676. **Mr Brady:** You make the point about amendments. If amendments were made to the Bill, you would assume that they would be crafted in such a way that the regulations would have to conform to the intended changes. That is maybe a simplistic way of putting it, but it seems to me that there is no point putting forward amendments that are going to have no effect if the regulations do not then conform to your policy intent. That is why the amendments are so important. The Clerk of Bills will give us the detail of what is involved in that.

6677. **Mr Copeland:** Do the amendments have to be accepted by the Department and, by implication, the Minister?

6678. **Mr Brady:** By the Assembly, I would imagine.

6679. **The Chairperson:** Ultimately, the Assembly. David will know that, as a former Deputy Speaker. Part of the process of legislation is that you actually ask for the Department's co-operation. This Committee has already told the Department — unanimously, in fact, which is very good — that it wants the Department and the Minister to take on board certain things that are different from what is in the Bill. The Department may or may not do that. It would be preferable that the Department and Minister do that, because that shows greater consensus and makes the process easier. However, if the Minister and the Department do not agree with something, it is still up to the Assembly to put forward amendments. That happens for every piece of legislation that people seek to amend. It is open to any Member to seek to amend legislation, as a party member, a member of a Committee or an individual Member. Any Member can table any amendment to a Bill. David could give you better clarity on it, but you can seek

to change a Bill with or without the Minister's or Department's agreement.

6680. **Mr Copeland:** Can you put caveats on clauses in the Bill, preventing their enactment until you have seen the regulations coming from them?
6681. **Mr McClarty:** No.
6682. **Mr Brady:** A lot has been said about parity. A lot of the changes in the amendments would change the administration of the Bill in a sensible way, you would hope, rather than necessarily impacting on the amount of money. Take, for instance, sanctions. The people on sanctions are still going to get paid anyway. That is the kind of thing we are talking about. There are issues around particular parts of the Bill where finance may come into it, but a lot of the amendments, and certainly the recommendations that the Ad Hoc Committee made, would not necessarily impact on the amount of money that would have to be paid under parity. There is a notion abroad — probably put abroad by government — that if you amend something, it is going to cost you. That is not necessarily the case at all. It is another avenue that needs to be explored in more detail. In many cases, it could be cost neutral. That is important.
6683. **The Chairperson:** No doubt, we will get into all that. We will ask the Clerk of Bills for as much information as possible. It is a bit unfortunate that we have to end the meeting now, because I would have liked to have got that work done, but there we are.





## 31 January 2013

### Members present for all or part of the proceedings:

Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Michael Copeland  
 Mr Mark Durkan  
 Mr Fra McCann

### Witnesses:

Ms Martina Campbell     *Department for Social*  
 Ms Jane Corderoy       *Development*  
 Mr Michael Pollock  
 Mr Conrad McConnell   *Social Security Agency*

6684. **The Deputy Chairperson:** I welcome you back and apologise for any delays. I ask people in the Public Gallery and members of the Committee to switch off any electronic devices.

6685. The Minister went through some of the issues this morning. I have some questions, Conrad, that maybe you could address, specifically around cautions, fraud and penalties. First of all, people had questions around clause 115 and cautions. The Committee had talked about the implications of removing that clause because of the issues around cautions. I mentioned a case that was on the radio the other day about some young fellow who applied for a job and had a caution about something to do with stealing a bicycle when he was 11 years old. That was on a criminal record. Obviously, that is something to be avoided. As it stands, I think, you can sign a waiver and have a financial penalty rather than go to prosecution.

6686. **Mr Conrad McConnell (Social Security Agency):** Yes.

6687. **The Deputy Chairperson:** That is going to change in the context of welfare reform.

6688. **Mr McConnell:** At the minute, we have essentially three forms of penalty for fraud. There is the administrative

penalty or internal fine. There is an option to pay that internal fine, which is 30% at the minute and will go up to 50% under the changes in the Bill. That is one way of dealing with cases of lower-level fraud. For cases that are slightly more serious but not up to £2,000, perhaps, we would give people the option of the caution, which is a formal caution that avoids you going to court. So, there is the option of paying for some cases, and there is the caution for some other cases. The third option is to recommend prosecution to the Public Prosecution Service, which might then go ahead with a prosecution in court. That is what happens at the minute. What the Bill was saying was that we would take the cautions element out, and there would simply be two forms of penalty for fraud, not three. That was what we were saying originally in the Bill.

6689. **The Deputy Chairperson:** If the formal caution was to be retained, does that then go on a criminal record?

6690. **Mr McConnell:** It does. As it does at the minute, it would continue to.

6691. **The Deputy Chairperson:** Presumably, then, people would maybe consider that it was worth testing a case in court, because it is a double whammy: if you get a formal caution and pay a fixed penalty, you are going to have a criminal record anyhow.

6692. **Mr McConnell:** You would not have the administrative penalty plus the caution. You would have one or the other. Someone who chooses to take a caution is choosing that as an alternative.

6693. **The Deputy Chairperson:** So, if you pay the penalty, you do not get a caution?

6694. **Mr McConnell:** Yes, that is right.

6695. **The Deputy Chairperson:** You avoid, then, that going onto a criminal record?

6696. **Mr McConnell:** Yes, although —

6697. **The Deputy Chairperson:** That is up to only a certain stage.
6698. **Mr McConnell:** Yes, exactly. We would offer the administrative penalty for cases that we would deem to be slightly less serious. For cases that fall into the middle group, we would offer a caution as an alternative to going to court. It is up to the person to decide whether they want to take that option, in the knowledge that if they accept the caution, it will go onto their record.
6699. **The Deputy Chairperson:** You do not have to pay an administrative penalty?
6700. **Mr McConnell:** No, exactly.
6701. **The Deputy Chairperson:** If you pay the administrative penalty, is there also a period when you lose benefit?
6702. **Mr McConnell:** Not at the minute.
6703. **The Deputy Chairperson:** But there may well be.
6704. **Mr McConnell:** Yes, in future, administrative penalties and cautions will trigger the loss of benefit.
6705. **The Deputy Chairperson:** So, we are back to a double whammy, really.
6706. **Mr McConnell:** That is the whole debate around loss of benefit generally in relation to whether it is a deterrent or not.
6707. **The Deputy Chairperson:** You are being penalised twice.
6708. **Mr McConnell:** Well —
6709. **The Deputy Chairperson:** You are going to have to pay an administrative penalty, which, if you are on benefit, you would normally pay out of your benefit, but you are not going to get your benefit. So, you know, I am not sure how that —
6710. **Mr McConnell:** Yes, although I suppose that it is back to the principle of the loss of benefit regulations. It applies currently whereby if you are found to have committed fraud, you lose benefit for a period.
6711. **The Deputy Chairperson:** I understand that.
6712. **Mr McConnell:** It is about increasing that period further, but the principle is there —
6713. **The Deputy Chairperson:** It is punitive.
6714. **Mr McConnell:** It is about trying to deter people from —
6715. **The Deputy Chairperson:** I can understand that, but it is still a double whammy.
6716. **Mr Copeland:** Will there be a differentiation between deliberate fraud and accidental fraud, and what is the nature of the criminal conviction that will be applied if one or the other is found to be the case for future employment prospects or perhaps for even visiting foreign countries? The reason I ask is quite simple: a chap employed at Belfast City Airport was working quite happily until his Access NI check came back and it was discovered that he had robbed the Chinese restaurant that he had worked in with a water pistol when he was 17. The net proceeds were a Chinese cookery book, and he had no knowledge of Chinese, so it was hardly the crime of the century. However, it was sufficient to indicate that he was not a person who should be employed as a cleaner in an airport, and he lost his job. He also took his own life, which was the other aspect of it.
6717. **Mr McConnell:** To answer the question: fraud has to be intentional. Whether you deal with the fraud through an administrative penalty, a caution or a prosecution, it has to be a fraud.
6718. **Mr Copeland:** The discretion exists —
6719. **Mr Michael Pollock (Department for Social Development):** There is no such thing as unintentional fraud. There are very strict —
6720. **Mr Copeland:** The outcomes are the same; I understand the legal difference. So, basically, once you get to that stage, you have admitted or have been convicted of illegal activity.

6721. **Mr McConnell:** It is important to really stress the point that we would not seek to offer someone a penalty for fraud unless we were satisfied that fraud had been committed. The other really important point to make is that if anyone has any doubt as to whether they have committed fraud, they are free to challenge that through the courts. Fraud has to be intentional. This is not about customer error.

6722. **Mr Copeland:** How long does such a — [Inaudible due to mobile phone interference.] — if that is the right word, appear on someone's record for the purposes of Access NI.

6723. **Mr McConnell:** I would need to find that out for you. It is part of the Rehabilitation of Offenders Order.

6724. **Mr Copeland:** When is it spent?

6725. **Mr McConnell:** I would need to find that out.

6726. **Mr F McCann:** Is there a sliding scale in how long something stays on your record?

6727. **Mr McConnell:** I am not sure; I will need to check that. That is all part of another Act, which, as far as I know, is the Rehabilitation of Offenders Act. That deals with spent convictions for cautions and other offences and how long they appear on your record. I can certainly find that out for you.

6728. **Mr F McCann:** I would appreciate that.

6729. If memory serves me right — it usually does not — I think that if someone receives an overpayment, even if they did not realise it, they will be brought to a disciplinary hearing. Tommy O'Reilly said this morning that there was a problem with the system at Christmas and people got overpayments. Under the new regulations, if they receive an overpayment — even if they did not know — would that be classed as fraud?

6730. **Mr McConnell:** No; fraud has to be intentional. It has to be deliberate behaviour. It would not be possible for someone to find themselves at the wrong end of a fraud case not having

known that they had done something wrong. It has to be intentional. If there is any doubt in their mind as to whether they did or did not know what they were doing, the court is the ultimate arbiter of guilt. Error does not come into fraud. It is a completely different thing, and it is dealt with in a very different way that does not involve penalties.

6731. **Mr F McCann:** If someone gets an overpayment, will they face penalties?

6732. **Mr McConnell:** Perhaps your question relates to the civil penalty. There is a clause in the Bill that deals with civil penalties. That is a new thing, and the proposal in the Bill is to apply a civil penalty, which would be set in regulation — at the minute, the intention is to set it at £50. That would apply to people who have been negligent in their claim; not necessarily fraudulent, but certainly negligent. That —

6733. **Mr F McCann:** Will you give me an example of that, Conrad?

6734. **Mr McConnell:** If someone had an overpayment for something they did not tell us about and said that they simply forgot to tell us, we would deem that to be negligent. In contrast, if someone did not report a change in circumstances that was relevant to their benefit but, perhaps, they had been bereaved or had suffered some trauma that seemed to us to be a reasonable reason why they had not come to us, that would not apply. That is the distinction. The decision would be made by the decision-makers as part of the benefit process.

6735. **The Deputy Chairperson:** Fra, before you go on, I remind members about their mobile phones. There is some interference, and it is affecting the Hansard recording. Make sure your phones are switched off.

6736. **Mr F McCann:** Mine is off.

6737. **I got it mixed up. That may be because we were discussing it in and around the same period the last time. I want to be clear about this in my mind:** if someone is given an overpayment, they do not

- realise it and the office catches on, they will be liable to penalties.
6738. **Mr McConnell:** Yes, but it all depends on the nature of the non-recognition, if you like, of what went wrong.
6739. **Mr F McCann:** Let me give you an example. Tommy talked this morning about an error in the computer system. Many people get their money paid into a post office account: it is Christmas and people go out; they do not even know what they have got; they spend it. It is still an overpayment, but under any new legislation, they will be fined because they did not —
6740. **Mr Pollock:** No; they may have to repay it, Fra, as I understand, but there would not be a penalty attached to that.
6741. **Mr F McCann:** I understand that.
6742. **Mr McConnell:** There is no penalty for official error. If the system gets it wrong or we get it wrong, we certainly would not apply a penalty for that; absolutely not. If someone did not tell us something that created the overpayment, and we deemed it to be not fraudulent or intentional but negligent or careless — a failure to take reasonable care — it would attract the civil penalty of £50, which is the new —
6743. **Mr F McCann:** I suppose that the devil is in the detail.
6744. **Mr McConnell:** It is down to a judgement of the circumstances and all of that.
6745. **The Deputy Chairperson:** In the “proposed way forward” under the summary of issues raised about cautions, the Minister said:
- “In the event agreement is made to retain cautions and remove clause 115, then it would in fact make sense to keep clause 109 and amend it to have the power to apply an admin penalty or caution for attempted fraud.”*
6746. Will you clarify that?
6747. **Mr McConnell:** Certainly; the suggestion previously was that cautions would remain. Clause 115 proposed to take cautions away, so that rather than having
- the three options of dealing with fraud, there would be two, and cautions would not be there anymore. The suggestion was that cautions should stay and that those three options should remain. The Minister has said that, in the event that clause 115 does not go forward and cautions remain as a means of dealing with benefit fraud, it would make sense to have cautions as a means of dealing with attempted benefit fraud as well. Clause 109 deals with the attempted side of things. That is really saying that if you are going to keep three options for actual fraud, keep the same three options for attempted fraud and do not have a system where you have three here and two up there.
6748. **The Deputy Chairperson:** We have had the discussion before about what constitutes attempted fraud and how the Department quantifies, finds out or lets us know what attempted fraud is.
6749. **Mr McConnell:** Someone who completes a form to apply for benefit tells us things, in doing so, about their circumstances — their means, income, family, relationships, perhaps illness — so that all the information comes together to allow our people to decide what benefit they are entitled to. It would be attempted fraud for someone to put false information in that form that, if we had not checked, would have led us to pay that person money to which they were not entitled because their circumstances were not as described. The difference between attempted and actual is that we catch it before the money is paid out, but the crime of attempting to claim has still been committed.
6750. **The Deputy Chairperson:** You get your retaliation in first, so to speak.
6751. **Mr McConnell:** It is about trying to deter people from giving us false information to try to get benefit that they are not entitled to. It is about trying to deter behaviour that, if not caught, would lead to fraud that could go on for months or years.

6752. **The Deputy Chairperson:** If cautions were to be retained, would that caution go on the person's record?
6753. **Mr McConnell:** Yes. The suggestion is that if cautions stay as part of the fraud process, we will want them to stay as part of the attempted fraud process as well. That being the case, whether it was for attempted or actual fraud, a caution would go on your record.
6754. **Ms P Bradley:** In my opinion, attempted fraud is every bit as bad as actual fraud, because you are going out there with the clear intent to commit fraud. However, a person who attempts fraud will not have received anything from you. They will not have received any money.
6755. **Mr McConnell:** Yes.
6756. **Ms P Bradley:** So, looking at the way things are at the minute to do with the fine for low-level and a caution for up to £2,000 and all that, how do you work any of those penalties in for someone who has not received any money? How does that work out? I can understand how it applies when they have received money, but how is it applied where they have not? I know of people who are putting in things like, "No; he doesn't live with me. He lives in another house." I know that that happens. I have seen it. How do you deal with that, though?
6757. **Mr McConnell:** The detail of that will be in regulations and depend on the severity of the attempt. As you said, we would say that the attempt is every bit as bad as the actual, because they tried to do the same thing but just did not happen to get there. Under the proposals, it could be dealt with through an administrative penalty — that is what clause 109 is about — which allows us to provide an alternative to court for someone who has tried to commit fraud. Under the Bill, such a penalty would be set at a minimum of £350, because there is no actual overpayment. Normally, it is 30%; now, in the Bill, it is set at 50%. There is nothing to apply a percentage to, but the minimum penalty would be £350.
6758. **Ms P Bradley:** I understand it now. It would be a fine — a penalty. OK.
6759. **Mr Durkan:** Thank you, Conrad. I want to ask about the differentiation between fraudulence and negligence. I understand fully the approach taken to attempted fraud. The examples that you gave were of someone entering information. Is it the case that if someone enters erroneous information, that constitutes fraudulence, but if they omit information, that is more likely to be seen as negligence, even though the information can be deliberately omitted?
6760. **Mr McConnell:** I suppose that, in all cases, there is no clear black and white. The behaviours range from people who make genuine errors to those who intentionally set out to commit fraud. All this gives us a range of options to deal with that range of behaviours, from genuine mistakes, where nothing would happen, through to failing to take care and to actual intent to commit fraud.
6761. **The Deputy Chairperson:** It goes back to the old argument about failure to disclose the misrepresentation. There was a lot of contention around that.
6762. Thanks for that, Conrad. Are there any other issues that you want to raise about your speciality, for want of a better word? [Laughter.]
6763. **Mr McConnell:** No. I am happy to take questions, if there are any. I am happy to come back to the Committee on the issue of spent convictions.
6764. **The Deputy Chairperson:** OK, thank you very much.
6765. We will move on. The Minister dealt with some of the issues this morning, but we did not have time to discuss them all and there may be other issues that you want to deal with. We dealt with the issues of payments and underoccupancy. Perhaps you could deal with some of the issues that the Minister did not cover.
6766. **Ms Martina Campbell (Department for Social Development):** Yes. Do you want



- to start with the claimant commitment, which is dealt with in clause 4?
6767. I think that we are all clear that if, in a joint claim, one member of the couple refuses to sign the claimant commitment, there will be no claim and it will fall. There is no facility for any money to be paid. A short cooling-off period will be allowed, and attempts will be made to get the claimant — the unwilling partner, if you like — to re-engage. For us to do anything different would, obviously, break parity, as a couple here who are in the same circumstances as a couple on the mainland would be treated differently. So, we are not minded to do anything on that.
6768. **The Deputy Chairperson:** One of the issues raised was that if someone makes, if you like, an informed decision from their point of view not to sign the claimant commitment, that gives them a choice. However, the person who is the partner — the other half of the claim — does not have that choice. I know that you have mentioned the cooling-off period of four weeks.
6769. Human rights was one of the issues that the Ad Hoc Committee looked at. Human rights relates to individuals rather than households. The European Convention on Human Rights says that no one should be made destitute. However, there is the potential for a situation in which someone will have no access to any money at all for four weeks, through no fault of their own. That is one of the issues.
6770. **Ms M Campbell:** Yes. The Minister fully appreciates that. First, we do not expect there to be a very large volume of such cases. Secondly, the facility exists, as you know, under the current jobseeker's allowance, if both individuals do not sign the agreement, for the willing partner to make a claim in his or her own right. That is being done away with because universal credit is a household benefit and is concerned with taking into account all the income within the household. There could be a situation of an abusive relationship, and the willing partner will be disadvantaged or, to use your word, destitute in some circumstances. However, as long as they remain a couple, they cannot satisfy the household claim element.
6771. **The Deputy Chairperson:** You said that universal credit deals with the household. The human rights aspect deals with individuals. So, there is an issue there. A scenario could occur where the couple goes in, one of them refuses to sign and they do not get any money. That is four weeks. What will happen if the woman — without being sexist about it — comes back the next day and says, "He is gone, and I want to make a fresh claim"?
6772. **Ms M Campbell:** That is fine. If they separate, it is no longer a joint claim. If the woman comes in and says that she has called a halt to the relationship but her partner has not moved out because they are in negative equity or whatever, you are then into the process of verifying whether or not —
6773. **The Deputy Chairperson:** That can take another four weeks.
6774. **Ms M Campbell:** Hopefully not.
6775. **The Deputy Chairperson:** I am not being facetious when I say that. There will still be a period where that person is without benefit through no fault of their own. That is at the core of this.
6776. **Ms M Campbell:** I cannot be definitive about that circumstance; I will have to check. However, if the woman comes in and says that she is now claiming as a single person and taking steps to terminate the relationship, that person, the same as any claimant, will be entitled to make a claim for a discretionary payment — what we know as social fund — or a hardship payment within the universal credit world or a budgeting advance.
6777. **The Deputy Chairperson:** Before I let Mark in, I have two points on that. When you talk about "taking steps", presumably you mean possibly seeing a solicitor.

6778. **Ms M Campbell:** It is the same process. The existing guidance on determining whether or not a couple is a couple — that can be a heterosexual couple or a civil partnership couple — will carry forward. It is our good friend common sense again here.
6779. **The Deputy Chairperson:** Common sense is not so common in my experience.
6780. My other point, before I let Mark in, is about hardship payments. Under universal credit, hardship payments will be recoverable. If that woman has to apply for a hardship payment through no fault of her own and benefit is eventually paid, she will be below subsistence level, again through no fault of her own.
6781. **Ms M Campbell:** My understanding is that, in human rights law, the threshold to determine destitution is very high, and it is not defined, as I understand it, in the Human Rights Act.
6782. **The Deputy Chairperson:** With respect, the reason it is not defined is that it is subjective rather than objective.
6783. **Ms M Campbell:** Absolutely. We would argue that hardship money will be repayable in the same way that social fund is currently repayable out of people's benefit, as will the discretionary payment scheme — I think that that is what it will be called.
6784. **Mr Pollock:** The entitlement is protected as opposed to the amount.
6785. **Mr Durkan:** The response states that there will be a cost attached to accepting the amendment. What would that cost be?
6786. **Ms M Campbell:** As I said, people in Newcastle upon Tyne and in Newcastle, County Down face the same set of circumstances. They might have an abusive partner who is possibly working and does not need to sign the claimant commitment. The only form of control that he has over her is to withhold his consent to the commitment. Therefore, the claim is void. He is OK, because he is getting his wages. He is not dependent on the benefit. A couple may be in those circumstances in Northern Ireland, and the same circumstances exist in England, Scotland or Wales. If we change this provision and allow for a claim to be made by the woman in her own right without them ending the couple element of their relationship, we are treating claimants here more advantageously than our colleagues in England. That is where the cost comes in. There is a cost to the public purse, because that claim would not exist otherwise. Do you see what I mean? Have I not explained that well?
6787. **Mr Durkan:** It could exist if she said that he is gone.
6788. **Ms M Campbell:** Yes; but then that clause does not come into play, because she is claiming as a single person anyway.
6789. **Mr Durkan:** But then that claim would exist.
6790. **Ms M Campbell:** We are talking about circumstances here and policy intent. The policy intent is that, for couples, the universal credit is paid as a household claim, and that means taking into account all of the circumstances, including earnings or any other income of the couple. In your circumstance, when she comes in and says, "OK, the relationship has irretrievably broken down, and I want to claim as a single person," she is not claiming under that clause as a couple; she is claiming as a single person. However, let us keep on the track that she is still maintaining that she is in a relationship with him. If he is working, for example, and we accepted her claim as a single person, we could not take into account his earnings. He could be earning, for example, £26,000, and we would not be able to take that money into account, because she is saying that she is a single claim, but they are still together for all intents and purposes.
6791. **The Deputy Chairperson:** Just to clarify that, why would they be making a claim if he was earning £26,000 in the first place?

6792. **Ms M Campbell:** Because they can still claim universal credit, even up to —
6793. **The Deputy Chairperson:** But it is more unlikely. We know that universal credit is going in one end and coming out the other, but I imagine that those cases would not be that frequent, would they?
6794. **Ms M Campbell:** No, but neither, we believe, would these cases here, and it is about protecting the public purse.
6795. **Mr Durkan:** That is the thing. If they are going to be so rare, it would not do that much damage.
6796. **Ms M Campbell:** But there is still a cost. I cannot determine what the cost is, because we do not know how many claimants are going to be in that situation. However, there will be a cost, and we will be breaking parity with the rest of England, Scotland and Wales.
6797. **Ms P Bradley:** It just gets more complicated. Martina just made my point. I was going to ask about someone who was suffering abuse, even if it was financial abuse. That is the perfect scenario for the abuser: they can cause the other person in the relationship extreme hardship. That, to me, would be a great worry. However, you have now explained the other side. As we have said before, we know that people are making claims and saying that they are not actually living there, and so on. I have seen it, and I am sure that other people have seen it. We could have people saying that they are in an abusive relationship, but, as you say, you cannot take that into account.
6798. **Ms M Campbell:** It is a bit like Conrad's point about attempted fraud, fraud, negligence, or whatever.
6799. **Ms P Bradley:** Exactly. Again, looking at it very cynically, there is an opening for attempted fraud. However, I still cannot get my head round how we could possibly leave vulnerable people, especially if there are children in the relationship, without an income.
6800. **The Deputy Chairperson:** I did not realise that you were cynical, Paula, until now.
6801. **Ms P Bradley:** It is from being in your company, Mickey.
6802. It has just got even more complicated. We want to protect the vulnerable in our society, but we do not want to open it up again to abuse.
6803. **The Deputy Chairperson:** That highlights the need for clarification on these issues.
6804. If nobody else has a question on that issue, we will move on to third-party verification.
6805. **Ms M Campbell:** I think that we are OK on that. That was a bit of a misunderstanding on behalf of some of the stakeholders. Where a claimant is asked to provide identity verification, the same system as now will hold. Where a claimant does not have access to a bank account, there will be a simple payment card — I think that is what it is called.
6806. **The Deputy Chairperson:** Simple payment service.
6807. **Ms M Campbell:** I think that it is similar to the PayPoint system. I do not think there is any issue there.
6808. **The Deputy Chairperson:** The next issue is 16- and 17-year-olds registered in training but not placed. I have a couple of things to say before other members come in. The paper talks about the Department for Employment and Learning (DEL) not being aware of any 16- or 17-year-olds on a waiting list, as such. It is my understanding that child benefit is a qualifying benefit: if a parent wants to claim child tax credit, for instance. We are really talking about children who are in limbo, even in the short term. The logistics of children coming out of care would initially be dealt with by social services, before they may go onto benefits. It does say that if someone is going for a particular course and it is not available, they may be put on another course. That is speculative,

- I suppose; it depends on how many places are available. Someone who is estranged from the family home at that age may be entitled to benefit, because they are one of the exceptions.
6809. **Ms M Campbell:** Yes, they are special exceptions, as is a care leaver if they have responsibility for a child.
6810. **The Deputy Chairperson:** And someone who is a lone parent, in those circumstances. We are really taking about a group that is in between; who are not on a course and whose parents are not getting benefit for them. As you know, there is a child benefit exclusion date, which comes in September. People are normally informed about that in April of the year. Unless they say what is happening to that child after the first week in September —
6811. **Ms M Campbell:** They are cut off, yes.
6812. **The Deputy Chairperson:** I am wondering what happens in those situations. That is a concern.
6813. **Ms M Campbell:** In those situations, there will be no claim. We were not able to determine the number of 16- and 17-year-olds who accessed the hardship payments under jobseeker's allowance. However, the total number of hardship payments made was 413.
6814. **The Deputy Chairperson:** The Minister mentioned the new discretionary support scheme, which may be available in particular circumstances for those leaving care. Those are the kids who are going into the mainstream, if you like. They have come out of care, and social services will have looked after them in a halfway house situation. Is that right? The discretionary support scheme will deal with those who are moving on from that.
6815. **Ms M Campbell:** It is really NEET category: they are not in education, employment or training, they are not a lone parent and they are not a member of a couple. It should be a small number. Of course, that is where entire Executive responsibility comes in. The whole emphasis, as you know, is on getting kids between the ages of 16 and 18 to either remain in education or go into training. This is part of that.
6816. **Mr F McCann:** It says that the education maintenance allowance training budget of £40 a week is unique to here. I thought that there was a system in England where young people between 16 and 18 who go into training are paid at a higher rate than that. I remember raising a question about six months ago. I think that £1 billion was set aside for people aged between 16 and 18 to go into employment; I think that people were paid £6 or £7 an hour. I remember raising a question about that here. The Minister for Employment and Learning said that he would bring in something that would pay at £40 a week. I just wonder —
6817. **Ms M Campbell:** I cannot give you an answer on that, Fra. That is for DEL, but I will see whether it will give me some more information for you.
6818. **Mr F McCann:** I think that, in England, they were paid minimum wage.
6819. **Mr Pollock:** Yes. I remember your question, but there was a wee bit of overlap between the work programme that was associated with the social security side of it and some other DEL initiatives.
6820. **The Deputy Chairperson:** If nobody else has any questions on that, we will move on to restrictions on entitlement, which is clause 6.
6821. **Ms M Campbell:** This is about passported benefits. It is where the claim is for less than seven days. It would be administratively prohibitive to pay any money that is due, but the claimant would still have an underlying entitlement to any passported benefits, such as dental, eye tests or free school meals, for that week.
6822. **The Deputy Chairperson:** So if somebody is entitled for six days, they do not get paid, but they may have an underlying entitlement for dental or optical charges, and that kind of thing?

6823. **Ms M Campbell:** Yes. Their award letter will, for example, say that they are entitled to, say, £15 universal credit from Monday to Thursday. However, because it would cost too much administratively to pay that, they are not getting it. There is also the issue of the three waiting days. However, the letter will list the benefits to which they may be entitled, including free school meals and all the other passported benefits.

6824. **The Deputy Chairperson:** The administration of doing that —

6825. **Ms M Campbell:** But the award notice is standard.

6826. **The Deputy Chairperson:** I understand that, but a cost is still involved in the administration of the passported benefits.

6827. **Ms M Campbell:** That will be for the responsible Departments to worry about.

6828. **Mr F McCann:** It must be inflation. I remember that it used to be to the nearest penny.

6829. **Ms M Campbell:** Yes. If you are entitled to 1p, that letter will still be sent out. It will cost 38p or whatever a first-class stamp costs to send out a letter to tell you that you are entitled to 1p but that it will not be paid.

6830. **The Deputy Chairperson:** It is much dearer than that, Martina. Obviously, you use internal post.

6831. **Ms M Campbell:** No. I gave away a stamp yesterday, but I buy them in books, so I never know how much they are.

6832. **The Deputy Chairperson:** That is the position on the restrictions on entitlement. Does anybody have any further questions? If not, we will move on.

6833. **Ms M Campbell:** The next issue is the child disability rate. I did the calculation; I admit that it is very crude. We estimated it at around £11 million, with additional administration costs. That figure does not take in the clerical

workarounds and all of that. The child tax credit shows that 7,600 children receive the disabled child element and 6,000 receive the severely disabled child element. Roughly, you are talking about 6,000 children who will receive more, because, under universal credit, the higher rate of the disabled child element is more than the child tax credit element. There will also be 7,600 children who will receive less under universal credit. If you take the tax credits rate, less the universal credit rate, and multiply it by the number of children, that is how I calculated the £11.3 million.

6834. **The Deputy Chairperson:** The potential cost to reinstate the child tax credit is the lower rate. I think that you estimated it at £11.3 million. You say that the disabled child element of lower rate of universal credit would be less than the lower rate of child tax credit.

6835. **Ms M Campbell:** Yes, that is the difference between the two.

6836. **The Deputy Chairperson:** But there are 7,600 children who are losing out.

6837. **Ms M Campbell:** Yes, but Lord Freud has committed to a review of the gateway elements. I presume that that is something to do with DLA. As we state in the paper, Lord Freud committed to a:

*“review of the gateway which passports children to the disability additions under UC.”*

6838. The rates are linked to the rate of DLA that they get. He is saying that the work is expected to begin in 2015.

6839. **The Deputy Chairperson:** Has he committed to that?

6840. **Ms M Campbell:** He committed to that during the passage of the Bill.

6841. **Mr Durkan:** It is the crossover between the DLA and the tax credits aspects of it.

6842. **Ms M Campbell:** I think it is.

6843. **Mr Durkan:** How can you have 7,580 higher rate cases from the DLA aspect but only 6,000 receiving the severe



- disability premium, given that one of the first things that we are told in the paper is that the coalition Government are extending eligibility for severely disabled children?
6844. **Ms M Campbell:** They have included visually impaired children.
6845. **Mr Durkan:** Is the number of children who are eligible not likely to go up?
6846. **Ms M Campbell:** Could you say that again?
6847. **Mr Durkan:** If the Government are extending eligibility, is the number of children who are eligible not likely to increase?
6848. **Mr Pollock:** Do you mean extending eligibility for universal credit?
6849. **The Deputy Chairperson:** To clarify the figures, we were told at one stage that the disability premium on tax credits for a child was going from £58 to, I think, £27. The rationale for that was to spread it out. Ultimately, then, the rationale for having it in the first place is, in a sense, diminished because, presumably, the whole idea of having a disability premium was to enable those children to have a better quality of life. There is no doubt that that is being diminished, and the argument for the need to spread it around does not stand up as a rational one because the child's disability will remain the same. Again, we are probably into an equality/human rights issue there, and that is something to be discussed when we are going through the Bill, clause by clause.
6850. Has anyone else any questions on that? It is a fairly complex argument. It is a personal observation that it is probably to justify the unjustifiable on the matter of disabled children. There is a duty of care on the state to protect the most vulnerable and, if disabled children are not seen as being among the most vulnerable, I imagine that we are failing in our duty. That is a personal observation, but one that can be reasonably argued. If no one has any further questions, I will get off my soapbox for the moment.
6851. **Ms M Campbell:** I am sure that you will be back on it shortly. [Laughter.]
6852. **The Deputy Chairperson:** I have a new one built, you will be pleased to hear.
6853. The next issue is other particular needs or circumstances.
6854. **Ms M Campbell:** Yes, this is about the adult severe disability premium. Under universal credit, there will be a limited capability for work element. The assessment will be made through the work capability assessment, which is used to assess eligibility for the employment and support allowance (ESA). Under the current system, there is a very small difference between the two ESA components: it is only £5. The coalition Government believe that people who need the support most should get more money. Under the review that Lord Freud has undertaken, he intends to, as resources become available, increase in stages the weekly rate of the support component, which is equivalent to £34.05 today, to around £81 a week. Again, that is where he is saying that this will focus and target resources to those who need it most.
6855. **The Deputy Chairperson:** Of course, they are finding people capable of doing particular things in the assessment. Anybody who saw the 'Panorama' programme and the anecdotal evidence that it came up with for the fall in statistics will have severe reservations about the policy intention involved here. I have experience of this, as, I am sure, have others here who have had clients come to them. I mentioned one case in which the mother of a young fella with Down's syndrome was asked how long he had had it and when he would be cured. That is the kind of thing that is going on. Unless that is addressed —
6856. **Mr F McCann:** It was the health professionals who did that?
6857. **The Deputy Chairperson:** Yes, health in inverted commas. That is a big issue that needs to be addressed, and I am not sure that anyone would disagree.

6858. **Ms M Campbell:** I think that that is a contractual issue. Those types of things should be addressed through the performance management of the contract. It is not necessarily the provision of the Bill.
6859. **The Deputy Chairperson:** But it is an integral part of the whole welfare reform. That is the issue. You cannot divorce one from the other. These are the people who are implementing the policy intention, and they are getting very, very well paid for it.
6860. **Mr F McCann:** Atos, the company that is doing it, said that it is implementing only what the Department for Work and Pensions has told it to do.
6861. **Ms M Campbell:** I do not know, because I am not involved in that.
6862. **Mr F McCann:** I understand that. It might be unfair to ask you to deal with that.
6863. **Ms M Campbell:** The decision on whether to award benefit lies, ultimately, with the decision-maker. It is not the healthcare professional. They make the medical assessment and send it back to the decision-maker, who looks at all of the evidence, including any medical evidence that the claimant supplied, and makes the decision based on all of the information in front of them. You have the high level of successful appeals because claimants, in the main, produce more evidence when they decide to go to appeal than they do at the point of claim.
6864. **The Deputy Chairperson:** Maybe that is where the primacy of medical evidence comes in; it would cut out all of that cost.
6865. **Mr F McCann:** The problem is the amount of people who were initially awarded points to determine their level of disability, but who ended up with zero points. It would be interesting to find out how many of those people's level of points the decision-maker actually queried. You would probably find that it was zero.
6866. **Ms M Campbell:** I do not know whether the agency would have that, but we can look at that.
6867. **Mr F McCann:** Do you understand what I am saying?
6868. **Ms M Campbell:** I appreciate what you are saying. I cannot argue. You are seeing this on a daily basis, and I am not. I can only tell you what is in the Bill, what is proposed and how the system should work. In practice, I cannot —
6869. **Mr F McCann:** You are saying that, once it goes to the decision-maker, they will take into account a range of things. I emphasise, again, that quite a number of people, who were formerly on benefits, were awarded zero points. I have seen decision-makers appealing decisions that may have been made. However, the point that I am making is that I do not see any decision-makers saying that they disagree with someone getting zero points and that they want to look at it again. It does not happen like that. It is just accepted; that is the status quo.
6870. **The Deputy Chairperson:** The Minister stated that he is not prepared to consider this amendment.
6871. **Ms M Campbell:** I have done a crude calculation for you. The number of claimants currently in receipt of the severe disability premium is 17,000 multiplied by the current rate, £59.50, multiplied by 52 weeks. That gives you the £52 million. There will also be clerical work and costs added in around that. That is just a starting figure, and that is how I arrived at it.
6872. **The Deputy Chairperson:** That leads us nicely on to —
6873. **Ms M Campbell:** I will put on the record that I stand to be corrected, because, as you know from previous occasions, maths is not my strongest point.
6874. **The Deputy Chairperson:** As one who still uses an abacus, I am sure that you are better than me. That links into what we were talking about: capability for work or work-related activity. It is this

whole issue of the primacy of medical evidence. Again, it could be argued that it is common sense. At the moment, the health professional ticks a box on a form and it goes to the decision-maker, in a lot of cases without medical evidence, and then medical evidence comes along at the appeal. I suppose the argument is that, if the decision-maker had the medical evidence to start with, he might have come to different decision, which a lot of the tribunals are.

6875. **Ms M Campbell:** I will say it again: medical evidence is a part of the package, but, as I have said, the appeals that are successful are generally so because the claimant has introduced additional evidence that was not available decision-maker at the point of claim.

6876. However, the Department is introducing a number of measures aimed at reducing the number of those appeals, which I think is good, in that it will, hopefully, elicit that medical evidence, or any evidence that the claimant is holding, a consultant's report or whatever, sooner than having to go to the expense and stress of an appeal.

6877. **The Deputy Chairperson:** The Minister suggested:

*"the Committee considers writing to the Health Committee asking them to consider the issue of GPs/Consultants charging claimants to supply evidence in support of their claim."*

6878. In my experience of representing people at tribunals, if someone is referred by their GP to a specialist and a report comes back, that is included in the file. The file is computerised, as all records are now. There is a code that the GP can simply type into the computer which prints off that consultant's report, whether it be up to date or over a period, which may illustrate, for example, a manic depressive condition. So there is no charge necessarily involved. That had never been the case, certainly in my experience. Obviously, it depends on GP or the consultant.

6879. **Ms M Campbell:** I think that that came from one of our sessions; I cannot remember which. Anecdotal evidence was cited where claimants were being charged £10 by their GP. If the Department requests medical evidence or a consultant's report, the Department will bear the cost, not the claimant. It is only if the claimant, off their own bat, gets a consultant's report that they will be charged, if his GP has not authorised it or whatever. That is where we are coming from. That is one of the issues and concerns that the Committee has, and we think that that is a Department of Health issue. It is not our issue, because we have no control over GPs.

6880. **The Deputy Chairperson:** It is an interdepartmental issue, because I sit on the Social Development Committee and the Health Committee, and there are overarching issues like that. What we are talking about is medical evidence available at a particular time. If someone is to go and make an appointment with a specialist, it may take six months, even if they are paying for it. So there is a timescale involved. That might not necessarily be the best way forward at that particular time. We are talking about the primacy of medical evidence, and that is what is available. That is to cut out cost as well. It is advantageous to the Department in that sense.

6881. **Ms M Campbell:** I think that is why this additional step will be introduced by the Department, whereby the claimant is given that opportunity to go and get whatever evidence they can, if they want to.

6882. **The Deputy Chairperson:** I think that is something that the Committee will obviously want to discuss in more detail.

6883. **Mr F McCann:** I know that you are trying to answer these questions to the best of your ability, and that is part of the general Bill process. However, there seems to be an implication that GPs cannot be trusted or believed when it comes to their own patients. The paper says that GPs are not the people best

placed to give an assessment. It says that GPs:

*"are not experts in disability assessment and, as advocates for their patients, are not best-placed to make an independent decision".*

6884. That is a broad swipe at GPs. I have dealt with quite a number of cases where GPs have been sent out to assess people who have disabilities and illnesses, and people have been turned down on the basis of GP reports. I cannot understand that, because people place a lot of trust in their GPs, more or less, and, when they get the medical evidence, they believe that that is sufficient to deal with it. That calls that all into question.

6885. **Ms M Campbell:** I think it is attempting to say that the GPs who are sent out by the Department to assess people have undergone training in what is required or in whatever benefit the person is being assessed for. GPs, in the main, do not have that training. Medical evidence is one element, but there are other factors to take into account.

6886. **Mr F McCann:** Let me give you an example. I dealt with a case about three months ago of a guy who has very severe spinal problems. The medical professional who did the assessment asked him to crouch down, and he was in agony and severe pain doing it, but the person would not accept that. It got to a stage where he fell over and lay on the ground. The man is in his 50s, and he started crying. The person would not even give him a hand up or help him out the door, and the guy was distressed.

6887. **Ms M Campbell:** That is a professional issue to be taken up under the terms of the contract.

6888. **Mr F McCann:** Tens of thousands of people have gone through the same thing.

6889. **Mr Pollock:** That is not the way the system should work.

6890. **Mr F McCann:** My point is that the system is completely flawed. There is clear evidence of it, and British Medical Association people have criticised it.

People have taken their own lives in England over this. That guy's doctor would have provided evidence to say that he was under severe stress, but that is not acceptable. It is more or less saying that the GP will take the patient's side. A person who assessed someone else who I have been dealing with was not trained up in anything but just got into the system and was getting the extra few quid on top of their money.

6891. **Ms M Campbell:** It is the Committee's decision whether or not it wishes to amend that, but the cost is —

6892. **The Deputy Chairperson:** In my experience over the years, I could never understand why GPs did not take a more active role, because they acquiesce to someone who does not know you from a bar of soap, sees you for 10 minutes and decides whether you are fit or not. That is another issue.

6893. I am conscious of time, and I think that everybody is starting to lose the will to live. We will concentrate on the Minister's proposed way forward, and we have dealt with the issue of mortgage interest in housing. There were pilot schemes, and the Minister said that he will write to Lord Freud, that oracle of knowledge about welfare reform, who presumably has the answer to all our problems.

6894. **Mr F McCann:** All our ills.

6895. **The Deputy Chairperson:** As long as Atos is not involved. The briefing states that the:

*"Minister notes the Committee's concerns and will write to Lord Freud, at final stage ... about including"*

6896. — the North —

*"in future pilots so that ... demographics can influence the application of learning."*

6897. The Committee felt — it came up in the last mandate, too — that pilot schemes carried out in the leafy suburbs of Oxfordshire, for instance, really have no relevance to north, west or east Belfast, Newry, Strabane, Derry or wherever. That was the issue because you may

- include them in the demographics, but, as we discussed earlier, if you take the underoccupancy in the North, circumstances here can be so different. The Housing Executive is carrying out a pilot scheme in Craigavon to encourage people to take in lodgers, for example. Therefore pilot schemes can be introduced selectively and when required if the Department, but not necessarily others — such as our good selves — feel that they may be needed. Perhaps you would cogitate on that, Martina, and come back to me. Is that OK?
6898. **Ms M Campbell:** OK.
6899. **The Deputy Chairperson:** Moving on, housing and underoccupancy have been —
6900. **Ms M Campbell:** Done to death.
6901. **The Deputy Chairperson:** Pensions have been dealt with as well, I think.
6902. The Minister said that the contracting-out clause was “primarily” an issue for DEL, and:
- “there are no plans to use this clause to privatise services currently delivered by the public sector”.*
6903. In 2007-08, we were told by a former Minister that privatisation would not come into being. We wanted to delete clause 16 in the original Bill because it dealt with privatisation, but we were told that that would not happen. I asked why it should be kept if it was not going to happen. However, it was kept and, about three or four weeks later, medical support services were privatised. Forgive me, therefore, if I am sceptical.
6904. **Ms M Campbell:** Yes, but this clause is only for DEL to contract out training schemes, and it contracts them to the voluntary and community sector as well.
6905. **The Deputy Chairperson:** The tip of the iceberg springs to mind.
6906. **Ms M Campbell:** I can never win with you, Mickey, can I? [Laughter.]
6907. **The Deputy Chairperson:** I have probably been around too long. I was born cynical, and I presume that I will die cynical.
6908. **Ms M Campbell:** Perhaps you will have a conversion on the road to Damascus.
6909. **The Deputy Chairperson:** I have been on a few roads to Damascus, I can tell you. [Laughter.] I have never been to Damascus, and I have no intention of going at this point in time —
6910. **Mr F McCann:** Damascus is lovely.
6911. **The Deputy Chairperson:** Damascus is in trouble at the moment.
6912. The 365-day time limit for employment and support allowance is provided for in clause 52. The Minister says that he shares our concerns but points out that the cost of not implementing this measure is “approximately £3 million per month”. He asks:
- “to discuss with the Committee the additional cost of extending the period of contribution-based ESA to more than 12 months before approaching the Executive”.*
6913. I presume that that will happen.
6914. **Mr Pollock:** It is up to the Committee to decide whether it wants to move an amendment.
6915. **The Deputy Chairperson:** We would need to talk to the Minister to find out what the possible cost implication of our doing that would be.
6916. **Mr Pollock:** In his “Proposed way forward” he talks about “£3 million per month” for 12 months, which is a considerable sum.
6917. **The Deputy Chairperson:** People may think that they have paid 30 years’ contributions and are getting only a year back. It cuts both ways, I suppose. However, I take your point.
6918. If no one has any questions, I will move to the provisions for youth claimants, under which we are talking about the replacement for the severe disablement allowance and the waiving of contributions, which is going to change. The Minister says:



- "There is an equality issue here in that no other contributory benefit waives its conditions of receipt for any other age or client group."*
6919. **That, however, flies in the face of what the severe disablement allowance was introduced for:** young people who would never work in normal circumstances because of their mental or physical disability.
6920. **Ms M Campbell:** However, they can still qualify for the income-related element. There are only two claimants in the entire live load that would not qualify for the income-related element because they have separate means, in the form of savings or a working partner.
6921. **The Deputy Chairperson:** I understand that. However, there are young people coming through and this will put that group into the larger group that will be assessed. That is my understanding. They will be assessed in the normal — if that is the right word — way that other claimants are.
6922. **Mr Pollock:** When you talk about equality, up until now they were treated more advantageously. This is just levelling the playing field.
6923. **The Deputy Chairperson:** The issue that members may have is that assessing those people under the ESA capability assessments could put them at a disadvantage if we are to go by evidence of what is happening with those assessments. Normally, if you were on severe disablement allowance, you were not assessed and did not have to go to be assessed.
6924. **Ms M Campbell:** Yes, but severe disablement allowance is gone.
6925. **The Deputy Chairperson:** Yes, but it was replaced by incapacity allowance; however, you did not have to satisfy the contribution conditions.
6926. **Ms M Campbell:** Yes.
6927. **The Deputy Chairperson:** Now, we are on to ESA for those young people.
6928. **Ms M Campbell:** And they still do not have to satisfy the income to declare.
6929. **The Deputy Chairperson:** Will they not be assimilated into the group that will be assessed as being capable or otherwise?
6930. **Mr Pollock:** No.
6931. **The Deputy Chairperson:** If you are talking about an equality issue and they have been outside the normal process, will they still be outside the normal process in not having to go through work capability assessments, for instance?
6932. **Mr Pollock:** I am not exactly sure where you are coming from on that, Mickey.
6933. **The Deputy Chairperson:** If someone is claiming ESA, the people who are being migrated across and coming on will eventually be assessed on whether they go into a work support group or otherwise.
6934. **Mr Pollock:** We are talking future-proofing there. They will be in universal credit. Are you talking about universal credit?
6935. **The Deputy Chairperson:** Yes, and will they not be assessed at some stage on their capability or otherwise?
6936. **Mr Pollock:** It depends on which grouping they fall into.
6937. **The Deputy Chairperson:** That is what I want to find out.
6938. **Mr Pollock:** If they were not capable of work, they would not be subject to —
6939. **The Deputy Chairperson:** The point is that they would have to be assessed. They will be assessed for that purpose in the way that other people in ESA are being assessed at the moment. The difficulty therein is how those people are assessed.
6940. **Ms M Campbell:** They must undergo the assessment at the minute. We will have to check that.
6941. **The Deputy Chairperson:** Will you check that?

6942. **Ms M Campbell:** I would say that even for contributory ESA, they have to undergo a work capability assessment.
6943. **The Deputy Chairperson:** Yes, but to date, they have not had to go through that because the contribution conditions have been waived because it replaced severe disablement allowance, which was there for a specific purpose. That is the point that I am trying to get across. It was recognised that those young people had lifelong chronic conditions: they will never be able to work.
6944. **Mr Pollock:** In that case, they would not be in a work-related activity group.
6945. **The Deputy Chairperson:** Will they be assessed? There are many people who should not be in work-related groups but who are because the assessment is flawed.
6946. **Mr Pollock:** You are talking about people coming forward. There will be transitional protection for anybody coming across.
6947. **The Deputy Chairperson:** I understand that, but will young people in that situation eventually be assessed? If that is the case, that is a major change for those young people.
6948. **Ms M Campbell:** We will have to check that.
6949. **The Deputy Chairperson:** The Minister does not believe that there is a strong enough case for making exceptions, which puts young people on the same foot. The idea of severe disablement allowance was that they would not be put on the same foot, so it gets away from that concept.
6950. I now turn to the personal independence payment (PIP). The Minister talked about welcoming the change to 13 weeks and he will continue to raise with the Department for Work and Pensions Ministers the issue of the number of claims here and the higher incidence of mental health here among claimants. I suppose that raising those issues and getting a response may be two different things.
6951. **Ms Jane Corderoy (Department for Social Development):** Originally, it was four weeks, and the Committee was keen that it should be extended.
6952. **The Deputy Chairperson:** That is a positive.
6953. **Ms Corderoy:** I think so, yes. There are still the 26 weeks in PIP for medical reasons and medical absence, but 13 weeks is now the standard period for temporary absence.
6954. **The Deputy Chairperson:** I came across a case where somebody who lived in the South, and who was getting a pension from the South, moved here and satisfied the health and residence conditions. However, they were told that because they have no insurance number, they cannot get attendance allowance. The reason that they will not get an insurance number is that they are not of working age. That is a complete anomaly in the system; I never came across it before. They satisfy all the other conditions, but you need an insurance number to get the benefit, and they will not be given one — I am checking it out at the moment — because they are of pension age and they are getting a pension from the South. Tenant's allowance and DLA are not means-tested, so you could be a lottery winner and still get then based on your medical condition. The anomaly is that they do not have [Interruption.]
6955. **Ms Corderoy:** I do not know.
6956. **The Deputy Chairperson:** That is the sort of thing that you might be faced with.
6957. The next issue is prisoners on remand. The paper states that the :  
*"Minister notes the Committee's concerns but believes that the policy intention to treat those people on remand or who have their conviction quashed in the same way as people are treated who go into hospital and that is a fair and equitable approach."*
6958. People in that situation may think that it is slightly different from hospital. Having visited Hydebank Wood with the Health Committee, I would rather be in hospital.

6959. **Ms Corderoy:** As you know, PIPs will be retained for 28 days, even if people are on remand. It is, again, about avoiding the duplication of provision.
6960. **The Deputy Chairperson:** Yes; that is what the Minister is saying. It is something for discussion.
6961. Moving swiftly on to the timing of the report to the Assembly, which is clause 88.
6962. **Ms Corderoy:** There is a long explanation for that. From initial reactions, we thought that that could have been done legislatively. However, we looked into the detail, particularly the Committee's concerns about people transferring from DLA to PIP not being caught in the analysis of the report. That very detailed explanation says that we are better off sticking with what we have at the moment because that is how we can —
6963. **The Deputy Chairperson:** We were told the same about the pension: the report would take two years or longer, or the stuff would not be available. However, the amendment was accepted for one year. It is more or less the same argument that is being put forward: that there is not enough evidence. Going from two years to one is something that the Committee will discuss. The idea is to get a report that will give some indication of how people are being affected in a shorter rather than a longer time. Due to the nature of the changeover from DLA to PIPs, particularly, and how people may be affected, that information should be available sooner rather than later.
6964. **Ms Corderoy:** A very minimal number of people here will move from DLA to PIPs. It will be difficult to assess the impact on those people, and whether they —
6965. **The Deputy Chairperson:** You are talking more about the logistics. At one stage, there was talk of doing 1,000 cases a week. I am not sure who came up with that. The number of people is 187,000. Children are not affected, but you are still talking about a huge number of people. Doing 1,000 a week would still take about four years. Martina's maths are better than mine, so she might help me out. You are saying that it is the logistics of the transfer.
6966. **Ms Corderoy:** Yes.
6967. **The Deputy Chairperson:** Perhaps that needs to be looked at, because it was not apparent in the response.
6968. **Ms Corderoy:** OK. When Mickey Kelly was here, he said that there will be ongoing analysis of the agency as it gets implemented and that there will be opportunity to amend as things go along.
6969. **Ms M Campbell:** Yes. I think that it can give that type of factual information, such as the number of people who have been assessed and the number who have been turned down. That is no issue. The Committee could have that any time it wanted. Changing the legislation to have the report after one year will not be to any advantage because, first, DWP will say that your sample size is too small and that therefore your evidence is null and void or not acceptable — or whatever the statistical term may be. Secondly, DWP will not have reached the point of doing its report, so it would not entertain any recommendations from us until such times as it has done its sampling.
6970. **The Deputy Chairperson:** With respect, we are talking about how this affects people here.
6971. **Ms M Campbell:** Absolutely.
6972. **The Deputy Chairperson:** The point of going through all this is that it is a devolved issue. What DWP wants to do with its statistics is, quite frankly, entirely up to it; what we are talking about is what pertains here and any report that the Assembly might have.
6973. One of the arguments about the changeover and DLA is that more people here qualify for the right reasons because of their disability. That is the issue. Therefore, as I say, what DWP wants to do with its statistics is entirely up to it. I am personally

- not that interested. However, I am certainly interested in what happens to the people here whom we represent, because it is our constituents who will be affected by this. That is the issue. I am not sure whether people agree or disagree with that point, but it is important to make it.
6974. **Mr Pollock:** On Martina's point about the statistics, there will be certain categories in the assessment criteria. Producing a report after, say, one year means that you will not necessarily have enough claims through the system to make a statistically valid judgement to adjust the criteria.
6975. **Ms Corderoy:** If we do a report after one year here, we will not catch anyone who has transferred from DLA to PIP; we will have only new PIP claimants. Therefore we will not have anything on how people here who are on DLA are affected by the transfer to PIP, because nobody will have gone through the process by that point.
6976. **The Deputy Chairperson:** Again, the logistics are that the changeover for people who have indefinite awards has been put back for 21 months.
6977. **Ms Corderoy:** Yes; the managed assessment.
6978. **The Deputy Chairperson:** Therefore presumably more people will have changed over from DLA to PIP during that time. Is that true?
6979. **Ms Corderoy:** Nobody will have done so.
6980. **The Deputy Chairperson:** Therefore it will not start then? I want to clarify this.
6981. **Ms Corderoy:** No; it will be only those who make new claims.
6982. **The Deputy Chairperson:** Therefore any report would have to start from the date on which people transferred over; it would be pointless otherwise. Therefore it would not start until 2015, which is when the changeover starts.
6983. **Ms M Campbell:** The changeover is not until October 2015.
6984. **The Deputy Chairperson:** Therefore you could not do a report until at least 2016 if you are going for a year.
6985. **Ms M Campbell:** Well, yes.
6986. **The Deputy Chairperson:** There would be no point. You would not have any stats, would you?
6987. **Ms M Campbell:** DWP is planning a report by 2014.
6988. **The Deputy Chairperson:** Because it started early.
6989. **Ms M Campbell:** Because it started before us.
6990. **The Deputy Chairperson:** For claimants this year.
6991. **Ms M Campbell:** Yes. However, we will only be starting the managed reassessment in October 2015.
6992. **The Deputy Chairperson:** Therefore the DWP report will be out earlier, and it will presumably be used for information purposes.
6993. **Ms M Campbell:** Yes.
6994. **The Deputy Chairperson:** Again, the Committee will consider that.
6995. **Ms P Bradley:** It would be good to have that for that purpose, in preparation for what is coming.
6996. **Ms M Campbell:** As far as I know, the agency would be able to give factual details of the number of new claims and assess the numbers applying, but it could not give you trends because there would not be sufficient numbers.
6997. **The Deputy Chairperson:** One of the things that it might highlight is the effectiveness or otherwise of the assessment. Although that will be done by a different company here, will it not?
6998. **Ms M Campbell:** Yes.
6999. **The Deputy Chairperson:** Capita. However, it would perhaps give a flavour of how people are affected.
7000. **Ms M Campbell:** You could probably draw inferences.

7001. **The Deputy Chairperson:** I am sure that you could if you really wanted.
7002. We will move on, before I draw any more inferences.
7003. The next issue is the recovery of benefit overpayments.
7004. **Ms Corderoy:** I think that Fra touched on that.
7005. **The Deputy Chairperson:** I think that Fra dealt with it fairly comprehensively.
7006. I think that we have dealt with sanctions as well.
7007. **Ms M Campbell:** Assembly control is the next one. The Ad Hoc Committee also made that recommendation. Again, the legislation allows for the first set of regulations to be by confirmatory resolution, which will be the debate six months after, as opposed to prior, which is the affirmative process. From your perspective, I suppose that one of the advantages of the confirmatory process is that you would have six months of constituents telling you what is happening. You could have a more informed debate.
7008. **The Deputy Chairperson:** Let us talk about the disadvantages, in that the regulations would be a fait accompli by the time we started to debate them. You might wonder how effective that might be. It seems to me that if you are introducing legislation as important and far-reaching as welfare reform, to debate it before it is laid might be advantageous to the people we represent.
7009. **Mr Pollock:** Historically, Northern Ireland would have adopted the confirmatory —
7010. **The Deputy Chairperson:** I understand that
7011. **Mr Pollock:** — because of the timing of the IT releases.
7012. **The Deputy Chairperson:** This is the biggest change since 1948, and it is a devolved matter. Being a devolved matter, I think that it is only right and proper — some members may disagree — that we should debate it before it is implemented. That might not be a bad thing. We get the chance to do that with other legislation.
7013. One of the issues in the Ad Hoc Committee — Paula can confirm this or otherwise — was about policy and what is perceived as a policy change. However, the issue there was who decides whether it is a policy change. That is why we felt that the use of affirmative rather than confirmatory resolution was appropriate.
7014. **Ms M Campbell:** We are pursuing that with the Office of the Legislative Counsel. We will come back to you on that.
7015. **The Deputy Chairperson:** What is the time frame?
7016. **Ms M Campbell:** Hopefully, I will get an answer for you next week.
7017. **The Deputy Chairperson:** I think that estimated costs were the next thing, but that is an issue to be discussed. We have already dealt with sanctions and fraud. On that note, thank you very much.



## 31 January 2013

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

### Witnesses:

Mr Nelson McCausland	<i>Minister for Social Development</i>
Ms Martina Campbell	<i>Department for Social Development</i>
Mr Michael Pollock	<i>Department for Social Development</i>
Mr Tommy O'Reilly	<i>Social Security Agency</i>

7018. **The Chairperson:** I formally welcome the Minister and his colleagues Tommy O'Reilly, Michael Pollock and Martina Campbell. In your papers, you will have responses from the Minister to issues that the Committee raised in its deliberations. It is our understanding that the Minister will be available for 45 minutes. That might have changed slightly, but I am not sure. I will hand the meeting over to you, Minister, so that you can go through your paper.

7019. **Mr Nelson McCausland (The Minister for Social Development):** Thank you, Chair. I have been able to push the next appointment back, so there will be a bit more time than just the 45 minutes. Thank you again for the opportunity to brief members on issues that you raised on the Welfare Reform Bill. As you are all aware, the Bill has been the subject of scrutiny by an Ad Hoc Committee on human rights and equality issues. That Committee has now reported, and there was a debate on that report on Tuesday. I was pleased to see the level of interest in these matters in the Assembly during Tuesday's debate. That demonstrates that, as an elected forum, all Members

are concerned for their constituents and, in particular, for vulnerable individuals right across our society. However, we have considered the Ad Hoc Committee's recommendations, and I now believe that we can move on to implement reform.

7020. Before the Ad Hoc Committee was established, this Committee did some very good work in scrutinising the Bill to ensure clarity of understanding and to put together some suggestions that members consider may be desirable to protect certain interests or to facilitate claimants as reforms are introduced. In some ways, things that were dealt with in the Ad Hoc Committee replicated many of the things that had been dealt with in this Committee.

7021. In that context, I think that it is most opportune to meet the Committee to go through the issues that you raised and to set out my position as Minister. That is because it is not possible to ignore the financial and logistical challenges that the reform agenda poses not just for benefit recipients but for wider society in Northern Ireland and, in particular, our public spending programmes.

7022. There has been much debate on parity, how it operates and what it means. Many of you have questioned the role of the Committee and, indeed, of the Assembly if we were to simply, as some people might say, parrot Westminster legislation. I assure you that that is not the case. Social security is a devolved matter for Northern Ireland, and, as Minister for Social Development, I intend to ensure that welfare reform is fit for purpose here. In that regard, I continue to work with ministerial counterparts across in Westminster to ensure that Northern Ireland's circumstances are being taken into account, that where we need operational flexibilities, we are afforded them, and that, where there

- are potential financial consequences, we secure the best possible deal for Northern Ireland.
7023. The constraints of parity are frequently cited, and I can say that they are both financial and operational. In essence, parity means that an individual here in Northern Ireland should receive the same level of benefit, subject to the same conditions, as an individual elsewhere in the UK. That is equality in practice, and I do not think anyone here could seriously object to it. It also means, however, that Northern Ireland is hugely dependent on the IT systems that are provided through the Department for Work and Pensions (DWP). If changes are being made to the overall system, Northern Ireland needs to tie in with IT release dates or we will incur costs that are associated with introducing changes at later dates. The costs that are associated with any such departure are very significant.
7024. As you will all know, the GB Welfare Reform Bill gained Royal Assent in March last year, and many of the changes that that legislation introduced are now being implemented. We have not yet finished our legislative process, which means that we are already lagging behind, and we are incurring additional costs either by having to implement clerical work rounds or to tailor IT solution.
7025. Any breach of parity in the rates of benefits that are paid and the conditions applying are concerned states that Westminster has the right to review funding. That is clearly set out in the statement of funding, and that position was reinforced recently in correspondence from Iain Duncan Smith.
7026. So, with that in mind, I am happy to move on to the issues paper, which my office issued on Monday, to try to get some sense of how we can move these matters forward. Officials are with me this morning and will be happy to provide further clarification on any of the details if necessary.
7027. Chair, I do not know whether you wish to handle the meeting by going through the various points in order.
7028. **The Chairperson:** Are members content for the Minister to go through the issues in order as they are in the paper?
7029. Members indicated assent.
7030. **Mr McCausland:** The first issue that you raised was on payments. It is listed as clause 2, but it refers to clause 99. I share the Committee's concerns about payment frequency and payment to a nominated person. As you are well aware, that is why I negotiated the flexibilities on those issues with Lord Freud. I accept that many claimants need more frequent payments and that, for some couples, a split payment may better serve their needs. I directed my officials to engage with members of the public and the voluntary and community sector to develop criteria for more flexible payment arrangements. That is out for consultation. There have been a number of consultation stakeholder events, and I attended a couple of them here at Parliament Buildings to hear the sort of feedback that is coming from different stakeholders.
7031. We need to be very clear that many of the claimants for universal credit will be in work and will be well used to managing their money on a monthly basis and/or the wages being paid to the main earner. That is their current practice and experience. The vast majority of claimants will be able to work with that proposed arrangement, because they have joint accounts or are financially capable of managing their household budget. However, a minority of claimants will have difficulties. There will be the flexibility to opt for either a split or a bimonthly payment. The current estimated cost of everyone receiving twice-monthly payments as the default position would cost in the region of an additional £24 million.
7032. I want to be clear about whether the Committee wishes me to explore with the Executive the need to spend £24 million from the Northern Ireland block

- to provide every claimant with payment choice and to have that as the default position. We should bear in mind that that will not result in one penny more going to the claimant. Alternatively, is the Committee content to see the outcome of the consultation on criteria for payments flexibility and then to allow claimants to have the choice on a case-by-case basis? If you go for the default position, there will be a cost of £24 million. I am not sure of the exact numbers, but many people will already be in a position where they do not require that, so we would be spending quite a few millions of pounds unnecessarily.
7033. From the consultation that we had and from the events that I attended, I got the impression that if the criteria were right and claimants were to have that choice on a case-by-case basis, it would ease their concerns.
7034. Do you want to pick up on that point?
7035. **The Chairperson:** That was an issue of concern to a lot of members, and you will be aware of that. Can you give the Committee any insight into the development of criteria?
7036. **Mr McCausland:** It is out to consultation at the moment. I am not sure about the stakeholder events.
7037. **Mr Tommy O'Reilly (Social Security Agency):** To date, we have had five public events, and we have a number of others planned. We also have an oversight group with representatives of different organisations and voluntary sector groups. They meet on a monthly basis to look at the criteria, and the proposal is that we will come back to the Committee some time over the next four to six weeks for a session to outline some of the initial thinking and to seek the Committee's views. That is the current proposal.
7038. We also recently took a paper on direct payments to landlords to the Executive subcommittee. So, it is very much a work in progress that will move forward over the next couple of months.
7039. **The Chairperson:** Thank you for that. How has the figure of £24 million been arrived at, given that the criteria have not yet been agreed and that Lord Freud and others said that we will have flexibility and can do all that? Where has that figure come from? How has it been quantified? I cannot understand.
7040. **Mr O'Reilly:** We are working on the basis that there would be an estimated 300,000 households in Northern Ireland that would all have the option of taking bimonthly payments and split payments. That number of 300,000 households was multiplied by the average number of hours that we estimate would be required to carry out functions such as decision-making, clerical workarounds, deductions, housing benefit and the validation of evidence.
7041. We would have to build a separate ICT system for Northern Ireland to do this. We would also have to take the core data from the GB universal credit model, extract them and drop them into an IT solution for Northern Ireland.
7042. That is the way that we are currently working. We have allocated a total of six hours for a case over a year and multiplied that by the total number of cases and the average rates. So, the operational cost of running that system works out at an additional £24 million for Northern Ireland. However, that it is an early estimate.
7043. **The Chairperson:** OK; thank you.
7044. **Mr Brady:** Thanks for your presentation. Client choice is already built into the tax credits IT system. You said that another IT system would need to be introduced to make bimonthly payments but that that would be extremely expensive. I also want to ask you about the figures, which, as the Chair said, are speculative, to say the least. In your briefing document, you stated that the cost will be based on:
- "full automation of payment arrangements with the clerical workarounds focusing on decision making, taking of claims, change of circumstances, dispute resolution and checking."*

7045. Claims, and so forth, are already an integral part of the system. That has to be done. So, would it not be more sensible to have an IT system that cuts out all that so that changes of circumstance could be automated? I cannot understand the rationale.
7046. If I were being cynical, which, of course, I am not, I might think that the reluctance to have another IT system might have something to do with the future privatisation of the payments of benefits. I would like the Minister to assure us that that is not a feature and that it has not been factored in to all this. That could be a reason for the reluctance.
7047. It seems worthwhile to have an IT system that is going to be effective in dealing with bimonthly, weekly or other payments. You would not then have all the added clerical work, which, according to you, is going to be much more expensive. So, I do not understand the rationale.
7048. **Mr O'Reilly:** Let me assure you that we are committed to developing an ICT system solution for Northern Ireland to deliver the flexibilities that the Minister outlined and that have been agreed with DWP. Work is in progress to take that forward, and we are also taking forward the development of the flexibilities criteria. It is not our intention to say that we are not doing the work; the work is going forward. We are trying to provide an estimate.
7049. If a couple decide they want to have a split payment, for example, the system will allow them to make a joint claim. The question then arises of who will receive the money and what allocation each partner should receive. Should they receive 50% or 60%, for example? How will that work if money is coming into the house or if deductions or overpayments need to be made? Furthermore, if they receive housing benefit, it will be paid on a monthly basis. We have to split that all down. We can do the calculations, but if there is no agreement between the couple about how that works, there will have to be some form of face-to-face intervention. If we are to protect families through the process, at some point the Department or some other body will have to make a decision about who the money should be paid to. So, we are trying to work through the processes and potential interventions and allocate an early estimate about the amount of time that it would take to do that in each case. That is what we have been asked to do. Given that we have not worked up all the flexibilities, that figure is only an early estimate. However, I take that point entirely.
7050. **Mr Brady:** I have two other points to make. First, you referred to exceptional circumstances where the criteria are concerned. Presumably, that will have to be decided on an objective basis.
7051. Secondly, on the payment arrangements, the Minister said that the majority of people on universal credit will be in work. We are really talking about people who will be on benefits. The whole idea of universal credit is that you go in one end on benefits and come out the other end in work. That is provided, of course, that there is a job for you, which, at the moment, is highly unlikely. The point of the frequency of payments, etc, is to protect people who are on benefits. If people go into work and are paid fortnightly or monthly, that is a different issue. Iain Duncan Smith said in the House of Commons that the reason they decided to go for monthly payments was to get people used to being paid monthly through a salary for when they eventually get a job. That is a different issue completely. We are talking about people on benefits who find it difficult to manage with weekly or fortnightly payments, without then having to wait for a month. That is the issue.
7052. **Mr McCausland:** I said that many universal credit claimants will be in work at the same time.
7053. **Mr Brady:** With respect, in the current circumstances, that is speculative, Minister. My constituency has some of the highest unemployment figures that it has had since 1995. Obviously, I hope that people will get jobs, but it

is speculative to say that the majority of people on universal credit will be in work. I think that that is wishful thinking.

7054. **Mr O'Reilly:** In one sense, it comes down to numbers. Over 200,000 people in Northern Ireland receive working tax credits and child tax credits and, at the moment, 95% of them are in work. They will all become customers of universal credit. So, in a sense, we are trying to deal with two different customer groups.
7055. **Mr Brady:** It comes back to the point that the reason why those people get working tax credit is because we live in a low-wage economy — [Inaudible due to mobile phone interference.] People also have the choice of having their tax credits paid fortnightly or monthly. That is part of the criteria whenever you claim tax credits; you are asked on the form whether you want to be paid fortnightly or monthly. It goes back to the original point: why can that not be followed through or factored in to the payment of universal credit?
7056. **Mr O'Reilly:** That is what we are trying to do at the moment. We are trying to develop the discussion about how we can take the best of the working tax credit arrangements and the best of the benefit system to provide the most flexibility for the people in Northern Ireland.
7057. **Mr Brady:** With respect, it is a simple enough argument. Working tax credit is part of the benefit system. It is a benefit to supplement low wages. What is the difference? It is a benefit and can be paid fortnightly. Why can universal credit, which is also a benefit, not be paid fortnightly? I cannot understand the rationale. It is differentiating between two benefits that are, technically, in the same system. HMRC administers tax credits, but, presumably, there is some coming together of minds when you are working out those systems.
7058. **Mr McCausland:** Martina wants to come in on that point.
7059. **Ms Martina Campbell (Department for Social Development):** There are two different IT systems. The IT system for

universal credit is a completely new system. DWP is taking over HMRC's customers.

7060. **Mr Brady:** With respect, when you are developing that new system, surely there is an opportunity to be innovative. Why can it not deal with how frequently a person is paid?
7061. **Ms M Campbell:** DWP is paying for the new system. The whole policy intent behind universal credit —
7062. **Mr Brady:** We are back to policy intention rather than the practicalities.
7063. **Ms M Campbell:** — is about getting people used to the world of work and to a monthly salary.
7064. **Mr Brady:** Nobody is denying that
7065. **Ms M Campbell:** We have been here before, Mickey.
7066. **The Chairperson:** I am very conscious that we are 20 minutes in and we have not got off the first issue. Other members want to raise issues. We are not going to make decisions on any of this, but it is important that we get clarity. I want to —
7067. **Mr McCausland:** Someone asked whether this is a clever plan to contract out or privatise. That is not the intention; no.
7068. **The Chairperson:** That is a helpful assurance. Thank you, Minister, for that.
7069. Before I ask anybody else to come in, I am getting elbowed here severely, because there is already serious interference with the recording system, and it is affecting Hansard. Can people switch their phones off? As I said, this is the worst room in the Building for telephone interference.
7070. Tommy referred a minute ago to the direct payments for housing benefit, and so on, but I understood that we were given very clear advice that the payments to landlords, and so on, would be paid directly by default. Is that the case? It does not sound like that to me now.



7071. **Mr McCausland:** That is not an issue. That is OK.
7072. **The Chairperson:** That is grand.
7073. **Mr G Campbell:** I want a bit more clarity on the cost. I know that we are in danger of running over our time, but I want to try to get my head around the implications. From what I can detect, the Committee and the Department are trying to achieve the same objective and may be looking at this from different perspectives as a glass-half-full or half-empty situation. I know that the overall objective is to try to prepare people for the world of work and to get them used to monthly accountability procedures and money in and money out, yet there is a hard core or nucleus of people, as yet numerically undetermined, who might find it difficult to make the transition to monthly management of accounts. I want to get my head around the numbers and the cost. The £24 million sounds to me like an extreme and absolute worst-case scenario if nobody avails themselves of monthly payments. I would have thought that that is extremely unlikely. If 200,000 people or thereabouts are working, I would have thought that a significant proportion will probably be content enough with monthly payments. Is that right?
7074. **Ms M Campbell:** We would make that assumption.
7075. **Mr G Campbell:** So, is it possible to get a more realistic assessment of the likely cost? That £24 million is the 100% worst-case scenario. Is the figure likely to be £15 million, £10 million or £18 million? Is it possible to determine that roughly?
7076. **Mr Michael Pollock (Department for Social Development):** The £24 million is the default position if everybody goes for it.
7077. **Mr G Campbell:** That is not likely to happen; that is what I mean.
7078. **Ms M Campbell:** That is what the Committee asked for.
7079. **Mr Pollock:** It is not likely to happen, but we are talking about potential amendments to the Bill. We are saying that you have to be aware of that if you are considering amending the relevant clause to say that everybody gets paid fortnightly.
7080. **Ms M Campbell:** The Minister has secured the facility for those people who wish to have a bimonthly or split payment.
7081. **Mr Pollock:** The functionality will be there, but there is a non-cost in the transaction cost —
7082. **The Chairperson:** Gregory is making the point that you have given a figure of £24 million if everybody takes the default position of the split payment. However, if people decide that they want to be paid every month and not every fortnight, that £24 million will, theoretically, come down.
7083. **Mr G Campbell:** Maybe my memory is faulty, but I thought that the Committee's position was that the default position should be fortnightly unless people specifically requested otherwise. The point that I am making is that people will specifically request otherwise, so the total cost is extremely unlikely to be £24 million. Even if it is £10 million or £12 million, I would still want to look at that. However, I want a reasonable guesstimate of the likely cost implication before we say that we are prepared or otherwise to bite the bullet. However, I do not like being asked to bite the bullet on a figure that we know is probably not realistic. If it is £15 million, I will say yes or no to that, but I do not like saying yes or no to a figure that everybody knows will not be the one that we will have to pay.
7084. **Mr McCausland:** Do we have any indication, Tommy, of the percentages that might be involved?
7085. **Mr O'Reilly:** Yes. We were asked to produce an initial cost on the basis of a default position of bimonthly payments to families. The working assumption on that was that, in the context that people were given a choice, they would

say, “I would rather have the money more frequently.” However, on the basis of 150,000, which is the figure that we worked on initially, it was coming out at an estimated £12 million for that level of usage. If we move to a default, where everyone would be given the opportunity, that would be the working circumstances. The costs that have been included in the pack were calculated on the basis of 100% take-up. We can flex that down to provide whatever level the Committee feels is a reasonable assumption. So, we can provide figures on the basis of 25%, 50% or 75% take-up.

7086. **The Chairperson:** Tommy, could I ask, with all due respect, that when we are being given figures, people actually qualify those figures? Could people actually say, “By the way, that is the maximum; it may not come in at that.”? When we get a figure in front of us in black and white, we have to take it at face value. However, when you delve into it, you see it is actually slightly different. I am just putting a marker down.
7087. **Mr O'Reilly:** Chair, that is fine.
7088. **The Chairperson:** I do not like that approach. Gregory, you were —
7089. **Mr G Campbell:** No. I am happy enough.
7090. **Mr F McCann:** I agree with you totally, Chair. A lot of stuff that we spoke about this morning is entirely speculative.
7091. There is a working group and meetings are taking place. If, at the end of the day, it came back and said that it believed that people wanted bimonthly payments, and given that it went through that exercise, would the Minister then advocate that regardless of the cost?
7092. **Mr McCausland:** Sorry. I was reading something. I missed that. Sorry. Say it again.
7093. **Mr F McCann:** You picked it up when I mentioned cost. [Laughter.]
7094. **Mr McCausland:** There was a silence.
7095. **Mr F McCann:** A consultation exercise is ongoing. A working group of sorts is sitting down and looking at those issues, one of which is about monthly or bimonthly payments. I take it that if it comes back and says that the results of its consultation are that bimonthly payments are the way to go and that a cost will come back, you would take the results of the survey as the position that you would run with regardless of costs.
7096. **Mr McCausland:** Ultimately, those things involve a political decision. You consult the stakeholders. You have got to balance it because people in stakeholder groups will not know whether we can afford £x million or however many million pounds the figure might be. Those are pragmatic decisions that, politically, we have to make in the Assembly. We look at the argument, the criteria and the cost alongside that if you apply those criteria. Until we get to that point and complete that, it is premature to come to a decision on it. We need to see what the criteria are and what the costs would be. Then, it is up to the Assembly to take a decision.
7097. **Mr F McCann:** This morning's conversation was all in the air of speculation. What I am saying is that it would be a wasted exercise if the consultation group was to come back with the idea that there should be bimonthly payments and you, as the Minister who has called it in the first place, do not support the results of the consultation.
7098. **Mr McCausland:** Well, now, people having consultations and automatically following what the consultation says is not always the case in politics.
7099. **Mr G Campbell:** As we found out.
7100. **Mr McCausland:** We will move on quickly.
7101. **The Chairperson:** OK. We need to let other people in. Michael is next, then Mark. Then, we need to move on to the next issue.
7102. **Mr Copeland:** Tommy, I apologise for going back to the £24 million again. I presume that that money would be broken down into that which is for some

- sort of hardware or software that might need to be purchased and that which is for man-hours, or woman-hours, as the case may be. Does that £24 million account for the recruitment of additional people for additional work or will that be done within the existing organisation?
7103. **Mr O'Reilly:** The current estimate is that additional resource would be required to run that aspect of the service.
7104. **Mr Copeland:** Is that on a once-only basis? How much of that is a once-only effort and how much is ongoing with regard to existing claims and new claims?
7105. **Mr O'Reilly:** At the moment, we are working on the basis that there would be additional running costs annually because those cases will require bimonthly interventions just to deal with the complexities of making payments and ensuring that they are right, accurate and on time.
7106. **Mr Copeland:** That would have to be done twice or month, or each —
7107. **Mr O'Reilly:** Again, the level of automation is something that we have to work through.
7108. **Mr Copeland:** How much of that would occasion spend on this side of the water? Is any of that included in the costs that we would have to pay because of work done on the mainland?
7109. **Mr O'Reilly:** The universal credit GB system works on a monthly assessment process, so it will calculate people's income and how much they are entitled to on a monthly basis. If we want to make payments on a fortnightly basis and split payments between couples, specific to Northern Ireland, we would have to pay the additional costs to do that. That is the estimated cost to meet that on a bimonthly basis in Northern Ireland.
7110. **Mr Copeland:** Are there estimated establishment and/or overhead charges included in that, above and beyond the man-hours or woman-hours involved?
7111. **Mr O'Reilly:** Sorry?
7112. **Mr Copeland:** The cost of doing something is whatever we have to pay the person to do it, but, above and beyond that, there are all the associated costs. I am just wondering how the £24 million is actually structured. Is it just based on man-hours?
7113. **Mr O'Reilly:** The way that we work in the agency is that we time each activity in the processing of claims, and we break that down. That takes a series of the normal activities that we have for the paying of benefits and allocates that time for it. To make bimonthly payments and split payments, we have allocated x number of hours in total, and then multiplied that by the staff numbers.
7114. **Mr Copeland:** Does the gross cost of the hours per person include —
7115. **Mr O'Reilly:** It is based on salary costs in Northern Ireland.
7116. **Mr Copeland:** But it does not include the overheads for the building, the heating, and so on?
7117. **Mr O'Reilly:** No.
7118. **Mr Durkan:** Thank you, Minister and officials. Of the approximately 200,000 people out of the 300,000 households who are in receipt of benefit but who are working, do we have any estimate of how many are in receipt of a monthly wage and how many are receiving weekly wages? I know that previous research indicated that those on lower wages are more likely to get paid weekly.
7119. **Mr O'Reilly:** About 55% of the current approximately 200,000 tax credit customers receive four-weekly payments under the working tax regime, and the remaining 45% receive them on a weekly basis. Under social security legislation, 99% of all social security claimants receive their payment on a fortnightly basis. There are three payment regimes in place within the social security tax credit regimes.
7120. **Mr Durkan:** Thank you, Tommy. I do appreciate that we are getting costs, at last, on which the decisions are going to be based, but you simply need greater

analysis of those costs. That is why I have been going on about the need for us to have access to the outline business case when we are going to be making decisions and, hopefully, amendments to the proposals.

7121. I attended the consultation event in my constituency. If the fortnightly payment does not become the default position but remains an option for people when necessary, we will, therefore, have to establish criteria for when it is necessary. Officials at that event mentioned that those who are deemed to be in need of fortnightly payments will then be subject to review to see whether they will ever graduate to monthly payments. I hope that people who are not deemed to need the twice-monthly payments will also be reviewed. How far would someone in receipt of a monthly payment have to fall in to debt for a fortnightly payment to be deemed necessary? Is there going to be a flag system?
7122. **Mr McCausland:** If there are criteria, and a person's circumstances change, the position would change, but we have not yet got to the point of seeing what the criteria will be.
7123. **Mr Durkan:** Their circumstances might not necessarily change. It might just be someone who cannot budget.
7124. **Mr McCausland:** Sure. If a person is getting into debt, that is one of the things that they would flag up to say that there is a need to do something.
7125. **Mrs Cochrane:** I have just a wee query. Are we talking about bimonthly payments or fortnightly payments? There is a difference. Some people are paid their benefits four-weekly at the moment, and salaries are maybe paid monthly. There could already be a change here that people will have to adapt to anyway. Will you clarify that? Fortnightly and bimonthly are talked about, but there is a difference of 26 payments or 24.
7126. **Mr O'Reilly:** That is correct in the sense that there is a lot of language around all these issues. In the benefit world, we talk about it as being a bimonthly

payment. Under the universal credit regime, we are moving to 12 payments over the year. Therefore, different arrangements would be on the basis of a bimonthly payment rather than a fortnightly payment. One of the problems is that, as happened over the Christmas holidays, we can have some technical issues with a small number of cases. The system did not recognise that last year was a leap year; therefore, it paid benefits early, in terms of the additional week. It is just the way that the system works with 26 fortnightly payments. The additional day threw it out as part of the cycle. So, we are working on the basis that universal credit will be a bimonthly system.

7127. **Mrs Cochrane:** So, are all people currently on benefits that they receive weekly or four-weekly going to experience a change anyway?
7128. **Mr O'Reilly:** Everyone will continue to receive their benefit payments under their current arrangements until they move to universal credit. That is when the new bimonthly or monthly arrangements will be explained to them.
7129. **Mr McCausland:** There was a second one —
7130. **The Chairperson:** Mindful of your time and when you might have to go, I suggest that we discuss housing, which is one of the big issues, particularly underoccupancy. Obviously, we can go through some of these things in more detail with your officials later. Are members content that we move to housing as the next item, and to other matters after that, should we have time?
7131. Members indicated assent.
7132. **Mr McCausland:** The first issue raised in regard to housing was underoccupancy and then there was the change in support for mortgage interest (SMI).
7133. I would not really support a proposal to depart from the GB policy on SMI. There has already been some movement from the UK Government in respect of support for mortgage interest

assistance. The qualifying period is to remain at 13 weeks instead of reverting to 39 weeks, and the capital limits are to remain at the higher level, so those are two changes that were introduced in the rest of the United Kingdom. I do not see the zero earnings limit and part-time workers as a particular problem here, simply because there is evidence that individuals with mortgage commitments will not accept part-time work. The advice from DWP is that the rules on tapers and disregards would, in any case — even were the changes made — ensure that an individual is not worse off through taking up part-time employment. That is my view on the SMI issue.

7134. I would certainly welcome the Committee's views on the underoccupancy provisions. On the face of it, there is nothing manifestly unfair about the proposal. It is not reasonable for taxpayers, through the benefit system, to subsidise individuals or households to live in accommodation that many households in work but on low incomes could not afford.
7135. Similarly, although I recognise the difficulty around segregated housing, which came up in the Assembly the other day, as a legacy of our past conflict, I do not consider that it would be acceptable for me, as an elected Minister, to use the segregated nature of our society as a reason to choose not to implement these provisions. The issue of underoccupancy and availability of smaller accommodation applies probably to a similar extent in both communities. I certainly encounter it across the board. Something that utilised blanket exemptions on this basis would surely be seen as perpetuating division. I do not think that is something that I, as Minister, or you, as the Statutory Committee, could be seen to endorse. I have commissioned some work to determine the actual scale of the issue in Northern Ireland. Although preliminary figures are available, it is premature to be alarmist. History dictates that many previous reforms on housing benefit, which had been heralded as

catastrophic before they came in, have not had the repercussions that were envisaged, including the dreaded shared-room rate that was hotly debated here before being introduced. However, the impact was not as great as some of the predictions at the time.

7136. I have also, in the past, mentioned discretionary housing payments by way of mitigation. Although Committee members are somewhat dismissive of that, I stress that significant amounts have been set aside specifically for those purposes, and I have no difficulty seeking additional discretionary housing payment assistance from DWP or the Treasury should the need arise. Work is ongoing on housing. We are getting a better sense of the market out there because of the work that has been done. There has been a particular focus with the Housing Executive and the housing associations on ensuring that there is a better provision of the right size of accommodation for smaller units. The Committee has brought some examples to my attention where additional smaller accommodation could be provided fairly readily.
7137. **The Chairperson:** OK, Minister. Thank you.
7138. **Mr F McCann:** Where, Minister?
7139. **Mr McCausland:** There is your own example. You talked about the block up at the hospital, which would be suitable for singles.
7140. **Mr F McCann:** It is in an atrocious condition.
7141. **Mr McCausland:** I know that, and that is why you would be giving the housing associations —
7142. **Mr F McCann:** About 6,000 people may be affected, but we are talking about no more than a couple of hundred units. We have also heard that, over the next three to five years, only 300 units will be built by housing associations that will take that into consideration. If you talk to the housing associations or the Housing Executive, they will tell you that it will be impossible for them to meet the



demands. I have serious difficulties with why segregation is not being considered. I pointed out that there are a number of areas — I can speak only for Belfast — where houses are lying empty. If people came along and put their names down on the transfer list, would you support them moving from, say, the New Lodge area into Tiger's Bay?

7143. **Mr McCausland:** I noticed that you asked the question about the number of properties in Tiger's Bay. Nobody will be moving into them. You could not even move people into them. Even the people in Tiger's Bay could not move into them.
7144. **Mr F McCann:** You used the blocks of flats at Broadway as an example. Therefore, you could use the same argument. I am trying to establish that there are more major differences in housing in certain areas of Belfast than there are in any part of England.
7145. The main thing is the whole question of discretionary payments. In some of the documents that I read recently, it is paid for 13 weeks at full rate, paid at 80% for the second 13 weeks, and after that there is nothing. Therefore, people will just go back to square one, and face debt, arrears and eviction.
7146. **Mr McCausland:** I will pick up on your first point about the underoccupancy issue. I noticed on TV this morning a report from Westminster yesterday — it could have been the Parliament channel — and that point was being made in England. The issue is certainly not unique to Northern Ireland; it applies elsewhere. The argument may be made that it is more acute in Northern Ireland, and that we do not have the right mix of smaller units. However, it was interesting to hear the number of people across the water who were saying that it is an issue for them as well. I am not arguing that we have got this right. Undoubtedly, a lot of work still has to be done on this. That is why I was disappointed last year when the social housing development programme came forward and no account was taken of welfare reform. That was wrong. Obviously, account should be taken of it in the nature of the

mix of properties that are being brought forward, and that had not been done. That is why, more recently, we had to call in the associations and the Housing Executive to talk to them about that.

7147. Some of the associations said that there are things that can be done and some are more proactive than others. However, this is not something that we are going to solve in six months or whatever; there are no quick fixes. I was just using the Broadway roundabout as an example. There are other examples of properties that are empty and which could be brought back into use and would be suitable for smaller units.
7148. **You are absolutely right:** to refurbish a block to make it fit for purpose takes time. It is not going to be a place into which you can move people instantly. If a housing association takes over the site, it will have to negotiate the finance and commission the work. We are talking about a significant period of time. I have no doubt about that; I realise that and accept it.
7149. This is a piece of work that will take some time. That is why, in the shorter term, there will be a significant reliance on discretionary housing payments.
7150. **Mr F McCann:** Six months. After that, nothing. I have another couple of points to make.
7151. It is crucial to this whole debate that the Bill will be in law sooner rather than later, if it is accepted by the Assembly. From that point, people will be eligible for those payments. By your own admittance, however, the properties are not available to deal with the demand. People are being charged for something that they have no way out of. In England, they had a year's run-through. By and large, people are being given a few weeks' run-through and they are going to be hit.
7152. My other question is about adaptations. Many adaptations are specifically tailored to the needs of one individual in the house. That individual is living in a three-bedroom house but is the only

- person living there. What happens in those circumstances?
7153. I read somewhere that where people are fostering children in the longer term, the foster child will not be taken into consideration when the number of rooms in the house is being looked at.
7154. **Mr McCausland:** It is a difficult one; there is no doubt about that. I am not saying that this is an easy thing to solve. It is going to take time and concentrated effort. We have inherited a housing mix in Northern Ireland; we cannot do anything about that, it is what we have got. We need to reshape that as we move forward to get a better mix of accommodation. I will ask Tommy to address the points about the discretionary housing payments in the shorter term.
7155. **Mr O'Reilly:** The housing market in general is at the core of the underoccupancy issue. There are issues around the age criteria in particular. When people are deemed to be underoccupying, the age of their children has to be considered. There are men who are single parents because their relationships have broken up and they want access to their children. There are issues about bringing them to homes that are houses in multiple occupancy. There are issues about disabled children. All those criteria are going to be affected by the current regulations. Further work needs to be done on those to understand their impact in Northern Ireland. That is work that the Department needs to do.
7156. **Mr Pollock:** That work is ongoing, as Tommy and the Minister rightly say. As the Minister said, this is a core issue as regards parity and the social security systems. Our concern, as the Minister said, is that these issues are not peculiar to Northern Ireland. From a social security system perspective, the parity issue — what you can pay for if you are eligible under housing benefit, or what housing costs you qualify for under universal credit — will apply. The mitigating factors and the issues around what you do for that are what the Minister was alluding to when he talked about the work and research that is ongoing on discretionary housing payments, the housing programme and the mix of social housing going forward.
7157. **Mr F McCann:** I have to say, it is amazing that you are actually speaking about what the Minister may be alluding to. You may sit at a certain level in the Department, but most of us around the table deal with the facts and the hard problems and difficulties that there may be. The Minister has already said that there is a big problem with the mix of housing here. By the time you get to that stage, how many people will have been evicted? How many people are going to have serious debt problems that they cannot get out of, before we even get to that stage? I have to say, Minister, with the shared-room allowance, we have not even reached the stage where we could quantify the problems and difficulties there are going to be. It is only in.
7158. **Ms M Campbell:** Michael and I have already given figures to show that the cost of underoccupancy is in the region of £17 million. That is based on the actual number of people underoccupying by one and two bedrooms. How that figure was worked out should be in the response.
7159. **Mr F McCann:** I have to say, Martina, that I have heard figures from £500 million to £300 million to £200 million to £50 million to £20 million. I am not too impressed when I hear figures being thrown out.
7160. **The Chairperson:** Could I make a suggestion? The ultimate consideration of the Committee has to be in the context of the Bill we are dealing with. Minister, you and your officials have delved into some of the underoccupancy issues, and a bit of work is going on, as you rightly said, around quantifying the volume of people who are currently underoccupying under the terms of the new legislation. I do not know how long that work will take. When we identify the full quantity, I do not know how long it will take to redress that, because, clearly, we do not have the mix. The

issue we have to deal with is that we have a Bill that we have to make a decision on. If the Bill is passed in its current form, we would have to deal with everybody currently deemed to be underoccupying, never mind the issues of the non-availability of other so-called appropriate accommodation and the segregated housing that we have across the North. How do we then deal with that? The discretionary payment is for only a limited time. It seems to me that people will end up having to rely on the discretionary payment. Where are the exemptions? Where are the criteria? We need to know. Obviously the Committee has taken a very firm view on that particular issue. We need to work out how that issue is going to be addressed by the Department. Under what we are being told at the minute, no criteria are being built in to exempt people because of the circumstances here. Where do we get any assurances on that? I have not heard anything yet. I appreciate that the quantitative work has to be done, but we are faced with the Bill, which will have an outcome the minute that it becomes legislation.

7161. **Mr McCausland:** Yes, the discretionary housing payment is for six months. However, my understanding is that, in circumstances where that needs to be extended, it could be extended.
7162. **The Chairperson:** But we do not know the circumstances.
7163. **Mr McCausland:** I appreciate that. A lot of those things will follow afterwards.
7164. It was interesting listening to David Cameron during Question Time yesterday, and the number of things about which he said, "That's something I'll have to look into." We are following on from GB.
7165. **The Chairperson:** Our problem is that we are passing enabling legislation. I cannot, in my mind, stand over something —
7166. **Mr McCausland:** I understand your point entirely. I understand the difficulty you are having, but I have the same difficulty. Things are being raised here, but we

do not know what the position across the water is going to be or whether we will be departing from that or not. It is problematic, undoubtedly.

7167. **The Chairperson:** That is fair enough.
7168. **Mr Brady:** I have two quick questions, Minister. We have been given figures about the cost of intervening in underoccupancy. Would it not be wise maybe to do something about the cost of non-intervention? People are going to be on the streets. There are going to be all sorts of problems. The point was made about the single-room rate. That has not been around long enough for any detailed analysis of the effects to have been done. Certainly, we were told by the Housing Executive that possibly up to 6,000 people a year could become homeless. That is something that needs to be looked at. The cost of non-intervention might be useful.
7169. The other thing is that you were, I have to say, dismissive of the idea that the zero-earnings rule would affect people here. Do you not think that, with an underlying principle of incentivising people to get work, to have something like this is bizarre to say the least? It flies in the face of the so-called policy's principle. With respect, in my opinion, you were dismissive of it. Do you not think it bizarre that you are trying to deal with stuff like this, which flies in the face of the underlying policy principle of getting people back to work?
7170. **Mr McCausland:** You raised a number of points. I will not take them in the same order, but in the order that I have jotted them down.
7171. You made a point about the single-room rate. I remember when David Freud was over at the Northern Ireland Council for Voluntary Action for a stakeholder meeting. Somebody said that all of the discretionary housing payment fund had been spent and that it had been taken up because of the single-room rate. I thought: "that is desperate to know; nobody told me." However, when I went back to the Department and checked, I found that there was adequate money

- in the discretionary housing payment fund. This is what happens. Somebody hears or imagines something. Clearly, the discretionary housing payment has managed to deal with that situation.
7172. All I am saying is that we do not yet fully know the impact of the single-room rate. However, it has not been as dire as some of the predictions. I am not aware of the extreme cases that were talked about at one time. That is why I am saying that we need to be cautious in the sort of predictions we make.
7173. A lot of the issues being raised here are not part of the actual Bill; they are part of the regulations. We are going to have to come back to the regulations, and a lot of issues will be revisited. When we come to revisit them, there will probably be a lot more information, because, as Michael said, all the work on housing, and so on, is ongoing in order to get a better sense of things.
7174. **Mr Brady:** Let me just say on that, Minister: the regulations flow from the enabling legislation. If it is flawed, by definition, the regulations will be flawed.
7175. **Mr McCausland:** If the legislation was flawed?
7176. **Mr Brady:** They are not being done in isolation; that is what I am saying. The regulations do not come along in isolation from the enabling Bill.
7177. **Mr McCausland:** No, but the nature, shape, character and content of the regulations is something that we will have to come back to. A lot of the issues we are dealing with today are really about the regulations. There will be another occasion when I am back here, going through the same issues, because they are much more about the regulations than the actual legislation.
7178. **Mr Brady:** Hopefully, there will be many occasions.
7179. **Mr McCausland:** I am glad that Mickey enjoys my visits.
7180. **Mr Brady:** Absolutely.
7181. **Mr O'Reilly:** Could I just go back to the question about the support for mortgage interest and the policy intent? The evidence to date suggests that, in the main, if people lose their employment and go on to benefits, SMI would kick in under universal credit. If they go into full-time work, they would be back to where they were, and, therefore, have the responsibility —
7182. **Mr Brady:** One hour a week.
7183. **Mr O'Reilly:** I will come back to that issue. If people are in full-time employment, they will be able to pay their mortgage in the way that they did prior to becoming unemployed. The question then arises: what happens if people become unemployed and then want to take up part-time work? That is the question you raised around SMI.
7184. Under the way that universal credit is set up, as people go into part-time work, the disregards that they get — the money that is taken from them for making additional income — are generous, on the basis that it gives people more money than they would get if they were on SMI. The tapers in disregards allow them to get sufficient money to start to pay off their mortgage. At the moment, we pay about £24 a week SMI, on average, for people who are on job seeker's allowance. The tapers and disregards will provide for that, as people increase their part-time working hours.
7185. **The evidence in Northern Ireland and in GB suggests that people with a mortgage do not go for part-time work:** they look for full-time work. They want to go back to work full time because the current system does not support them to do otherwise. So, we are trying to address the policy intent, but we are interested in finding a different way in order to make sure that people are protected.
7186. **Mr Brady:** Surely the whole concept is to ask people — force may be a better way to put it — to look for work.
7187. **Mr O'Reilly:** Yes.



7188. **Mr Brady:** So, the essence is that if people work one hour, they will lose their mortgage interest. You have talked about tapers, etc, and it is very complicated. It may be that someday, somewhere, somebody will be able to sit down and explain how they work. I have no doubt that somebody, somewhere, who thought them up is able to —
7189. **Mr O'Reilly:** I am happy to arrange that for you.
7190. **Mr Brady:** I am making the point that, at present, people see that if they work one hour, they will lose their support for mortgage interest. Therefore, there is a disincentive. That is the issue, because, by definition, it flies in the face of the underlying principle of incentivising people to work. Tommy, you probably understand tapers and all that a lot better than I do, and I am sure that some day we can sit down and you can explain them to me in detail. My point is that perception is everything: people see “one hour”, “lose support for mortgage interest”, and they say, “I am not going to go for that.” It is as simple as that.
7191. **Mr McCausland:** Tommy said that everybody acknowledges the complexity of this particular point. Again, it was one of the issues raised in Parliament yesterday. Even the people on television who deal with financial matters commented on the number of people writing in on that issue. Rather than rely on perceptions about it, we prefer that something be done to clarify and explain the point. The advice that we are getting from DWP is that an individual is not worse off through taking up part-time employment. If that is the case, let us get the facts out about that and, maybe, find some mechanism, which we can discuss, to get that clarity. Would that be helpful, Chair?
7192. **Mr Brady:** Maybe you should take your own advice, Minister.
7193. **Mr McCausland:** Sorry?
7194. **Mr Brady:** Take your own advice and not necessarily DWP's, because that does not seem to be working in this instance.
7195. **Mr McCausland:** I get advice sent across. I also get advice from all the officials in the Department. At the end of the day, the key thing is for us to get some structure, set up, or arrangement in place to get some clarity around this, if members consider doing so would be helpful.
7196. **The Chairperson:** OK; I think that that would be helpful. Thank you for that. I think that you will have to leave in five minutes or 10 at the most. So, members, may we move to the issue of sanctions?
7197. **Mr F McCann:** Chair, may I make just one point that goes to the very heart of discretionary payments? The discretionary money available depends on the time of the year you ask for it. As the year goes on, it runs out. We are talking about an increase in discretionary payments over the next three or four years, but it then drops back again. I want to make the point that the fund that is there will cover only the costs.
7198. **Mr McCausland:** Fra is totally right that this is interim. You are buying time. I would put it that you are buying time to get to the point where you have the right housing mix for the needs in Northern Ireland. We need to constantly challenge the Housing Executive and housing associations to step up to the mark over the next few years. If they do, there is no reason why work cannot be done to get things into a much better position over three years. Three to four years is a fair length of time. Done properly, the social housing development programme and other work will break the back of the problem. However, the challenge is there, and it is really over to the Housing Executive and housing associations to meet it.
7199. **The Chairperson:** Thank you for that. It is all good information, which we need. If you do not mind, we will deal with the issue of sanctions. Your papers refer to the case of someone being convicted of fraud, and the example was given of a sentence of 240 hours community service. That person would



not receive benefits for a further two and a half years. Most people would see that as unfair, and, more importantly, unsustainable for those in that position. How would they live? It would cause other problems. Perhaps you will deal with this in general or even specifically. It was an issue of key concern for members.

7200. **Mr McCausland:** There is an argument that changing the sanctions from what is currently proposed would dilute their overall effectiveness. I assure members that sanctions are not applied automatically. They are always considered on an individual, case-by-case basis. Where claimants can provide good reason and set out reasons why they have not complied with the requirements under their claimant commitment, no sanction would be applied.

7201. I am also looking at our monitoring information and will be considering with officials how I can be assured about the overall effectiveness of the sanctions. I will seek to ensure that we have the data available to take an informed view on these matters. Some members have raised the issue of childcare in this context. I assure them that a lack of quality, affordable and accessible childcare is seen as a good reason for not taking up work-related activity. Therefore, those individuals would not be subject to a sanction.

7202. We are talking about serious cases. Seriousness is defined as being cases involving over £50,000. I see the figures coming through for cases that have gone to court, and, off hand, I cannot think of anything of that scale in the past while; generally, it involves much smaller amounts. Fraud over a period of two years and fraud involving identity fraud is where someone has gone out wilfully and over a sustained period to cheat the system. It is when you get into the area of identity fraud, it is running for years and where a sentence is imposed of 12 months imprisonment or over. Even in the biggest cases that I have seen go to court, which involved tens of thousands of pounds, the penalty was far short of

what you mentioned. The sanction is there for really extreme and exceptional cases in which people go out of their way to defraud the system. We would all agree that you can see small cases, but this is serious stuff. The upper limit is reasonable for those extreme, exceptional and really serious cases.

7203. **Mr Brady:** Thanks for that, Minister. Tommy, to me, the application of the sanctions will, to a large extent, depend on the guidance. Over the years, my experience has been that the guidance must be right and it must be applied consistently.

7204. With respect, Minister, no one is trying to defend serial fraudsters of the social security system. There will always be people who will find ways of trying to do that. As I said, in my years of dealing with benefits, I only came across one case involving over £50,000. That was a long time ago, so a lot more money was involved proportionately.

7205. The guidance will be so important. One of the issues raised concerned childcare. In 2008, a previous Minister told us that people would not be sanctioned. I came across the case of a person who was threatened with sanction and withdrawal of benefit because suitable affordable childcare was not available. Due to our lack of childcare provision, that is very important, and we need reassurance for people about that.

7206. I think that the guidance and guidelines that are given to staff are important. Minister, you mentioned that staff will make informed decisions about good cause and what is reasonable in particular circumstances. That has to be done on an objective, individual basis for each claimant. That is because there will be people with mental health problems who may not have been diagnosed or whose condition may not be apparent, as well as those with all sorts of inherent problems that mean that they are not able to sign on, go to a job interview or whatever. I think that cases have to be dealt with sympathetically.

7207. The guidelines will be very important, and the staff on the front line will, ultimately, have to implement them. I think that we need to be reassured that targets will not be set for sanctions, which you said will not be automatic. Without being too sceptical, targets can be a big factor within the context of the Social Security Agency. I just wanted to raise that.
7208. **Mr McCausland:** First, on your point about vulnerable people who perhaps have mental health problems, I have had instances of such people coming into my constituency office, and I am sure that that is the case for you and other MLAs.
7209. On the assurance that you are seeking; this is not about penalising vulnerable people or whatever. The guidance given on this will have to take account of all these things. That is one of the things that we are very clear on. As I said earlier, we are looking with officials at monitoring and considering information. I need to be assured of the overall effect of this. We need to get it right. Work is still ongoing on that. Those are things that will come later.
7210. **Mr Brady:** Will the results of the monitoring — the number of people sanctioned; the type of sanction; and the reason they were sanctioned — be published on a regular basis?
7211. **Mr McCausland:** Why not? Yes.
7212. **Mr O'Reilly:** We will put arrangements in place to ensure that that happens.
7213. **Ms M Campbell:** I think that that is in the agency's standards assurance.
7214. **Mr Brady:** Finally, most Departments will do a risk assessment. In a sense, that falls into this. I am just wondering whether the Department has a risk assessment policy or strategy. If one is not already in place, will that be formulated and put into practice?
7215. **Mr O'Reilly:** For which aspect?
7216. **Mr Brady:** Will a risk assessment be done of who might or might not be impacted, the degree of risk involved and how people will be put at risk because of the implications of the Welfare Reform Bill?
7217. **Mr O'Reilly:** Currently, we carry out a fraud and error risk assessment to understand the range of individuals and types of groups who might be impacted by potential fraud and error. That will continue as part of the fraud and error strategy.
7218. **Mr McCausland:** We will come back to you on the guidance and go through that.
7219. **The Chairperson:** I think that the Minister's time is up. If that is the case, I want to thank you for being here this morning and for dealing with those issues as comprehensively as you and your officials did.



## 5 February 2013

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mrs Judith Cochrane  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

### Witnesses:

Ms Martina Campbell     *Department for Social*  
 Ms Jane Corderoy        *Development*  
 Mr Michael Pollock

7220. **The Chairperson:** We are just now opening our formal session, and I welcome everybody into the room this morning. I ask members to switch off all their phones, and so on, because this is the worst room for interference with the Hansard recording. Last week again we had a number of problems, and I have been advised by Hansard about how difficult that makes it to record these meetings properly.

7221. I also ask members to declare any interests relevant to today's agenda. None has been declared.

7222. We have an apology from Sammy Douglas; Mark Durkan has to be in the Chamber; and I think we have apologies from Michael Copeland as well.

7223. The substantive item today is the Welfare Reform Bill. The Committee heard from the Minister and his officials on the Committee's recommended proposals last week, and we also heard from the Clerk of Bills on the different options available to the Committee in respect of recommendations and amendments that members may wish to put. I suggest that today we consider the Minister's response and revisit the proposed amendments, if needs be. Copies of the Minister's response, the

amendments and a paper prepared by the Committee Clerk can be found in members' tabled items.

7224. We are here this morning to recommence our discussions around the Minister's response and to go over the options open to the Committee, with the focus on a series of recommendations that calls on the Minister to take the issues to the Executive for consideration. If the Committee is broadly in agreement with that approach, I suggest that we go through the Minister's paper to ensure that we are content with the way forward for each proposal and reflect on the issues that are non-cost-related. The Committee met in closed session and has had a brief discussion as to how we see the way forward. I suppose that, in essence, we want to consider whether we should deal with the report by way of going through the Bill as we do, clause by clause, and tabling any amendments that people want to put forward, or should we seek to reach a consensus report. I want to formally put that to the Committee. Is the Committee of a mind to seek a consensus report, as opposed to a report that will necessitate a range of amendments? Are members content that we seek to secure that?

*Members indicated assent.*

7225. **The Chairperson:** We will do that and, to facilitate it, we will go through the paperwork that has been provided to us. We had some limited discussions on it last week. In light of that, we propose to have our discussions on the papers that we have today, and then we will ask the officials to provide an updated paper to our meeting on Thursday. In other words, we will not be here tomorrow but we will return for a Committee meeting on Thursday morning. It should not be a lengthy Committee meeting on Thursday. We will resume meeting for the remainder of the days, if we need

- to, to consider an updated paper from officials.
7226. The main purpose of this is to try to reach a consensus report because, on a number of issues, members feel that they do not want to be restricted on some of the views that they might have on the basis that something may or may not break parity, or something may or may not cost something. We had a situation last week where we were told that something would cost us £24 million and, then, on questioning that figure, we were told that it might not cost that. I, for one, am not prepared to proceed on that kind of flawed basis.
7227. On the basis of that decision, the Committee will try to get a consensus report. We believe it will be a strong report and it will allow the Minister to go to the Executive on the basis that we have a twin pillars approach. On the one hand, we will seek flexibilities in the Bill, and on the other, we will look for mitigating measures that may or may not be taken by the Department or the Executive as a whole. We cannot guess what the Executive will do in their spending priorities. We cannot dictate that, and we are not privy to some of those discussions.
7228. On that basis, we will go through the papers that we have this morning. I will ask the Committee Clerk to take us through the first paper, and see where we are at on that.
7229. **The Committee Clerk:** Perhaps if we go through the Minister's paper first, members can make themselves fully aware of what has been suggested. As I indicated before, last week the Minister said that, where costs are attached, he will be content to take any recommendations that the Committee may have to the Executive for formal discussion and potential agreement. There were some issues last week that required clarification, particularly in relation to amendments 2 and 3.
7230. Would members like to have a look at the Minister's paper? It begins with "Issues/Topics". It starts with clauses — this was listed in the Committee's papers as clause 2, but it actually refers to clause 99. It relates to the twice-monthly payments being the default position. It would cost approximately £24 million if everyone were to take up the option.
7231. **The Chairperson:** This is the paper entitled annex 1, is that right?
7232. **The Committee Clerk:** Yes. "Annex 1" is in the top right-hand corner. Chair, if members are content with the information that they have on that particular clause, there are some issues around whether "fortnightly" is the same as "twice monthly", as you remember last week.
7233. **Ms Martina Campbell (Department for Social Development):** Yes. As it is a monthly payment now, it will not be quite fortnightly; it will be a bi-monthly payment, so it depends on the assessment. Tommy O'Reilly has offered to come to do a specific briefing on payments and the taper. I can arrange that, if members wish.
7234. **Mr Brady:** You are saying that the first payment has to be monthly.
7235. **Ms M Campbell:** It has to be monthly.
7236. **Mr Brady:** Then the IT system can be adjusted. Why can you not adjust the initial payment? If you are going to change the system, change the system. Presumably the agency is able to do that. It is only the logistics of it. I do not understand it.
7237. **Mr Michael Pollock (Department for Social Development):** I think it must be something to do with the software, Mickey.
7238. **Mr Brady:** It does not make sense. If you are going to pay it the following month fortnightly, bi-monthly or whatever, why not the first time? They also talk about exceptional circumstances. Who decides those?
7239. **Ms M Campbell:** The exceptional circumstances issue is out for consultation, so —



7240. **Mr Brady:** Yes, I think we heard that. I am still just a wee bit wary about that. That can be very subjective.
7241. **Ms M Campbell:** So, that will be decided by the decision-makers. Once the criteria and definition of “exceptional circumstances” are agreed, the agency will bring that work to the Committee. Once all that is agreed, the exceptional circumstances will be decided by the decision-makers.
7242. **Mr Brady:** If you have an IT system that pays bi-monthly, you would assume that that is put in place. You seem to be saying that you are putting in place a different one at the start, and then —
7243. **Ms M Campbell:** Yes, I get your —
7244. **Mr Brady:** I cannot imagine it being any cheaper to do it that way.
7245. **Mr Pollock:** It is probably something to do with the default position on the IT system in the rest of the UK, because the bulk of the payments would be monthly.
7246. **Mr Brady:** In a sense, they have an extra six months here to sort that out.
7247. **Mr Pollock:** I cannot remember the number of man days but it was something like 10,000 man days necessary just for essential variables for the Northern Ireland IT system, like our postcodes and things like that.
7248. **Mr Brady:** That sounds like the amount of time the Committee has spent on the Welfare Reform Bill.
7249. **Mr Pollock:** Pardon?
7250. **Mr Brady:** Ten thousand man hours.
7251. **Mr Pollock:** Something like that.
7252. **Ms M Campbell:** Join the club.
7253. **The Chairperson:** Before we go any further, I really do not want people telling me “it might be”. I cannot work on the basis of what might be. I am sorry, Michael, but —
7254. **Mr Pollock:** No, that is fair enough.
7255. **The Chairperson:** I know that you may be trying your best, but if somebody cannot tell me what will be or what will not be, I do not want to hear anything in the middle, because that does not mean anything to me. I cannot make a decision on what might be something, sorry.
7256. **Ms M Campbell:** Well —
7257. **The Chairperson:** I know what might happen as a result of a consultation on the universal credit and split payments. That will work its way out, so something might happen there. However, if someone comes here and tells me at this stage of the game, “Well, that might be because of”, I am sorry but I really do not want to hear that.
7258. **Ms M Campbell:** Actually, Chair, the second paragraph of the explanation under twice-monthly payments came from the agency. It says:
- “To be able to offer a twice monthly payment or split payment from the start of the claim DWP has advised will require significant changes to the ICT over and above that already agreed.”*
7259. If a split or bi-monthly payment is required from the start of the claim, that can be done clerically, but it cannot be done using the IT as it is structured at the moment, if that makes it any clearer.
7260. **Mr Brady:** Tommy O’Reilly mentioned six hours per claim.
7261. **Ms M Campbell:** Yes.
7262. **Mrs Cochrane:** What I picked up last week from Tommy was around the fact that a lot of benefits are currently paid fortnightly. Therefore, when you move to universal credit, because it will be paid monthly or twice monthly, you have to make that change initially. The issue seems to be that the initial change has to be made to make it be paid monthly, because it will be 24 payments in the year rather than 26 if it is being paid twice a month. So, there is an initial change for everybody, whether you will continue to have two payments in the month.

7263. **Mr Pollock:** That is our lay understanding, Chair, but we will clarify that for you. However, it is tied into the overall IT system and the fact that the bulk of the caseload, which is the whole of the UK, will be on monthly payments.
7264. **Ms M Campbell:** The best approach would be for me to ask the agency to attend on Thursday and clarify the position, because we are not close enough to that detail, if that is acceptable.
7265. **The Chairperson:** Bear in mind we were told that we were getting flexibilities, so I want to hear about the flexibilities.
7266. **Mr Brady:** I am sure that Judith knows more about computers than I ever will, but I just want to clarify about that first monthly payment made to people. There then has to be a decision made somewhere for somebody to be paid bi-monthly or fortnightly. I would be very wary about that happening seamlessly because a system will have to be put in place to accommodate those people who want to be paid bi-monthly as opposed to those who want to continue to be paid monthly. That just seems very complicated. I am sure that there is some computer-speak somewhere that says that it has to be done this way, which I would not necessarily agree with.
7267. I am just wondering, because the logistics of putting in those people who want to be paid bi-monthly — it seems to be a more complicated way of doing things than having the people who want to be paid monthly programmed in and those who want to be paid bi-monthly programmed in as well. There is almost a danger that someone who wants to be paid bi-monthly is going to just carry through, and you know as well as me that human nature being what it is, that is quite likely to happen to a number of people. The safeguards are maybe not necessarily as safe as they could be. I think that maybe clarification is needed on that.
7268. **Ms P Bradley:** I would prefer the default position for everybody to be bi-weekly rather than monthly. However, if this is the way it has to be, and if we accept that and everybody gets paid monthly from the beginning, I estimate — and I know that you do not want to hear estimates — that 90% of people are going to want it bi-monthly. That has to be done clerically — manually — by someone if they want it.
7269. **Ms M Campbell:** No. If everybody decides to go to bi-monthly, the agency is saying that that is more than what was agreed. What it has agreed is for a percentage of the caseload to go bi-monthly. Therefore, anything over and above that agreement would have to be done clerically because the IT system apparently cannot cope with that volume.
7270. **Ms P Bradley:** OK, and it will go over. We know that it will go over. It is not going to be the estimate that the agency agreed to, so the people who are over that have to do you know what. That could end up taking a very long time for a team of people to sit and do that manually. That in itself is another worry, with people asking to be paid bi-monthly and maybe having to wait a further six or eight weeks for that to be processed manually.
7271. **Ms M Campbell:** Yes, well, Tommy said six hours to do a clerical case. I am sorry, Chair, but we are not close to that detail, so I really think that the agency would be better placed to attend on Thursday and provide all that clarification.
7272. **Ms P Bradley:** They are going to be inundated.
7273. **Mr Pollock:** What we are getting is that you have concerns about the IT and people falling through and possibly having delays in their payments, and you want to try and get some sort of assurances about what safeguards are built into that system and, in particular, why someone has to go on monthly if, ultimately, they are going to be paid bi-monthly. Am I right?
7274. **Ms P Bradley:** I could accept everybody being paid monthly and that that is the default position if it was then easy for

everyone to move on to bi-weekly, if it was a smooth process and if it could be done before the end of the following month. However, I do not see how that is going to be a smooth process or be done in time. There will be people who will fall into financial hardship, there is no doubt about that. I could accept the proposal if we knew that it was going to be —

7275. **The Chairperson:** Yes, I can understand that. I am also mindful that we were told that the system has been deferred for a number of months to get it right. Now, it seems we are being told that actually it will not be right in the way in which you would see it as being right.

7276. **Mr F McCann:** Chair, Paula has covered much of what I was going to say.

7277. **Ms P Bradley:** You are joking, Fra.

7278. **The Chairperson:** It is not necessary to report all that.

7279. **Mr F McCann:** Every time we discuss this we get more and more confusion about the thing. When we were debating it, we were fairly clear in our minds what we were asking to be done. When the Minister came back and said that he had flexibility with this, it seemed to fit with what we had argued that we wanted done, but it actually does not. It is going to be much more complicated for people to work the system. The flexibility seems to be designed more to frighten people off from asking for bi-monthly payments, as it might mean they have to wait longer to get their money, and, as Paula said, they may fall into debt waiting for that to happen. People talked about that, and Alec raised the point about making the system ready to deal with that flexibility. The system is not ready, and it will never be ready to deal with the bi-monthly payments we have asked for. In fact, people will nearly have to withdraw from the system to have their benefits paid, rather than being part of a system that has been set up.

7280. **Mr Pollock:** We should certainly be able to get some assurances as to processes and what will happen and when. Essentially, IT systems are fairly

rigid: if you tell them to do A they will do A and if you tell them to do B they will do B. The Minister pointed out that there is a cost attached to getting a system to be able to do both A and B. That is maybe where the Committee has some reservations as to how flexible the system will be.

7281. **Mr F McCann:** What really gets me — Mickey constantly raises this issue — is the computer system that was put in place to deal with child support and the hundreds of millions of pounds that were spent on it. I take it that there has been a huge cost for a modern new system. When I lift my phone and turn it on, I can talk to it. It does not always listen to me, but I can talk to it and tell it what to do. I am amazed that people spend hundreds of millions of pounds on a system, yet they cannot press a button to change it to twice weekly or say to it that we want to operate the thing. It just amazes me that that amount of money can be spent on a computer system, but it cannot be adjusted to do that.

7282. **Mr Brady:** I just want to make the point, Chair — and I am sure that we are all aware — that when pension credit was centralised and transferred to Derry it took three years to get it working any way properly. They were bussing civil servants in from all over the place. There were people coming from the Plaza, Newry and all sorts of places, being put up in Derry over the weekend and working Saturdays and Sundays. It still took three years to get it right. You have that in the back of your mind.

7283. And yet pension credit was one benefit, which was probably relatively straightforward. All it does is make a change for relatively small numbers of people over 60. Universal credit is going to involve huge numbers — you are talking about something like 300,000 — and it is a much more complicated benefit than pension credit.

7284. Michael, you said you press a button to do B, but in pension credit they must have pressed Z, because it took them three years.

7285. **Mr Pollock:** I take your point, Mickey. However, you will hear about the exceptions and the people who fall through the net.
7286. **The Chairperson:** I actually think that we are now starting to the job of IT experts and everybody else. We need to be very careful.
7287. **Ms Brown:** We are talking about bi-monthly payments. The estimated annual cost is in and around £24 million, although we are not sure about the accuracy of that amount. If an individual opts for a bi-monthly payment, it will take six man hours per person or per case to do that. I do not know whether we have a percentage of how many people are going to request bi-monthly payments, but if it is in the region — the consultation is coming back about 80%. Do we have a cost of how much it will cost us to move that 80% times the six man hours per case? What is the estimated cost for making that the default position?
7288. **Ms M Campbell:** As I understand the position, the six hours apply when payments have to be made clerically if a person wants bi-monthly payments from the first payment. The clerical workaround for that is six hours.
7289. The agency has not given us an estimate for the best case scenario. The worst case scenario is that all payments will be made bi-monthly, and the agency estimated the cost of that to be £24 million. I think that the agency is still working on the best case scenario, which is that 150,000 will require bi-monthly payments, which is roughly half the caseload. I will seek to have that information for the Committee on Thursday.
7290. **The Chairperson:** Thank you for that, Martina. That brings me back to the point that we have had a position from the outset of wanting split payments to be facilitated, and we have outlined all the arguments for that.
7291. I am being generous when I say that we are still working on estimates, guesstimates and worst case scenarios,

and I understand all the reasons for that. However, by the same token, theoretically, we will be asked to agree to accept something on the basis that it might cost this and might not cost that, plus the fact that a very important consultation is ongoing on the very issue of split payments. The most generous description that I can find is that this is a work in progress.

7292. I think that the Committee would be wise to stick to its original agreed position of wanting the Department and the Bill to facilitate split payments. The precise details of that and the associated costs are matters that will need to be deliberated on and decided further down the track. Why should I come down on one side or other of the argument when I do not yet have all the information? I would like us to stick with the position that we agreed initially. It seemed to make sense, and we are trying to work on that basis. If there is to be a cost attached, whether to a worst case scenario or a less worse case scenario, that is not a decision that we can take. Once the consultation is completed, the Executive will look at that, and they will get the costs associated with any split payment criteria. At best, I am being asked to make a decision without having most of the really pertinent information.
7293. At this stage of the game, I think that the Committee would be wise to stick with its original position. That is a decision that we will have to consider. That is part of the thinking behind us reaching a consensus report rather than making amendments, particularly when those amendments would be premature to say the least.
7294. **The Committee Clerk:** Chair, the Committee had an issue with split payments last week. Patricia, you referred to it last week, and I just want to remind members about it.
7295. **The Clerk of Bills:** The Committee wanted to explore amendment Nos 2 and 3. These deal with a situation in which, for example, one party is in paid employment and the payment

is to be made to the other party, the claimant, and all other payments are to be made through a split payment. Clause 99 already contains regulation-making powers that could give effect to those intentions, if that is where the Committee intended to go on the basis of an amendment. Clause 99 allows for split payments and for payments to be made to a nominated person who, in the Committee's words, could be the main carer or second earner. That is how it is currently drafted.

7296. What the Committee asked for was much more specific. Last week, I drew to your attention the fact that, to be much more specific than what is already in the Bill, you would need to think a bit more about the definitions. It would be up to the Committee to accept that the Bill already includes such regulation-making powers and, for example, seek clarifications or recommendations. Alternatively, if you were to decide that you wanted to be much more specific, when you talk about one person being in paid employment, you need to be clear about whether you are talking about just one party to a couple who is in either part-time or full-time employment and the other party not having any employment. If it were to be drafted like that, it would cover only that group of people. If you want to be more specific than that, the regulation will be very detailed. In some ways, that is why these things are done by regulation, because — *[Inaudible.]* — policy and regulation-making power and then the — *[Inaudible.]* — brought back to consider at a later date.
7297. The other point is that, as drafted, all other employment payments would be split. It is extremely specific. I draw to your attention — *[Inaudible.]* — if you want to be that specific — *[Inaudible.]* — acknowledge that there are regulation-making powers in the Bill. You could clearly specify, for example, by recommendation, what you would like the regulation-making powers to do rather than trying to legislate and define things that would be extremely difficult to define.

7298. **The Chairperson:** That points to the need to consider the outworking of the consultation. We cannot bypass that. We have to bear in mind that the consultation goes out to all the key stakeholders. The Committee's very strong view was that split payments need to be facilitated. The precise nature of that will come down at some point to specific amendments in the Assembly. You are saying that the Committee amendment might actually be too prescriptive; that it is a good idea, but maybe we have not used precisely the right wording. The Committee was very clearly of the view that it wanted split payments to be facilitated for a whole range of reasons. I am not asking you to agree all of this formally now, but I presume that this is what the Committee is still minded to see.
7299. **Ms P Bradley:** If I had to list my priorities, split payments would be near the top. However, I do not want us to get tied in to this amendment, with the result that other vulnerable people will be affected by a rule that we have made. I am in full agreement with what you said.
7300. **The Chairperson:** OK. On that basis, we will move on to the next item.
7301. **The Committee Clerk:** The next issue raised concerns the claimant commitment. There are no associated costs, but the Minister did not consider that legislative change was appropriate. I just want to see whether the Committee can indicate how it wants to move forward. The Committee will recall that this relates to a situation in which, in a joint claim, one person refuses to sign.
7302. **The Chairperson:** The Committee felt that it was very unreasonable that, if one person refused to sign a commitment, the whole family was penalised. A cooling-off period is provided for, but nothing after that. Have I remembered that correctly?
7303. **Ms M Campbell:** Yes, there is a cooling-off period.
7304. **The Chairperson:** And then nothing?



7305. **Ms M Campbell:** Not until the claimant comes back to the agency, and it would be a new claim at that stage.
7306. **The Chairperson:** Yes, but it is our understanding that there is a cooling-off period and then —
7307. **Ms M Campbell:** That is it. After that, they are off the books.
7308. **The Chairperson:** So the claim just dies a death and is off the books. The Committee felt that this was not reasonable at all. There needs to be a solution to that. The Committee's view remains that this is not a reasonable or sustainable position.
7309. **Ms P Bradley:** I suppose that all these issues are priorities, and this is another one. My only concern, which was brought up last week, is about opening up the system to false claims. That could easily happen, so this needs to be tweaked in some way. I agree that we cannot leave the most vulnerable without money. Whether it is for 24 hours or longer, it is too long. If a female comes in with her children, and her partner has not signed the commitment, what else is in place?
7310. **Ms M Campbell:** If the unwilling partner does not sign the claimant commitment, nothing else is available.
7311. **Ms P Bradley:** In that case, we may need to look at making available another fund rather than people having to make a separate claim, which would be open to fraud. Another option may be to have a separate fund for use in such situations. I do not know whether that may be a way round it.
7312. **The Chairperson:** Remember that members' tabled items include options for the Committee. Paula, you suggest a separate fund. We can recommend anything, including that this situation needs to be sorted out or there must be some means by which vulnerable people are not left penniless. We can table something. I think that the Committee —
7313. **Ms P Bradley:** We cannot leave these people without anything.
7314. **The Chairperson:** — seems to be of the view that, in the event of one person in a couple deciding that he or she is not going to bother their backside to sign, for whatever reason — they could be vulnerable for all we know— it is not reasonable to penalise the whole family. Everybody has accepted that that cannot be allowed to pertain. So our recommendation could be as simple as, "Go and find a solution", "Make a fund available", or whatever. However, this certainly has to be resolved. I do not know the answer, but it seems ridiculous to leave it as is.
7315. **Mr F McCann:** I find myself agreeing with a lot of what Paula has said this morning. A key point that she raised was the time that elapses between a person refusing to sign the declaration and a family even being eligible for the hardship fund. It is about trying to narrow that gap. If a family member says, "That does not represent me; I want to put in a claim in my own right", it needs to be dealt with. It cannot be put back. One difficulty with crisis loans is that some people have had to wait for a certain period to elapse from the time of application before being offered such a loan. We need to look at that intervening period.
7316. **Ms P Bradley:** I know that we discussed this last week, and I do not want to go over it all again. However, the fact that somebody is applying, whether to a fund or through a fresh application, they would have been getting that money anyway if their partner had agreed to sign. It does not cost more because it is money to which they would have been entitled anyway. Therefore, this would not be a big financial burden.
7317. **Mr Brady:** Following on from what Paula said, I just want to clarify that nothing at all is available in the cooling-off period, so people will be left without anything. Even if it were the case that hardship payments were made available, unlike current hardship payments, they would be recoverable from benefit, so the person would still be penalised.

7318. **Ms P Bradley:** That cannot be a hardship payment.
7319. **Mr Brady:** Paula's other point was about this leading to fraud. In my experience, people who are going to commit fraud will do so anyway. In those cases, it would be much easier to follow up on the possibility of fraud or alleged fraud. For instance, when the female partner claims separately, I imagine that the Department's follow-up enquiries would be fairly rigorous. That is because, over the years, one of the hardest things to prove was that couples who claimed separately were living together. From a fraud perspective, you would nearly have to sit outside their door for 24 hours a day, seven days a week, because they would have children in common, access and visiting rights, and so on. It would be more difficult, in a sense, to commit fraud, so something has to be put in place, which follows on from what you said, Paula. I am starting to agree with you.
7320. **Ms P Bradley:** This is really bad, Chair. *[Laughter.]*
7321. **The Chairperson:** That is what consensus is all about.
7322. **Ms P Bradley:** Let us see how far we get.
7323. **The Chairperson:** We are not doing too badly. The next item on our list is third-party verification. Again, this should have been relatively simple, should it not?
7324. **The Committee Clerk:** Yes, Chair. The Minister said that he would provide an assurance that the current practice of allowing third-party verification would, in effect, continue. I do not think that there is an issue for the Committee, other than it may want to acknowledge or welcome that.
7325. **Ms P Bradley:** I would like to welcome it.
7326. **The Chairperson:** OK, is that fair enough?  
*Members indicated assent.*
7327. **The Chairperson:** We move on to the issue of 16- to 17-year-olds registered in training but not placed. Is that all right?
7328. **Ms M Campbell:** Sorry, Chair, I cannot remember whether it was you or the Deputy Chair who asked last week for more information on that from the Department for Employment and Learning (DEL). We expect to receive information on the numbers that might apply later today. DEL assured us that it was not aware of any 16- to 17-year-olds waiting for a training place. We are confirming that that is still the position.
7329. **Mr Brady:** Chair, may I just clarify something? When children come out of care at, say 16, normally, social services still have the duty of care — Paula can correct me if I am wrong. The paper states:  
  
*"Under this clause as an under-18 year old care leaver cannot qualify for Universal Credit unless they are part of a benefit unit with responsibility for a child (either as a lone parent or as part of a couple) or a limited capability for work or work related activities recipient. Care leavers cannot qualify on the grounds that they are without parental support or pregnancy post-confinement/or as a carer."*
7330. Currently, if someone under the age of 18 is estranged from the family home and claiming benefit, does that mean that they do not qualify?
7331. **Ms M Campbell:** There are exceptions in the regulations for those people.
7332. **Mr Brady:** So they will be covered?
7333. **Ms M Campbell:** Yes, they will be covered.
7334. **Mr Brady:** For children coming out of care, usually social services —
7335. **Ms M Campbell:** Social services should pick up the tab in that situation.
7336. **Mr Brady:** That is what the Minister means by changing the social security system.
7337. **Ms M Campbell:** Yes.
7338. **Mr Brady:** Hardship payments were made in 413 cases. Were those social fund crisis loans?
7339. **Ms M Campbell:** No, those were jobseeker's allowance (JSA) hardship

- payments, which cover people over that age as well.
7340. **Mr Brady:** Would that have been recoverable from benefit?
7341. **Ms M Campbell:** I am not sure about that.
7342. **Mr Pollock:** Not previously, but I think that it would be under the new system.
7343. **Mr Brady:** That is the issue: again, they are being penalised.
7344. **Mr Pollock:** It is a hardship payment. It is not a penalty as such.
7345. **Mr Brady:** That is OK. Thanks.
7346. **The Chairperson:** Are we happy enough with the explanation given and the situation that it provides for?
7347. **Mr Brady:** The issue was to do with youngsters who fall outside the normal criteria. Michael, you said that, under the present system, a hardship payment is not recoverable. In the new system, however, it seems that some young people will be put below subsistence level.
7348. **The Chairperson:** What do we want to do with this item?
7349. **Mr Brady:** We need clarification. Martina said that, currently, those 413 claims are under JSA and not recoverable. In my experience, there will always be children who fall outside that. Not too many, it has to be said, but you will get children who are not in the parental home or, having come out of care, are on a training course or a waiting list for courses.
7350. **Mr Pollock:** As Martina said, the indication from DEL is that very few would be affected by this, but we are trying to get the exact numbers.
7351. **Mr Brady:** The point that I am making is this: we still have a duty of care to help even a small number of children in those circumstances. They are probably the most vulnerable, or more vulnerable than most. If those numbers could be obtained —
7352. **The Chairperson:** Do you think that you will have those figures this afternoon?
7353. **Ms M Campbell:** We hope to get a response from DEL today.
7354. **The Chairperson:** Ok. We will move on. The next item is restrictions on entitlement. Are members content with the response?
7355. **Mr Brady:** May I have clarification? Essentially, does that mean that, if a claim is for less than seven days, the benefit will not be paid, but the person will be notified of an underlying entitlement?
7356. **Ms M Campbell:** Yes.
7357. **Mr Brady:** That could be six days. There are three waiting days.
7358. **Ms M Campbell:** It would be four days.
7359. **Mr Brady:** Four, sorry, because there are three waiting days. That is all that someone would have to live on for that period.
7360. **Mr F McCann:** I am being a bit flippant, but, if someone ended up owing six days' benefit, would the agency let that go because the cost of collecting it may be prohibitive?
7361. **Ms M Campbell:** Sorry, if a person owed six days' benefit? Oh, no, I take that back. I misheard.
7362. **The Chairperson:** The Committee sought assurances from the Minister on whether that would affect passported benefits and was told that it would not.
7363. **Mr F McCann:** It still seems an unfair situation if people are owed money. As I said before, the money used to be measured down to the penny.
7364. **The Chairperson:** I understand. There are two issues. The first is the loss of benefit for those three or four days. Martina, you are saying that it would be for four days. The second issue is whether that would impact on passported benefits, and we do not know. Fra, I presume that this does not change your first concern but does change your second. Are members satisfied with the response to the

passported benefit issue? Will we welcome that reassurance?

7365. **Mr F McCann:** Yes.

7366. **The Chairperson:** We will come back to the loss of payment for three or four days. Is that fair enough?

*Members indicated assent.*

7367. We now turn to clause 10, “Responsibility for children and young persons”. We are told that this is a parity issue and that the potential cost of the proposed change is £11 million a year.

7368. **Mr Brady:** The Minister has asked whether the Committee wants to pursue this. I would have thought that disabled children were among the most vulnerable of those who will be affected, so I think that it is worth discussing.

7369. **The Chairperson:** This is in line with our earlier decision to ask the Minister to take to the Executive anything that carries a cost. The decision for us to make is simply whether the Committee would still prefer that lower payments were not made. We will put that to the Minister, and it will be forwarded to the Executive. Subject to what comes out of that, it will be up to Members and parties to make a decision at Further Consideration Stage. However, we would still like the position to be that those people will not be disadvantaged in the way that has been described. Are members happy enough to move forward on that basis?

*Members indicated assent.*

7370. **The Committee Clerk:** I know that it is difficult to distinguish between what is and what is not a priority for the Committee, but it would probably help the Minister if the Committee, when issuing a series of recommendations, indicated what exactly are the priorities as the Committee sees them: for example, whether disabled children are a key priority as opposed to split payments. I know that it is difficult to decide between two different animals, but it would be helpful to the Minister

and the Executive if the Committee could do that.

7371. **The Chairperson:** We would probably be better doing that when we have decided on all our recommendations. We could then decide whether we needed or wished to weight any of them.

7372. **Mr F McCann:** I do not expect the officials to be able to answer this question, but is there a definition of “greatest need”? Who determines that when dealing with people, including children, with disabilities?

7373. **Mr Pollock:** Fra, that is, in a sense, down to the Programme for Government and the Executive’s priorities.

7374. **Mr F McCann:** Ministers will not define “greatest need” when it comes to disability. Will somebody with the relevant experience sit down to do that? All we have been told about is the split between the two rates: over 8,000 people will be on the lower rate, 7,500 will be on the higher rate and any money saved will go to those in most need. How do you determine who is in most need?

7375. **Ms M Campbell:** The eligibility for the disabled child additions is linked to the rate of disability living allowance (DLA) that the child is getting. The definition of “severely disabled” or the degree of disablement will be determined in that mechanism. The coalition Government are saying that, in directing resources to those in greatest need, 6,000 children will receive more under this measure. They feel that that is right and proper because those children are the most severely disabled.

7376. **Mr F McCann:** Nearly 8,000 people, however, will receive less.

7377. **Ms M Campbell:** That is true.

7378. **Mr F McCann:** That is what I am asking: how do you determine —

7379. **Ms M Campbell:** That is linked to their rate of DLA.

7380. **Mr Pollock:** It is their current entitlement.

7381. **Mr F McCann:** Is it a box-ticking exercise, or is it based purely on medical evidence that may be provided?

7382. **Ms M Campbell:** It is based on their assessment for DLA. Do you know what that assessment is?

7383. **Mr F McCann:** So it is a box-ticking exercise that determines their disability. I am talking about the assessment.

7384. **Mr Pollock:** It will be down to their current entitlement.

7385. **Mr F McCann:** I know that you probably do not have the details, but the system seems totally unfair. They say that there will be winners and losers with levels of disability. That seems totally unfair not only on a child who may need the money but on the people who provide the level of care that is required for a child.

7386. **Ms M Campbell:** There will, of course, be transitional protection for existing people for however long —

7387. **Mr F McCann:** One slight move, and that is away.

7388. **Mr Pollock:** There are other —

7389. **Mr F McCann:** It is like discretionary payments.

7390. **Mr Pollock:** — protections in the benefit cap for universal credit. If a child or a member of a household is affected by disability, they are exempt from the benefit cap. There are some safeguards, Fra.

7391. **The Chairperson:** Are members content with the position that they previously adopted? This issue could be around parity or cost. The cost decision is outwith our gift.

7392. We move to clause 12, “Other particular needs or circumstances”. There are a number of issues. We are being told that it is a parity issue and that costs are attached.

7393. **Mr Brady:** We are dealing with the severe disability premium. I want more reassurance that it is not based on the current assessment for employment and support allowance (ESA), which

is, essentially, a work capability assessment. Most people accept that that is fundamentally flawed. It has been condemned by the British Medical Association and other bodies. Therein lies the problem: there is inconsistency in assessing people. In my experience, a severe disability premium can make a big difference to the lives of older people who live alone. It gives them a much better quality of life than they would have had if they did not receive it. Essentially, the move is to reduce what they will receive. We are talking about a carer-type premium or a disability premium. People will not be able to get both, but in the current system, they can. That is a fundamental issue for people who suffer from disability. Unless the assessment for ESA is changed dramatically, many people will suffer as a consequence. Any of us here can quote examples of people who have been found to be capable in the context of the work capability assessment. That type of assessment is appalling. Last year in England, 32 terminally ill people were found capable because of that assessment, and they died within a month or two. That is the statistic, and those are the Department's figures.

7394. **Mr Pollock:** You previously raised concerns about the assessment process, Mickey. I think that that is right. There is a serious cost tag attached to this issue. The rationale that is outlined is to try to do away with overlapping provision.

7395. **Mr Brady:** I will make one final point. The issue is money. Since the Atos contract was signed, it has got over £400 million from the Government to do something that is fundamentally flawed and does not work for the majority of people. I quoted an example recently of a fella with Down's syndrome whose mother was asked how long he had had the condition and when she thought that he would be better. She challenged the health professional and was told that they were not interested in the condition. They were there to fill in forms and not to ask those questions, and they were not going to deviate from that.



7396. **Ms M Campbell:** That is a contractual, not a policy, issue.
7397. **Mr Brady:** Unfortunately, the contract is as a result of the policy. To use that hackneyed phrase: the two are inextricably linked.
7398. **Ms M Campbell:** I accept that they are linked, but it is not the policy intention that that incident and similar ones should have happened. It is about the performance management of the contract rather than the policy intention.
7399. **Mr Brady:** I know what you are saying, but I do not necessarily accept it. Essentially, Atos is a data-processing firm and has very little medical background.
7400. **The Chairperson:** To go back to the root of the issue: the Committee was concerned at the removal of a severe disability premium. The Minister outlined that it is a parity issue, and he did not want to consider that amendment. There is an associated cost, so it would have to be discussed further.
7401. **Mr G Campbell:** In the paper, the costs for the severe disability premium are there, and “plus admin costs” is in brackets. I know that we are all speculating about how long a piece of string is, but is there any concept of what the admin costs might be?
7402. **Ms M Campbell:** No. The Bill team came up with that, and when the methodology is set out in square or round brackets, the team has calculated that. The agency was unable to give me a cost.
7403. **Mr G Campbell:** In the response, that is the single biggest cost.
7404. **Ms M Campbell:** It is huge.
7405. **Mr G Campbell:** It is about one third of the projected annual costs. We are back to the issue of likely outcomes. The figure is £52.6 million, which looks as if it has been more precisely analysed and is a round figure.
7406. **Ms M Campbell:** It is based on the number of claimants who are currently in receipt of the severe disability premium within income support: 17,000 multiplied by the rate of the premium, which is £59.50, multiplied by 52 weeks. Last week, I said — I will say it again — that maths is not my best subject, but I got someone else to check those figures. That is our estimate, but it is only an estimate because we have not included any IT costs or clerical workarounds because the IT system has not been built for that purpose.
7407. **Mr G Campbell:** Does “admin costs” cover clerical and IT costs? Is all that encompassed?
7408. **Ms M Campbell:** Yes. There will be admin and IT costs if we are going to go down that route.
7409. **The Chairperson:** It does not make sense for members to say that we accept that and will forget about it, because it is a big issue. We will all eventually have to face people screaming because of the £60 million that will come off the money for people with a severe disability. We are discussing technical, IT and administration issues in Committee, and all that will be lost in a welter of publicity outside of here. As I read it, the Committee is still concerned with the removal of a severe disability premium and wants that to be dealt with. Whether it will, ultimately, be dealt with and how it will be dealt with is anybody’s guess, but that decision has to be taken at a later stage in the Assembly.
7410. We will move on to clause 38, “Capability for work or work-related activity”.
7411. Do we have a scheduled time to suspend for a lunch break? It is an Assembly plenary day.
7412. **Mr G Campbell:** You will get consensus on that. [Laughter.]
7413. **The Chairperson:** The Assembly will break for lunch at 12.30 pm. Could we deal with clause 38 and then have a break? We will move to the Minister’s response on the proposed way forward.

7414. **Mr Brady:** On the primacy of medical evidence, the Minister states that he:

*“wishes to advise the Committee that medical evidence is part of the package of evidence considered by Decision Makers”.*

7415. What currently happens and would have continued to happen is that a decision-maker does not normally get the medical evidence until there is an appeal. You said that the Health Committee is talking to GPs and consultants about costs, and, in my experience of appeals, medical evidence is available from a GP. If people attend an orthopaedic surgeon, for instance, because they have a problem with their back or their leg, or they attend a neurologist because they have a chronic condition, a GP will have had reports over the years, and there is no cost involved. A GP types a code into the computer system — all GP practices are computerised — hits a button, and the reports come out. The person gets the report and takes it along to the meeting.

7416. The difficulty is that, at the work capability assessment, people bring reams of medical evidence to the “health professional”, and that person says, “No, I am not here to look at that.” So a decision-maker does not get it because if a decision-maker got enough medical evidence, people would not be put through the assessment. The primacy of medical evidence is not a big deal. If good medical evidence is available that shows that a person has a condition that means that he or she is incapable of work, that is easy enough and should be obtained at the start rather than at the end because, in fairness to decision-makers — I have spoken to them about this — they get it at the end of the process. In people’s experience, medical evidence comes when someone goes to an appeal tribunal. The reason that a doctor sits on the appeal tribunal is to disseminate the medical evidence and, along with the legally qualified member, make an informed decision on it. It would also cut out costs.

7417. **Ms M Campbell:** You made a few points, Mickey, and I will try to remember them. The reason for the suggestion of writing to the Health Committee is that, during initial discussions, somebody on this Committee — I cannot remember precisely who it was; I thought that it was you — said that claimants who went to their GP or consultant to get medical evidence were being charged. However, the issue of charging is not for our Department. It is for the Department of Health, Social Services and Public Safety to take up because it is to do with the GP contract. The agency will bear the cost of obtaining medical evidence when the Department or the agency asks for it, so there should be no cost to a claimant. In response to what you said about medical evidence not being asked for at the start, a claimant will quite often produce medical evidence at appeal, but the agency is introducing a new procedure. Before a case gets to appeal stage, it will speak to a claimant to try to get that evidence, if it is available. The purpose of that is to reduce the number of appeals. So that should probably cover —

7418. **Mr Brady:** It would probably go a long way. The present DLA forms contain a statement from the person who knows you best, which is usually a GP. So somebody gets a GP to fill that in. It depends on the GP how much information is put in. That then goes to a decision-maker, who says, “I can’t make an informed decision without a bit of medical evidence”. The decision-maker sends for a factual report, for which the Department pays the GP.

7419. **Ms M Campbell:** That is right.

7420. **Mr Brady:** So the system that is in place necessitates reasonably good medical evidence that the Department, if necessary, pays for. My point is that some GPs may charge — [Inaudible.] — because that information is already available in the computer. If people are going to go to a specialist to get new medical evidence, that is a different issue. I am saying that good medical evidence is already available, and there

- is no reason why a GP cannot press a button and hand it to you.
7421. **Ms M Campbell:** The agency is saying that it is introducing a new process that is aimed at trying to overcome that.
7422. **Mr Brady:** That, however, should not necessarily take away from the primacy of medical evidence, on which it seems fundamental, sensible and feasible for you to go forward, because if it is available, it cuts out a number of quite expensive appeals. If it is going to save the public purse, that may be one direction to consider to save some money. It is just a suggestion.
7423. **Ms M Campbell:** I accept what you say. I restate the Department's position: medical evidence is part of a package that has to be considered. Although claimants may not be capable of doing their normal job, they may be capable of doing another job, and we have to look at all those factors in the round.
7424. **Mr Brady:** I accept that, and I went down that alternative employment road years ago: a person not being fit to be a welder, for example, could be a bingo caller or a lift attendant. The nearest lift attendant job that we had at that time was in Lisburn. So somebody from Newtownhamilton was travelling by bus to Lisburn, standing all day in a lift and then developing a chronic back problem. Forgive me if I am sceptical about all that.
7425. **Ms M Campbell:** I know.
7426. **The Chairperson:** Very unlike you.
7427. **Mr F McCann:** I want to make a small point about appeals. In Britain, tens of thousands of people appealed decisions, and the subsequent discussions raised a number of concerns. Rather than trying to short-circuit the appeals process by allowing people more time to disclose their illnesses, there were discussions about how they would limit the appeals process, therefore curtailing the number of people making appeals. To cut down on the number of appeals, they wanted to make it more difficult to make an appeal. Is that the same process that they are talking about here? You said that there may be a period between when people go and the appeal.
7428. **Ms Jane Corderoy (Department for Social Development):** No. I think that clause 101 refers to mandatory reconsideration, which is a reconsideration process in the agency before it goes to appeal. It is supposed to be about speeding up the process and getting that information. Instead of waiting to go the whole way through an expensive and time-consuming exercise —
7429. **Mr F McCann:** Is that for a review?
7430. **Ms Corderoy:** — of getting new information, it will do this review. I think that it is done in some places anyway, but it will be put on a statutory footing so that all that evidence and so on is brought earlier, and it can be resolved sooner.
7431. **Mr F McCann:** At that stage, are you saying that full medical disclosure will be available at the review to the person who will be making the decision?
7432. **Ms Corderoy:** There should be as much evidence as a claimant or decision-maker needs at that point.
7433. **The Chairperson:** The Committee's concern is about medical evidence being at the heart of all this. It may be closing a gap on that. I am trying to be generous.
7434. **Mr Brady:** May I ask just one quick question? You mentioned the reconsideration procedure, but surely that is already in place in the current system.
7435. **Ms Corderoy:** It is not there legally; it is not mandatory.
7436. **Mr Brady:** I dealt with a case yesterday in which a person was turned down. I made a phone call and was able to put a reconsideration application in place, so a system is already in place.
7437. **Ms M Campbell:** Yes, but it is not mandatory.

7438. **Ms Corderoy:** It is not mandatory or statutory. It will be brought across everything now.

7439. **Mr Brady:** Some do it.

7440. **Ms M Campbell:** Yes. When, like you, I worked in appeals, many years ago —

7441. **Mr F McCann:** It was too long ago to remember.

7442. **Ms M Campbell:** — it first went to a different adjudication officer, as they were called in those days. Those officers reviewed the evidence impartially and decided whether everything had been taken into account before a case went forward. This development puts that on a statutory footing.

7443. **The Chairperson:** In a way, all that supports the Committee's concerns. It could go some considerable way towards addressing those concerns. You have also suggested that we write to the Health Department. I presume that that is a given and that people can do that.

7444. I will suspend the meeting until 1.30 pm.

*Committee suspended.*

*On resuming —*

7445. **The Chairperson:** All right, folks? Everybody is welcome back. So, we turn now to clause 42, on pilot schemes. Again, this is where the Committee wanted to try to ensure that in future policy decisions, changes and proposals to change policies there was a facility to have pilot schemes here because, obviously, we do not believe that information gathered elsewhere is pertinent to here. I take it that that remains the position of the Committee?

7446. **Mr Brady:** I just echo Alex Easton's remark from the last mandate that we have our own pilot schemes.

7447. **Mr McClarty:** There are peculiar circumstances here that should have been taken into consideration, namely the legacy of the past number of years and the impact that that has had. Obviously, no consideration was given to that.

7448. **The Chairperson:** OK. The departmental response on the matter states that the:

*"Minister notes the Committee's concerns and will write to Lord Freud, at final stage".*

7449. On that basis, I presume that we are happy enough with the position that we have already agreed.

*Members indicated assent.*

7450. **The Chairperson:** We now turn to housing, and the first item is mortgage interest. Again, there is a cost issue, so, in line with our earlier decision, we will want to retain our position and leave it for the Executive to consider whether they are prepared to support us.

*Members indicated assent.*

7451. **The Chairperson:** Turning to underoccupancy, again there are financial implications. We do not know the extent of that. That, clearly, is an issue that will have to be taken into consideration here by others for mitigating measures. Are members happy enough to move forward on the basis of the position that we have already adopted?

*Members indicated assent.*

7452. **The Chairperson:** Moving on to sanctions, the Committee agreed to ask the Minister whether there was room for variation in respect of the proposed sanction regime. The departmental response states that that would be a breach of parity. Again, there are potential costs, and we are not sure what they may be.

7453. **Mr F McCann:** Alex Attwood was the Minister who introduced sanctions in the first instance. Is the Department happy that the decisions that people are being handed are the correct decisions? When asked, Alex Attwood said that sanctions would not be widely used. Since they have been introduced, thousands of people have been reported for sanctions or had sanctions levelled against them. That seems to go against the spirit of what we were told by the Minister. Is there an internal review mechanism that allows people to deal with individual

cases? I know people who live beside me who have been sanctioned. They probably depend on their parents for money. It is nothing to them, because they say, "Well, I will go to my ma and da." Their parents are already under pressure. That is just for, say, turning up late to sign on or forgetting to sign on and things like that. If people are suffering sanctions for what seems to be fairly low-key stuff, what is it going to be like for people who end up with two years' or three years' sanctions?

7454. **Mr Pollock:** We reiterate that the sanctions regime is not meant to be punitive. It is designed to try to ensure that individuals accept their responsibility and move on from there. I cannot comment on individual cases.

7455. **Mr F McCann:** I appreciate that.

7456. **Mr Pollock:** The agency has mentioned on several occasions that it is monitoring the use of sanctions and the reasons why they are used. That sort of information is available and will be available for putting a report into the Assembly to state the amount. There was previously a difficulty with looking at numbers reported for sanctions, because it was not looking at the entire population. Essentially, a lot of the people who could have been considered for sanctions were not included in that headcount. Whenever you saw x amount being referred and such a percentage being actually sanctioned out of that, it was a misreading because DEL took the decision out of the decision-makers' hands when the decision on sanctions should have been with the decision-makers. They should have said that there are x thousand who should be included in that overall count to start with.

7457. **Mr F McCann:** Does DEL actually make the decisions or advise them of the decision to sanction?

7458. **Mr Pollock:** In the past, a lot of the people who could have been sanctioned were not referred for sanction. Whenever you were saying that 100 people were referred for sanction and 80 of them were actually sanctioned, it did not say

that another 1,000 should have been sanctioned, and so the overall count was actually 80 out of 1,100. There is a misreading of the percentage of people who were referred and the percentage who were sanctioned.

7459. **Mr F McCann:** About 18 months or two years ago, I received a response that stated that 26,000 people had been reported for sanction but only 9,000 or 10,000 were sanctioned. We were given assurances in the Assembly by Alex Attwood that sanctions would not be widely used. That is a hell of a lot of people who have been sanctioned. They lost their benefit. Some of them did not even realise that they had been sanctioned because the money did not have an impact on their ability to survive.

7460. One of the reasons that many in the Assembly bought into the initial idea was the whole argument that you were putting in place a mechanism to protect the person behind the counter who may be attacked. That all fell into the wider early sanction things. When the Assembly voted, that is when the assurances were given that sanctions would be used only under certain circumstances.

7461. **Ms M Campbell:** Appendix 2 of the document that the Minister sent shows the latest figures for the numbers referred, the number of sanctions imposed and the number of claims disallowed. The total number of referrals was roughly 8,500. The total number of sanctions imposed was 823, so that is less than 10% of the referrals. Seventeen hundred were disallowed, which is roughly 20%; I am sure that Michael will correct my maths. Almost 6,000 claims were disallowed, which is more than 80%.

7462. **Mr F McCann:** I understand that. There is a figure in the box there; it says that the total number of referrals was 10,015 and there were 2,219 sanctions imposed. The number of claims disallowed was 728 and the number of claims allowed was 7,068. When you say "claims allowed", what does that mean?



7463. **Ms M Campbell:** That means that a sanction was not imposed. Based on the evidence that is before the decision-maker, the decision-maker decided that no sanction should be applied, for example, because the claimant had some mental illness or some other reason, including childcare arrangements, that prevented him or her from attending the work-focused interview or going for a job or whatever.
7464. It means that the option of applying sanctions is taken only in extreme cases. As we have said on a number of previous occasions, and as Mickey has acknowledged, the standard of decision-making in Northern Ireland is exceptionally high.
7465. **Mr F McCann:** That is fine. We will probably keep going back to the sanctions element because, although you said that sanctions are applied only in extreme cases, 20% is a bit extreme. It represents a substantial number of people.
7466. **Mr Brady:** I have a couple of points. We are talking about the statistics on sanctions that we have at the moment. The difficulty is this 35 hours spent looking for work. How can someone prove that they are doing that? Let us be honest, who is going to spend 35 hours — seven hours a day, five days a week — looking for work that is not there?
7467. **Ms M Campbell:** I think that our friend common sense comes in there. At the moment, people are supposed to spend a specific amount of time looking for work and should be able to show some sort of evidence that they have been willing to do so. Obviously, I cannot speak with authority on that, but I would have to say that common sense would have to prevail.
7468. **Mr Brady:** What about fraud sanctions?
7469. **The Chairperson:** Fraud sanctions are dealt with later on. Clearly, the Minister has considered the concerns that have been expressed and has agreed with DWP to pursue the possibility of varying sanctions. On that basis, we are happy enough to move on.
7470. The next item is clause 45, the contracting-out clause. The issue is that people were fearful of it being used to introduce privatisation. The briefing document states that the:
- “Minister wishes to confirm that there are no plans to use this clause to privatise services currently delivered by the public sector.”*
7471. Obviously, it is more to do with DEL, but the Minister has given that assurance, which is welcome.
7472. The next item is the time-limiting of the contribution-based employment and support allowance to 365 days, which is dealt with in clause 52. The Committee sought information from the Department on whether there would be a lead-in time for this to allow people to prepare.
7473. There were two or three issues on which the Committee sought clarification. We are told that the Minister:
- “shares the Committee’s concerns around the timelimiting of contribution-based ESA to 12 months, however the cost of not implementing this measure is approximately £3m per month.”*
7474. The Minister said that he would listen to the Committee’s views and then go to the Executive. The Committee’s views probably remain similar. Are members happy with that?
- Members indicated assent.*
7475. **The Chairperson:** The next item is ESA youth claimants, which is dealt with in clause 54. The Committee wanted to know how many people would be affected and what would happen to the estimated 3% of people who do not move to income-related ESA. People have raised the concern that there is an equality issue here in that no other contributory benefit waives its conditions of receipt. The briefing document states that the Minister:
- “does not believe that there is a strong enough case for making exceptions as this proposal puts young people on the same footing as other groups and treat them in the same way in relation to entitlement based on paid National Insurance contributions.”*

7476. It is the argument as to whether there is a strong enough case. Do members have the same view on that as they expressed at the outset?

*Members indicated assent.*

7477. **The Chairperson:** OK; we will move on to the personal independence payment. This one is around the length of time that a person is allowed to spend abroad. The Minister has agreed to continue to raise with the Work and Pensions Minister the issues of the number of claimants here and the higher incidence of mental illnesses among claimants here. Is everybody happy enough with that?

*Members indicated assent.*

7478. **The Chairperson:** Clause 86 relates to prisoners on remand. The Minister:

*“notes the Committee’s concerns but believes that the policy intention to treat those people on remand or who have their conviction quashed in the same way as people are treated who go into hospital and that is a fair and equitable approach.”*

7479. Are members happy enough with that response?

*Members indicated assent.*

7480. **The Chairperson:** The timing of report to the Assembly is in clause 88. I remind the Committee that it has concerns that the period for a report to the Assembly on the operation of assessments under section 79 is too long. The Committee, therefore, requests that the time period in clause 88(a) should be amended from two years to one and in clause 88(b) from four years to two. Are members happy enough with that position?

7481. The Minister is said to be sympathetic with the Committee’s concerns, however, in practice, it would take six months to deal with a deviation from that. The Minister just has a concern about the value of pursuing annual reviews. I would not have thought that it was a die-in-the-ditch issue, so —

7482. **The Committee Clerk:** I think, and the Department may confirm this, that the

issue was whether or not there was really enough data available within that period to have a report that would be in any way meaningful.

7483. **Ms Corderoy:** The Committee has a particular concern about people coming off DLA and having to apply for PIP. We think that the numbers involved would be very small within that time period to gather the data that would enable any meaningful conclusions to be drawn or recommendations made. Certainly, with the delay in bringing in the managed reassessment of PIP — I think that DWP anticipates laying the report by December 2014 — we should really and essentially be able to catch that within a year. I think that the delay has actually accommodated what the Committee wanted in relation to that.

7484. **Ms M Campbell:** The other issue is that we are happy to bring to the Committee a sort of factual report of the numbers of claims, numbers reassessed, numbers not getting through or the outcomes of that. We are happy to facilitate that factual and practical type of solution rather than a legislative one.

7485. **The Chairperson:** Mickey, obviously this has, in some way, dealt with or at least alleviated the issue of having a longer period for migration. Am I right in saying that? Mickey, did you want to come in there?

7486. **Mr Brady:** Sorry, I thought that we were onto —

7487. **The Chairperson:** The timing of a report to the Assembly.

7488. **Mr Brady:** Sorry, it is the PIPs.

7489. **The Chairperson:** Are we happy enough with that, then?

7490. **The Committee Clerk:** Chair, just to clarify, is the Committee’s position on the way forward on that one to acknowledge that there are issues with data collection and it will pursue other formal statistical reports from the Department as an alternative?

7491. **The Chairperson:** The Committee wanted these things dealt with in

- as timely a way as possible, given their importance. There are practical issues or difficulties around doing that, particularly when you have a later time frame for migration. That may be very reasonable. I would not think that the Committee is going to fight over that.
7492. **Ms M Campbell:** We would welcome that, Chair.
7493. **The Chairperson:** Clause 109 makes provision for the recovery of PIP benefit overpayments. The Committee was unhappy about what it thought was an inherent unfairness in compelling a claimant to repay an overpayment when the overpayment was due to departmental error. The Committee sought a review of the level below which recovery of the overpayment will not be sought. That level is currently established at £65.
7494. We are told:
- “The Department will consider the ‘Overpayment Recovery Guidance’, to see if any additional clarification is needed for Decision Makers.”*
7495. I think that people were of the clear view that recovery provisions for a departmental error were unfair.
7496. **Mr Brady:** One of the things is the fact that the statistics that we have been getting since 2007-08 indicate that error accounts for more money than fraud, yet people are penalised quite strictly for fraud. Even now, I do not think that they put it on your record — *[Inaudible.]* — I do not think that that happens any more.
7497. **Ms M Campbell:** It would not go on your record, as such. It is a performance management issue, so it would be within the context of the annual appraisal.
7498. **Mr Brady:** It almost confers an infallibility on the Department. Even if it gets it wrong — *[Inaudible.]*
7499. **Ms M Campbell:** It is just like the bank or your employer.
7500. **Mr Brady:** Look at what happened to banks. That was why they had to bail some of the banks out, which cost £700 billion.
7501. **Ms M Campbell:** There are still getting their bonuses.
7502. **The Chairperson:** Exactly.
7503. **Mr Brady:** Give civil servants bonuses — *[Inaudible.]*
7504. **The Chairperson:** People see an inherent unfairness in that. While we do not have any control of the banks, we might have some influence over this policy. We can deal only with what we have some influence over. Are Members happy enough with the position that we have adopted so far?
- Members indicated assent.*
7505. **The Chairperson:** I think it sends a message: let us address error as well as driving down fraud.
7506. We will move to fraud sanctions, which are about the level of fines and so on. We felt that there was an issue of disproportionality. The paper states:
- “The Minister believes that Administrative Penalties provide an alternative for claimants and in some cases may be a much more appropriate solution. The Minister would like the Committee to reconsider this in light of the information provided by the Department ... The cost of not implementing administrative penalties is estimated at £0.1m.”*
7507. This is an issue of proportionality. Are members happy enough to stick with what we have?
- Members indicated assent.*
7508. **The Chairperson:** We will move to clause 111: “Period for withdrawal of agreement to pay penalty”. The paper states:
- “Minister will give an assurance that this (good reason) will be covered in guidance but the scope to increase to 28 days will also need an amendment to this clause.”*
7509. That was in response to a concern that we had. The paper states:
- “The Committee was concerned about the reduction in this ‘cooling off period’ and*

*is seeking assurances that this will be addressed in the guidance.”*

7510. We are told that it will be addressed in the guidance. The hope to increase the period to 28 days will need an amendment. Have we dealt with that by way of suggested amendments? Patricia, can you remember?

7511. **The Clerk of Bills:** No.

7512. **Ms M Campbell:** We said that we would bring that amendment forward just to tweak the wording to make it to read:

*“not more than 28 days.”*

7513. **The Chairperson:** OK, that is fine. Are members happy enough with that?

*Members indicated assent.*

7514. **The Chairperson:** That is welcome; thank you for that explanation.

7515. We move to clause 113, which concerns the loss of benefit for three years for a first offence. The Committee was obviously very concerned that benefit would be stopped for three years for a first offence. The Minister says that he notes the Committee’s concern, but that this is a deterrent to prevent serious fraud. We are told that to have something different will result in a breach of parity and there will also be costs attached. We do not have any figures for the costs attached.

7516. Again, members were of the view that this was disproportionate because, in the event that it was for a first offence, there would be a loss of benefit for three years. That also aligns with the fact that people will also be prosecuted. As I recall, it is a double jeopardy issue as well. Is that not right? It is the same provision. Does this also come into play where someone has been prosecuted?

7517. **Ms M Campbell:** Yes.

7518. **The Chairperson:** So it is like double jeopardy as well. It is disproportionate. Are members happy enough to leave as is?

*Members indicated assent.*

7519. **The Chairperson:** We will move to Clause 115, which relates to cautions. The paper states:

*“The Committee recommends that cautions should be retained.”*

7520. We are told that the Minister wants to discuss the impact of a caution on a person’s criminal record before deciding whether cautions should be retained. That was an argument around cautions in the legal definition, or someone being told —

7521. **Ms M Campbell:** A slap on the wrist.

7522. **The Chairperson:** — get yourself sorted out and it will be all right. People were looking for a similar type of regime, in which people could be advised that there is a problem with their claim and that they should sort it out, and, if it is sorted out, it is sorted out. Obviously, that does not deal with serious systematic fraud or intentional fraud. Obviously, that will all take its course, as it should. This is about having the ability to say to people that they might be making a misclaim.

7523. **Mr F McCann:** I think that you, Martina, said earlier that it is about having a common-sense approach to how this is dealt with. A warning or ticking off for many people is far better than ending up with a criminal record, which may go against them in job applications.

7524. **Mr Pollock:** That is where we are concerned. If everyone was offered the choice between paying £350 or 10% or whatever and having a caution, they would have opted for the caution. The knock-on effect of that is the formal caution that you are talking about in those circumstances. That would have an impact on you applying for a job, obviously.

7525. **The Chairperson:** The Committee was of a mind that it wanted to retain that informal caution, so that people are advised that there may be a problem —

7526. **Mr F McCann:** It is usually a deterrent, anyway.

7527. **The Chairperson:** It appears to be successful and appears to work everywhere else. Are we happy enough with that?
7528. **The Committee Clerk:** So, does the Committee want to maintain its current position? These are formal cautions that we are speaking about under clause 115.
7529. **The Chairperson:** If I remember correctly, the Committee wanted a system in which people could be called in for some potential error in their claim — *[Inaudible due to mobile phone interference.]* It should be an informal situation. The Housing Executive bring people in to tell them that they could be in breach of their tenancy because they are doing a, b or c, and, if it stops, the problem is solved; it is not on anybody's formal record. That does not deal with fraud.
7530. **The Clerk of Bills:** Chair, are you suggesting that that could be dealt with by way of a recommendation rather than — *[Inaudible.]*
7531. **The Chairperson:** It is either/or. The Committee wanted to make sure that there was that facility.
7532. **Mr F McCann:** The debate the other day was about whether the formal caution is recorded on the record. I think that the answer was yes.
7533. **Mr Pollock:** That is correct.
7534. **Mr F McCann:** The vast majority of people you are talking about are women, because they, more or less, deal with the benefits. The vast majority of them are terrified before they go into interviews. That is usually enough for them. Many of the fraud officers would have, at the end of the day, said, "I have to report this, but it will go with the recommendation that there is an informal caution." I think that that is what they were talking about. That allows people off.
7535. **The Committee Clerk:** If members want to retain cautions, clause 115 will not be amended.
7536. **Mr Pollock:** The Bill does away with the formal caution.
7537. **The Committee Clerk:** That will do away with the formal caution. You want to —
7538. **The Clerk of Bills:** My understanding is that the Chair wanted something addressed relating to informal cautions. The clause deals with formal cautions. You would need to take away the formal caution, because it could impact on jobs and things like that. You might want, in addition to that, to make a recommendation around the Committee's position on informal cautions and ask about whether they occur. If they do not — *[Inaudible.]*
7539. **The Chairperson:** Obviously, when we do the formal stuff, we will revisit that to make sure that we have it right.
7540. **The Clerk of Bills:** Maybe the Department — *[Inaudible.]*
7541. **Mr Pollock:** The Committee will deal with that in its report.
7542. **The Chairperson:** The next issue is Assembly control, which is dealt with in clauses 33 and 91. The paper states:  
  
*"The Examiner has recommended that the Committee amendments that would make regulations under the powers in clauses 33 and 91 subject to confirmatory procedure where the supplementary or consequential provision amends, modifies or repeals a statutory provision".*
7543. Again, that is just for us to up the level of scrutiny.
7544. **Mr Brady:** The Ad Hoc Committee's recommendation — *[Inaudible due to mobile phone interference.]*
7545. **The Chairperson:** The advice that we received from the Minister is:  
  
*"officials are currently considering this issue further in conjunction with colleagues in Office of the Legislative Counsel and Departmental Solicitors Office."*
7546. Are members happy enough with that?  
  
*Members indicated assent.*



7547. **The Chairperson:** We asked for options at a previous meeting. There was a list of them in your paper, Kevin.
7548. **The Committee Clerk:** Has there been any further update on those discussions?
7549. **Ms M Campbell:** No, there is not.
7550. **The Chairperson:** Are there any other papers, Kevin?
7551. **The Committee Clerk:** There is always another paper, I am afraid.
7552. As I was saying earlier, this is a paper that I prepared and which goes through all 134 clauses and the relevant schedules. Its purpose is to bring the Committee up to speed on its position and those of the stakeholders on the clauses. I just wanted to confirm with the Committee whether it is content that it sums up the issues as far as members are concerned to date. We could go through it today or, if members want, we could review it on Thursday.
7553. **The Chairperson:** Realistically, we are not going to get through it now.
7554. **The Committee Clerk:** On Thursday, I suppose, it will be a case of you taking members through and asking them whether they are content, for example, that the issues relating to the first six clauses are what the Committee has considered and has heard from stakeholders. If there are any other comments to be made, I can make them.
7555. **The Chairperson:** This is really the essence, or the beginning of the report that will go to the Assembly.
7556. **Mr Durkan:** We are dealing with clauses and how we would like to implement them. We know what came from stakeholders and most Committee members on the clause that deals with independent advice. There is news from Westminster today that, in response to the Work and Pensions Select Committee's report, the Government have announced a £65 million advice services transition fund that will run from April 2013 until April 2015. That is funded by the Cabinet Office.
7557. **Mr F McCann:** Where did that come from, Mark?
7558. **Mr Durkan:** It was announced at Westminster today.
7559. **Mr F McCann:** Where is it for? Where does it take in? What regions?
7560. **Mr Durkan:** It does not mention us.
7561. **Mr Pollock:** If it is a UK-wide initiative, there would be a Barnett consequential and Northern Ireland would get its share of the cake. That is the theory, anyhow.
7562. **The Chairperson:** OK. There will be a number of other items. The report will be a substantive body of work that will encapsulate the evidence that we have taken from stakeholders, the Committee's deliberations, the engagement with the Department and the responses from the Department and the Minister.
7563. There are other items. For example, although the Ad Hoc Committee's report, as I said before, does not have formal status in so far as it was not endorsed by the Assembly, it made 15 recommendations that were endorsed by all the parties. So, you would figure that those recommendations will have to be fed into our report in some shape or form.
7564. There are things that are outwith the particular clauses of the Bill, but we may want to make recommendations that they should be supported. That was one of the issues that the Committee previously agreed to.
7565. **Mr Durkan:** I mentioned it because it was just hot off the press.
7566. **The Chairperson:** Absolutely; it is a very important reminder.
7567. **Mr F McCann:** In the broader scheme of things, once distributed, it may not be a lot of money. Obviously, it would go the Department first because of, as you said, the Barnett consequentials.
7568. **Mr Pollock:** It would come into the block and it is then for the Executive to decide what the block's priorities are.

7569. **Mr F McCann:** Would it not be a different matter if was specifically earmarked for advice?
7570. **Mr Pollock:** It is termed non-hypothecated, which means that it is down to the Executive to decide where it goes. I do not think that they can necessarily ring-fence stuff like that, but it strengthens any Minister's case. For example, if there was a particular initiative at a UK level, say for health or education, that Northern Ireland wanted to pursue, the Minister concerned may want to use the Westminster argument as a lever at the Executive table because by doing so he would have a better chance of grabbing that sort of money from DFP.
7571. **Mr F McCann:** As we have argued, and I think that Mark said, good advice is a big plus in a lot of the stuff that we are dealing with. Is there a possibility that we could raise the subject of the £65 million and what we would get when it is divvied up? So, if we are looking at advice services and it comes through to DSD, we would know that x million pounds may be available for advice-givers.
7572. **Mr Durkan:** That is the £65 million question.
7573. **Mr F McCann:** That is it.
7574. **The Chairperson:** You will be keen to know that the Health Minister is on question 5, so I will have to leave very soon because I have a question down. I do not want my knuckles rapped by the Speaker. No hypothesis there; I will just be chastised.
7575. **Mr Brady:** Maybe in the meantime, Michael, you can explain what non-hypothecated means.
7576. **Mr Pollock:** It is just a finance term that DFP has that means that the money is not ring-fenced.
7577. **The Chairperson:** It just means that money has been allocated for that notional purpose.
7578. **Mr Pollock:** It means that, like everything else, you have to argue for it.
7579. **The Chairperson:** Exactly.
7580. **Mr Pollock:** And win the argument.
7581. **The Chairperson:** OK. So we will come back on Thursday morning for our Committee proper, after which we will go swiftly to the Welfare Reform Bill. I am advised that it is going to be a long Committee meeting. I ask members to go through that consideration of the Bill paper just to satisfy ourselves that it encapsulates what we want. As I said earlier, Kevin will try to prepare a narrative that the Committee can support in furtherance of our objective of agreeing a report that there is consensus on.
7582. Thank you very much for your support today again, Martina and Michael.
7583. **Ms M Campbell:** Thank you. Bring a sleeping bag on Thursday, then?
7584. **The Chairperson:** Thank you.

## 7 February 2013

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Michael Copeland  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

### Witnesses:

Mr Tommy O'Reilly      *Social Security Agency*  
 Dr Colin Sullivan

7585. **The Chairperson:** We wanted to deal with a couple of items first and foremost. I remind members that, at our meeting on Tuesday, the Department agreed to arrange for Social Security Agency officials to attend today to clarify issues regarding claimants being paid monthly for the first month, before bimonthly payments could begin. In the tabled items, there is a paper that gives some statistics, and it would be interesting to get some clarification on the stats attached to clause 103. The agency provided a paper on it, and it is in today's folder.

7586. I welcome Tommy O'Reilly and Dr Colin Sullivan from the agency to speak to members on both those issues if they are in a position to do so. Thank you for being here this morning, gentlemen. Over to you, Tommy and Colin.

7587. **Mr Tommy O'Reilly (Social Security Agency):** Chair, I understand that the Committee had three issues that it wished to discuss with us. The first was the question around costs, which we discussed at last week's meeting with the Minister. Sorry for the delay, but I have been in London for the past couple of days. I have some figures that I would like to share with the Committee.

7588. **The Chairperson:** Thank you for that.

7589. **Mr O'Reilly:** The second issue is that we had a discussion last week about tapers and disregards, and we supplied a paper earlier this week, or yesterday. The third issue was the question around writing off of debt.

7590. I have provided you with three tables that set out the approach to the setting of costs. Those were to be used as the basis for the estimates for implementing the flexibilities when the Minister agreed with Lord Freud as to how we go forward. At the moment, we do not have an agreed process for handling the universal credit flexibilities. That is still the subject of ongoing consultations with the voluntary and community sector and the political parties. Indeed, we are coming to the Committee in the near future to have a discussion on that.

7591. Our working assumption is that there will be an IT system to support the flexibilities that the Minister has agreed, and that is how we move forward. As I said at last week's Committee meeting, we use the integrated complementing system that we use in the agency, which is a time and motion study for determining staffing levels. It takes specific tasks in the agency, assigns a time to each benefit, looks at all the different tasks together and takes that up by the total workload in that benefit to give us a total determination of the staffing levels required to administer the delivery of the benefit. In doing the estimates, we have tried to use the employment and support allowance (ESA) integrated complementing system's times as the basis to give us some approach.

7592. Look at the table. At a very high level, the caseload for universal credit is estimated to be around 300,000. We have allocated a time that each case will attract during the year, which includes fresh claims right through to maintenance, of about six hours.

- The average cost per hour of an administrative officer in the agency is about £13·71. Therefore, at a very high level, when those three are multiplied, it comes out at about £24·5 million for the full caseload. We then started to break that down to try to test out the six hours, because the other two were pretty static. In the middle column of the table, you will see an allocation of time and, working from left to right, the initial weekly volume of telephone calls — that is, about 6,000 cases per week. It takes, on average, about 10 minutes on the telephone with those individuals to verify their identity, take some details and work through their application. If you work across the page, you can see the number of staff involved.
7593. Each of those major functions, or pieces of work, that we carry out in each of the benefit areas has been allocated a time. Based on the current employment and support allowance processes, that works out at just under four and a half hours. However, as I say, that is ESA; that does not take into account that we will have tax credit customers whose cases are more complex because they are working, as well as jobseeker's allowance (JSA) customers and lone parents.
7594. At this stage, we do not have an agreed process. We are just trying to use some mechanism, and this is how we worked out our costs.
7595. In the table at the bottom, we work on the basis that the cost amounts to about £24 million for 300,000 claimants and, in some form of projections yet to be agreed, if only 75% or 50% will receive split payments and fortnightly or twice-monthly payments, those are the sorts of costs that will be included.
7596. That is a broad estimate of how we went about calculating the figures that we previously gave to the Committee.
7597. **The Chairperson:** OK, Tommy, thank you for that.
7598. **Mr Brady:** Thank you for that, Tommy. If administrative officers are getting
- £13·71, I should have stayed in the Civil Service.
7599. **Mr O'Reilly:** Yes, they do. That is their average cost.
7600. **Mr Brady:** I am telling you that I should have stayed there.
7601. **Mr O'Reilly:** What is the average cost of an MLA?
7602. **Mr Brady:** An hourly rate of £13·71 is twice the minimum wage. It obviously depends on how long someone has been in the job. There are other factors.
7603. **The Chairperson:** Anyway, let us get to the point.
7604. **Mr Brady:** I have a couple of questions. Management has two staff officers and eight executive officer 1s. Will their cost be additional? Are they not there already?
7605. **Mr O'Reilly:** These are the additional staff for the universal credit element.
7606. **Mr Brady:** I am sorry, but the point that I am trying to make is that, irrespective of how the benefit is paid, the staff would be there anyway, would they not? Looking at the list of costs, the figure of £333,000 is quite high. I assume that they will be an integral part of the set-up anyhow.
7607. **Mr O'Reilly:** Where the staff come from is a slightly different issue. We were asked to estimate the cost of providing this service, which is additional to the universal credit service that we provide. It is what might be called a vanilla service. It is an additional service that we do not currently provide.
7608. **Mr Brady:** I am looking at the figure for the weekly volume of the workload. That will happen anyhow.
7609. **Mr O'Reilly:** That is the weekly volume, and that will happen anyway, yes.
7610. **Mr Brady:** What is the extra cost of changing the payment system? You mentioned tax credit customers. They can already choose to be paid monthly or fortnightly. That is in their system, so I cannot see that being, necessarily,

an additional cost. It will be subsumed by universal credit. I understand that aspect of it.

7611. Regardless of all these figures — the workload, the weekly volume and the time spent on a telephone call — I am trying to work out the extra costs that will be incurred if payments are to be made fortnightly rather than monthly. You are saying that if 100% want to be paid fortnightly, for instance, it will cost £24 million.

7612. **Mr O'Reilly:** No. At last week's Committee meeting, I made it quite clear that we were talking about split payments and twice-monthly payments.

7613. **Mr Brady:** Rather than fortnightly payments.

7614. **Mr O'Reilly:** It is both of those together. We hope that if it is simply twice monthly, the cost would be significantly reduced because large elements would be automated. You have to take into account that, for a lot of people, there will be issues with overpayments and third-party deductions. Housing benefit cannot be paid twice monthly; it has to be paid only once a month. Those benefits have to be checked to make sure that they are accurate. We hope that, for a large number of people, there will be a straight flow-through.

7615. **When you get into the complex area of having split payments, and split payments with twice-monthly payments, it starts to mushroom. I take your point:** you could probably argue that, in the centre where they are working, there is already a level of management staffing. However, where there are additional staff to provide these services, additional management staff would be required. This is broadly the way in which we would work out the numbers.

7616. **Mr Brady:** In a sense, if you will have to employ extra staff, this is job creation. The argument put forward is about how much it will cost to have an IT system that differentiates between monthly and bimonthly payments. It is really the difference between how much it will

cost to pay people monthly or bimonthly within that system.

7617. **Mr O'Reilly:** What I have given you does not take account of the costs of development of the IT solution. That will be a separate cost, which the agency will have to pick up, and we are in discussions with the Department for Work and Pensions (DWP) about that. These are our estimated costs at this point in the process. When we come on to the next item and Colin walks you through the example of housing benefit, it will help to illustrate some of the complexities involved in trying to develop our own flexibilities in Northern Ireland and trying to ensure that we get it right when building the IT system and delivering the right service. It would be interesting to hear your views on that. We are working on those costs.

7618. **The Chairperson:** Tommy, there are two wee points that I want to make on that. Members were concerned about the figure of £24 million. The Committee was of a mind that it wanted something to happen, but now we are being told that it will cost £24 million. Clearly, that will be a major consideration in how members may vote on the Bill. A query was raised last week about whether that £24 million would be an assumption on the basis that everyone would take up the split payment option and, if they do not, would that figure start to go down? I think that Gregory raised that issue in the first instance. If not everybody took up that option, it would not cost £24 million.

7619. The second issue that arose last week was that we were advised that everybody will have to get a monthly payment at the outset and then you will work your way through split payments. I take your point entirely that that is now out for consultation, so, in a way, you have to park what the criteria might be for that because you cannot be definitive. The idea that everybody had to get monthly payments at the start and that you would work your way through those who wanted twice-monthly payments seemed to confuse people. That seemed to throw a spanner in the works last week.



- It seemed to be new, but what did it actually mean?
7620. **Mr O'Reilly:** Let me try to address both issues. We were working on the basis of 100% take-up, which would cost £24 million. From an operational perspective, currently, about 200,000 customers in Northern Ireland are on tax credits, of whom about 50% receive payments on a four-weekly basis. When those individuals move across to universal credit, it will be a matter for them to decide whether they want to move to fortnightly or twice-monthly payments or stay with four-weekly payments. If the choice is there, it is likely that a number of them will move across. We are working on the basis that if that is the default position, a lot more people will move to that arrangement than if it were something that they had to request. All we are simply doing is calculating different levels of take-up, which are shown in the table. So, if there is 75% take-up, we calculate that it will cost £18 million. It is not for us, as operational people, to say what that figure should be. We simply estimate that as the likely cost to the block grant as a consequence.
7621. Your second point was about everyone having to go on to monthly payments. There is an issue about the first month when people make their claim. The universal credit payment is made in retrospect, so you have to get to the end of the first month, and that is when the calculation is done. Therefore, the system cannot calculate a twice-monthly payment during the first month simply because it does not have the information. How to handle that first month is an issue that we will have to work through. At this point, however, it remains an issue.
7622. **Mr Brady:** Will you clarify one point? You say that people on tax credits can move over to the new arrangement, so there is no issue if they want to be paid monthly or fortnightly because they will have that choice. They have that choice now anyhow, but, when they move to universal credit, they will have the choice to be paid monthly or fortnightly.
7623. **Mr O'Reilly:** The current default position is that people will receive monthly payments but will have the right to request twice-monthly payments.
7624. **Mr Brady:** That should apply to everybody.
7625. **Mr O'Reilly:** That will apply to everybody. However, some people are, for example, on working tax credits. If they get a new job, they come off working tax credits. They may then lose that job and come back on to working tax credits. Such people may previously have received payments every four weeks, but if offered fortnightly payments, they may take that option.
7626. **The Chairperson:** OK, Tommy, thanks, that is helpful.
7627. **Mr O'Reilly:** Does that give you sufficient comfort?
7628. **The Chairperson:** As I said earlier, the issue last week was that we were given a figure of £24 million, which was queried. In a way, Tommy, you have just re-clarified that it may not cost £24 million if not everybody opts for what may become the default position of twice-monthly payments. So the figures could come down naturally in line with the uptake.
7629. The second point raised last week was the rationale of what happened if someone started off on a monthly payment. That threw a cat among the pigeons because it seemed to muddy the water around the figure of £24 million. At least, it did in my mind because I could not understand what it was about, but I do now.
7630. **Mr F McCann:** I have a question about the first automatic monthly payment. From reading some of the documentation, I thought that anybody who requested twice-monthly payments after the first month would automatically be paid in that way by the system. Would that not cut down on the number of people who had to be paid manually?
7631. **The Chairperson:** None of that is agreed yet.

7632. **Mr O'Reilly:** The core universal credit system that we will use in Northern Ireland will calculate everybody's payment monthly. It is a monthly assessment cycle, and that will not change. We are building a separate system to sit alongside that. In effect, that means that all the Northern Ireland cases will be taken out and dropped into the Northern Ireland computer system. For people paid twice monthly, the system will calculate that payment and make two drops. In the majority of cases, if it is only a matter of making twice-monthly payments, that should be relatively straightforward and not a big issue. However, there are many exceptions in the social security world that must all be checked and any change of circumstance dealt with. That is where that issue starts to arise.
7633. **Mr F McCann:** I appreciate that. It states in this document:
- "if someone needs a more frequent or split payment in the first month these will have to be done clerically".*
7634. That means, more or less, that, after the first month, everything will be built into the computer, which will simply make the payment.
7635. **Mr O'Reilly:** Sorry, I am not sure where that comes from. Which document are you reading from?
7636. **Mr F McCann:** It is documentation that Committee members have to help us through.
7637. **The Chairperson:** It is from the departmental response paper.
7638. **Mr F McCann:** I am picking up on the fact that the whole argument is about the number of people and the associated cost. However, if we accept that the computer makes the payment for the first month, people will then be on the system. If correct, what I quoted states that people will automatically be paid twice monthly anyway.
7639. **The Chairperson:** The current default position of the Department and the Bill is that everybody gets paid once a month. So the criteria for if and when someone can opt for a payment to be made twice a month would have to be defined. A consultation on what those criteria and the circumstances may be is ongoing. The Committee wanted a default position of payments being made twice a month, or fortnightly.
7640. **Mr O'Reilly:** Sorry, may I just —
7641. **The Chairperson:** That, however, is not agreed yet. That was the view of the Committee —
7642. **Mr O'Reilly:** That is just the view of the Committee.
7643. **The Chairperson:** — and there were objections to that. The first was that there was not sufficient computer flexibility, but we were told that that could be worked through. Secondly, we are now being told that it would cost £24 million should everybody opt for the twice-a-month payment, which will not necessarily be the case. That is what we are trying to clarify. Neither twice-monthly payments nor the criteria for them have been agreed. That is out for consultation.
7644. **Mr Brady:** Let us say that it is agreed that people can get paid twice monthly or whatever. When a person makes an initial claim, you have said that, for the first month, for logistical or operational reasons, he has to be paid for a full month because the payment is made in arrears. If, in his initial claim, he chooses to be paid twice monthly, he will, of course, be paid for that first month. Is there not a system whereby he has made that decision and the Department has accepted it? What I am saying is that it pre-empts what is happening. I am picking up that there is an issue if someone is paid after the first month and then decides to move to bimonthly payments, but surely that decision would already have been taken.
7645. **Mr O'Reilly:** You are correct.
7646. **Mr Brady:** He can be consulted and then make that decision in conjunction with the Department. Obviously, it would be mutual.

7647. **Mr O'Reilly:** Yes.
7648. **Mr Brady:** So would the Department not then have time to put him into the twice-monthly payment stream?
7649. **Mr O'Reilly:** If Mr and Mrs Brady decide that they want to have a twice-monthly payment —
7650. **Mr Brady:** Mr and Mrs Brady might want weekly, but we will not go into that. [Laughter.]
7651. **Mr O'Reilly:** Mr and Mrs Brady ring up to start their universal credit claim. The form states that if Mr and Mrs Brady want more frequent payments — for example, twice monthly — please ring this number. Mr and Mrs Brady ring up and say what they want, and they discuss the case. Part of the telephone call is to discuss why they want to be paid more frequently, and, at some point, the box is ticked. So, after the first month, Mr and Mrs Brady are a straightforward case and will receive twice-monthly payments. The computer will generate and make those payments.
7652. **Mr Brady:** Would it not be simpler for Mr and Mrs Brady to have a claim form that asks them to tick whether they want a monthly or bimonthly payment? That would cut out all those telephone calls.
7653. **Mr O'Reilly:** No. The system into which we will download will be the core universal credit system. We are building something for Northern Ireland, so, in a sense, it has to come out of that core system.
7654. **Mr Brady:** Yes, but can you not build that in at the start rather than —
7655. **Mr O'Reilly:** No, because you would have to change the core system, and that is the problem. Let me just walk you through the process. It does not really matter because Mr and Mrs Brady have to be verified anyway, and they agree that they want bimonthly payments. Let us say that both also receive housing benefit, Mr Brady has a social fund debt and Mrs Brady has agreed to pay the electric company X amount out of her universal credit payment. The issue is this: as those payments start to roll through, how are they split? When are they paid, and when do they not get paid? That just needs to be checked to make sure that that is happening and that everything is accurate.
7656. **Mr Brady:** I am sorry; I do not mean to go on about this, but surely in any system these changes have to be put in place. Someone coming on to benefit will not have the repayment of loans or whatever from before. Presumably, social fund debt, and so on, will be carried over, so the Department will be aware of it. What I am saying is that for someone claiming initially, all these exceptional payments, such as those for an electricity bill, will be carried over. Housing benefit is separate because it will be paid directly to the landlord or the Housing Executive.
7657. **Mr O'Reilly:** Oh my. I wish it were so easy.
7658. **Mr Brady:** There is no reason, logically, why it should not be. If you are introducing a system that is apparently designed to save money, surely, with a bit of thought —
7659. **Mr O'Reilly:** We can come back to housing benefit in a moment.
7660. **Mr Brady:** Let us be honest: I have more technology in my mobile phone than the Americans had when they put a man on the moon. I cannot understand why all these systems cannot cope. Surely there are people who can design systems that are able to cope. It seems to me that this is being made overly complicated by saying that you cannot do this or that with the system. You are designing a whole new system, which, I accept, is probably a huge undertaking, but the technology and people who deal with it are available. I really do not understand why there is such a huge problem. You talk about the core system and a system for the North that will drop in and out of it. Why can that not be done initially to save all the messing about further down the line?
7661. **Mr O'Reilly:** That is because Westminster has decided that —

7662. **Mr Brady:** Yes — exactly.
7663. **Mr O'Reilly:** — this is the system that it is building for the people of Great Britain. Northern Ireland is part of the parity arrangements, but we buy the systems from Great Britain. If Northern Ireland decides that it wants to build its own IT systems, the Northern Ireland Executive have the right to make that decision, but the cost of that would have to be borne.
7664. **If you want to buy into the GB system, that is how it works. I am not saying that it is right or wrong. All I am saying is this:** the Executive and the Committee have asked the Social Security Agency to develop something to support flexibilities, and that is what we are trying to do. My point is that this is very complex. When we start to work through the processes, we think that we will find a level of complexity that will require additional staffing. I understand your view, but that is the way it is at present. I am not trying to be glib, but this is not easy; it is very complex.
7665. **Mr Brady:** The irony is that we are told that the whole purpose of universal credit is not to have complexity but to simplify everything. Now you are saying that we have a very complex system, which is probably even more complex than the system in place.
7666. **The Chairperson:** We do not need to have a debate about it. We need clarity on why it is happening and why we were given a figure of £24 million. That is the purpose of the exercise. We can argue, but the Committee has adopted the view that it wants a default position that will enable people to be paid more frequently than once a month. That remains the position of the Committee. Ultimately, people will have to grapple with whether they should be put off arguing for that because of the associated cost. Could it be £24 million, £10 million, or whatever? That is the information that helps us to make up our minds. We need to clarify the cost. You are giving £24 million as the figure that it may or may not cost, depending on the take-up, if this is agreed. I am not confident that it will be agreed, but it is out to consultation. Let us hold with that in good faith and see how it works out.
7667. **Mr F McCann:** Chair, I am at a loss because we are talking about the entirety of the universal credit system and the information that will be input into it. I take it that people's details are being entered into the system. This is just for talk's sake, but, before the system goes live, every aspect of benefits will be put into that system so, as the system kicks off, all information will be contained within that one computer.
7668. **Mr O'Reilly:** No, it cannot be done that way. It is just too large. It is being done in phases.
7669. **Mr F McCann:** Would that not have happened anyway?
7670. **Mr O'Reilly:** Yes, that will happen anyway.
7671. **Mr F McCann:** All that information is going into the system. Mickey's point about phones was right. As I said the other day, I can turn on my phone, ask it to tell me how to get to Derry or Newry and what route I should take. It will talk to me and give me the route. You are paying hundreds of millions of pounds for a computer, so I cannot understand why you cannot make these adjustments, either by talking to it or by pressing a button that will give you access to it. It seems a nonsense to me that people choosing a different option will cost an additional £24 million if, by and large, all the information is already contained in a computer.
7672. **Mr O'Reilly:** In the core universal credit system, you input a series of information about you and your family. The computer assesses that information against a set of rules, which are built into it, and decides whether you are eligible. If you are eligible, it makes a determination on what you are entitled to. It then takes that entitlement and assesses it against how much you have earned in the previous month. It does that by way of the real-time information that comes in from your employer, or, if you are not

- employed, a zero form. It then tapers that down at an agreed rate and reduces the level, depending on your earnings, to give you a final sum.
7673. **Mr F McCann:** That is wonderful, Tommy. The joys of modern technology never cease to amaze me. That is all well and good, but there must be something that allows you to pay people fortnightly without even going into tapers and reductions. All you are asking the computer to do is make twice-monthly payments.
7674. **Mr O'Reilly:** Let me go back. That is what the core system does on the basis of the assessment period, which is the previous month. Once the system has made the assessment, it churns out a payment and states how much Fra McCann should be paid on his universal credit claim, or how much Mr and Mrs Brady should be paid on theirs. If you say that you want to take that and split it, that is a separate process to what the core system does. The core system was never built to do anything except the monthly assessment. As well as that, you could say that, not only do you want to make the payment to Mr and Mrs Brady's household benefit unit, you want to split it between the two of them, either 60:40 or 70:30, and pay it into different bank accounts. All that brings complexity to something that is for a lot of people. It is just about checking that and making sure that is accurate.
7675. **Mr F McCann:** So, when the Minister came to the Assembly and told us that he had a number of points of flexibility, one of which was split payments, he actually does not?
7676. **Mr O'Reilly:** He has.
7677. **Mr F McCann:** There was no top-up cost then. The additional cost of £24 million was sprung on us a couple of weeks ago.
7678. **Mr O'Reilly:** I cannot remember the details of the Minister's speech. I would need to check that. In respect of the agreement with Lord Freud and DWP, who are not building this system, they are building on the basis of a monthly payment and direct payment to people for them to take responsibility for payments to their landlords. That is what the core system is doing.
7679. We are ensuring that the flexibilities will be available in Northern Ireland to meet those on a much greater scale. Those are the flexibilities that have been secured against DWP. We are working with DWP, and that is part of the reason why I was in London in the past couple of days. We are working with DWP and building the IT systems so that it intercepts with the main core system in time for the launch of universal credit in Northern Ireland next year. That is what we are working on at the moment to make sure that those flexibilities are fulfilled.
7680. **The Chairperson:** OK. Mickey, I think that you wanted back in again. We are not going to spend much more time on this issue.
7681. **Mr Brady:** On a technical point, with regard to the 300,000 case load, you said that you have to go back to the previous month. I presume that those are fresh claims.
7682. **Mr O'Reilly:** Yes.
7683. **Mr Brady:** Is the estimate predicated on the existing case load or have you factored in the average fresh claims that you may have during a particular period?
7684. **Mr O'Reilly:** We factor in the population of Northern Ireland, based on benefit unit definition, so the case load would be 300,000. Then there is a series of on-flows and off-flows each month. That is what we work on.
7685. **Mr Brady:** Have you factored that in?
7686. **Mr O'Reilly:** We have factored that in. About 75% of ESA disappear within one year, for example, and JSA is broadly similar, so we have factored those figures in.
7687. **Mr Brady:** They will be disappearing if they only get paid their contributions for the year, but that is another story.
7688. **The Chairperson:** OK. We will move on. I just want to make one point, and it goes



- back to Fra's last remark. We have been told that flexibilities have been agreed and the IT system will be enhanced to facilitate that, but now we are being told that that is fair enough, but it will cost us £24 million.
7689. **Mr O'Reilly:** Chair, I will check the Minister's speech to see whether there was reference to the additional costs, which I think he mentioned, but I will certainly come back to you on that issue.
7690. **The Chairperson:** That is fair enough. Really what you are saying is that it can be facilitated but at a cost. The Committee was always of the view that we wanted flexibilities built in, and we were assured that we could get them. I have never sworn blind that we would get flexibilities. In fact, I have always been very cautious around that. Anyway, we will see what happens. We have the information around that, and it is up to us to do what we want with that information. Thanks, Tommy, for providing us with that.
7691. **Mr O'Reilly:** The second issue was the question around tapers and disregards, which we started to have a discussion on. Colin has provided with you a paper on our thinking around the payment of housing benefit directly to landlords.
7692. **Dr Colin Sullivan (Social Security Agency):** This is one of the three flexible areas, and we will be doing similar work on split payments and more frequent payments, but I will just give you some early thinking, from a methodology point of view, about the options as to how we might deliver direct payments to landlords. It is a fairly complex paper, but I will take you through the three options that are presented. There is more detail to be worked up on each of these options.
7693. At the outset, the paper sets the scene in respect of the current position with regard to housing benefit, and it outlines how the housing element will be calculated once universal credit is introduced. The main focus is the three different options and what effect the options would have on different household types. I will take you through that as well.
7694. The three options that are presented are different places on a spectrum between more or less in respect of full and part payments of direct payments to landlords. We sent you copies yesterday. I am not sure whether you had those printed out in colour or in black and white, but the first option is on page 7, paragraph 25. That would involve paying the housing element directly to landlords in those cases where all the housing costs are met by the housing element of universal credit. That is shown in figure 1. It is only for full payments, not part payments.
7695. **The Chairperson:** Sorry, Colin, members are looking for that paper, but I do not think that we have it.
7696. **Dr Sullivan:** I will just describe it then. The first option is simply to pay all full payments, which would mean that there would be no part payments paid. So, if somebody were entitled to a part payment and not a full payment, they would get the money, and the onus would be on them to make it up from the other elements of universal credit or, if they have them, earnings and then pay the landlord. That is one option.
7697. A second option is to apply the disregard and tapers equally to all elements of universal credit and to pay full payments and all part payments. With that option, you have more people being paid directly, but quite a number of them would get part payments rather than full payments, so the onus would be on them to make up that shortfall. At the moment, we know that, under housing benefit, between 15% and 17% of people receive part payments, and they make up the shortfall under housing benefit at the moment.
7698. It is, however, slightly more complicated under universal credit. At the moment, if any change of circumstances occurs, a member of the public will make the Housing Executive aware of that change of circumstances. They are aware of

- that, and they expect the part payment to change, and they know that they will have a different amount — either more or less — to pay to the landlord themselves.
7699. Under the real-time information system, that will happen automatically, and although they may be aware of the fact that they have changed the number of hours that they have worked, it may not occur to them that they will also have to change the level of the part payment. That could be complex for some people.
7700. A third option is to protect the housing element and to cross-subsidise from other elements of universal credit so that you pay all full payments. Where it starts to be a part payment, you cross-subsidise from other elements of universal credit into the housing element, so you have more full payments and only get to a part payment where you get to that point of the taper where there is not enough universal credit to cover the housing element. In those circumstances, there will be a part payment, and all that part payment will be given to housing.
7701. If you think of those three options, the advantages and disadvantages of those options are that the first one is fairly straightforward. It reduces complexity, and if you have a full entitlement, it is paid for you. If you do not have a full entitlement, the onus is on you to make up the difference and to pay the full amount, some of which you will get from universal credit and some of which you will get from your income.
7702. Between options two and three, the difference is that because you have protected housing in option three over option two, you have fewer part payments and more full payments, and you have given greater emphasis to housing over and above the other elements of universal credit. So, you will have fewer part payments in option three as opposed to option two.
7703. If you do not have the paper in front of you, it is difficult to talk through the scenarios, but, at a high level, you will have situations whereby customers will receive a housing element, and all of it will be paid. In other cases, maybe because of underoccupancy, they will not have all the housing entitlement, and it will not all be paid. They will then need to take account of that extra bit to be paid. It changes with different customer types.
7704. I am quite happy to come back to talk to you in more detail when you have received the paper.
7705. **Mr O'Reilly:** I think that it would be better if members had a look at the paper, and then we will come back again. We are due to come back to you next month or so to have a discussion on flexibilities, given some of the work that we are doing with the voluntary and community sector and some of the political parties. This paper in particular is really helpful for starting to look at the challenges with housing benefit for us and everyone.
7706. **The Chairperson:** I am trying to simplify this. Universal credit was supposed to simplify everything, but we are now told that it is very complicated under universal credit. I asked the Minister this the other morning, and he agreed that it is not a problem, and Hansard will have recorded that. From a position where we have been advised that we have resolved the issue of direct payments of housing benefit to landlords — in other words, that would be facilitated — we are now being told that it is a bit more complicated than that.
7707. **Mr O'Reilly:** No, not really, Chair. At the moment, people receive either full payment or partial payment, and that will be the same under universal credit. The question is this: what is the policy intent, and what do the Executive, the Social Development Committee and people think is the best way of using the universal credit housing benefit payment to achieve what you want to achieve.
7708. At the moment, we pay out to people in the private rented sector. The vast majority of people who currently live in the private rented sector get their

- housing benefit payment made directly to the landlord, and they top it up themselves. In the social sector, the vast majority of the payments are made to the housing associations and the Housing Executive. That is full payment, or, if it is partial payment, the tenants top it up themselves. So, the policy discussion comes down to whether you want that system to continue or you want to move to a system whereby you protect the house at all costs and always make sure that the rent is being paid regardless. That is the choice. It is not a question of whether we will move away from where we are at the moment. We are trying to incorporate this into a system that allows you to make some policy decisions, and that is the discussion that we are having around the criteria.
7709. **The Chairperson:** People wanted direct payments so that whatever amount of money you were given for your housing support would be paid directly to the landlord.
7710. **Dr Sullivan:** That is an option.
7711. **Mr F McCann:** The option already exists.
7712. **The Chairperson:** If you want the option to have the £20, for example, that you need to cover your rent taken out of the rest of your universal credit to protect the house, you can do so?
7713. **Mr O'Reilly:** That is an option.
7714. **The Chairperson:** People may or may not take that up. OK.
7715. **Mr Brady:** Presumably, the partial payments apply where there are no dependants in the house or something, and the tenant is expected to contribute.
7716. **Dr Sullivan:** It could be partly that and also because of income levels.
7717. **Mr Brady:** The Chair made the point about universal credit, and it is gratifying to hear that it will simplify everything. I would love to be in a meeting when you are trying to explain that to Joe Public. I have been dealing with benefits for a long, long time, and it is more complicated, to be honest with you. I am not talking about the outworkings but in how you explain it.
7718. **Mr O'Reilly:** At the back of the paper, there are three examples. It takes you through the universal credit notification note, and you can see where it works through. Maybe that will help. We will happily come back and have a discussion, or we are happy to have it offline.
7719. The last issue was on the question around the £65 de minimis level for writing off debt. We provided with you a paper.
7720. **The Chairperson:** Members, it is entitled, 'Response to further query received on 6 February 2013'.
7721. **Mr O'Reilly:** It is a question around why debt below £65 is written off. We have set out the information to show the administrative costs. We were asked for a breakdown, so in table 1, we provide the numbers of people in each value band. So, 3,000 people were overpaid by between £0.01 and £5, which gave a total value of £6,000. In total, there were 22,000 cases, and their value was £580,000. The weighted average of overpayments in those cases — the write-off — was £32.
7722. The question then became one of whether the Committee would recommend that that £65 be increased. Table 2 sets out the costs associated with that breaking of parity. The total cost, based on last year's figures, of moving the write-off level from £65 to £80 for a total of 4,382 people was £315,000. That would be the additional cost incurred as a consequence of raising it from £65 to £80. That table provides you with the other levels and the total numbers involved, as you requested.
7723. **The Chairperson:** OK; thank you for that.
7724. **Mr Brady:** We have the tables there and the numbers of small overpayments and all that, but may I clarify whether you have any indication how many of those are departmental errors as opposed to customer errors?

7725. **Mr O'Reilly:** These are overpayments.
7726. **Mr Brady:** I mean the reason why those overpayments occurred.
7727. **Mr O'Reilly:** We do not reclaim departmental error or official error at the moment, so these are overpayments as a consequence of customer error or fraud.
7728. **Mr Brady:** Is there no departmental error in there?
7729. **Mr O'Reilly:** No.
7730. **Mr Brady:** Might that be an additional —
7731. **Mr O'Reilly:** That may be later on but not at the moment.
7732. **Mr Brady:** Thank you.
7733. **The Chairperson:** OK. Are members happy enough with that?
7734. Members indicated assent.
7735. **The Chairperson:** Tommy, thanks for that very helpful information.
7736. **Mr O'Reilly:** Thank you very much.
7737. **The Chairperson:** Tommy and Colin, thank you very much, again, for your support in our deliberations on this. No doubt, we will encounter each other again.

## 12 February 2013

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Mr Sydney Anderson  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mr Michael Copeland  
 Mr Mark Durkan  
 Mr David McClarty

### Witnesses:

Ms Martina Campbell     *Department for Social*  
 Ms Jane Corderoy       *Development*  
 Mr Michael Pollock

7738. **The Chairperson:** Members are aware that today we enter into the formal clause-by-clause scrutiny of the Welfare Reform Bill. The Committee Stage of the Bill started on 11 October 2012. The Committee received some 50 written responses and considered oral evidence from 18 key stakeholder organisations and, of course, the Department for Social Development. Given the Committee's extensive consideration of evidence and responses from the Department, we agreed that the formal clause-by-clause scrutiny can commence today.

7739. Members have previously set out their interim positions on the Bill's clauses, which we went through last week. During the clause-by-clause scrutiny, members will be asked to set out their final positions, subject to the report of the Examiner of Statutory Rules and any consequential amendments. If members do not feel that they can agree a clause, that must be clearly stated during this session. If that happens, the member will be asked to set out his or her proposed recommendation, opposition or amendment.

7740. This is the countdown to our final consideration of the Bill, and the formal

clause-by-clause scrutiny is important. The departmental officials — Jane, Martina and Michael — are here this morning to assist the Committee on any issues that we are not sure about or that we did not conclude on. Last week, we had quite a discussion on, first, trying to get a consensus report, and, secondly, agreeing the number of clauses that members determined that they did not wish to support at this time. There will be a caveat in so far as the report's preface will state that there are a number of outstanding issues — for example, universal credit, which is out to consultation — and members felt that they could not support the relevant clauses as they are currently drafted because a consultation is under way. In addition, the Minister is deliberating with Westminster on flexibilities or variances on, for example, sanctions and other issues. The Executive may also wish to take some mitigating measures, over which the Committee has no control.

7741. Last week, members agreed the clauses that they would not currently support. That does not prevent members either changing their mind this morning and voting for or against an amendment or a proposed clause, or tabling amendments now or at Consideration Stage. In other words, we understand, and it is written into our report, that members will be voting at Committee Stage on the clauses, bearing in mind how deliberations may continue when the Bill leaves the Committee, with the Minister seeking either other flexibilities or Executive support. That is the basis on which members adopt their position at Committee Stage, which is not in any way prejudicial to how members may or may not vote, or table relevant amendments that they think are appropriate or necessary, in the Assembly at Consideration Stage.

7742. If members are satisfied with that approach, the Committee Clerk and his



staff have gone through the Committee's discussions and identified a number of clauses, based on last week's positions, that the Committee may or may not support as they are currently drafted. That does not mean that members will not be able to table amendments or vote in a different way at Consideration Stage. Members will be guided by the outworkings of consultations, Executive deliberations and any mitigating measures that may be taken to alleviate our concerns. At any time, members are free to table amendments or be guided by parity issues or costs in the way in which they finally vote on the Bill.

7743. Members have the Bill, the explanatory and financial memorandum, the clause-by-clause summary table and advice from the Examiner of Statutory Rules.

7744. Before we commence the formal clause-by-clause scrutiny, I welcome Sydney Anderson.

7745. **Mr Anderson:** Thank you, Chair.

7746. **The Chairperson:** He replaces Sammy Douglas. We have written to Sammy expressing our gratitude for his work on the Committee. We wish him well.

7747. Are members content that that is the position that we have adopted before we start our formal clause-by-clause scrutiny?

*Members indicated assent.*

7748. **The Chairperson:** Some clauses are grouped because of their relevance to one another. I will go through the clauses one by one or in their little groups. We will note whether or not members support clauses. I remind members to refer to their recommendations paper, which contains the clauses on which the Committee has retained its position; they are the clauses that members will not support. For the most part, the recommendations are well qualified and prefaced. We intend to go through the clause-by-clause scrutiny today and then have our next Committee meeting on Thursday morning, at which we will finalise our report on the Committee Stage of the

Welfare Reform Bill. It will, obviously, include the results of our clause-by-clause scrutiny and other elements on which we agreed, and it will also refer to the Ad Hoc Committee's recommendations. Members are still free to raise individual matters today or on Thursday.

7749. If members are content, we will now go through the clauses. It is entirely up to members to raise any issue that they wish to during today's discussions. The purpose of doing business in the way in which we did, which is the normal procedure for Committee Stage, is that we have more or less had all our discussions and probably do not need much more, if any, discussion. I intend to go through the clauses, but members are free to raise any issues.

*Clauses 1 to 3 agreed to.*

#### **Clause 4 (Basic conditions)**

7750. **The Chairperson:** Clause 4 is included in the recommendations paper. Based on our discussions, it was decided that the Committee was not agreed to clause 4 as drafted.

7751. **Mr G Campbell:** Can we take your opening caveat as read, rather than repeating it ad nauseam?

7752. **The Chairperson:** That is even better. Thank you.

*Question, That the Committee is content with the clause, put and negated.*

*Clause 4 disagreed to.*

*Clauses 5 to 9 agreed to.*

*Clause 10 disagreed to.*

*Clause 11 agreed to.*

*Clause 12 disagreed to.*

*Clauses 13 to 25 agreed to.*

*Clause 26 disagreed to.*

*Clauses 27 to 32 agreed to.*

7753. **Ms P Bradley:** Chair, may I interrupt? I am looking back at clause 26, "Higher

level sanctions". The recommendations paper states:

*"In this context the Committee was content to agree the clause as drafted."*

7754. Am I reading this correctly? We have disagreed clause 26.

7755. **The Committee Clerk:** The Committee was interested in exploring with the Minister the possibility of varying the sanction regime. If that is the case, you cannot support the sanction regime if you want to ask the Minister to review it.

7756. **Ms P Bradley:** OK.

7757. **The Chairperson:** Remember that, because the Minister is in discussions about trying to vary the sanctions.

7758. **Mr G Campbell:** With the Department for Work and Pensions (DWP).

7759. **The Chairperson:** With DWP.

7760. **The Committee Clerk:** If the Committee is then of a mind of not being content to agree it rather than asking the Minister to go and review it, that is the approach.

7761. **The Chairperson:** Are members content?

*Members indicated assent.*

*Clauses 33 to 51 agreed to.*

*Clause 52 disagreed to.*

*Clause 53 agreed to.*

*Clause 54 disagreed to.*

*Clauses 55 to 68 agreed to.*

*Clause 69 disagreed to.*

*Clauses 70 to 98 agreed to.*

*Clause 99 disagreed to.*

*Clauses 100 to 102 agreed to.*

### **Clause 103 (Recovery of benefit payments)**

7762. **The Chairperson:** I want to draw members' attention to this clause because the recommendations paper states that the Committee was not content to agree it. There was a bit of discussion on this, and members talked

about the de minimis level of £65. The Department gave us rising figures for the cost of increasing the de minimis figures. When we reflected on this, I am not entirely sure what the Committee was minded to do. I think that we were asking the Minister to consider it; I do not know that we were actually opposing the clause per se. So, I am not sure whether members want to agree the clause and ask the Minister to review it.

7763. **Ms P Bradley:** I think that that was the general feeling.

7764. **The Chairperson:** Are members content to agree the clause and to ask the Minister to look at the de minimis levels?

7765. **Mr Durkan:** Is it similar to the other clause? If we agree it, can the Minister still look into it?

7766. **The Chairperson:** This is not one of the clauses concerning the cautions; those are a little complex and interrelated. This clause is saying that a figure of £65 at the moment would be non-recoverable and that anything above that would be recoverable. We were given a list of statistics that showed what the difference might be in the cost for non-recovery to the Department if the rates were raised to £70, £75 or £80. I think that the bulk of the money that would not be captured would be in the £70 or £75 range. Is that not right, Martina?

7767. **Ms Martina Campbell (Department for Social Development):** I think that that is right. I do not have the figures at the moment.

7768. **Mr Michael Pollock (Department for Social Development):** Something like 22,000 incidences of overpayments were affected. I think that the figures in the table represented 22,000 multiplied by the difference between £65 and £75.

7769. **Ms M Campbell:** We have agreed to look at the guidance again to give decision-makers a better flavour of when they would apply the de minimis level.

7770. **The Chairperson:** So, are we content to agree the clause as drafted?

7771. **Mr Brady:** Can I just check something, Martina? I suppose a lot of the smaller ones would maybe apply when somebody died or there was a delay in the reporting and that kind of thing.

7772. **Ms M Campbell:** Yes, or if people did not get notification of their change in on time or something like that.

7773. **The Chairperson:** Are members happy enough?

*Question, That the Committee is content with the clause, put and agreed to.*

*Clause 103 agreed to.*

*Clauses 104 to 108 agreed to.*

*Clauses 109 and 110 disagreed to.*

*Clauses 111 to 114 agreed to.*

*Clause 115 disagreed to.*

*Clauses 116 to 132 agreed to.*

#### **Clause 133 (Commencement)**

7774. **The Chairperson:** Are members content with clause 133?

7775. **Ms Jane Corderoy (Department for Social Development):** I just want to make the Committee aware that the Government amendment that we will table at Consideration Stage for the new discretionary social scheme will become clause 133. I think that the officials who are leading on that hope to have that amendment with you at some point this week so that you can look at the enabling clause before Consideration Stage.

7776. **The Chairperson:** Are you saying that clause 132 will become clause 133?

7777. **Ms Corderoy:** No. Clause 133 will become clause 134, and clause 134 will become clause 135. There will be a new clause 133, which will be the enabling clause for bringing forward the new discretionary social scheme.

7778. **The Clerk of Bills:** That is fine. That is a new clause, so at the end of the clause-by-clause scrutiny, you may want to put the Question on that to the Committee.

7779. **The Chairperson:** I just want to make sure that we get this right. So, clause 133 will become clause 134. Are members content with that? Are there are no objections to the numerical change?

*Members indicated assent.*

*Question, That the Committee is content with the clause, put and agreed to.*

*Clause 133 agreed to.*

#### **Clause 134 (Short title)**

7780. **The Chairperson:** Clause 134, which is the short title, will now become clause 135. Are members content with that clause and with its numbering?

*Question, That the Committee is content with the clause, put and agreed to.*

*Clause 134 agreed to.*

#### **New Clause**

7781. **The Chairperson:** We will now discuss new clause 133. Do we have the wording for that?

7782. **Ms Corderoy:** We do, but I do not know whether it has been cleared with the Minister yet. I think that that is what we are waiting for.

7783. **The Chairperson:** Can we take guidance on it?

7784. **Ms Corderoy:** I know that the Committee may have heard from the departmental officials who are leading on the policy, and Leo McLaughlin and Brian Doherty from the agency may have been up to talk about the details. I think that it is out to public consultation at the moment. I can give you a general overview of it, if you are happy with that.

7785. **The Chairperson:** You gave us an explanation, so it might just be that the best that we can do is acknowledge that the Department has indicated that it will bring forward a new clause 133, the purpose of which is as you articulated it a minute ago. Is that fair enough? I think that we are probably generally content with the explanation that we

were given, so, subject to that, members are content.

*Question, That the Committee is content with the new clause, put and agreed to.*

*New clause agreed to.*

*Schedules 1 to 12 agreed to.*

7786. **The Committee Clerk:** I just want to clarify two issues about some of the clauses. In his report, the Examiner of Statutory Rules recommended that the regulation-making powers under clause 33 and clause 91 should be subject to the confirmatory procedure. I know that, at the previous meeting, there was some discussion about how far those recommendations went along with the Department and the Office of the Legislative Counsel (OLC). So, I want to be sure that the Committee has made the right decision on recommending that, following the guidance of the Examiner of Statutory Rules, that would be the case.
7787. **The Clerk of Bills:** Making clause 33 subject to the confirmatory procedure would require an amendment to clause 44, which was grouped with another two clauses. Making clause 91 subject to the confirmatory procedure would require an amendment to clause 93. If the Committee is of the view that it will be moving in that direction, you may want to revisit those two clauses to say that, "The Committee is content, subject to regulations — [Inaudible.] — amendment to come forward."
7788. **The Chairperson:** Do you want to read that into the record? I think that that is what members agreed.
7789. **The Clerk of Bills:** I think that you agreed clause 44 and clause 93.
7790. **The Chairperson:** The Committee Clerk has reminded me that the Department has been in discussions with OLC, so you may have something further to add.
7791. **Ms M Campbell:** Sorry; I have nothing more to report.
7792. **The Committee Clerk:** It would be unusual for a Committee not to follow the guidance of the Examiner of Statutory Rules on recommendations on regulation-making powers. If we are thinking about amendments, it was my error; I should have pointed that out earlier. The issue is really whether the Committee is content for an amendment to clause 44 to be tabled.
7793. **The Chairperson:** We have an amendment for regulation-making powers in clause 33, subject to the confirmatory procedure. If you remember, we had a discussion about recommendations from the Examiner of Statutory Rules about getting a higher level of accountability by the Assembly. This is really just to give effect to that and to accept the recommendations of the Examiner of Statutory Rules.
7794. **The Committee Clerk:** The Examiner of Statutory Rules was — [Inaudible.] — and really the only points that he made were about how clause 33 and clause 44 should be subject to the confirmatory procedure. The Department indicated that it was in discussions with the OLC about that. If the Committee were to agree those clauses as drafted, it would not be following the advice of the Examiner of Statutory Rules. So, it is a case of proposing amendments to ensure that the advice of the Examiner of Statutory Rules is followed in respect of the confirmatory procedure.
7795. **The Chairperson:** Can we just read that into the record?
7796. The issue is how we procedurally formalise that.
7797. **The Clerk of Bills:** Members may want to look at the report, which is in the papers.
7798. **The Chairperson:** It involves only two clauses: clause 33 and clause 34.
7799. **The Clerk of Bills:** Not 33 and 34.
7800. **The Committee Clerk:** It relates to clause 33 and clause 91. It is a case of revisiting clause 44 and clause 92 and amending them in accordance with the recommendations of the Examiner

of Statutory Rules. So, the amendment reads:

“Clause 44, page 21, line 25

At end insert -

(c) regulations under clause 33”

*Question put and agreed to.*

7801. **The Committee Clerk:** Similarly, the amendment to clause 93 reads:

“Clause 93, page 65, line 26

At end insert -

(c) regulations under clause 91”

7802. Those amendments are then following the Examiner’s recommendations.

*Question put and agreed to.*

7803. **Mr Brady:** Can I ask about the talk about the confirmatory and the affirmative procedures? Which will apply?

7804. **The Chairperson:** It will make the provision subject to the confirmatory procedure?

7805. On that basis, are members agreed?

*Members indicated assent.*

*Long title agreed to.*

7806. **The Chairperson:** That concludes the formal clause-by-clause scrutiny. Michael, did you want to say something?

7807. **Mr Pollock:** Just for our purposes, when we were going through the clause-by-clause scrutiny, I thought that clause 33 and clause 44 were agreed as drafted. Are we now saying that they are in the recommendations paper?

7808. **The Chairperson:** We will revisit them because we had neglected to remind ourselves about the recommendations of the Examiner of Statutory Rules. If you remember, the Department is in discussions with OLC about that to resolve the issue. So, it is just about raising the level of accountability through the confirmatory procedure.

7809. **Mr Pollock:** Is it the same for clause 93?

7810. **The Clerk of Bills:** Can I just clarify that, to change the regulation-making power in clause 33, clause 44 has to be amended. So, clause 44 was revisited. To make the regulation-making power in clause 91 subject to the confirmatory procedure, clause 93 needs to be amended, so it was also revisited. So, this applies to clauses 44 and 93.

7811. **The Chairperson:** Are members happy with that? Thank you, Michael.

7812. On that basis, we have concluded the formal clause-by-clause scrutiny. The Committee will return on Thursday morning for our normal Committee business, after which we will recommence the final deliberations on the Welfare Reform Bill, when we will agree the full report.

7813. **Mr G Campbell:** Just on a general point and going back to our discussion on the previous meeting, the recommendations paper had a series of issues arising from a number of clauses about which either the Minister was in discussions about variations or he was going to discuss them with Executive colleagues with a view to trying to get resources. I take it that the Committee is clear that, at some point in the Bill’s progress, those questions will receive answers. We will then get the very clear picture both about what we would like and the response to that.

7814. **The Chairperson:** As you know, we have made it very clear that this is the view that members here, who have had long deliberations on the Bill, have adopted and that it will not prejudice how members may have to vote, either because of parity or cost reasons or because they may have got an answer that satisfied them. Parties and their members and those from non-parties will consider all this in the round when the Bill reaches Consideration Stage.

7815. I thank the departmental officials for being very helpful and patient with the Committee.

7816. **Ms M Campbell:** You are very welcome.



## 14 February 2013

### Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)  
 Mr Mickey Brady (Deputy Chairperson)  
 Mr Sydney Anderson  
 Ms Paula Bradley  
 Ms Pam Brown  
 Mr Gregory Campbell  
 Mrs Judith Cochrane  
 Mr Michael Copeland  
 Mr Mark Durkan  
 Mr Fra McCann  
 Mr David McClarty

### Witnesses:

Ms Angela Clarke                      *Social Security Agency*  
 Mr Brian Doherty

7817. **The Chairperson:** Members, we are resuming our work on the Welfare Reform Bill. We are almost at the conclusion of this. The main reason for today's session is to agree the Committee's report on the Welfare Reform Bill. There are a couple of issues to consider prior to proceeding with that. On Tuesday, we completed our formal clause-by-clause scrutiny of the Bill, but it has been brought to our attention that there may be an issue with clause 115, which is about cautions, that requires a wee bit of clarification. Kevin revisited the Hansard reports from the other day, and when he and I discussed this, we were not entirely sure about the intent of the members and about how the vote ended up. It is a little bit confusing, to say the least. Kevin will take us through the points.

7818. **The Committee Clerk:** Once we got to the issue of cautions, particularly clause 115, an issue was raised. Members had a discussion about informal and formal cautions. Clause 115 relates to formal cautions, and, as members know, if the Department has investigated an attempted fraud and a person has been found actually to have attempted fraud, the Department can currently issue a

formal caution that goes on the record and has potential implications for job applications, travel arrangements and various other things. Clause 115 will remove the Department's option to deliver a formal caution and, instead, will replace it with a more severe administrative penalty. That refers to clause 110. The Committee had considered all along that it wanted to oppose that clause and, therefore, retain a formal caution. Subsequently, when the Department clarified the situation, the Committee was moving more towards agreeing that clause, so that cautions would be removed and the administrative penalty would be applied instead. That is coupled with the Committee's recommendation that the Minister would review the levels of the administrative penalty in conjunction with that.

7819. When going through the Hansard report the other day, I noticed that — I think we were discussing the amendments of the Examiner of Statutory Rules at the time. When I went through the report, I noticed that the Committee had actually opposed the clause. That means that if the Minister were to act on that, they would keep cautions. However, in the Minister's response, he indicated that if we were to keep formal cautions as an option, it would mean that they would retain the formal caution as an option for attempted fraud. Rather than the £350 administrative penalty for attempted fraud, a person could, potentially, end up with a formal caution, which might seem somewhat disproportionate.

7820. I want the Committee to be clear on the decision that it has taken. There is still an opportunity, if I have misunderstood the Committee's intentions, to change that clause, given that the Committee has agreed to oppose some of the other clauses so that the Minister would review the administrative penalty. You want to

- agree the clause and, therefore, have the formal cautions removed, coupled with the Minister reviewing the level of administrative penalty that would apply.
7821. **Mr Brady:** I think the issue was around the fact that the formal caution could go on somebody's record and, therefore, impinge on their future — as you say, travel and all of that. The informal caution was warning people off. Presumably, if there was a repeat, there would be more severe action — maybe they would be taken to court, or whatever. The formal caution has removed that option. If you get a formal caution, it is going to impact on your future life, basically. It is a criminal record, essentially, and I think it is disproportionate.
7822. **The Chairperson:** Do you want to leave it as it is?
7823. **Mr F McCann:** I take the position that it puts in place what the Committee had asked for, which was that nobody ends up with a black mark on their record that may prohibit particular things.
7824. **The Committee Clerk:** That would mean that the Committee would have to agree the clause. Agreeing the clause means that the Minister would proceed as he intends, which is to remove the option of a formal caution, and an administrative penalty would be applied instead.
7825. **Mr Campbell:** My understanding is that that was the Committee's desire.
7826. **The Committee Clerk:** Yes, it was. It was simply that the Committee actually opposed the clause, but should have agreed it. However, the intent behind the Committee's decision was as per the Minister's action, which was to remove formal cautions as an option.
7827. **Mr F McCann:** Is there a form of words that allows us to move ahead on it?
7828. **The Chairperson:** Agree the clause.
7829. **Ms P Bradley:** We just formally have to agree the clause.
7830. **The Committee Clerk:** Agree the clause, as drafted.
7831. **The Clerk of Bills:** If you change what you did the other day, you will be consistent with your recommendations report. As it stands, you are not consistent.
7832. **Mr Campbell:** We have to try to be consistent.
7833. **The Chairperson:** Are members content with the clause, as drafted?  
*Members indicated assent.*
7834. **The Chairperson:** That is in the record now; we have amended that.
7835. Just, again, to say that these are procedural matters, really. The Committee was not content with a number of clauses as drafted, and has the option of registering formal opposition to the question of those clauses standing part of the Bill. That would ensure, simply, that, in the absence of any amendments to those clauses, they are debated at Consideration Stage — formally logged for debate.
7836. **The Committee Clerk:** That is right. If the Committee wants, the Clerk of Bills can come in here, but formal clause-by-clause is concluded. Lodging the Committee's opposition to certain clauses gives speaking rights at Consideration Stage to indicate why the Committee took the action that it did. I think I am right in saying that it gives the same weight as amendments.
7837. **The Clerk of Bills:** Yes.
7838. **The Committee Clerk:** We can do that between now and Consideration Stage, if the Committee is minded to do so. Otherwise, as the Committee knows, the Consideration Stage debate will focus on amendments. The Chair will be given some latitude for his speech, but, otherwise, you will not be able to address these issues if they are not put down as amendments.
7839. **The Chairperson:** It makes sense to do that because, at the end of the day, there are points that people want to make one way or another during the

debate. Are members content that we do that?

*Members indicated assent.*

7840. **The Chairperson:** Again, as circulated, we have an amendment being tabled by the Department. Obviously, as we have concluded the formal clause-by-clause stage, any further amendments by the Department would be brought forward at Consideration Stage. However, officials are here. The matter has been raised before. Members had some discussion about it. It is obviously an important issue. Are members content that we take the amendment? We might not even need a debate as such, but officials are here to assist if needed. The amendment was circulated. There is an introductory letter from Angela Clarke that sets it all out. I hope that members have had an opportunity to read that.
7841. **Mr Brady:** The whole point of discretionary support is to ensure that it targets the people who most need it. The initial intention of the social fund was to do that, but it kind of got lost somewhere along the way. Basically, it is used to top up people's benefits because people — [Inaudible.] — what they were getting. It is all about who it targets. If it is to be effective, it has to do that.
7842. **The Chairperson:** OK. Are members content with the amendment? It will be subject to Executive approval by way of statutory regulation, and so on, so there will be plenty of opportunities to deal with the details, and so on, at a later stage.
- Members indicated assent.*
7843. **Mr Brian Doherty (Department for Social Development):** Thanks very much.
7844. **The Chairperson:** That was an easy one, Brian.
7845. **Ms Angela Clarke (Department for Social Development):** Thank you very much.
7846. **The Chairperson:** Those are all the items from the formal clause-by-clause scrutiny that we did the other day. Are members content to agree the report? I want to clarify a couple of items in my

own mind. Obviously, we went through the Bill clause by clause. There is quite a volume of contributions, debate, evidence gathered, views and assertions by a whole range of people, not least this Committee. There were two or three items there that I am not sure — I just have to recall — whether we actually did put any formal recommendations. For example, we discussed the issues — and were heavily lobbied, as people know — around a statutory right to independent advice. If I recall, members were broadly supportive of that concept. However, we did not discuss any particular mechanism for that or means by which the Department would deliver on that. It would probably be appropriate, if members agreed, that we could make, for example, one of the options open to us: a recommendation that the Minister or Department considers this, rather than us putting a formal proposal. I would be content for us to ask the Department to consider that. I am not sure how precisely that might be done. It could be a contract that is given out; I do not know. I do not want to get into trying to determine who might deliver on it, but I would like the Department to formally consider it.

7847. **Mr Brady:** I think that £69 million was mentioned the week before last. I am not sure how much of that might or might not apply here for advice services. Our intention was to ensure, because of the complexity — we have been told how simple universal credit is going to be, but I am certainly not convinced from listening to the officials. They are having difficulty explaining how simple it is. There is going to be a huge pressure, as there is already, on the advice sector. The other thing, too, is the whole issue of effective benefit take-ups. There have been a number of benefit take-ups over the past few years that have been effective to some degree. Take pension credit as an example; there is about £1.9 million unclaimed every week, so, obviously, it cannot be that effective. One of the things that we talked about was how the scheme was run in England in automatic entitlement — [Inaudible.] — people whom you

think might be entitled, then eventually sorting out the people who actually are entitled, after a three-month period or whatever. That seems to have been very effective in parts of Britain. We did not have that option. So there is that, and the other big one that we discussed was the benefit cap. I am not sure what positions, if any, have been taken on that. It was just really, if you will excuse the phrase, to flag that up with you.

7848. **The Chairperson:** The first issue raised there was the statutory right to independent advice. Am I right in reading that members were sympathetic to that concept, without going into detail?

7849. **Ms P Bradley:** I think that we were all concerned about that. At Question Time on Monday or Tuesday, that was one of the questions that the Minister was asked, and he was quite open to that. He said that there were going to be more people phoning in to the Department and its local offices needing advice, so he is aware of that. I do not think that putting that down is a big ask.

7850. **The Chairperson:** So, we will put in a recommendation that the Department and the Minister should formally consider supporting this particular concept. Is that fair enough?

7851. **The Committee Clerk:** I have actually put in a recommendation to that effect.

7852. **Ms P Bradley:** Have you now?

7853. **The Chairperson:** Do we have that in? Well, that is why I was —

7854. **Ms P Bradley:** There you are. Was there a meeting going on before this?  
[Laughter.]

7855. **The Committee Clerk:** No, it was on the basis of Mr Durkan raising the point about the £65 million. We just looked it up. It is in the executive summary and the recommendations. I refer members to the recommendations, at paragraph 83. I do not know whether this is strong enough for the Committee; I put it in on the basis of what is coming out of Westminster and the £65 million fund that there is to support the advice

sector across the UK. When officials were here at the last meeting, they indicated that, if it were UK-based, Northern Ireland would be subject to accessing that funding. It is just that little bit at the end, where I put in:

*“The Committee recommended that appropriate resources are made available to the independent advice sector in NI during this period”*

7856. — that is April 2013 to April 2015, which is the key period when this is rolling out —

*“to ensure that all benefit claimants can access independent advice as they prepare for the transition to the new system.”*

7857. Does that encapsulate what the Committee wants, or is it actually more focused on the recommendation for a statutory provision? If so, that would really mean amending the Bill, as we discussed before. It would appear that funding is available.

7858. **The Chairperson:** OK. Although, in saying that, we do not know. We may or may not get something out of it.

7859. **Mr Brady:** There are many small, local advice centres. There are the big regional ones — National Association of Citizens Advice Bureaux (CAB), Advice NI and people who are affiliated — but there are a lot of small, local advice centres that do a lot of very good work. Sometimes, they feel that they are being bypassed in funding. I know that myself. I worked in a centre for many years, and for the first 17 years, we got little or no funding. It was only when matching funding came from the Department for Social Development that we started to get money from councils and that kind of thing. So there are many small, local advice centres, and I think that any system has to ensure that they benefit from any funding that is available. I think it is unfair that sometimes, if you are not affiliated to some of the regional organisations, you do not necessarily come in under that.

7860. **Mr Copeland:** It is just the idea — maybe I am reading it wrong:

*“as they prepare for the transition to the new system.”*

7861. The real difficulties will come when they find themselves in the new system. The way that that is worded leans more towards people who are current claimants and who are going to have the nature of their claim altered, as opposed to those who may be entering for the first time. It is a moot point, and I suppose that it is open to interpretation, but I would have thought that the requirement for independent advice would go some considerable distance beyond the point of preparing for transition to the new system.
7862. **The Chairperson:** Those are only a couple of words, which we could amend. Paragraph 83 goes a long way, certainly in my mind, to delivering what we want. If you want to add another couple of words, that would maybe firm it up a little bit, but, again, it is only a recommendation to the Minister and the Department.
7863. **Mr Copeland:** On a point of information or interest, there is a motion coming from the all-party group on mental health, through Sue Ramsey, which is more strongly worded. It might be an idea to have a look at it in case we find ourselves at cross purposes.
7864. **The Chairperson:** This is more general. That is from the Health Committee.
7865. **Mr Copeland:** Yes, but it is specific to advice.
7866. **The Chairperson:** We were sympathetic to the notion that people need to have access to independent advice. Paragraph 83 goes a long way, and we can insert a line from, in a way, the lobby, asking the Minister to consider the argument that people need access to independent advice. We have already agreed that we are going to lodge these so that we can speak to them in the Assembly and that people can elaborate on them if they so wish at Consideration Stage. Kevin, are you happy enough that you can recirculate it again to people, just asking whether they want to agree?
7867. **The Committee Clerk:** Sure, I can do that. Is it a case of ongoing advice? Not just the transition from one system to another, but while they are in that system, their circumstances may change.
7868. **Mr Copeland:** It has got to be ongoing.
7869. **The Chairperson:** As you say, Michael, it might be a moot point, but at the end of the day, we all know it is from the outset. Actually, people need to have access to independent advice at all times, which is why the Department funds organisations: to make sure that they do have access.
7870. **Mr Durkan:** What about the interpretation of “appropriate” resources? The Department might say that appropriate resources have been allocated. An additional £3.1 million has been allocated for that period already.
7871. **The Committee Clerk:** If members want, instead of “appropriate” I can put in “additional”.
7872. **The Chairperson:** Are members happy enough with that?
- Members indicated assent.*
7873. **The Chairperson:** With regard to the benefit uptake, which was referred to, members will again recall that even in the fuel poverty discussions, you keep coming up with the fact that, no matter when anyone, including the Department, has launched any kind of take-up benefit campaigns for people's entitlements, they always result in people getting extra money that they were entitled to but, until then, had not been claiming. So there is always this argument over whether the Department needs to have some structured way of making sure that there is a benefit check, either when people are applying or at some point during their claim. We need to make some recommendations. We need to seriously look at that.
7874. At the Committee for the Office of the First Minister and deputy First Minister yesterday, we had a presentation from Employers for Childcare. There are a number of parents here who are not



- claiming tax credits or receiving some of the vouchers that are available, because they do not know about them or think it is too complicated. That is another example of where people are sitting here at the moment who are not getting what they are entitled to. That would help people to get into work, and so on and so forth, if you know what I mean. So, we need to make some recommendation around trying to get the Department to focus on a means by which claims will be processed, assessed or, if needs be, reassessed to make sure that people are getting what they're entitled to. Does that include advertisements, and so on and so forth? There has been some good work done recently, but we need just to get something so we can say that it was raised with us routinely and that we want to try to focus the Department's mind on the issue and see whether we can make an improvement in regard to it.
7875. **Ms P Bradley:** I agree with that. Again, at Question Time the other day, that was another answer the Minister gave to somebody to do with the benefits uptake and how it has increased a heck of a bit in the past few years. However, there is still work to do.
7876. In my previous life, I worked with over-65s. Of the people I asked whether they received any form of benefits or pension credit, 90% of them did not. I would say that out of that, a further 60% did not even want me to look at it for them. So, there are other reasons out there as to why people are not applying. It is not necessarily because they do not know. They may feel that there is a certain stigma attached to it, whatever it may be, and do not want to apply for it either. So, maybe it is to bring that knowledge wider, that you can get this; you are entitled to this.
7877. **Mr Brady:** Unlike many MLAs, Paula listens at Question Time. That is good to hear.
7878. The point that she made about older people particularly is a thing that I would call the "brown envelope syndrome". People here have been brought up to believe — it is almost part of our culture — that if they get a letter from the buroo or something, it is bad news. I experienced that for years. People would come in; they would not even open the envelope, but would hand it to you to open. It could have been a giro or good news.
7879. My point is about benefit take-up. A lot of in-depth research has been done. In Scandinavia, people are paid automatically. When you reach pension age, for instance, whatever you are entitled to, you get. Research has been done here. Apparently, the Department for Work and Pensions in Britain has told people that it cannot do that because of postcodes. We have postcodes that are very straightforward and simple, and we have insurance numbers that are unique to the person. There is absolutely no reason why that cannot be done.
7880. There is so much money spent on benefit take-up. It would seem simpler if we had a proper IT system. I do not think that we are going to get to that stage, but it would be simpler. It is an automatic payment. When you reach pension age, for instance, if you are entitled to the likes of pension credit premiums — all of that — that is all done automatically. They would obviously just put your details in and press a button.
7881. **Ms P Bradley:** To follow on from what Mickey said, I worked for CAB for about five years and we had what was called a benefit maximiser. You put the details of the client into it and it printed off a sheet that said, even, the amounts of what you could be entitled to. It was simple. It was really very easy to do. There was nothing difficult about it.
7882. **The Chairperson:** Are members content to draft a recommendation that calls on the Department to deal with that in a formal, structured manner, around the — what did you call it — benefit maximiser?
- Members indicated assent.*
7883. **The Chairperson:** I only want to raise one more point, which is the benefit cap Mickey mentioned a minute ago. I want to raise that issue as an MLA and

a member of my party, and not as the Chair of the Committee. We had some discussion around this, and I am not sure whether Kevin is going to produce a paragraph relating to it. Failing that, people know that there was a fair amount of discussion around that, and we got information on exemptions and other matters.

7884. As a member of the Committee, I am concerned that because this is enabling legislation, we do not know where this might end up. I only really want to serve notice, if we do not have any formal recommendation in relation to a benefit cap. I am not suggesting that we open up a discussion on that item at the moment, because I do not think that we would get agreement on it. I just want to formally record that I and my party colleagues are concerned about it. I am not suggesting that others are not, but I am just putting it on the record formally that, notwithstanding that we are content to agree the final report this morning, we are likely to raise this at Consideration Stage, possibly by way of opposition or some amendment. I am just serving notice of that and making people aware of it.
7885. Are members happy enough with that? If there is nothing else that anybody else wants to raise, it is just left to ask members whether they are content with the final report of the Committee.
7886. **The Committee Clerk:** Chair, we really need to go through it section by section. That is just in case there is a certain emphasis or wording that members may wish to address.
7887. **The Chairperson:** OK. We will use the executive summary paper.
7888. **The Committee Clerk:** Just to be clear, members, of course, know that there are tables of contents and a whole ream of appendices. In the end, the report will probably be two or three volumes. However, this is the body of the text that is of real concern.
7889. Committee staff will deal with the table of contents, numbering and everything else. Once the Committee agrees the

report — assuming it does — we will go over it again and look for any typos and things like that and change those. We will not change any of the content or emphasis of the report once it is agreed, subject to the two additional recommendations that the Committee would like to add.

7890. **The Chairperson:** Members were provided with the report and asked to read through it again. It recaptures all that we have already agreed. We will formally go through it.
7891. I ask members to turn to page 6 of the draft report. Paragraphs 29 to 84 on pages 6 to 12 form the recommendations of the report. This section lists the Committee's recommendations to the Minister.
7892. Are members content with paragraphs 29 to 84?
- Members indicated assent.*
7893. **The Chairperson:** I ask members to turn to page 13. Are member content with paragraphs 85 to 100?
- Members indicated assent.*
7894. **The Chairperson:** Are members content with paragraphs 101 to 472 on pages 15 to 68?
- Members indicated assent.*
7895. **The Chairperson:** Are members content with paragraphs 473 to 564 on pages 69 to 78?
- Members indicated assent.*
7896. **The Chairperson:** Paragraphs 1 to 28 on pages 1 to 5 give the executive summary of the report. Are members content with those paragraphs?
- Members indicated assent.*
7897. **The Chairperson:** On that basis, are members content that the report be the fifth report of the Social Development Committee to the Assembly?
- Members indicated assent.*

7898. **The Chairperson:** I need to determine whether the Committee is content for the Chairperson to approve the section of today's minutes that refers to the Welfare Reform Bill report. This will allow the printing of the report to proceed without the need for a further Committee meeting. Are members content that I just sign off on the minutes from today's meeting?

*Members indicated assent.*

7899. **The Chairperson:** Is the Committee content that the report be ordered to be printed on 14 February 2013?

*Members indicated assent.*

7900. **Mr Campbell:** Chair, the Minister's position will obviously come into play on the timing. Given what he has said up to now about the cost of delay, what is the likely timeline beyond today, provided that there is no further delay?

7901. **The Committee Clerk:** I have spoken to the Department about when the Consideration Stage might be. Although it has indicated that it is not set in stone, it is scheduled provisionally for 19 March. That might change.

7902. On the first package of recommendations, the best that I could get from the Department is that the Committee is scheduled to get them somewhere between April and June. The last timetable I saw was for May, and that is a package of about 15 or 16 recommendations, all on the basis of confirmatory procedure, and scheduled to come into operation around October. However, we are looking at 19 March for the next stage of the Bill.

7903. **Mr Campbell:** OK.

7904. **The Chairperson:** I want to take this opportunity to formally thank everybody who has been involved in this. It has been a very challenging and time-consuming exercise. It has been more challenging, in so far as we committed ourselves to a very extensive and robust scrutiny of the Bill. The conduct of the Committee, with the support of officials — big time — the Department

and a whole range of stakeholders have demonstrated the import of this particular report. Indeed, because of the possible implications of the Welfare Reform Bill as it rolls out over the next couple of years, we were duty bound to give it robust scrutiny. I am satisfied that we have done that and that we have given a fair hearing to all those who were promised that. I think that the fact that the Committee has adopted the position that it has is testimony to that. It was very difficult for all the members to grapple with these issues, and I want to afford my personal thanks to Kevin and others for the critical support they have given to me as the Chair and to the Committee. I want to thank everyone who has contributed big time to allowing us to do this job robustly and with the integrity that it merited.

7905. **Mr Durkan:** I concur with your thoughts and echo your thanks to the Committee staff. I also commend you on how you have chaired the proceedings. It has been a difficult enough process.

7906. **The Chairperson:** OK.



Northern Ireland  
Assembly

Appendix 3

# Submissions





## List of Written Submissions

- A2b – Access to Benefits
- Action on Hearing Loss
- Advice NI
- Age NI
- Barnardos
- Belfast & Districts Trade Unions Council
- CBI Northern Ireland
- Centre for Cross Border Studies
- Chartered Institute for Housing
- Churches
- Citizens Advice
- College of Occupational Therapists
- Combat Stress
- Community Foundation Northern Ireland
- Community Relations Council
- Craigavon Borough Council
- Disability Action
- The Equality Commission for Northern Ireland
- Fermanagh District Council
- The Fostering Network
- Housing Policy Forum
- Housing Rights Service
- Include Youth
- Irish Congress of Trade Unions
- Law Centre NI
- Low Incomes Tax Reform Group
- Macmillan Cancer Support
- Member of the Public
- Member of the Public
- Member of the Public
- Mencap NI
- National Deaf Children's Society
- NI Housing Council
- Northern Ireland Human Rights Commission
- NIACRO
- NIAMH
- NICCY
- NICEM
- NIFHA
- NI Housing Executive
- NILGA
- NIPSA
- Northern Ireland Anti-Poverty Network
- NUS-USI
- Office of the Social Fund Commissioner
- PCS
- RNIB
- Save the Children
- SIPTU
- STEP
- Supporting Communities NI
- WAVE
- Welfare Reform Group
- Women's Ad-hoc Policy Group
- Women's Support Network

## A2B Briefing

### Pensions Bill

#### General Concerns

The main impact of the Pensions Bill will be on people born between April 1953 and April 1960. This is no small matter to the 146,000 people affected in Northern Ireland. Many of them will already have made retirement plans which will now have to change. Because it isn't just State Pension that will be changing but also Pension Credit and Winter Fuel Payment, this could have a substantial adverse impact on the incomes of these people. This is particularly true if they are not working due to unemployment, ill health, caring responsibility or early retirement.

The difference in applicable amounts for working age benefits and for Pension Credit is substantial – someone on a set income may not qualify for a working age benefit but would qualify for Pension Credit on the same income. It must be remembered that there are not many jobs available and that older workers face more difficulties and discrimination in finding employment.

23% of older people in Northern Ireland are already living in poverty – this is much higher than in the rest of the UK. Pensioner poverty will only be worsened by these changes and we will inevitably find more older people who cannot afford to adequately heat their homes or feed themselves. Increases in the age for Winter Fuel Payment, above and beyond those already announced, will lead to more older people living in fuel poverty, which is already higher than ever in Northern Ireland. Increases in the State Pension Age will have a disproportionate impact on those from deprived areas or living with ill health who do not have as high a life expectancy.

#### Women

Within the age cohort detailed above, there is to be an even more substantial impact on women. The Pensions Bill EQIA listed the numbers of those who will have to wait more than a year longer than previously expected to become eligible for State Pension, Pension Credit and Winter Fuel Payment. At the time of the EQIA, we wrote that:

The 800 women who will have to wait an extra two years for State Pension are of particular concern. Over 140,000 more will have to wait between one and two years. The numbers may seem small in comparison to the total caseload but these women will suddenly have to change all their retirement plans at very short notice and work, if they do work, for two years longer than planned. This may mean a lost income of several thousand pounds.

We welcome the move by the coalition to soften the blow for those who will be worst hit by limiting the waiting period to eighteen months, however many will still struggle. These people must now be assured that no further changes to their State Pension Age will occur, so that they can begin to plan for working longer. Many women still have no knowledge of the impending changes and still expect to receive their State Pension at 60. Increased life expectancy for some women does not mitigate this impact.

#### Disability

Finally, the impact on people with disabilities has not fully been explored. We do welcome the increase in qualifying age for Disability Living Allowance as this will give more people access to the mobility component. However, as noted above, people living with poor health will not necessarily benefit from the increase in life expectancies. With the difference in applicable amounts between working age benefits and Pension Credit, for example, someone who does

not meet the State Pension Age requirement may not qualify for working age benefits but would have otherwise qualified for Pension Credit. This policy will therefore have a greater impact on people with disabilities as they would therefore not be able to access the disability premiums associated with Pension Credit.

## Wider concerns

While changes to the State Pension Age are taking place, the wider benefits system is also being radically reformed. It is proposed that entitlement to Pension Credit, rather than Universal Credit, will be based on the qualifying age of the younger member of a couple, rather than that of the older which is what currently takes place. Age UK's paper on this change was previously circulated to the Committee. It is of great concern that this major change is happening while the qualifying age is also rising, thus ruling many thousands of new claimants out of the more generous Pension Credit system and placing them within the conditionality-based Universal Credit system. Conditionality will be disproportionately harsh on older jobseekers, who already face many barriers in securing employment.

We welcome the proposed move towards a flat-rate State Pension for all – however, we would like to see a more informed debate on this issue and we would also like to see it extended to cover all existing pensioners as well as new ones. A two-tier system would not serve the best interests of our older population and would only lead to confusion.

## Action on Hearing Loss

### Committee Inquiry into the Welfare Reform Bill

#### Submission from Action on Hearing Loss, August 2012

Action on Hearing Loss is the charity working to create a world where deafness or hearing loss do not limit or determine opportunity and where people value their hearing. We work to ensure that people who are deaf, deafened or hard of hearing have the same rights and opportunities to lead a full and enriching life. We strive to break down stigma and create acceptance of deafness and hearing loss. We aim to promote hearing health, prevent hearing loss and cure deafness.

Action on Hearing Loss welcomes the opportunity to submit evidence to this Inquiry and would be happy to provide oral evidence to the Committee.

### Universal Credit

#### Application methods

The online channel, while cheaper and easier for many people, is not always the most appropriate. Many older and/or disabled people do not use the internet and do not have the skills or confidence to use it in a setting such as a job centre or advice office. Likewise, use of the telephone is not always appropriate for someone who has a hearing loss. For many deaf people, English is not their first language and they will require face-to-face support with form filling, with the help of an interpreter. The Department will therefore have to ensure that information is available in a hard copy format, that claimants are not contacted by telephone where they are unable to use one and that they have provision made for the supply of communication support professionals for appointments.

#### Conditionality

While many deaf and hard of hearing people do work and many more want to work, it is vital that the Department makes full provision for support in order that people can access employment. This would include educating employers, promoting Access to Work and ensuring that communication support is provided for all appointments and interviews. Sanctions should not be enforced if the claimant has been unable to access any form of work or work-based conditionality due to this support not being made available to them.

#### Personal Independence Payment

As with Universal Credit, we have concerns about the application process and about the need for communication support. For example, the amount of time a claimant is given to return their form is unlikely to be suitable to meet the needs of claimants with a hearing loss – it can take weeks to get an appointment at an advice centre and if communication support is required for this appointment, it can take even longer to secure a time which is suitable to the claimant, the advice centre and the communication support professional.

It is also vital that the Department is prepared for numerous communication support requests for people attending assessments and the fact that scarcity of this support in Northern Ireland may mean that appointments need to be rescheduled. Under no circumstances should the claimant be penalised if they are unable to attend an appointment due to lack of communication support.

# Advice NI Briefing Paper September 2012

## Welfare Reform

Advice NI has been heavily involved in debate and deliberation about welfare reform over the last number of years. The Welfare Reform Act received Royal Assent at Westminster on 8th March 2012 and introduced sweeping reform in the following areas:

The Act introduced Universal Credit; provided for the replacement of Disability Living Allowance with Personal Independence Payment for working age claimants; provided for amendments to Employment and Support Allowance (ESA), including time limiting the payment of contributory ESA (WRAG group) to 12 months; provided that lone parents with a youngest child aged 5 and over to claim Jobseekers Allowance or Employment & Support Allowance (with associated increased conditionality) as opposed to Income Support; introduced reductions to working age claimants under-occupying in the social rented sector; introduced uprating of Housing Benefit in the private rented sector based on the Consumer Price Index; introduced a benefit cap to be set at the GB figure (estimated at £500 per week for a couple and single parent households and £350 per week for single adult households); provided for the transfer of responsibility for Social Fund Crisis Loans and Community Care Grants to the devolved administration in Northern Ireland; and set out the Intention to move to a point where parents are supported to make their own arrangements for child maintenance wherever possible.

In Northern Ireland social security is a devolved matter therefore corresponding welfare reform legislation must be introduced separately. However in reality the benefit system is the same in Northern Ireland as in England, Wales and Scotland; with amounts and conditions of benefit also the same across the UK. Benefit payments come direct from Westminster so no money is taken from the Northern Ireland block grant. Figures released by the Department for Social Development highlighted that in 2009, £4,176,435,887 was claimed in benefit (including State Pension), all coming from Westminster. In summary, although the Benefit system is devolved, a system of parity largely operates with the rest of the UK.

Advice NI acknowledges the arguments in terms of (i) the need to maintain parity; and (ii) the need to do things differently in Northern Ireland. Advice NI believes that every effort should be made to explore the possibility of making substantive changes to welfare reform legislation to take account of Northern Ireland-specific circumstances. Additionally there should be a focus on operational flexibility: the capacity to adapt and deliver welfare reform tailored to local circumstances.

### Universal Credit:

- Identify, establish and promote all the channels through which people can apply for Universal Credit;
- Identify how people will be differentiated between those with (i) difficulties accessing online technology; (ii) difficulties using online technology; and / or problems associated with a lack of confidence and trust in online technology to deliver for them;
- Ensure that people do not lose out in terms of their 'date of claim' when submitting their Universal Credit application;
- Ensure that people without bank accounts are assisted in a timely fashion, with a guarantee that they do not lose out financially when claiming Universal Credit;
- Ensure that claimants 'stuck in the system' will be identified in a timely fashion and given urgent assistance to complete their application;
- Ensure that timely alternative provision is put in place for those people unable to provide pre-requisite alternative passwords for example for online bank accounts;



- Identify how independent advisers will be enabled to support claimants with their application given the security risk associated with the necessity for claimants to provide online passwords for example for their online banking accounts;
- Provide for independent advice for people as Universal Credit is rolled out, for example where they are uncertain about what to do;
- Provide timely help and support for people who find their mortgage support terminated after 2 years; and for people with unsustainable shortfalls between their contracted housing costs and the support available;
- Ensure that the frequency of payment (weekly, fortnightly or monthly) is geared towards meeting the needs of the person and not the system;
- Ensure that the person to whom Universal Credit is payable is the appropriate person in terms of managing the household finances;
- Ensure that payment of housing costs direct to the housing provider is considered (i) at the request of the claimant; or (ii) at the discretion of the decision maker where appropriate;
- Explain how claimants are to be proactively 'risk profiled' and supported in terms of their inability to (i) access Universal Credit online; (ii) budget monthly; (iii) cope with benefit and housing payments combined;
- Ensure that the sanctions regime is implemented in a way which is sensitive to (i) the increased numbers of job seekers with significant work-limiting health conditions; (ii) the lack of affordable childcare; (iii) the lack of employment opportunities in the current economic climate in Northern Ireland;
- Ensure greater transparency between the numbers of job seekers and the number of opportunities available, given the increased conditionality regime;
- Ensure that the increased numbers of people with working limiting health problems receive appropriate help and support through programs such as the Condition Management Programme;

## Disability Living Allowance / Personal Independence Payment

- The contract with the medical assessment provider in Northern Ireland should contain the following aspects: (i) annual reviews of performance; (ii) penalties for under-performance (including complaints, number / percentage of decisions based on the medical report that are subsequently overturned at appeal). This approach will ensure that the assessment provider is aware that service delivery is about process and outcome;
- Ensure that appropriate cases are 'screened out' so that those claimants with the severest disabilities do not have to go through the trauma of the entire assessment process; thus providing better service and achieving better value for money;
- Ensure that the medical assessment for DLA reassessment is sensitive to the needs of people with disabilities and not seen as a means of cutting expenditure;
- Ensure that the medical assessors have a minimum level of qualifications and experience, with specialist expertise in particular areas such as mental health, learning disability, PTSD, behavioural and personality disorders and addiction;
- Ensure that medical assessors allocate sufficient time for each assessment to allow claimants the opportunity to fully discuss their health problems and the associated impact on their daily living and mobility;
- Ensure that the medical assessment is audio recorded to ensure that any allegations of poor quality service provision can be fully investigated;

- Ensure that there is an effective process in place for collecting medical evidence from all available sources so that the PIP decision maker is fully informed and best placed to make a correct decision;
- Demonstrate how the medical assessors and decision makers have an understanding of the high level of ill health and disability in Northern Ireland, including mental and behavioural disorders (eg in terms of numbers, over 100 people per thousand receive Disability Living Allowance in Northern Ireland in comparison with over 50 people per thousand in Great Britain. Taken together with additional payments included within other benefits due to Disability Living Allowance being in payment (for example Severe Disability Premiums) we would fear that claimants in Northern Ireland will disproportionately suffer as a result of these proposals);
- Demonstrate how the medical assessment is more than a 'tick box exercise' and takes full account of the evidence provided by claimants;
- Ensure that there is an opportunity for claimants to verify that the medical assessor has fully recorded their evidence during the medical assessment;
- Ensure that there is a process in place to learn from feedback from claimants, advisers, decision makers and in particular appeal tribunals;
- Ensure there is a clear, effective complaints process in place in respect of the medical assessment with systems in place to ensure effective monitoring and corrective action;
- Provide for independent advice for people as DLA reassessment is rolled out, for example with application forms and potentially the appeal process;
- Ensure claimants have adequate time to return PIP application forms: there is widespread concern that a 4 week turnaround for return of Part 2 "Telling your Story" is inappropriate and needs to be extended to 8 weeks;
- Ensure that there is independent advice in place for people who do not move on to PIP and so see their income substantially reduced by the loss of DLA / PIP and moreover by the loss of associated premiums within other social security benefits;
- Ensure that there is a timely, effective system in place to allow people to dispute decisions, ranging from (i) a rapid reconsideration by a different decision maker; to (ii) an appeal hearing;
- Ensure that robust monitoring and evaluation systems are developed and in place prior to DLA reassessment focussing on what happens to people who lose some or all of their DLA (and knock-on impacts on other benefits);

## Time limiting the payment of contributory ESA (WRAG group) to 12 months

- Ensure that there is a check in place to ascertain if the claimant should be in the ESA Support Group, and so not subject to the time limit;
- Ensure that claimants affected by the time limit are provided with a benefit assessment to ascertain whether other social security support might be applicable; or whether increases to tax credit awards might be appropriate;
- Ensure that claimants affected by the time limit are referred to independent money and debt advice services where appropriate;
- Ensure that claimants affected by the 12 month time limit understand that they can still be considered as being 'incapacitated' in terms of Working Tax Credit entitlement;
- Demonstrate that claimants affected by the time limit are not forgotten about, and indeed are prioritised in terms of accessing appropriate support to help them prepare to (re)-enter the labour market;

- Demonstrate that a timely disputes process is in place for new contributory ESA claimants which will ensure that success at appeal will be within the 12 month payment 'window';

### Lone parents with a youngest child aged 5 and over

- Demonstrate how decision makers have an understanding that most lone parents are not out of the labour market from choice but often because of the complexity of combining work outside the home with the demands of sole parental responsibility;
- Additional flexibility must be built into the regulations to allow lone parents in these circumstances to restrict their availability for work;
- Ensure that decision makers consider whether appropriate and affordable childcare is available when making determinations about availability for work;
- Ensure that decision makers take cognisance of the current economic climate in Northern Ireland when applying conditionality;
- Ensure that no sanctions are applied to lone parents without senior management sign-off to ensure that the well-being of child(ren) are fully considered;
- Parents should be able to decline a job offer because they believe the childcare available is unsuitable to the needs of their child, without facing the risk of sanction

### Under-occupancy in the social rented sector; uprating of Housing Benefit in the private rented sector

- Consider delaying implementation of the under occupancy penalty until suitable appropriate alternative accommodation is available for those affected;
- Where appropriate alternative accommodation is available, provide financial help to assist people with relocation costs;
- In order to mitigate hardship and homelessness for those unable to relocate, that consideration be given to further significantly boosting the Discretionary Housing Payment fund;
- Increase awareness of the existence of the fund amongst claimants;
- Review the criteria for payments from the fund in order to enhance the support available (for example who can be paid, how long they can be paid and how much);
- Defer application of the under-occupancy penalty where the tenant is willing to relocate but no suitable alternative accommodation is available;
- Produce annual report outlining the nature and availability of the social and private rented housing stock in Northern Ireland (regionally and locally);
- Produce annual report outlining: (i) the impact of under-occupancy penalties; (ii) clear information in relation to Housing Benefit payments in both the social and private rented sectors (including to whom benefit is paid – tenant or landlord); (iii) clear information in relation to homelessness statistics in Northern Ireland (regionally and locally);
- Develop and implement a strategy for increasing awareness and providing information to housing providers on the issues associated with welfare reform;

## Responsibility for Social Fund Crisis Loan and Community Care Grant replacement scheme

- Ensure the maximum resources are available to the replacement discretionary support scheme;
- Ensure that an effective communications strategy is developed and implemented to maximise awareness about the existence of the scheme;
- Access channels to the scheme should be geared towards meeting the needs of clients and should include face to face and telephony channels;
- Ensure that there is an effective review / appeals mechanism in place;
- Produce annual report which will include outlining (i) the number and value of applications to the scheme; (ii) number and value of payments made; (iii) administration information such as processing times; (iv) information in relation to challenges to decisions; (v) an assessment of the scheme to assess it's effectiveness in serving it's purpose and meeting demand;

## Child maintenance

- Rethink proposals to introduce charging for parents with care; with another possible option being to impose charges on whichever parent prevents a family based arrangement being reached;

## General Points:

- Annual reports be produced by the Department for Social Development monitoring and evaluating the proposals outlined above;
- Bolster support for independent advice services so that people are assisted with the impact of welfare reform (including the provision of independent tribunal representation services);
- Bolster support for money and debt advice services so that people who find their income reduced are assisted if they find themselves struggling to cope with debt;
- Ensure that statistical modelling of the impact of welfare reform is based upon the most up-to-date information available, and not outdated pre-recession information;
- Ensure that regulations in relation to passported benefits in devolved policy areas such as Free School Meals, help with Health Service Charges and access to civil legal aid are agreed and in place prior to the introduction of Universal Credit;
- Social Security Agency monitor and report on the number and type of Universal Credit cases needing to be administered clerically 'offline' ;
- Ensure that flexibility is built into the IT system at the earliest possible point (for example in relation to frequency of payment, split payments in a household and direct payment of housing costs);
- The new Employment Programme needs to be resourced properly to ensure sufficient, effective support provided to: (i) people with significant working limiting physical and mental health conditions (ii) people furthest from the labour market for example those suffering from addiction; (iii) people suffering from labour activation policies of welfare reform for example those who see their mortgage support withdrawn after 2 years;
- The new Employment Programme needs to have a funding model which front-loads resources in light of the work that needs to be done with the 'hardest to help' clients and with those with potentially the longest working age lifespan ;

- There is a real potential for the proposal to introduce the Personal Independence Payment as a replacement for Disability Living Allowance to have a significant differential impact in Northern Ireland. In terms of numbers, over 100 people per thousand receive Disability Living Allowance in comparison with over 50 people per thousand in Britain. Taken together with additional payments included within other benefits due to Disability Living Allowance being in payment (for example Severe Disability Premiums) we would fear that claimants in Northern Ireland will disproportionately suffer as a result of these proposals.



# Age NI

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## Executive Summary

Age NI's key concerns regarding the introduction of the Welfare Reform Bill and its impact on older people relate to the following;

- Mixed age couples who will be assessed under Universal Credit
- Reduced capital limits under Universal Credit in relation to mixed age couples
- Unsuitable sanctions being applied to older working age claimants and the impact this will have on their older partner
- Restrictions with regards to occupancy and help with housing costs for mixed age couples
- The impact of PIP and lack of clarity around DLA reassessment for pensioners

## Introduction

Age NI is the new, independent charity for older people in Northern Ireland. Our vision is to 'create a world in which older people flourish' and our mission is to 'enhance and improve the lives of older people'. Age NI welcomes the opportunity to meet with and brief members of the Committee for Social Development on the issue of Welfare Reform and how it will impact the lives of older people.

## Background and context

The Welfare Reform Bill paves the way for wide ranging changes to welfare payments and whilst Age NI supports the Government's aim to simplify the benefits system in order to tackle poverty and provide better incentives to work, we have some significant concerns regarding some of the details of the Bill.

In Northern Ireland,

- 23% of pensioners are living in poverty and this figure is increasing<sup>1</sup> unlike other areas of the UK
- 61.5% of older people are living in fuel poverty in NI (up from 47% in 2006)
- 75.8% of people over 75 are in fuel poverty in NI (up from 55%)
- 83.2% of lone older people are in fuel poverty in NI (up from 62%)<sup>2</sup>

1 DSD (2009) Households Below Average Income

2 NIHE (2009) House Conditions Survey

## Universal Credit and mixed age couples

Currently couples can claim Pension Credit as long as one partner has reached the qualifying age – which is gradually increasing in line with rises in women's State Pension age. However the Welfare Reform Bill changes the age criteria so that in future, couples will only be able to claim Pension Credit when they have both reached the qualifying age.

We accept there is a case for treating everyone aged below women's State Pension age consistently, in terms of expectations with respect to work, but we would oppose any move which would reduce the overall income of households where one member has reached the age of eligibility for pensioner benefits.

For example:

John is aged 61 and Mary aged 56. Currently they are eligible to qualify for Pension Credit and would be entitled to a Pension Credit payment of £217.90 per week. Under Welfare Reform, they would be assessed under Universal Credit and would only be entitled to a weekly income of **£115.45** per week

### **This is a reduction in income of £102.45 per week.**

There are potentially many variables at play but this could also be further reduced should one or both be disabled due to the proposed changes to severe disability premiums. Within Universal Credit, individuals will only qualify for either a disability or a carer element, not both. In addition, they could lose other benefits linked to the receipt of Pension Credit.

Benefit rates will be published later this year but standard rates are expected to be linked to current Jobseeker's Allowance (JSA) or basic Employment and Support Allowance (ESA). Benefit rates for 2012-2013:

Personal allowance couples aged 18 or over ESA/JSA	£111.45
Pension Credit standard minimum guarantee couple	£217.90
Pension Credit standard minimum guarantee single	<b>£142.70</b>

**It can be seen that if mixed age couples are treated in the same way as younger couples, a pensioner could have a higher income living alone and claiming Pension Credit than receiving Universal Credit as a couple.**

Age NI has submitted a request to the Department for Social Development to estimate the proportion of couples who will be affected by these changes. A question asked recently in the House of Commons, Westminster revealed that approximately 15% of Pension Credit claimants in GB were couples where one partner was aged below 60. While this percentage applied to GB, the proportion of those affected in Northern Ireland is likely to be similar.

Age NI is concerned that the changes could affect the health and well being of some older people, will increase pensioner poverty, force people to use their retirement savings to support a younger partner and put pressure on family relationships.

Age NI therefore calls on the Department for Social Development to carry out a detailed analysis of the impact of treating mixed age couples as working age for benefit purposes including providing information about the numbers over time, the circumstances of those affected and changes in the overall level of financial support.

## Capital

Pension Credit does not currently have a capital limit although savings over £10,000 are treated as providing £1 a week additional income for every £500 over this threshold. Under Universal Credit there will be a £16,000 capital limit with savings over £6,000 treated as providing £1 a week income for every £250 over this threshold. In the future those with a low

income but over £16,000 savings who have a younger partner will be excluded from Pension Credit but will not be entitled to Universal Credit due to their savings. And those with £6,000 to £16,000 will face a much steeper withdrawal of benefit. As a consequence some older people will find they have to use up more of their retirement savings to support a younger partner.

Age NI calls for the absolute cap to be removed and the current tapered system to be maintained and that recognition be given to the importance of passport benefits accessed through Pension Credit.

The impact of older people not being able to access Pension Credit does not stop with the level of direct financial assistance afforded by Pension Credit but the extra vital assistance it opens doors to such as Cold Weather Payments, full rate rebate and free dental and optical care (for recipients of the guaranteed element). Although people of all ages can receive additional support linked to income such as help with health costs, these are provided at higher income levels for pensioners.

## Claimant commitments

All Universal Credit claimants will have to sign a 'claimant commitment' specifying the actions they are to take in order to find work and the consequences should they fail to meet these targets. Relevant claimants will have to sign a commitment prior to the introduction of Universal Credit, which is broadly similar to that which is currently expected of them. Age NI supports the principle of having such a claimant agreement, but believes that for people with significant barriers, including long-term sickness, voluntary participation in job search activities is a much more effective method of engaging older jobseekers and should be used where possible.

In regards to mixed age couples, Age NI are concerned that, as the younger partner of the couple will have to fulfill all work related requirements and if sanctions are imposed, this will impact detrimentally on the older person who will lose out on payment of benefit through no fault of their own.

Age NI also believes that the new claimant commitment under Universal Credit needs to take account of the needs of people aged over 50. With the extension of working lives, it is important that all the necessary support is provided to help older workers both remain in and re-enter employment and that advisers should be trained to be more aware of the circumstances and aspirations of the 50+ age group.

We support the notion that those with 'regular and substantial caring responsibilities' will be exempt from the requirement to sign the claimant commitment. However, greater clarity is needed on the exact meaning of this. Furthermore, there are many jobseekers who may have intermediate level caring responsibilities who will be subjected to the same job search requirements as those who are available to look for work full-time.

Age NI recommends the legislation should include a graded system of conditionality that could be applied to such carers, similar to that which is included for parents of young children; or alternatively, that Jobcentre Advisers are given greater discretion to tailor claimant commitments for this group.

Tackling age discrimination is of great importance to helping older workers find sustainable employment, and we recommend that the Government continues to advocate the benefits of older workers and work with employers to help them develop an age-positive culture.

## Housing

The Welfare Reform Bill restricts the level of Housing Benefit for tenants in social housing who are considered to have more rooms than they need. The Government said this measure

would not apply to pensioners. However, once Universal Credit is introduced, pensioners with younger partners will be regarded as 'working age' and the rent restrictions will apply to the housing element in Universal Credit. We do not have information on numbers of mixed age couples who will be affected in the future but it is likely that many will have an additional room. Although they may no longer have children living at home, it is often very important to have a spare room for family visits and for relatives or friends providing temporary support at times of illness. There is provision for an extra room if someone has a non-resident carer who needs to stay overnight. However, this is unlikely to help people who need occasional support or whose needs may change in the future. And there is no concession for an extra bedroom for couples who need to sleep apart due to the health needs of one or both partners.

Housing costs for younger people will be included in Universal Credit and for older people, a housing credit element will be introduced into Pension Credit. The intention is that someone will be broadly entitled to the same amount of support as they would have been under Housing Benefit and there are provisions for other changes such as the introduction of a capital limit for the housing credit.

Age NI welcomes the principle of incorporating help with housing costs into Pension Credit as this has the potential for simplifying the claim process and could improve take-up. However, we are keen to see the details of these proposals and to be reassured that people will not be adversely affected by the changes.

## Personal Independence Payment

The Bill makes provision for the introduction of the Personal Independence Payment (PIP) to replace Disability Living Allowance (DLA) which will have two components - the daily living component and the mobility component each payable at two levels. The Government has announced that reform of DLA is expected to reduce expenditure by around 20 per cent. Age NI do not disagree with the principle of looking at changes to DLA but we are concerned that reducing expenditure appears to be a major aim rather than ensuring disabled people have adequate support. DLA currently provides essential help with the costs of disability for many people and we have been contacted by older disabled people who are worried that they will lose the support they rely on. Age NI are anxious to ensure that the introduction of the Personal Independence Payment provides adequate support for disabled people aged over 50.

The new legislation states that a person will not be entitled to PIP after they reach State Pension age (or 65 if that is higher), although there is provision for exceptions to this. The explanatory notes say that an example of an exemption could be if someone is already in receipt of PIP before they reach that age. This is the current position with DLA and we seek assurance that people entitled to help with their mobility costs will not lose that help once they reach 65.

The original announcement and the Disability Living Allowance Impact Assessment refer to people of working age being reassessed but the consultation paper on reform stated that 'We are considering whether to reassess children and people aged over 65'. Age NI believe that people currently aged 65 or over receiving DLA should be exempt from the reassessment process.

We would also like clarity on whether the Government envisages that the introduction of PIP will lead to changes to Attendance Allowance for people disabled after the age of 65.

Age NI will be judging the success of the Bill by whether it delivers improved outcomes for people in later life – both those below the State Pension Credit age and those beyond State Pension Credit age. The Bill must provide everyone aged over 50 with the support they need to be independent.

ENDS

# Barnardo's

BELIEVE IN CHILDREN



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19<sup>th</sup> October 2012

Dear Dr Pelan

Thank you for your letter inviting Barnardo's NI to make a written submission to the Committee for Social Development with regards amendments to the Welfare Reform Bill.

The potentially adverse impact of welfare reform on vulnerable children, young people and families is an issue of concern for Barnardo's NI. We believe every effort should be made to identify potential policy variations that will help protect children in Northern Ireland and are part of the NI Welfare Reform Group which is seeking a tailored NI approach to welfare reform. Barnardo's NI is therefore making a response to the Bill as part of that Group, which is being coordinated and submitted on behalf of members by Law Centre NI.

If you have any queries, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink that reads "Lynda Wilson". The signature is written in a cursive, flowing style.

Lynda Wilson CBE  
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## Belfast & Districts Trades Union Council

### BELFAST & DISTRICT TRADES UNION COUNCIL



Established 1881

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*By email to: [committee.socialdevelopment@niassembly.gov.uk](mailto:committee.socialdevelopment@niassembly.gov.uk)*  
Department for Social Development  
Assembly Committee

19 October 2012

Dear Sir/Madam

### **Welfare “Reform” – Public Consultation**

1. This is a submission on behalf of the Belfast and District Trades Union Council, which represents trade union members from across Belfast and surrounding districts who are employed in both the private, public community and voluntary sector.
2. The Trades Council considers that the deadline of 19 October does not offer sufficient opportunity for interested parties to consider the contents of the draft Bill and offer opinions. Further, there will be insufficient time for the Committee to consider the responses and take into account the views expressed. This entire process is a perfect example of how not to do good government and represents a total disregard for the views of citizens, in particular those after by the changed to be introduced.
3. In our view there needs to be a serious debate and greater honesty shown with the public in respect of the Welfare “Reform” debate. It is not possible to have any kind of meaningful or intentional community buy-in in such a truncated consultation period. It demonstrates a disregard for the

most vulnerable and disadvantaged section of the community and illustrates the inadequacies of the structures at Stormont.

4. There is no point in political parties indicating that they object to this legislation in its entirety and then proposing to implement it. Equally there is no point in political parties indicating that they will not agree to the legislation unless there are changes to the "harsher" elements of the Bill if they do not spell out clearly what these "harsher" elements actually are in their opinion. Throughout the last few weeks there has been much bluster, but painfully little detail on what specific changes should be implemented.
5. To date there has been some talk about presenting an argument for fortnightly rather than monthly payments; Housing Benefit to be paid directly to the landlord (as it is currently for the majority of cases) and that there should be a choice of which claimant receives the benefit payments. Whilst agreement on these 3 issues, if achieved, would be welcome, let's not kid ourselves. Those are not the "harshes" elements of this legislation. They will not make any material difference to the amount of money a family will receive and will not make any difference to the thousands of families who will lose out when these Benefit changes are imposed.
6. Whilst there clearly is a significant issue in respect of parity and the impact on the block grant if the changes are not forced onto people there is a requirement to be honest with people about what the parity debate is actually about. Politicians also need to do more to counter the anti working class diatribe emanating from the Belfast Telegraph and other media outlets which refer to people on Benefits as "work-shy" and other derogatory comments. People who are unemployed or disabled or with caring responsibilities deserve more respect. Politicians should also be more vocal in clarifying that these Benefit changes will impact on those who are currently unemployed, but also many thousands of families who are currently employed, through Housing Benefit changes and Tax Credit changes etc.
7. In recognising the difficulties that parity creates the manner in which this debate has been handled by politicians in Stormont contrast sharply with how other issues were dealt with. For example Stormont was collapsed over weapons which were silent; Stormont was collapsed over an informer who fell out of favour with his handlers; Stormont was threatened with

collapse over the provision of funding for a police training centre. Strangely there has not been the same political conviction, strong tactics used or threat to the institutions issued to protect the most vulnerable in our community. It would seem that although politicians appear to agree that the impact of welfare "reform" is not to be welcomed, this does not really present any moral or political conviction dilemmas for the same politicians.

8. This welfare debate really is about how we view each other in society and whether politicians really consider that each citizen should be treated equally and with dignity. This was an issue around which politicians should have been able to unite in standing up for their constituents who will suffer in their tens of thousands.
9. There has been some recognition that taking out £500m (the share of the local pain from the welfare cuts programme) from the local economy will be devastating to not just those in receipt of benefit, but because they tend to spend their total benefit payments each week, there will also be a significant knock on effect to local small business and shops who will suffer as a result of the loss of Benefit incomes. Politicians have acknowledged this impact in the political debate. They just do not seem willing or able to do anything about it.
10. However, a similar monetary figure has also been publicised in relation to the actual impact on the block grant every year if the setting of corporation tax was devolved to the Assembly. Estimates of the impact range from £400m-£700m each year. In real terms, according to economists, this would equate to the loss of some 15,000-30,000 jobs each year (based on 40 job losses per £1m cut). This is apparently justified by hoping that foreign direct investment will, in 15-20 years time create approximately 18,000 jobs. This does not appear to create the same dilemma for politicians, with each of the political parties seemingly content to condemn another 15-30,000 workers to the dole queue to satisfy big businesses and multi-national corporations.
11. The irony of all that of course is that many of these companies such as Google, Facebook, Starbucks and many many others avoid paying their fair share of taxes anyway, so in reality the rate set for corporation tax becomes irrelevant as their corporate accountants have already devised ways not to pay any tax, regardless of what the rate is. In addition, you only have to consider the economic situation south of the border to realise

that job losses in these same companies have continued over the last number of years despite the lower corporation tax rate.

12. Notwithstanding the above politicians have remained extremely tight lipped about where the impact of £500m-£700m on the block would be felt, or where job losses of the magnitude envisaged would be implemented. Strangely though politicians seem to be able to argue that they have to force through Welfare “reform” cuts because to do otherwise would see the block grant hit by some £220m (Minister McCausland reference on several occasions in the Assembly debate). That raises 2 distinct issues for politicians:-

- (i) The Assembly cannot find £220m to protect against welfare cuts but can apparently find up to £700m to offer tax cuts to businesses;
- (ii) If it can apparently find hundreds of millions to help big business (which we would challenge given the lack of debate and clarity to date) then why does the Assembly not have a serious political and public debate about the type of society they actually want to create. The Trades Council would welcome a debate of this nature, which would consider a discussion in respect of a society where big businesses and corporations are not rewarded, but where vulnerable citizens are protected.

13. It is said that a society can be judged by how it treats its most vulnerable. This Assembly has made it clear on which side of this debate it sits. No doubt the CBI and others will be congratulating them in the coming months.

14. The real anger in the community created by this proposed legislation is in response to the deliberate attempt to mislead the public into thinking that these changes are actually about encouraging people away from Benefits into paid employment. There are currently 64,000 people registered as unemployed with a further 30,000 or so actively seeking employment. There are also tens of thousands of people who are currently in receipt of Incapacity Benefit or Disability Living Allowance who will be forced off these benefits. This represents at least 120,000 people who will face sanctions as a result of a harsher benefit regime. The job market vacancy notices stands consistently at only 3,000-4,000 each month. This figure has remained relatively consistent for the last number of years. There are no jobs for people to move into. There is no likelihood in the short to

medium term of any significant increase in the number of job vacancies. If the 15-30,000 from the cut in the block grant linked to corporation tax are added, this will represent economic devastation for increasing numbers of families. Politicians need to sit down and discuss the type of economic system which can deliver real jobs and real protections for its citizens. This Tory model which they intend to implement benefits only the rich.

15. Belfast Trades Council will not comment on the specific clauses in the Bill. To do so, in our view, would legitimise this "Reform" Bill as somehow a positive piece of legislation to assist unemployed people, people with disabilities or people in low paid jobs. There is no carrot in this legislation, just a very large bag of sticks.

16. If this legislation is introduced by the Assembly, with or without tutting, it will represent a collective failure of politicians to stand up for its citizens and will condemn tens of thousands of already vulnerable and marginalised people to greater misery and possibly abject poverty.

Yours sincerely



**PADDY MACKEL**  
**PRESIDENT**  
**Belfast & District Trades Union Council**



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# CBI Northern Ireland

NI 14 12

## CBI submission to Northern Ireland Assembly Social Development Committee's call for evidence on the Welfare Reform Bill

October 2012

### Introduction

CBI Northern Ireland is an independent, non-party political organisation funded entirely by its members in industry and commerce. Across the UK, the CBI speaks for some 240,000 businesses which together employ around a third of the private sector workforce. Our membership in Northern Ireland includes businesses from all sectors and of all sizes. It includes the majority of the top 100 companies, small and medium-sized enterprises (SMEs), social enterprises, manufacturers and sectoral associations.

CBI Northern Ireland welcomes the opportunity to comment on the Welfare Reform Bill as part of the Northern Ireland Assembly Social Development Committee's Committee Stage consideration of the Bill.

### Commentary on clauses of the Bill

CBI Northern Ireland has no specific commentary to make, or amendments to propose, to any of the clauses in the Bill as we support the Bill in its entirety.

### Additional commentary on the Bill

From an early stage the CBI has been very supportive of the UK Coalition Government's welfare reform programme and the Bill that was subsequently developed by the Department for Work and Pensions. We strongly welcome the proposals as they seek to get people off benefits and into sustainable employment and to tackle long-term sickness. We also believe the Bill adequately provides the protections and support for those who are genuinely unable to work as our welfare system, even in these difficult economic times, can and must continue to do.

However, we have been very concerned at the length of time it has taken since the Bill was approved at Westminster for it to be introduced in the Northern Ireland Assembly. While it is not our position to in any way comment on the political disagreements in relation to the Bill which have been alluded to in the media, we strongly believe that this Bill must be progressed due to the significant financial penalty to the Northern Ireland Budget if parity with Great Britain on welfare payments and welfare system is broken as well as any potential knock-on cost which may be incurred by way of the proposed changeover in IT systems.

CBI Northern Ireland is not suggesting that the Bill itself should not be subjected to the normal democratic principle of detailed scrutiny, and indeed we welcome the fact that the Bill is now at its Committee Stage, but rather that the potential consequences to any further delay of the Bill, or the possibility that the Bill might itself fall, are financially too high for anything other than the main principles of the Bill being ratified. We would strongly urge that the Committee take account of these potential consequences as part of their deliberations.

The £200 million bill that the Executive would be faced with should the Bill not be passed in its current form is completely undesirable given the certain negative impact this would have on planned resource expenditure by the Executive over the next two years. This would have a significant and hitherto unforeseen impact on public services and would undoubtedly have some level of impact on local businesses.

We very much hope that the Executive and the Assembly can come to a positive conclusion on this Bill as it provides for a necessary and balanced welfare-to-work reform programme and because the financial consequences of not passing this Bill would be devastating to Northern Ireland's budgetary position.

CBI Northern Ireland would be happy to discuss any aspect of the above with the Committee should its Members' so wish.

CBI Northern Ireland  
October 2012

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# Centre for Cross Border Studies

17th October 2012

Alex Maskey MLA  
Chairperson, Social Development Committee  
Parliament Buildings  
Ballymiscaw, Stormont,  
Belfast BT4 3XX  
E-mail: [committee.socialdevelopment@niassembly.gov.uk](mailto:committee.socialdevelopment@niassembly.gov.uk)

Dear Mr Maskey, MLA

In response to the Welfare Reform public consultation I would appreciate if you consider our recommendation that information relating to the processing of cross border claims for Universal Credit be clearly outlined in policy documents and working guidelines for the relevant staff responsible for processing claims.

According to EU regulations the social security rights of cross border workers frequently depends on their country of last employment and only occasionally their country of residence. Therefore specific consideration should be given to:

- Claims from cross border workers, living North and working South ( e.g. real time HMRC information will not apply as cross border workers are required to submit tax returns once per year)
- Claims from cross border workers, living South and working North (e.g. currently cross border applications for Child Tax Credits regularly take in excess of 18 months)
- Claims from Northern Ireland residents moving South across the border (e.g. exporting Universal Credit)
- Claims from Southern residents moving into Northern Ireland (e.g. clear guidelines regarding entitlement to Universal Credit)

It is our experience that cross border claims for benefits and tax credits are subject to cumbersome red-tape and frequently result in lengthy and unnecessary delays for applicants and their families. We request that due consideration is given to significantly improving the application process for cross border applicants.

If you need any further information or clarification on any point please do not hesitate to get in touch.

Yours sincerely,

Annmarie O’Kane  
Information Officer, Centre for Cross Border Studies  
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# Chartered Institute for Housing

## Evidence for the Committee for Social Development on the Northern Ireland Welfare Reform Bill

Chartered Institute for Housing  
19 October 2012

### Introduction

The Chartered Institute of Housing (CIH) is the professional body for people involved in housing and communities. We are a registered charity and not-for-profit organisation with a diverse and growing membership of over 22,000 people – both in the public and private sectors – living and working in over 20 countries on five continents.

CIH is the only professional organisation representing all those working in housing. Our purpose is to maximise the contribution that housing professionals make to the well being of communities. This response draws on the experience and expertise of members and officers across CIH, including Scotland, Wales and Northern Ireland. CIH delivers a range of services and tools to help landlords and tenants prepare for changes to welfare benefits, and a great deal of our knowledge and understanding of impact and implementation comes from this work. These include guidance to help social landlords tackle under occupancy in preparation for the new penalties introduced by welfare reform and our new Welfare Reform Impact Tool.

CIH, in partnership with DWP and the Department for Communities and Local Government, have also created an online learning network for the housing benefit direct payment demonstration projects which enables organisations that are not part of the projects to be informed about the work and findings, to share in their learning and to exchange information and views about implementing direct payments. This network is also producing invaluable best practice from housing providers about how to support tenants through the changes to housing benefit and the welfare reform process.

Our comments on the Northern Ireland Welfare Reform Bill have been informed by CIH's expert on housing benefit, Sam Lister, who has published a number of papers on welfare reform (available from the CIH website). Sam is also the co-author of the respected Guide to Housing Benefit and Council Tax Benefit 2012-13 and previous editions.

This briefing focuses primarily on the housing related elements of the Bill. We have, however, included some comments outside of specific clauses in the Bill.

### 1. General comment on the Bill

- 1.1 In terms of the main principles, CIH has welcomed universal credit as an attempt to streamline the current complex benefits system. However, whilst the range and number of benefits will undoubtedly be simplified, it will be at the cost of creating a very complex new benefit (because it brings together a number of different elements) making it far from straightforward to administer and deliver in practice.
- 1.2 The lower rates of digital inclusion in Northern Ireland are a big issue in relation to universal credit and something that will have to be factored into the implementation here.

- 1.3 A significant concern is that the housing knowledge and expertise that is so important in effectively administering housing benefit currently will be lost in the universal credit system. Housing costs have to be related to the housing market and the availability of options like shared accommodation/HMOs and smaller social housing properties. Without that detailed knowledge in making assessments and supporting claimants, there is a risk that individual claimants will be adversely impacted.
- 1.4 Lack of information is also a key area for concern. CIH has not been able to do much of the complex modelling work that has helped assess the impact for the housing sector in Great Britain because the data is not available here in Northern Ireland. That means tenants and housing organisations here are at a disadvantage compared to counterparts in the rest of the UK because we do not have as clear or as detailed an understanding of the impacts of the welfare reform proposals. Looking to Scotland by way of example it is clear that the government has consistently sought to provide an evidence base for analysis, plan ahead to mitigate and manage the welfare reform changes and ensure that individuals and organisations have access to as much information as possible on the impact of welfare reform.
- 1.5 We also do not know enough about how universal credit will work or when that detail will become available – this is obviously problematic given that the first universal credit claims will happen in less than a year.
- 1.6 Without wishing to overstate the impact, it is also clear that the Welfare Reform Bill will mean major changes to the housing system in Northern Ireland and we will all need to work together to ensure that tenants are protected as much as possible and the changes managed effectively and in a timely manner. Involving stakeholders as much and as early as possible in the design and implementation of universal credit in Northern Ireland would be a means of utilising the specific knowledge and skills that exist in the housing sector and ensuring that universal credit adequately reflects the local housing environment.

## 2. Secondary regulations

- 2.1 The Welfare Reform Bill's heavy reliance on regulations is a concern, particularly given the short time frame before implementation. Given the serious nature of these reforms we would suggest that there must be as much detail provided as quickly as possible on the regulations. It will be important to ensure that there is proper time given for scrutiny of the regulations and debate in the Assembly.
- 2.2 We welcome the fact that the process of confirmatory resolution will be used to introduce a significant number of these resolutions and that this process will enable the Assembly to introduce amending regulations if they wish to alter regulations which are introduced in parity with Great Britain.
- 2.3 The lack of detail around a number of the proposals in the Bill is also worrying, again especially because of the tight turnaround between the primary legislation and a number of these measures taking effect prior to and during the introduction of universal credit. It would be useful to press the point that as much information should be made available as soon as possible as widely as possible to ensure that individuals and organisations can fully understand what this will mean for them and take the necessary steps to manage the changes.
- 2.4 Given these factors the Assembly may wish to consider asking for specific clauses to be included on the face of the Bill rather than accounted for in regulations. The purpose of these additional clauses would not be to alter the structure of universal credit, but to give greater confidence to the housing sector – including its funders – around the practical aspects of administration that enable landlords to help support their tenants and help protect their income streams.



- 2.5 A practical example is how the rules on payment of universal credit (assumed to be to the tenant in the first instance) combines with the rules about notice and access to information (presumably electronic notice to the tenant only). As principles these are fine, but in practice raise the question of how does a landlord make a judgement on whether to commence possession proceedings when a tenant tells them they have claimed universal credit but have no documentary evidence. Even if the landlord accepts that a claim has been made, how do they make a judgment about the likelihood that an award will be made?

### 3. Universal credit (Clauses 1 and 2) - Design and Implementation

- 3.1 As universal credit implementation progresses, CIH will continue to assess whether the housing aspects of the system will create an effective system of help with housing costs.
- 3.2 The process of designing and implementing universal credit poses a number of strategic and operational risks to provision of an effective system. At this stage we are still looking for assurance that these risks will not be realised, because of their potential impact on both the ability of lower income households to secure appropriate housing and on the ability of landlords to provide it.
- 3.3 Our current concerns are that:
- People and businesses that will be affected by the introduction of universal credit do not have enough information about its detail and operation, or about when this information will become available. This means that concerns about risks and design cannot be allayed, and that those affected find it difficult to schedule and deliver preparations for the impending changes. Perceived risks worthy of particular mention are that:
    - The IT system will not be reliable and simple to use, or there will be insufficient capacity in the system, which in turn will affect speed of claim administration, liaison with claimants, accuracy of decisions and fraud. There is worrying anecdotal evidence emerging from Great Britain that the online questionnaire may take as long as one hour to complete – and if a claim is only partially completed it will not be saved, meaning that claimants who have not successfully completed the process may have to begin from scratch.
    - Since universal credit rolls together a number of different benefits it will comprise of several different elements (e.g. standard, childcare, housing costs). At moment these elements are processed in parallel. There is a danger that the decision on an award will be slowed down to the slowest part of the process. Under universal credit, nothing will be paid to the claimant until everything within the claim has been decided.
    - The intention to reform multiple aspects of the welfare system and simultaneously cut expenditure will lead to the benefit available not covering tenants living costs, pushing people into hardship. This will potentially affect their lives quickly and severely, requiring further public/third sector expenditure
    - The scale of change, and the reduced likelihood that there will be a period of ‘steady state’ benefit operation, will make impact assessment complex and possibly lacking in value.
  - There are significant implementation costs outside of the DWP budget i.e. the time and financial cost of activities which landlords, tenants, and advice services have to undertake to prepare for and deal with the changes. The costs of transition borne by third parties are likely to be high and are unlikely to be rewarded with an equal return to them once steady state operation of universal credit is reached.
  - It is very unlikely that the new benefits system will be simple or stay simple. The continuing focus on further reforms and cuts (e.g. proposed £10bn further reductions, changes in eligibility for under 25s) creates a risk that the objective of creating and running a simplified system could very quickly be undermined. There are no safeguards in the universal credit

system to prevent the type of tweaks and additions which have caused the current system to become so complex and unwieldy.

- The links between different parts of the implementation programme (e.g. the universal credit pathfinders and the direct payment demonstration projects) appear to be weak. This increases the risk that the final system will not work smoothly and it gives rise to many questions and concerns which hinder preparations for implementation by third parties.
- 3.4 CIH supports the broad aim that the claims process should be digital by default, not least because in a highly centralised system this appears to be the only way the required rate of decision making can be achieved without a backlog developing.
- 3.5 A move to online claims will be a significant change for a lot of tenants, many of whom do not have internet access. Moving people rapidly towards greater digital inclusion is beneficial for their social and economic opportunities, but we are concerned that the 'big bang' shift to online claiming could cause exclusion rather than inclusion.
- 3.6 The potential benefits of claiming online will not simply emerge, even with the increased government investment in internet provision and the promise of some high-street support for the new benefit system. Clarity on the resources that government will provide to the most excluded would be welcome – a good solution will help build capacity for local authorities, housing providers and claimants around provision of advice, support, and skills building.
- 3.7 The need to provide all requested documentation before a claim is accepted, rather than use the date of engagement as a starting point has particular relevance for those in temporary accommodation. Often homeless people have lost documentary evidence, National Insurance Numbers, Birth and similar Certificates. It is likely this population will be more disadvantaged if the impact of homelessness in this area is not recognised.

**Suggested amendment:**

That nominated third party verification can be considered in the first instance to activate a claim from claimant who is homeless or living in temporary accommodation, while supporting documentation is collected.

## 4. Housing costs (Clause 11)

- 4.1 This clause provides for regulations to specify the basis of the amount to be paid in respect of housing costs. It does not provide for benefit entitlement to be related to actual rents in the local housing market. This means that there is a potential in the future for a disconnect between housing costs within universal credit and actual rents to arise. The move from RPI to CPI will also result in reduced availability of affordable Private Rented Sector accommodation and increased homelessness. DWP estimate that CPI will rise by 2% a year and rent by 4%.
- 4.2 We would suggest that the Welfare Reform Bill should include provision for annual reviews to ensure that there is a strong correlation between housing costs with universal credit and actual rents in Northern Ireland. This would allow for housing costs provision to be amended where necessary, particularly to ensure that the lowest 30th percentile of properties in the private rented sector are affordable.
- 4.3 Although the extension of the shared accommodation rate was introduced in October 2011 through regulations, CIH would suggest that given the significant impact of this measure and the shortage of shared accommodation in Northern Ireland, this amendment proposed by the Lords is considered.

**Suggested amendment:**

Insert in Clause 11 after subsection (3)

Regulations shall provide that where the award for housing costs is restricted to the shared accommodation rate, this shall not apply for a period of 52 weeks for any claimant aged between 25 years and 35 years, who is not an existing claimant of housing benefit.

- 4.4 The Bill does not allow for housing cost run-ons, also known as extended payments, when claimants start work. Under the current system, housing benefit (or support for mortgage interest) continues for four weeks after an individual has found employment which helps claimants to transition from benefits to wages. We already know that the universal credit regulations being drafted in Westminster plan to abolish extended payments. CIH believes that the decision to abolish the current system of extended payments contradicts the government's objective of improving incentives for the long-term unemployed to take up work. Given the high levels of long-term unemployment in Northern Ireland, the Assembly may wish to consider continuing extended payments upon the introduction of universal credit and write this provision into the Bill.

**Suggested amendment:**

Clause 11 (5) Regulations may:

(c) provide for housing costs to continue for a period of four weeks after a claimant has found employment

**5. Housing benefit: determination of appropriate maximum (Clause 69)**

- 5.1 CIH is very concerned about the under occupation penalties for claimants living in social housing. Failure to exempt disabled people and foster carers is an issue that we raised in relation to the Bill in Great Britain and is a similar consideration in Northern Ireland. DWP has stated in its Explanatory Memorandum to The Housing Benefit (Amendment) Regulations 2012 that an additional £30m a year will be made available in Discretionary Housing Payments to offset the impacts of under occupation penalties on disabled people and foster carers. This additional funding is aimed at enabling disabled people to remain in their specially adapted homes even though they are under occupying them and for foster carers to account for the periods between fostering when a room may be unoccupied. However, by its very nature the Discretionary Housing Payment is discretionary and short-term. Whilst in the second instance financial support may only be needed for a limited period of time, in the first it would need to be for a sustained period. Furthermore this additional funding has not been ringfenced.
- 5.2 In order to minimise the extra bureaucracy imposed by attempting to mitigate both of these particular cases through the Discretionary Housing Payment, CIH would suggest that the Committee amend the Northern Ireland Welfare Reform Bill to exempt these two groups from under occupation penalties.

**Suggested amendment:**

New clause as per the amendment suggested by the Lords:

In the case of a disabled person, relocation shall not be required nor shall benefit be reduced, where adaptation has occurred and local services are provided, in order to deal with the disability.

- 5.3 The under occupation penalty also takes no account of local market conditions and the availability of alternative accommodation. For example there has been an emphasis on building family housing within the social sector in recent years, meaning that there will not necessarily be smaller properties available for people to move into.

## 6. Benefit cap (Clause 95)

- 6.1 Under the universal credit regulations, once the benefit cap is in place any money over and above the cap will be reduced from the housing costs element. Some households could in theory find their entire housing award reduced to zero. Although the discretionary payments system can be used to help households adversely affected by the reforms, we expect that because of the very high shortfall that will apply to people affected by the benefit cap most authorities will be reluctant to award DHP because of the very high attrition rate it will place on the budget. This will initially present problems around rent arrears, and then potentially around homelessness, as households are unable to find any accommodation.
- 6.2 It may be worth noting that, according to child benefit figures, Northern Ireland has the highest levels in the UK of families with four or more children (only London and the West Midlands have higher numbers of five children families). Although this measure has been estimated by the Department for Social Development to have a low impact in Northern Ireland, we do have higher levels than the rest of the UK for four children (30% more) and five children (25% more) families. We also make considerable use of the private rented sector to meet housing need and rents are higher than in social housing. Families receiving housing benefit/universal credit living in four bedroom properties in the private rented sector would be hit by the benefit cap (esp. in Belfast and the South East).

## 7. Rate relief schemes: application of housing benefit law (Clause 130)

- 7.1 This clause essentially allows for an interim scheme to be developed to replace existing forms of support for rates, as these will not be included within universal credit. This scheme will provide support for rates to households who are not receiving universal credit as well as to those that are.
- 7.2 The Assembly may wish to consider how best to influence the development of a scheme to ensure that people returning to employment or taking on more hours assume more responsibility for payment of rates at a manageable rate.
- 7.3 This would ensure that the benefits of a lower withdrawal rate of support (a key element of universal credit) are not lost. The key question is, at what rate will this support be withdrawn?
- 7.4 For example, housing benefit for rent and rates is currently withdrawn at a combined 85% taper (65% for rent and 20% for rates) of net income after tax credits<sup>1</sup>. If help with rates under a new system continues to be tapered away net of universal credit then people in low paid work would lose the benefits of a single benefit (universal credit) that is withdrawn at a 65% taper of net income<sup>2</sup>. This would mean that the combined withdrawal of universal credit and rates support would leave claimants with 10.2p for every extra £1 they earn as opposed to 23.8p if the only benefit withdrawn was universal. This is hardly an incentive to increase hours or take up work – the primary aim of universal credit.
- 7.5 Our amendment seeks to ensure that help with rates remains outside of universal credit (thus maintaining parity with the policy intent in Great Britain), whilst mimicking the amount of benefit that would be received if help with rates was included within universal credit (so that support for rates is removed at lower marginal withdrawal rates). If the new rates relief scheme is developed based upon the current system, rather than what would be the case if support for rates was contained within universal credit (as was advocated in Great Britain), then low income households returning to work or taking on additional hours will find that they very quickly have to take on responsibility for payment of rates. What we are suggesting would

1 Tax credits are withdrawn at a rate of 41% of gross income. So for each additional £1 of earnings, 73p is lost from tax, national insurance and tax credits (20p, 12p and 41p respectively) leaving 27p of which 85% is lost (22.95p) from the HB combined taper leaving 4.05p. This is equivalent to 95.95% rate of tax.

2 Universal credit is withdrawn at 65% net of tax and national insurance (32p) so for each £1 extra earned a further 44.2p is lost of the 68p left after tax and national insurance. Leaving 23.8p equivalent to a 76.2% tax rate.

ensure that payment of rates is assumed at a level commensurate with universal credit, thus ensuring that households do not find themselves only very marginally better off in work or if they increase their hours.

**Suggested Amendment:**

That the current rates relief system is replaced by a scheme that will enable the same tapers to be applied to rates relief as to universal credit.

## 8. Supported Housing

CIH welcomes DWP's decision to remove the housing costs for supported housing from universal credit as it recognises the higher costs for this form of accommodation and the need for greater flexibility in providing support to tenants. However, this does still leave a number of issues to be worked out in relation to supported housing. For example, will removing these housing costs from universal credit mean that they are no longer demand-led and therefore mean a reduced pot of money if claimant numbers increase in the future.

- 8.1 CIH would suggest that a working group of supported housing providers and representatives is set up to work with officials in the Social Security Agency on how housing costs for exempted accommodation are to be managed within the new benefits context.

**Conclusion**

These are by no means CIH's only concerns pertaining to the Northern Ireland Welfare Reform Bill, the subsequent regulations and the planning and preparation for how welfare reform will be managed and mitigated. However, within the context of clause-by-clause scrutiny of the Bill and the potential to amend the legislation, we believe that they are important points to consider and hope that they will be of use to the Committee in its deliberations.

For more information please contact:

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# Welfare Reform the Churches Response

## Introduction:

We acknowledge that a reform of our benefits system has been long overdue and needs to be fit for purpose. Welfare reform will impact on all members of society, but will hit those on lower incomes harder. We would accept that the Act – creates incentives to get people into work, ensuring that work always pays. The Act also seeks to protect the vulnerable and sees the need to deliver fairness to those claiming benefits and to the taxpayer.

The Churches also acknowledge that Government has enabled a review process, a process that has returned to the basic concept of Welfare... To many of a certain generation the term Welfare holds great stigma as did the Poor Laws. It was Beveridge who set out a plan to put an end to what he called the ‘five giants’ - Poverty, Disease, Ignorance, Squalor and Idleness. What Beveridge did not envisage was a society that would become totally dependent on benefits, or on a system that was accepting of high levels of unemployment and benefits. The review we acknowledge is a response to perceived notion that there are high levels of fraud, over claiming and unacceptable levels of under claiming. There would also be that wider acceptance that the system could not sustain the level of existing payments.

The Churches have always connected well with the overall welfare of its members and the wider community both as services providers and advice givers. Already we are dealing with increased levels of hardship, the opening of “Food Banks” and heavy demands of Pastoral Care are clear illustrations that the system is under pressure, if not at breaking point. The Prime Minister in launching his “Big Society” initiative stated:-

*“I’ve been saying for the last four-and-a-half years that I want to Empower the voluntary sector, social enterprises, social capital, the Big Society – all the things that can actually help us build a stronger and bigger society in Britain.” The Churches have been doing this for generations – some of the great Christian Social Reformers of the mid-19th Century, awakened the social conscious of the day and made great things happen in the Church, showing that love of Christ has been the oxygen of Christian witness.*

## The Churches role and comments on the proposed reforms:

The four main Churches connected with the Welfare Reform Process in December 2011, when they met with Lord Freud (Welfare Reform Minister), the then Secretary of State Owen Patterson and Social Security Minister Nelson McCausland. They also hosted an event in the Assembly Buildings, which was addressed by both the Secretary of State and Minister McCausland. This event gave the wider church membership and community an opportunity to connect with the process at an early stage and also hear at first-hand what the Churches are already doing in this whole area.

The Church wants to stay connected to the process and respond in a way that will show the true Mission of the Church as it reaches out in a Christ-like way to those in need. We need evidence that someone has walked the walk with those who are considered most at risk. Walk the walk with - the lone parent with one pre-school child and one with special needs and a wheelchair user? Not to make the assumption too that claimants have internet access or a bank account? Consider seriously the “purse to wallet” concept and the possible risk to vulnerable partners and children. The impacts on both the Cared and the Careers given that 1 in 8 of our adults is in a caring role.

## The introduction of Universal Credit to provide a single streamlined benefit that will ensure work always pays:

The Churches would acknowledge that the present system is overly complicated and needs to be streamlined. Claimants are familiar with the current process and language and will require time to adjust. Great anxiety has already been created by the process. The media coverage has dealt in the main with the negative aspects. We would simply request that all changes and reassessing is done in such a manner that it reduces potential hardship. For example, leave adequate time during the transition for payments to reach the claimants. There is no doubt that higher levels of employment will result in an improved standard of living and go a long way in improving self-esteem to those who secure meaningful employment.

We ask that particular attention be paid to: lone parents having to return to work and the impact that will have on Child Care; the lack of appropriate Child Care Provision that impacts on any "Return to Work Strategy"; the Carer coming off benefit to return to work after caring for an elderly parent or sibling resulting in a Care Package being negotiated. Although Universal Credit will be available to those in employment, it has also given rise to the term "working poor". It is encouraging that there will be more scope for part time employment in the overall application of a Universal Credit model. The Churches would also voice their concern that the proposal to switch to monthly payments, although parity is desirable, it will present major budget management for many families, and there is a clear need for our regulations to be flexible.

We recognise that the levels of fraud are low, although errors both by claimants and agency must be concerning? We also recognise the on-going work to simplify the claims process and to make it more user friendly.

## Reforms to Disability Living Allowance, through the introduction of the Personal Independence Payment to meet the needs of disabled people today:

DLA Reform is creating the most anxiety – claimants who have been claiming for 10 or 20 plus years, now having to be assessed. Returning to employment would be desirable but in many instances would have to be linked to a return to work programme. Some recognition that Northern Ireland has a higher proportion claiming as a result of mental health issues, would also have to be factored in to the strategy, especially in the whole area of "fit for work testing".

## Creating a fairer approach to Housing Benefit to bring stability to the market and improve incentives to work:

Already there is hardship being experienced by those who are losing out as a result of their benefit being reassessed. They receive less benefit, as a result of under occupancy. Neither the Northern Ireland Housing Executive nor Housing Associations have adequate housing stock for those seeking single accommodation, those under 25 are particularly vulnerable. There is some evidence to show that many claimants already have to contribute to the shortfall from their main benefit or wage. There is no recognition or provision for Carers or Foster Carers who require additional accommodation on an irregular basis.

Young Care Leavers, those under 25 years old in abusive homes or with other Special Needs could be marginalised within this proposal, resulting in possible overcrowding or a danger of being made homeless.

## Questions to the Committee

1. What level of confidence has the Committee that the employment target of 25,000 new jobs contained within the Programme for Government can be achieved?
2. With high levels of under occupancy in the social housing sector how will accommodation for single people be achieved?
3. Given that 1 in 8 people in Northern Ireland preform a daily caring role how will the needs of the cared for and the carers be protected in the overall reform strategy?
4. How will the public be confident in the proposed assessment process for the new Personal Independence Payments?
5. What steps will the Department of Social Development take to reduce the high levels of under-claiming by those in most need?

## In Conclusion

Although the Churches recognise the need for Welfare Reform it is very aware of the potential impact on our members and the wider community. We prefer to respond and not react, to accommodate change as opposed to block it. We therefore welcome the opportunity to respond to this consultation process. We will remain connected to the implementation process and continue to respond to the wide range of pastoral needs as they arise.

**October 2012**

# Citizens Advice

October 2012

## 1. Citizens Advice - Overview

- Citizens Advice is the largest advice charity in Northern Ireland working against poverty. In 2011-12, our offices handled 305, 337 issues and dealt with 84, 456 clients directly while in the same period there were 122, 109 instances of the public downloading information documents from our website.
- Citizens Advice has promoted services in Northern Ireland since 1984 and has unmatched brand awareness among the public here, with 98% of people aware of Citizens Advice (MORI Omnibus Survey Northern Ireland, June 2011).
- The increasingly complex nature of work undertaken reflects the effects of welfare changes, squeezing of household budgets and reductions in working hours on our clients during the current economic crisis.
- The service is delivered through an unrivalled network of 28 local offices and 100 other outlets. We have a physical presence in 22 council areas around Northern Ireland.
- Online services have increasingly become a major priority for the organisation, as we seek to meet the changing needs of clients and growing demand for such advice and information.
- The largest single increase in advice demand over the past 3 years is to our online self-help advice service - Adviceguide.
- In 2011-12, Adviceguide had 180,273 separate users who accessed a total of 542, 458 Northern Ireland specific advice items. This represents a high growth rate over the past three years, with respective increases of 55% and 51%.
- Citizens Advice works in partnership with a number of statutory, voluntary and community bodies on a range of programmes and projects. Some of our major partnerships include:
  - The 'Beat the Recession' project funded by Big Lottery
  - The Royal British Legion/RAFBF Benefits and Money Advice service
  - Macmillan CAB Welfare Advice Service
- These are in addition to a range of local initiatives undertaken by our member bureaux. This extensive service is delivered within a budget of £6 million. It is in part funded by our social economy arm, Citizens Advice Services Ltd.
- Citizens Advice Northern Ireland has formal links to Citizens Advice in England and Wales and a close working relationship with Citizens Advice Scotland (CAS). Together the three associations constitute the largest advice network in Europe, with over 60 years experience of providing advice and information to the public.
- Citizens Advice also works in partnership with the Citizens Information Board in the Republic of Ireland to provide cross border advice and information.
- The CAB network is tuned to targeting social need with regional spread, modern integrated IT infrastructure and skilled staff. We provide an efficient and cost effective channel for the delivery of information and advice to the most socially vulnerable people in Northern Ireland.

## 2. Citizens Advice Clients And Welfare Reform

Citizens Advice welcomes the opportunity to contribute to the Social Development Committee's consideration of the Welfare Reform Bill 2012.

Citizens Advice assists clients throughout Northern Ireland with a wide range of issues and problems. Many of those clients and problems will in future be directly impacted by the provisions of this bill.

In 2011-12 Citizens Advice:

- Assisted 84, 456 clients via bureaux on 305, 337 issues
- Handled 169, 687 benefits issues via bureaux (56% of all issues)
- Advised clients on 39, 571 issues relating to DLA
- Advised clients on 76, 602 issues across Income Support, Jobseeker's Allowance, ESA, Housing Benefit, Child Tax Credit and Working Tax Credit<sup>1</sup>
- Delivered 106, 851 items of information on benefits to Northern Ireland users via our Adviceguide online self-help service<sup>2</sup>

In the context of this existing service delivery, it is anticipated that Citizens Advice will see a significant rise in enquiries from clients in relation to the material of this bill up to, at and during implementation of its provisions.

The experience of these clients, their issues and our advisers has contributed to the suggestions and observations in this response.

### 3. The Assembly and Welfare Reform

Citizens Advice believes that this bill should be considered by the committee in contemplation of a number of wider governmental aims and strategies, in terms of holding the executive to account and assisting the Department.

The Programme for Government commits the Executive to:

- deliver a range of measures to tackle poverty and social exclusion
- use the Social Protection Fund to help individuals and families facing
- hardship due to the current economic downturn
- improve online access to government services
- fulfil its commitments under the Child Poverty Act to reduce child
- poverty
- support people (with an emphasis on young people) into employment by providing
- skills and training.

Various statutory obligations come into play including:

- Statutory Equality Duties (Northern Ireland Act 1998, s75)
- Child Poverty Act

A number of governmental strategies and programmes should also be considered in respect of this bill, including:

- Social Investment Fund
- Social Protection Fund
- Child Poverty Strategy
- Economic Strategy

<sup>1</sup> In addition, bureaux handled 8, 510 issues relating to the Social Fund.

<sup>2</sup> [www.adviceguide.org.uk](http://www.adviceguide.org.uk)



- Anti Poverty and Social Inclusion Strategy
- Young People Not in Education, Employment, or Training (NEET) Strategy
- Neighbourhood Renewal Strategy
- Benefits Uptake Strategy
- Draft Housing Strategy
- Childcare Strategy

## 4. The Welfare Reform Bill and the Northern Ireland Context

Citizens Advice acknowledges that this bill largely mirrors the content of the Welfare Reform Act 2012 passed at Westminster.

Citizens Advice is aware of the devolutionary context of and debate around the bill, particularly in terms of the opportunities for administrative flexibility and the potential financial consequences of particular breaks in parity.

In that spirit, we have endeavoured both to provide specific recommendations in respect of various clauses, including some amendments as well as a range of observations and other criticisms which may require joint action with (or subsequent to) the UK Parliament. We hope that the Committee finds both to be helpful in its deliberations.

We believe that there is considerable awareness of certain proposed administrative deviations from the UK bill, namely:

- Payments made more frequently than monthly (by default)
- Payments to be issued to persons with actual caring responsibilities
- Payments to be made directly to landlords

Given the apparent consensus emerging within the Assembly on these issues, we have focused our commentary on other issues where possible. Similarly, there is significant awareness of the differential impact of the lack of affordable and accessible childcare in Northern Ireland compared to England, Scotland and Wales and the consequences of an online by default system (although we have considered these points as they relate directly to various clauses).

Citizens Advice broadly welcomes the stated key principles of the Welfare Reform Bill, that is, to encourage more people into employment, and to make work pay. Simplification of the benefit system is also generally welcomed, as the current process of administering benefits can be overly complicated and difficult for claimants to navigate.

However, the likely impact of this bill will be the reduction in benefit entitlement and payments for a many of the most vulnerable people in our community. Changes to benefits and taxation in the present 5 year period will hit Northern Ireland hardest of any region outside London.

Universal Credit is being promoted as a means to help people to move from benefits into work. Citizens Advice believes there is a disjoint between this objective and the reality of the unemployment situation in Northern Ireland. When unemployment is so high, the focus should be to invest in the wider economy and create jobs rather than focus on cutting access to essential financial support for many people in need.

The new benefit is named after personal independence – but Citizens Advice is concerned it will actually reduce independence. The experience of new assessments in ESA has been one full of problems, driven by bureaucracy-led decision making (rather than a people centred approach). Citizens Advice fears that PIP will extend that experience to people on DLA.

The UK government has said it wants to reduce disability benefit spending by 20%. Citizens Advice fears that this approach seems to be more about spending less on vulnerable people than realising their independence.

## 5. Clause by Clause Response

### Part 1

#### Universal Credit

##### Clause 4

(3)

Citizens Advice welcomes this provision in anticipation that regulations mirror provision under Income Support, such as to provide for lone parents under 18, young people under that age who are estranged from parental financial assistance or experiencing an inappropriate home environment.

(5)

Consequent regulations should be tailored to reflect the particular circumstances of Northern Ireland including the movement of people between here and Great Britain and the movement of people between here and the Republic of Ireland.

(6)

We hope that regulations interpret “receiving education” and “treated as receiving education” to reflect the current exemptions in Income Support, eg., those who missed a key part of education due to illness or disability and those who, due to the nature of their disability, are receiving education later in life which most people would receive earlier

##### Clause 5

(1) (a) and (2) (a)

We are concerned at the potential impact of a capital limit of, say, £16 000 in savings for couples (per 2 (a)). At present, couples who exceed that capital limit do not qualify for income-related benefits but can be eligible for tax credits. Under UC they would not appear entitled to any help. Such a limit would penalise people in various categories such as;

- Couples who have saved for a house deposit who experience unemployment or another reduction in income. This will disproportionately affect couples from lower income backgrounds, as similar couples fortunate to receive a deposit from relatives would receive UC while self-accumulated deposit payers would not)
- Parents of disabled children currently receiving tax credits to help with the extra costs of a disabled child will lose out on that help if they have set aside savings to cover the future care needs of their disabled child
- Couples who experience illness, unemployment or redundancy by one partner will be worse off than at present. Currently, the remaining working partner is eligible for tax credits, but that help would be lost under UC. Combined with the loss of contribution-based ESA after 12 months for a Work Related Activity Group assessed ESA recipient, this could be calamitous to their finances and result in the wiping out of lifetime savings at a time in life when older age care needs are looming.

##### Clause 6

(1) (b) and (c)

The minimum periods of entitlement and waiting period that would be provided for in these regulations should reflect the objective of enabling claimants to move into work without disincentive, bearing in mind the possible opportunities available from a planned Real Time

Information system. These provisions should properly mirror the flexible, unpredictable and often-short term nature of the work opportunities that lower paid workers, in particular, encounter.

(2)

A period of seven days seems unduly long to secure entitlement. Citizens Advice recommends the following amendment:

### **Possible Amendment 1**

**After “exceed” delete all and replace with “3 days”.**

Regulations should ensure that no waiting period applies in the event of a claimant losing entitlement to ESA, e.g. after the one year WRAG time limit passes.

### **Clause 8**

(3) (a) and (b)

Citizens Advice considers that all statutory payments such as Statutory Sick Pay or Statutory Maternity Pay and benefits such as Maternity Allowance and the first 6 months of ESA payments should be categorised as earnings for the purposes of UC.

This would mitigate the likely adverse impact of UC on people who have been working and who are on parental leave or who are in the initial stages of illness. At present, these people are treated as if they are working, and hence qualify for Working Tax Credits. Aligning these groups as earning for UC purposes will help them to avoid debt and poverty as a consequence of the possible loss of entitlement in UC as proposed.

This comment also goes to Schedule 1 Paragraph 4 (3)

8 (3) (a)

The calculation of earned income in respect of people previously self-employed should reflect actual payments issued to the claimant rather than any assumed floor which may not reflect actual previous remuneration.

This comment also goes to Schedule 1 Paragraph 4 (3)

Currently in Northern Ireland war disablement pension, war widow's pensions and war widower's pensions are disregarded in full when assessing entitlement to Housing Benefit and Rate Relief, though they are treated as income for other means tested benefits. A recent client, who is 75% disabled, was able to receive full Housing Benefit once his £900 per month service disablement pension was discounted. Citizens Advice recommends that in the regulations that prescribe how income is calculated and taken into account in Universal Credit these pensions remain disregarded in the same way as personal injury payments and special compensation schemes (see DWP Universal Credit Regulations 2012, Part 6, IC 10 and 13).

### **Clause 10**

At present families with a disabled child may be entitled to receive additional financial support through the disability element of child tax credit, currently worth £57 per week. Under UC the proposal is to cut the level of this financial support in half to £28 per week unless the disabled child is receiving the high rate of care component of DLA or is registered blind. It is very difficult for parents to find work with suitable hours to fit in with caring for their disabled children. This is particularly true for lone parents. Frequently parents have to pay more for childcare for their disabled children.

Citizens Advice would like to see additional support provided for working parents of disabled children by increasing the rate of childcare support for these families to 80%.

**Clause 11**

(3) and (4)

Citizens Advice is concerned that regulations will provide for an under occupancy provision ('bedroom tax'), following the changes scheduled for Housing Benefit. However, UC provisions will differ for example protection on death will no longer run for 53 weeks but benefits will run only for 3 months. There will also be less protection for mixed age couples where one is not above pension age and the younger partner is not already receiving Pension Credit.

University of Ulster research that highlights a shortage of single-bed housing units available. The research also shows that Northern Ireland does not have the social housing mix that would enable people to move types of accommodation. This bill will penalise people for not moving when there will not be homes into which they can move

Overall, Citizens Advice considers that the under-occupancy penalty should not apply (i) for a period of 2 years after a change in circumstances (e.g. children leaving home) and (ii) in any circumstances where suitable alternative accommodation is not available, given the nature of housing demand and the social housing stock in the region.

There is a wider point about the continued priority given by Housing Associations to build accommodation with two or more bedrooms, which fails to take account of the increased need for HMOs and single bedded dwellings that is likely from the bill.

See also the comments on clause 69

(3) (a) and (4)

Citizens Advice has previously expressed concerns about the limiting of Support for Mortgage Interest to 2 years since 2011 and reiterates that concern in respect of possible UC provisions. There problem is compounded by the high probability that low income home-owner families are in negative equity and consequently unable to move to a cheaper property.

**Clause 12**

(1), (2) and (3)

- The calculation of an award of universal credit is to include amounts in respect of such particular needs or circumstances of a claimant as may be prescribed.

Citizens Advice is concerned that the support offered by the Severe Disability Premium to severely disabled people who live alone and have no one caring for them is not going to be offered under Universal Credit. While DLA and its successor PIP is available to meet the additional costs that all disabled people meet, SDP helps with the extra costs faced by people who live on their own and may need to pay others to do things for them, including essential personal care. The extra payment enables them to continue to live independently.

Citizens Advice notes that the Explanatory and Financial memorandum states that, in reference to this clause, 'It is also intended to provide an amount for working claimants who pay for formal childcare in respect of a qualifying child or children. Regulations may specify or provide for the determination or calculation of the rates of any such additional amounts'. The provision of assistance with childcare is to be contained within the regulations, rather than guaranteed through the Bill. It is unclear at this stage what assistance is to be offered in terms of extra elements to assist with childcare for those in receipt of Universal Credit.

It is critical that the level of support for childcare within UC is sufficiently generous to make work pay for parents on low incomes who rely on formal childcare and for parents with disabled children. This is particularly important given that most support for childcare costs at present is delivered through WTC, which will subsumed into the UC system (and the WTC assistance was already reduced from 80% to 70% of eligible costs in 2011).

Citizens Advice would like further clarification on the arrangements that will affect parents with severely disabled children. Formal childcare for those children is specialised and

generally more expensive. Also, such caring parents may prefer to work for a smaller number of hours per week. It would be helpful to have clarity on the availability of suitable support for those parents who seek to engage in work outside home.

Generally, Northern Ireland at present does not have the same level of standard of childcare provision as England and Wales, which may be problematic for those wishing to return to work, but who are unable to secure adequate, affordable childcare. Citizens Advice is concerned that this Bill will introduce new sanctions on lone parents in the absence of the childcare support that is essential if they are to take up employment. Any fair approach to sanctions must consider the lack of employment opportunities, together with the lack of affordable childcare.

#### **Clause 14**

Citizens Advice sees opportunities in the idea of a claimant commitment. However, this should be based on a partnership approach between citizens and the state. For example, undertakings should be reflective of the experience, skills and circumstances of the claimant as well as the relevant local labour market.

We therefore suggest the following amendment:

#### **Possible Amendment 2**

##### **Clause 14 insert new Clause 14 (6)**

*“(6) A claimant commitment shall be drawn up in consultation with the claimant and have due regard to his/her skills, knowledge and experience.”*

Citizens Advice notes that there is little evidence to prove sanctions are effective in moving claimants closer to the labour market.<sup>3</sup> There is also an apparent injustice if sanctions remain in place even after a claimant (re)enters work. This is a disincentive to engagement and contrary to the purported aims of the bill.

In the context that sanctions are applied, a useful innovation would be to ensure that the reasons for them are properly conveyed to and understood by the claimant for developmental purposes (and potentially to enable challenge).

#### **Clause 16**

3 (c)

Citizens Advice would wish to see further detail on how “improving personal presentation” will be interpreted and imposed. There is particular scope for subjectivity in the interpretation of such provisions, and regulations and guidelines should be clear to both frontline officials, claimants and decision reviewers. Such regulations and provisions should also be particularly framed and implemented in adherence with obligations under Article 19 of the Human Rights Act.

#### **Clause 17**

As with the claimant commitment, undertakings expected should be reflective of the experience, skills and circumstances of the claimant as well as the relevant local labour market.

#### **Clause 18**

Citizens Advice wishes to see regulations that may impose requirements on a claimant to be “immediately” available for “more paid work or better paid work” crafted in a way that ensures that they are not held in contravention of commitment as a result of obligations to an existing employer, for example immediate availability may be restricted due to a notice periods



**Clause 23**

Citizens Advice welcomes the potential support offered to claimants through these additional interviews. However, scheduling of interviews should be done after consultation with the claimant in order to take reasonable account of circumstances, e.g. timing interviews to facilitate existing work, caring, medical or child care responsibilities.

To that effect we suggest the following amendment:

**Possible Amendment 3****Clause 23 (2) after “take place” insert**

“in consultation with the claimant and with reasonable regard to the circumstances of the claimant”.

**Clause 24**

24 (7)

Citizens Advice welcomes the special provision offered to victims of domestic violence and would seek for the extension of this provision to those who have to be rehoused due to hate crime. We would also advocate that arrangements for the payment of housing costs to a refuge/hostel or landlord in instances of domestic violence be continued as currently exist for Housing Benefit.

We suggest the following amendments for consideration:

**Possible Amendment 4****Clause 24 (7)****Line 3 after “domestic violence” insert**

“, or a victim of hate crime resulting in a need to be rehoused”

**And Possible Amendment 5****Insert new Clause 24 (9)****“ (9) For the purposes of subsection (7) -**

- (a) “hate crime” has such meaning as may be prescribed and shall include grounds of ethnicity, sexual orientation, gender identity, religion, political opinion or disability.
- (b) “victim of hate crime” shall be defined by regulations under subsection (7)
- (c) “resulting in a need to be rehoused” shall be defined in regulations
- (d) a person has recently been a victim of hate crime if a prescribed period has not expired since the crime was committed or since the victim became aware of the crime.

## Clause 26

(8) (a)

Citizens Advice again notes that there is little evidence to prove sanctions are effective in moving claimants closer to the labour market.<sup>4</sup> There is also an apparent injustice if sanctions remain in place even after a claimant (re)enters work. This is a disincentive to engagement and contrary to the purported aims of the bill.

26 (8) (b)

Citizens Advice recommends that this provision be deleted in order to encourage engagement with the labour market. This change would incentivise work while encouraging claimants to remain in work for at least as long as the period of sanction applied.

Explanatory Memorandum para 97 (refers to Clause 26)

This indicates that the sanction decision will be appealable but not the decision to impose work-related or connected requirements of whether the client has good reason). This may raise issues about the right to fair process. Also, it is unclear how a decision can be taken on an appeal against a sanction without consideration in many instances of the question of good reason.

## Clause 28

(f) The provision around recoverability of any hardship payments should have due regard to the imperative to incentivise work. Any decisions to recover hardship payments are likely to deter the entry of claimants into the workplace.

## Clause 33

Citizens Advice has some concerns about the probable arrangements for transitional support. In particular, the cash top-up will be eroded by inflation unless it is index linked. Also, the top-up will be lost as a result of (as yet undefined) changes of circumstances. This might penalise people for having children or disincentivise claimants from taking up work, for example, dependent on the nature of regulations.

## Part 2

### Working-Age Benefits

## Clause 45

(3) (4) and (5)

As in the case of Universal Credit, Citizens Advice sees opportunities in the idea of a claimant commitment. However, this should be based on a partnership approach between citizens and the state. For example, undertakings should be reflective of the experience, skills and circumstances of the claimant as well as the relevant local labour market.

In that spirit, Citizens Advice would suggest the following amendment:

### Possible Amendment 6

**Clause 45 (4) [Article 11 (2) (a)] [line 24];**  
**after “(a) be prepared by an employment officer” insert**

**“in consultation with the claimant”**

Citizens Advice also suggests a similar amendment to the provision for variation of the claimant commitment:

4

Griggs J and Evans M, Sanctions within conditional benefits systems; a review of the evidence, December 2010.

## Possible Amendment 7

### Clause 45 (5) [Article 12 (1)] [Line 40];

After “officer” insert:

#### “in consultation with the claimant”

Citizens Advice notes that there is little evidence to prove sanctions are effective in moving claimants closer to the labour market. In the context that sanctions are applied, a useful innovation would be to ensure that the reasons for them are properly conveyed to and understood by the claimant for learning purposes (and potentially to enable challenge).

As with the claimant commitment, undertakings expected should be reflective of the experience, skills and circumstances of the claimant as well as the relevant local labour market.

### Clause 47

As per Clause 28 and Universal Credit, the provision around recoverability of any hardship payments should have due regard to the imperative to incentivise work. Any decisions to recover hardship payments are likely to deter the entry of claimants into the workplace.

### Clause 50

(8C) (3) (d) and (e)

Action required in respect of employment programmes, work experience and work placements should have specific focus, be tailored to the previous experience, skills and likely employment opportunities of the claimant and be time limited. This should be guided by an approach (i) to ensure that there is a tangible employment related outcome to the claimant, (ii) to minimise displacement of paid employment in the local labour market and (iii) to prevent possible abuse by employers of such a scheme.

(8J) and (8K)

As previously stated, Citizens Advice is unaware of convincing evidence to prove sanctions are effective in moving claimants closer to the labour market.

### Clause 52

(1)

Citizens Advice strongly disagrees with the introduction of time-limiting of CB ESA for those in the work related activity group. Many of the people affected will have paid their national insurance, will have been let go from their occupation due to ill-health and will be unable to get other work. Having understood that national insurance guaranteed them a wage replacement when they were unable to work, they are now having that guarantee removed.

A typical client coming to us for advice would be a man in his 50s who had worked all his life in the shipyard, but is no longer able to work because of back pain. Given his age and the economic climate, it is unlikely that he will find work again to suit his disability. He will have prudently saved for his retirement but this will now count him out of IB ESA. He will therefore have to use up his capital at much earlier time of his life rather than the retirement he has saved up for.

(6)

We argue that it is wholly unreasonable, if time-limiting proceeds, to count days occurring before the coming into operation of this section towards the 365 days time-limit. Anyone due to have a reduction in their income of up to £105 per week needs adequate time for financial planning. In Great Britain letters were sent out to claimants who might be affected in the year preceding the introduction of the regulation. No such notification has been given here. We therefore recommend that, at the very least, the 365 days limit starts to run from the time that the claimant is notified of the change in regulations.

### **Clause 53**

We welcome this clause, which allows for people who have been put into the WRAG to re-establish their entitlement to CB ESA if they are moved into the support group. We would like to see further details of this amendment, particularly whether there are any time limits on linking to a previous claim and what the requirements are for demonstrating a continuous underlying claim.

### **Clause 54**

We are concerned with discontinuation of CB ESA in youth. While many of these claimants will qualify instead for IB ESA, if they have a partner who works they will no longer have access to their own income and be wholly dependent financially on their partner.

### **Clauses 55 to 58**

Citizens Advice sees opportunities in the idea of a claimant commitment. However, this should be based on a partnership approach between citizens and the state. For example, undertakings should be reflective of the experience, skills and circumstances of the claimant as well as the relevant local labour market.

We therefore suggest the following amendment:

### **Possible Amendment 8**

#### **Clause 55 insert new Clause 55 (3) (1C) (6) after “prescribed.” Insert**

**“(6) A claimant commitment shall be drawn up in consultation with the claimant and have due regard to his/her abilities, skills, knowledge and experience.”**

#### **And renumber accordingly.**

Citizens Advice notes that there is little evidence to prove sanctions are effective in moving claimants closer to the labour market. There is also an apparent injustice if sanctions remain in place even after a claimant (re)enters work. This is a disincentive to engagement and contrary to the purported aims of the bill.

In the context that sanctions are applied, a useful innovation would be to ensure that the reasons for them are properly conveyed to and understood by the claimant for developmental purposes (and potentially to enable challenge).

### **Clause 59**

(1) and (2)

Citizens Advice is concerned at the reduction of the age of the youngest child from 7 to 5 for eligibility for income support on the grounds of lone parenthood. There are two significant differences between Northern Ireland and Great Britain: we have much poorer childcare provision; and children in P1-3 have a shorter school day, most finishing at 2.00pm rather than in the later afternoon. It is therefore reasonable that there should be different rules here.

In addition, the Department predicts that the change in lone parent conditionality will save £11.73m in 2012/2014. However, it is unclear if these stated savings are net of a corresponding increase in the JSA budget which will occur when lone parents of 5 and 6 year old children are unable to find work which fits in with their childcare responsibilities.

### **Clause 60**

See comments in respect of Clause 16 and Clause 17.

## Part 3

### Other Benefit Changes

#### Clause 69

As already stated in relation to clause 11, we are concerned that housing benefit claimants in the social rented sector will be penalised for under-occupancy when there are not available Housing Executive or Housing Association homes for them to move into. Choice is particularly limited in rural areas.

While the policy objective is to contain Housing Benefit expenditure in the social rented sector, the DWP impact assessment<sup>5</sup> for GB is unable to predict reliably how much the savings will be. Because of the shortage of one and two-bedroom properties in the social rented sector, some tenants may have to move into the private rented sector, but because rents in the private sector are higher, in many cases Housing Benefit entitlement will be higher, thus no savings will be generated. The survey also points to the associated costs for local authorities of implementing the policy.

Citizens Advice advocates delaying the implementation of the bedroom tax until it can be seen from the experience in GB whether it does generate significant savings without excessive associated costs. The DWP research suggests that around 35% of claimants in GB are likely to fall into arrears if their Housing Benefit is reduced. There is no reason to assume the figure would not be the same in Northern Ireland.

#### Clauses 70 to 73

Citizens Advice welcomes the SSA's intention to maintain both loans and grants in the successor to the Social Fund and to widen eligibility to include those on contributory benefits and people in work but on a low income. We also welcome the fact that there will be no reduction in the fund's budget and that it will be ring-fenced for the next two years. We would like reassurance that this ring-fencing will be maintained throughout the period of transition to Universal Credit, when there will be increased demand on the fund.

#### Clause 75

This clause will allow for the introduction of a capital limit for State Pension Credit, potentially in line with the £16,000 that currently exists for means-tested benefits. This will have a prejudicial effect on older people who may have accumulated savings throughout their working lives. There is currently no upper limit, and Citizens Advice recommends a continuation of no capital limit for State Pension Credit. Having such a limit would disincentivise saving.

Citizens Advice calls for further consideration of the impact of Welfare Reform on older people. Grandparents often assume care of their grandchildren, and financial support will be paid through Pension Credit.

## Part 4

### Personal Independence Payment

Citizens Advice welcomes provision of funds to contribute to the extra costs of overcoming the barriers faced by long-term disabled people to leading full and active lives.

In Northern Ireland, there are over 40,000 people currently<sup>6</sup> claiming Employment and Support Allowance and over 189,000 receive DLA. Westminster has stated an aim of reducing disability spending by 20%—this approach seems to be more about spending less on vulnerable people than about ensuring independence for those living with disabilities.

5 <http://www.dwp.gov.uk/docs/social-sector-housing-under-occupation-wr2011-ia.pdf>

6 DSD, May 2012



There is a lack of detail in the Bill, with most of the significant provisions being left to regulation. Some of these are elaborated in the accompanying explanatory and financial memorandum. Important points, which have been subject to consultation, remain unresolved. The regulations need to be fully scrutinised before the Bill is passed into law.

Citizens Advice calls for the following to be taken into consideration in Part 4 of the Welfare Reform Bill: Personal Independence Payment.

## **Clause 76**

(3)

Currently an individual can be absent for up to 26 weeks for any reason before they lose entitlement to DLA. The DWP has proposed that after 4 weeks abroad DLA/PIP should no longer be payable and entitlement should end, except if the absence is for medical treatment when the period of absence can be extended to a maximum of 26 weeks. We contend that the 26 week period should not be shortened. During times of exacerbation of their condition individuals may spend time with family across the border, others may have periods of work or study out of Northern Ireland.

The descriptors for the activities have been subject to consultation (April 2012). We have expressed various concerns about the impact of proposed descriptors<sup>7</sup>. Again, it is important that the regulations are fully scrutinised. As yet we are unsure what the final descriptors will be.

(5)

It is crucial that assessment for PIP learns from the problems of ESA. We want to avoid the stress and expense of the numerous appeals where benefit has been denied. The regulations must ensure:

- that appropriate claimants should be given an award on the basis of their submitted evidence, thus avoiding the expense and stress of a face-to-face interview. Particularly for claimants migrating from DLA, a combination of their medical details and the supporting evidence from a healthcare professional who knows them, could obviate the need for a short impersonal face-to-face interview with an assessor, whom it has been shown from ESA has made an incorrect assessment.
- that the medical assessments are carried out by assessors who understand the particular conditions of the people with disabilities they are examining and the impact these conditions have on daily living and mobility. This is particularly important when it comes to mental health conditions.
- that claimants have a chance to look at the assessor's report at the time of assessment and note any disagreement. The ESA appeals process has shown many cases where the claimant has disagreed with what the Health Professional says happened at the interview, resulting in appeal in moving from 0 or low points to double those required.
- that all relevant medical evidence is reviewed at an early stage, and additional evidence requested where necessary, so that the decision-maker is fully informed before making the determination.
- that the assessments are carried out in a sensitive manner in a place appropriate to the individual. Recent problems that have emerged with ESA assessments – lack of home visits; because Royston House is not suitable for people with poor mobility, some Belfast clients have been sent to Ballymena and Craigavon, which can increase their discomfort, distress and stress. Providers in England are offering assessments in GP surgeries and up to 60% home visits, which is much more suitable for claimants.
- that a monitoring system involving stakeholders regularly reviews the performance of the contracted assessors and the decision-making. (see clause 88).

**Clause 78**

(4)

We welcome that the regulations under this subsection will be subject to the confirmatory resolution procedure. These regulations have been subject to consultation (April 2012). We have expressed concern that:

- Enhanced mobility will be available to people who use an aid, including a wheelchair, only if they also require supervision or help. This fails to recognise the additional expense involved in being a wheelchair user, an expense which DLA up to now has been designed to meet.
- With a 20% cut in the disability budget, there will inevitably be some claimants currently in receipt of higher rate DLA who will not qualify for enhanced PIP. If the passported benefits of the Motability scheme, road tax and Blue Badge entitlement are dependent on the higher rate of enhanced mobility PIP, these clients will have their mobility seriously affected. There must be an alternative route in place to access these passported benefits.

(5)

See comments on Clause 77 (5).

(6)

The Explanatory Notes at paragraph 370 state that, "If a person is over pensionable age, it is not normally the case that they would be entitled to the mobility component". We would like clarity here that if an individual is already in receipt of PIP mobility, they will continue to receive it once they reach pensionable age as is currently the case with DLA.

**Clause 79**

(1) to (3)

Already discussed above under the assessment criteria. These regulations need to be further scrutinised before passing into law.

(4)

It is stated that most individuals will be asked to attend a face-to-face consultation with a trained independent assessor, such as a healthcare professional, as well as providing information. Learning from the experience of ESA, we recommend that the healthcare professionals do not ignore, as they do currently, additional information such as X-rays and doctors' letters that an individual may bring with them, and that they flag up in their report to the decision maker if they think that additional information would be useful in making a decision. This should reduce the number of claims going to appeal.

(5)

The regulations may include provision- (a) For a negative determination to be treated as made if a person fails without a good reason to comply with a requirement imposed under subsection (4)

Citizens Advice is concerned with the claims procedure. There is a two-part form, the first of which will be by phone, initiating the claim. An advisor will only be allowed to do this for the claimant if they have the client sitting beside them, unlike the present DLA claim. The claimant will then be sent out a barcoded second part, which has to be returned to complete the claim. If claimants need help through each part of this process, they may not be able to complete the forms in the prescribed time, particularly with the increasing waiting times in advice agencies for form completion.

There is also widespread refusal among GPs to complete benefit forms, with some asking for a fee from the client. Clients must not be penalised for GPs' non-cooperation.

Citizens Advice has concerns that negative determinations may result in financial penalties for those who, for example, may suffer from mental health conditions that can act as a barrier

in communicating with others, or engaging in the assessment and claiming process. Learning from the IB/ESA migration process, regulations must allow for protection for those who, because of a medical condition, have difficulties in engaging with the system by taking their mental health into account when determining what constitutes a good reason for failure to comply.

#### **Clause 80**

(4)

Regulations under section 79(2) may provide that in prescribed cases the question of whether a person meets “the required period condition” for the purposes of section 77(1) or (2) or 78(1) or (2) to be determined by reference to- (b) whether, as respects every time in the next 9 months, it is likely that the relevant ability were to be assessed at that time that ability would be determined to be limited or (as the case may be) severely limited by the person’s physical or mental condition.

Citizens Advice calls for this to be amended so that if a claimant initially fails to meet the prospective “required period condition” but their disability persists so that in hindsight they would have met the condition, the claimant will receive an award backdated to when they first applied.

We call for this amendment as, with the proposal that the prospective test should be extended from 6 to 9 months, it can be difficult to predict whether a condition will persist for particularly in the first few months after, for example, a complex fracture or the onset of depression. A claimant should not be disqualified from a personal independence payment by an optimistic prognosis nor should a doctor be put in the position of having to be unduly negative in order for the claimant to qualify. If the prognosis turns out to be wrong, the claimant should be able to get the award instated without a time penalty or need to reapply.

#### **Clause 83**

(1)

A person to whom a relevant EU Regulation applies is not entitled to the daily living component for a period unless during that period the United Kingdom is competent for payment of sickness benefits in cash to the person for the purposes of Chapter 1 of Title III of the Regulation in question

Citizens Advice is concerned that this clause will negatively impact on those claimants who live in Northern Ireland but work in the Republic of Ireland. Under these circumstances, it is likely that the Republic of Ireland will be deemed as the competent authority, effectively negating the Claimant’s entitlement to a personal independence payment. This could disincentivise a DLA/PIP recipient from seeking work across the border, and prevent the increased independence which the bill purports to advance.

#### **Clauses 84 to 85**

Citizens Advice has already raised concerns about PIP claims and temporary stays in hospital or care homes. We were pleased to see the removal of the need to reapply for PIP after time in treatment or recovery but seek reassurance that the time frame for these remains at 28 days before suspension of claims

#### **Clause 86**

Citizens Advice are concerned that if no mobility PIP can be received by those on remand this could result in loss of access to Motability for those who are not convicted. We would recommend that claims are suspended during a period of remand (with Motability protection similar to that available with DLA and hospital.

## Part 5

### Social Security: General

#### Clause 95

(1)

Regulations may provide for a benefit cap to be applied to the welfare benefits to which a single person or couple is entitled.

Citizens Advice is greatly concerned that the proposed benefit cap will result in significant hardship for a number of families. The Explanatory notes at paragraph 461 state that the amount of welfare benefits a claimant or a couple receives will be capped by reference to the average earnings of working households in Great Britain. This will equate to approximately £350 per week for single adults with no children, or £500 per week for a couple or lone parent, regardless of the number of children that they have<sup>8</sup>. This cap does not take into account household size or circumstances, such as variations in housing costs. This will result in disparity between regions, and within regions, which may have varying average housing costs.

A cap on benefits will disproportionately affect those families with outgoings in excess of the average, for example, if they have children living in the home with disabilities, or if they live in an area with high rental rates. Citizens Advice is concerned that the effect of the cap will be to push families below the poverty line.

The benefit cap will be applied via a claimant's housing benefit, so the applicability and effect of the benefit cap will depend on a house-holds entitlement to housing benefit. This will have the effect of reducing available monies for sustaining the family or individual, and meeting housing costs. This may lead to debt and homelessness, if claimants find that they are unable to afford to pay their rent.

The government has suggested that claimants can reduce the impact of the benefit cap by moving into employment, with the possibility of receiving in-work benefits, but this will not be a realistic option for the large number of people who have been unable to secure employment. This may result in families having no option but to move home in an effort to lower their housing costs, with a disruptive effect on employment and education, as well as the potential to have negative impacts on family relationships. Furthermore, this could result in both a polarisation of housing stocks, where some areas will simply be unaffordable whilst others become ghettoised, and in the further depletion of rural populations, where appropriate affordable housing is simply unavailable.

#### Clause 96

(3)

Citizens Advice is concerned to note that a decision that the benefit cap applies to a particular award of benefit may not be appealed. If the cap is applied incorrectly, leading to an incorrect award of benefit, this will be appealable; otherwise, claimants will have no right to appeal. Given the high ratio of successful appeals in current benefits, with which decision makers are familiar (Appeal Service figures show that 2455 represented appeals upheld 2189 disallowed) it is likely that there will be more errors or miscalculations with a new benefit and the right to appeal is paramount.

#### Clause 99

Citizens Advice has concerns that in the majority of cases, payments will be made to the male head of household, despite studies showing that money is more likely to reach children of the family if payments are made to the woman. In reality, it is often women who manage

8

[www.ons.gov.uk/ons/rel/regional-trends/region-and-country-profiles/key-statistics-and-profiles--august-2012/regional-profiles--key-statistics-tables--august-2012.xls](http://www.ons.gov.uk/ons/rel/regional-trends/region-and-country-profiles/key-statistics-and-profiles--august-2012/regional-profiles--key-statistics-tables--august-2012.xls)

household budgets. Northern Ireland is the only region in the UK where child poverty rose- 21% of children live in persistent child poverty, which is more than double the GB rate. Further issues arise in situations where there is domestic violence or mental health/drug or alcohol dependency or other forms of addiction/compulsive behaviour.

Suggested Amendment- Payments could be made to the main carer where there are children in a family, or split payments between joint claimants, so that payments for children could be received by the main carer, who will usually, but not exclusively be the mother. Payments for housing costs could then be received by the person who is responsible for managing rental payments.

The Explanatory Notes, at paragraph 479, states that the Department may determine that the couple should nominate a lead individual to receive payment of the benefit. Clause 99(2B) also provides for the Department to determine to which member of the couple the payments should be made. In determining who is to receive the benefit payment, the Department should have consideration of the reality of the daily lives of claimants, and who is the main carer.

### **Clause 101**

The effect of this clause is to enable the Department to make regulations setting out the cases or circumstances in which an appeal can be made only when the Department has considered whether to revise the decision. This clause has the stated aim of resolving more disputes with claimants through the internal reconsideration process before an appeal to the tribunal is made.

Citizens Advice has concerns that this provision will be made in an attempt to reduce the number of permitted appeals of Department benefit decision, acting as a barrier to justice for claimants who feel (and the statistics above suggest that a large portion of them are supported by the appeal service) that the decision is erroneous. Appeal numbers are well documented, and it is apparent that historically, claimants have felt that appeals are a necessary way of challenging decisions. Citizens Advice regularly assists claimants with appeals to tribunals, and so has experience in dealing with common reasons for appeals. If claimants are only able to request revision of decisions, there is a real likelihood that wrong benefit decisions will not be adequately challenged and that the further clarifications of regulations through case law will be less effective.

If claimants no longer have the right to appeal at the first instance, by forcing mandatory revision requests to be made, they may be discouraged from appealing decisions that they believe to be wrong. Claimants will have to trust that the Department has reached the correct decision, but if they feel they have not, they might choose not to appeal due to the added layer of bureaucracy, especially for those claimants who may be claiming benefits due to ill-health.

A fair and effective decision-making process requires correct awards to be made from the outset, which would be a more cost-effective and customer friendly approach to reducing appeals than placing additional barriers in the way of customers seeking corrections of wrong decisions.

### **Clause 102**

(1)

In section 165 of the Administration Act... regulations under this Act require or authorise the use of electronic communications...

Citizens Advice notes that provision will be made in the bill to allow for electronic communications between, for example, the Department and HMRC. Citizens Advice seeks clarification about how the security of electronic communications will be guaranteed, particularly with reference to cyber fraud and online identity theft. It has been mooted that the Department and DSD will utilise similar security systems to those used by banks, however, in light of the systems failure experienced by Ulster Bank customers, it is clear that these systems are not infallible. The regulations do not seem to make provision should the system fail, which could result



in real financial hardship for people if they do not receive their benefit payments. Whilst communication between departments is to be encouraged in streamlining benefit claims and administration, security must be considered a priority.

Citizens Advice has concerns over the operational functionality of the real-time information system for PAYE taxation, developed by HMRC. Citizens Advice would welcome assurances that this system will be fully implemented in time for the new benefit system.

Citizens Advice would also welcome clarity about how advisers will be able to access the Universal Credit system on behalf of claimants without requiring the claimant's personal security system.

The Department for Work and Pensions has set a provisional target of 80%<sup>9</sup> of claims being made through the online claiming system by 2015. Citizens Advice has concerns about this focus on 'digital by default' arrangement, particularly given that only around 20% of Jobseekers Allowance claims were made online. Citizens Advice questions whether the target is realistic. It is clear that increased provision must be made for additional computers to be placed in Job & Benefits offices, as well as increased resources being made available to advice agencies such as Citizens Advice, who will undoubtedly be called upon to provide assistance and support for claimants struggling to cope with an online system. More resources must be made available to the advice sector to ensure that such help is available for those require it.

Claimants will face a number of difficulties with using online claiming systems, for example, there will be a large number of claimants who do not have access to the internet, either at home, and/or particularly those who live in rural areas who may not have easy and regular access to a Jobs & Benefits office or library. Those who do use public computers primarily for the purpose of filling in claim forms may not then have access to email facilities for follow-up communication regarding their claim. Claimants who are not comfortable or familiar with computer equipment may struggle with a lack of technical ability and confidence, and may have fears over the security of inputting personal and sensitive information onto a computer.

If such an onus is to be placed on making online claims, claimants who require it must be provided with training to learn how to make and maintain benefit claims. This will be particularly prudent for those who for example, are non-English speakers, or who have learning difficulties or mental health conditions.

### **Clause 105**

(2)

This clause allows for the Department to recover social security overpayments and social security debt (including social fund debts) by means other than through the court system, with the result that time limits do not apply to recovery by deduction from benefit.

Citizens Advice is concerned that time limits do not apply for the recovery of, for example, overpayments of benefits. Where an overpayment has been made as a result of error on the part of the Department, recovery should be time-limited to prevent unnecessary hardship to claimants. Having no time limit creates uncertainty and unfairness in the recovery system.

### **Clause 109**

This clause amends existing rules to allow the Department to provide a financial penalty as an alternative to prosecution where a claimant has made a false or fraudulent claim for benefits, even if the claimant did not receive any payment. Citizens Advice is concerned about the increase of powers to allow for such draconian penalties to be made.

### **Clause 110**

(3)

The amount of the penalty in a case... is 50 per cent of the amount of the overpayment... subject to- (a) a minimum amount of £350, and (b) a maximum amount of £2000.

Where no overpayment has been made, the penalty will be £350. This appears to be a significant penalty for claimants who may already be financially vulnerable, and is not a reflection of the seriousness of the offence, particularly where the Department has suffered no loss as payments have not been made. Citizens Advice appreciates the need to reduce benefit fraud, but recommends that the minimum penalty should be much lower than £350. Having such a minimum penalty may act as a deterrent to those who have legitimate entitlement to benefits from making a claim, in case they are deemed to have done so fraudulently.

### **Clause 111**

This clause reduces the cooling-off period for agreeing to pay a penalty to avoid prosecution from 28 days to 14 days. Citizens Advice calls for the repeal of this clause, as 28 days is a more suitable time period to allow for proper consideration by claimants of the decision to pay a financial penalty. A reduction to 14 days will affect a claimant's opportunity to seek advice, such as from a Citizens Advice bureau, and the claimant may feel pressured by the reduction in time to make a decision they later seek to have overturned. Repeal of this clause will have no financial impact upon the Department, but would allow claimants to explore all their options to make an informed decision, which would in turn reduce appeals.

### **Clause 112**

(1)

Clause 112 provides for a civil penalty where claimants fail to disclose information that would affect benefit entitlement or the amount of benefit payable; or fail without reasonable excuse to report changes of circumstances. Citizens Advice is concerned that the imposition of civil penalties in the case of client error will result in unfair and excessive sanctions.

A penalty of £50 has been proposed, which is a punitive measure that will potentially act as a deterrent for claimants who may be entitled to make legitimate applications. Before penalties are imposed upon claimants who fail to inform the Department of changes to personal circumstances, systems must be in place to allow for changes to be easily reported. Claimants must also be told before transferring to Universal Credit of the potential implications for failure to notify, as well as what constitutes a relevant change in circumstance and some claimants should receive special consideration, for example, those with memory issues (such as early onset dementia) or some learning disabilities or mental health conditions, where the capacity to retain knowledge necessary to notify the Department is limited

If penalties are to be imposed upon claimants who may negligently give incorrect statements, reciprocity would call for the same principle to be applied to the Department: if errors are attributable to the Department, claimants who suffer loss should be suitably compensated, with sanctions imposed on the Department. This would ensure equality amongst claimants and the Department, with the objective of driving down errors across the claiming process.

The experience of Citizens Advice advisers is that errors are more commonly attributable to Department officials than claimants. Many clients seek advice from bureau in relation to Department administrative errors, which, with intervention from advisers, are generally rectified. However, no compensation is offered by the Department to make up for the hardship

Any failure to provide information, or where information had been mistakenly provided in error, as a result of a move towards electronic claiming, must be allowed for during a transitional period. Claimants will be familiarising themselves with the new system, and mistakes may be made without any malicious or fraudulent intention. Regulations must provide for human error or problems with the software and any decisions regarding sanctions must take this into account.

Sanctions imposed on claimants must not result in financial hardship. Claimants in receipt of benefits are living on a government-established level of subsistence, so penalties can run the risk of placing clients in further financial difficulty. Citizens Advice is concerned that the use of sanctions will adversely affect the most vulnerable in society, who may be the most likely to make errors in the claiming process. The claiming process should be simplified to reduce the likelihood of errors being made either by claimants or by officials.

There are likely to be a significant number of appeals against the imposition of sanctions, which will lead to increased pressure on advice agencies, such as Citizens Advice. The advice sector desperately requires more funding to ensure that all those affected by Welfare Reform are able to access reliable advice and assistance. If resources are not given to the advice sector at a time of increasing demand, vulnerable people could be at further risk.

Even with sanctions being taken from the adult component of Universal Credit, in reality, children of the sanctioned adult will also be negatively impacted. A reduction in household income will have an effect on the living standards of the children, whose welfare should be a paramount consideration, especially given the high levels of child poverty in Northern Ireland. The Department must ensure that the regulations do not allow children to suffer as a result of sanctions.

Suggested amendment: Claimants should not be penalised for a first mistake, and they should be given an opportunity and a period of time to allow for the mistake to be rectified or additional information to be provided before a sanction is imposed.

### **Clause 113**

Clause 113 introduces a new 3 year loss of benefit sanction where the benefit offence is a relevant offence, for example, serious organised fraud or serious identity fraud. It also increases the period of sanction for a first offence from 4 weeks to 13 weeks. Citizens Advice has concerns that the period of sanction is too protracted. It will lead to financial hardship for many, particularly where there are children in the family. A reduction of household income for such a prolonged period will have consequences extending beyond the claimant at fault. Citizens Advice recommends that the period of sanction remains at the current levels.

### **Clause 115**

This clause has the effect of removing the offer of a caution, instead being replaced by either a more severe administrative penalty or a prosecution.

This clause removes discretion from the Department in the management of fraudulent claims, and leads to the criminalisation of claimants when a caution may have been a more appropriate remedy. Allowing for cautions in the administrative process retains the fit with the partnership approach between the claimant and the Department. Cautions also allow for claimants to gain an understanding of the claiming process, and the reasons for the issuing of the cautions, with a reduction in the likelihood of re-offending. Pursuing prosecutions for minor offences may be counter-productive financially for the Department, with costs of issuing court proceedings.

Citizens Advice is concerned by the removal of cautions, recommending that cautions can still be offered for first offences.

## Part 6

### Miscellaneous

#### Clause 125

The Explanatory memorandum, at paragraph 618 states that the power under subsection (1) can be used to make provision for the apportionment of fees and waiver.

Citizens Advice is concerned about proposals to introduce a system of fees for parents with care- if fees must be included under Welfare Reform, it may be more appropriate for fees to be levied at the parent who prevents a family based arrangement from being secured.

Citizens Advice is further concerned that parents will be required to show that they had taken 'reasonable steps' to set up an arrangement with their former partner, or they may have to pay an application fee, which has been mooted to be around £100, or £50 if the applicant is in receipt of benefits. A survey conducted by Gingerbread found that 72% of single parents would be unable to agree private arrangements with their former partners and almost half would be unable to afford the application fee. As the Bill already acknowledges the additional needs of partners who have experienced domestic violence, these needs require further consideration here.

Subsection (3) of the Child Maintenance Act (Northern Ireland) 2008 includes the power to make provision for the charging of fees which are not related to costs. Citizens Advice is concerned that this punitive system has the potential to act as a barrier in reaching arrangement between parents and carers. Citizens Advice does not support a system of fees in the child maintenance system which is not directly related to costs.

Rather than introducing a system of fees and what will in effect be financial penalties following the breakdown of a relationship, additional support and guidance should be facilitated to aid parties in reaching an agreement between them. This would improve family relationships, with the added incentive of avoidance of additional costs.

#### Clause 130

We are concerned that the rate relief scheme is going to be removed from the housing benefit scheme from 1st April 2013 and we have not yet seen the replacement. The Minister has indicated that there could be a deficit of £13m in the first year 2013/14, which may easily escalate due to inflationary pressures and increased demand in the future years.<sup>10</sup>

It is essential that individuals currently in receipt of rate relief are informed in good time of any cut in their entitlement so that they can plan financially and that transitional protection is put in place. We also want to see how any new scheme will interact with Universal Credit.

## Schedule 1

#### Paragraph 4

(3) (c)

Citizens Advice considers that all statutory payments such as Statutory Sick Pay or Maternity Pay and benefits such as Maternity Allowance and the first 6 months of ESA payments should be categorised as earnings for the purposes of UC.

This would mitigate the likely adverse impact of UC on people who have been working and who are on parental leave or who are in the initial stages of illness. At present, these people are treated as if they are working, and hence qualify for Working Tax Credits. Aligning these groups as earning for UC purposes will help them to avoid debt and poverty as a consequence of the possible loss of entitlement in UC as proposed.

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10

<http://www.dsdni.gov.uk/ministers-speech-welfare-reform-second-reading.htm>

**Paragraph 4**

(3) (d)

Regulations which set out the prescribed rate of income yield should allow for calculations based on relevant indications of net market deposit savings performance based on actual market data.

**Paragraph 4**

(3)

The calculation of earned income in respect of people previously self-employed should reflect actual payments issued to the claimant rather than any assumed floor which may not reflect actual previous remuneration.

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Date: 02 Nov. 2012

## Committee for Social Development Consultation on Welfare Reform

Submission by the College of Occupational Therapists

### Introduction

The College of Occupational Therapists (COT) is pleased to provide a response to the consultation on Welfare Reform which has been assisted by occupational therapists in Northern Ireland and the COT Specialist Sections in Work and Housing.

The College of Occupational Therapists is the professional body for occupational therapists and represents over 29,000 occupational therapists, support workers and students from across the United Kingdom of whom about 900 are in Northern Ireland. Occupational therapists work in Trusts, across health and social care services, they deliver services across housing, schools, prisons, the voluntary and independent sectors, and vocational and employment rehabilitation services.

Occupational therapists are regulated by the Health and Care Professions Council, and work with people of all ages with a wide range of occupational problems resulting from physical, mental, social or developmental difficulties.

The philosophy of occupational therapy is founded on the knowledge that occupation is essential to human existence and good health and wellbeing. Occupation includes all the things that people do or participate in, for example, caring for themselves and others, working, learning, playing and interacting with others. Being deprived of or having limited access to occupation affects physical and psychological health.

### General Comments:

Occupational Therapists work with people of all ages, supporting them to lead independent lives. They assess a person's holistic (entire) needs including physical, psychological, practical, social and emotional –helping individuals to achieve the occupational goals that are *important to them*.

Occupational Therapists are experts in assessing functional performance. They have a unique understanding of the impact of disability and illness on occupation (e.g. activities) recognizing that poor physical and mental health, disabilities, or the effects of ageing can affect people in different ways.

Occupational therapists carry the statutory delegated function, on behalf of Chief Executives in Trusts\* in Northern Ireland for recommendations for housing adaptations for people with disabilities. (\*Health and Social Care Trusts have a statutory duty to assess the needs of disabled people, including their housing needs.) Housing adaptations can range in complexity and cost, from relatively minor, e.g. additional stair rail, to major works, such as ground floor extensions involving significant structural changes to existing properties. Occupational therapists also assess, prescribe and make provision for specialist equipment and seating.

## Specific Comments:

### **Restriction of housing benefit in social housing sector: Under occupancy**

The College has concerns about the impact the 'size criteria' which will be introduced for new and existing working-age Housing Benefit claimants living in a Housing Executive or housing association home, will have on disabled people. The College believes this is going to disproportionately affect disabled people

Disabled people can have different needs from accommodation from the non disabled, therefore size would not be a good indicator of need. Some, for example may require housing adaptations such as through floor lifts or additional rooms downstairs depending on individual needs. There may be requirements for rooms to store large and bulky equipment such as storage for hoists, pressure relieving beds (profile beds) and wheelchairs etc, as well as circulation space needed for wheelchair users and other needs such as people requiring assistance of carers for personal activities of daily living and safe transfer circulation space.

In the Department of Social Development, Welfare Reform Bill (Northern Ireland) 2011 Completed Equality Impact Assessment, April 2012, it said that "at 10 August 2011 there were 8,317 claimants receiving a premium in respect of disability, with 4,503 of those living in the social rented sector. (This does not include those receiving only a disabled child premium as there would be entitlement to a bedroom for the child when considering the size criteria.)"

It also included that "The impact of the measure on households containing a disabled claimant or partner suggests that a higher proportion of households containing a disabled person would more likely be affected by the introduction of the size criteria." We understand this to be saying that the 'size criteria' will particularly impact people with a disability. However at a later point it says that "As a proportion of the Housing Benefit caseload and the overall number of claimants in the social rented sector, the measure has no significant differential impact on disabled claimants."

It also mentions Discretionary Housing Payments which it says allows the Housing Executive to give extra help to those facing difficulties meeting their housing costs on a case by case basis. The issue with discretionary housing payments is that many other vulnerable groups will be making a call on the same resources. We would question the practical sustainability of this approach and what will the duration of this payment be and can this be sustained over a long period of time.

If people are required to downsize there needs to be the stock to move to and as accessible dwellings are in limited supply disabled people are going to struggle to find smaller accessible accommodation. We are told there is an acute shortage of bungalow/wheelchair friendly accommodation throughout Northern Ireland and 'lifetime homes' do not meet wheelchair standards which tend to be the core of Housing Association builds.

Northern Ireland has a strong community infrastructure and family networks. Social support networks can be critical to independence. The political situation also affects social mobility and which community people will feel comfortable to move to which further adds to the overall difficulty finding suitable accessible dwellings. A move away from their existing communities/support could have a detrimental effect on the wellbeing of disabled people and significant financial costs for statutory care input.

Occupational therapists have collated data as part of their interventions and what is clear is that while families with younger members are more open to moving, the preference of the vast majority of people with a disabled family member is to stay and adapt rather than move.

Occupational therapists also have concerns regarding the implications for their practice. If an adaptation is added on, it may potentially mean adding another downstairs room. An alternative such as a lift may not be feasible due to the house layout requiring an additional

bedroom or ground floor facilities. This could create greater under occupancy and have financial implications. The individual may then find themselves in an unsustainable tenancy.

From an occupational therapists' perspective, a house which has been adapted to suit the needs of a disabled tenant, whose tenant number has reduced should not be made to pay the excess if they are living in a house which has been adapted to suit their needs. It seems that they are being discriminated by being forced to pay an excess even though they may have no other option but to remain in their accessible home

Some other key issues which may arise in relation to the "room tax" or loss of Housing Benefit income due to under-occupation are:

- The determination of bedroom usage where inter-floor lifts take up significant space in an existing bedroom.
- Changes of bedroom usage to other functions such as shower toilet /storage provision.
- The validation of the use of "spare" bedrooms for overnight care by informal and formal carers.
- Policy on providing an extension to provide a room for carers to stay overnight.
- Calculation of bedroom usage where two children normally assumed to share a bedroom under housing benefit policy cannot, due to physical disability or challenging behaviour. This could apply either to using a spare room to provide separate sleeping arrangements for the two children or where an extension is provided.
- The calculation of housing benefit where a lift cannot address the needs of a disabled person and an extension is required resulting in under-occupation of first floor bedrooms.
- The impact on relatives where a family member succeeds to the tenancy of an adapted home which is under-occupied. This could also apply possibly to a carer
- The additional difficulties disabled people will face in trying to down size to suitable, accessible accommodation in a location where they can enjoy the support of family and friends.

We do understand that changes need to be made secondary to the issues with lack of Northern Ireland Housing Executive (NIHE) housing, waiting lists for housing and the current financial crisis. The proposed changes will however only create a greater burden to some families already experiencing inequalities and whose budgets are already being squeezed by the cost of living. We are concerned the impact is going to be more significant for individuals, families and carers where someone has a disability in the household.

Occupational therapists in Northern Ireland say they are aware some larger NIHE properties may be solely occupied and suggested that, perhaps if the tenant said they were willing to be re-housed to a smaller property, they could be omitted from having to pay the excess in the interim until a suitable property becomes available. In contrast, however some houses are overcrowded and it does make sense that they should be accommodated in larger housing.

Effective planning and allocation by NIHE/ Housing Association housing will help prevent under occupation of homes where one person lives in a three bedroom family home sometimes with adapted facilities

We also note that foster children will not be accommodated for in house size which is likely to cause a greater strain for a service which is already in great need of applicants. This may affect potential foster carers coming forward.

## Work Capability Assessments:

Occupational therapists are Allied Health Professionals (AHPs) and are dual trained and skilled to assist and rehabilitate people who have physical health and mental health related conditions. Integral to any occupational therapy intervention is the assessment of functional capability for self-care, productivity, play and leisure.

Occupational therapists have particular expertise in assessing functional capability for work (work capability), to assess job demands and match demonstrated work capability to demands of a job in order to facilitate a return to safe, suited and sustainable work or to help maintain someone with a health related disability in work.

Research has shown that an accurate and reliable assessment of an individual's occupational functioning (work capability) facilitates a successful return to/maintenance at work (Innes et al 2010). To ensure accuracy and reliability when assessing work capability, occupational therapists use multiple data sources and multiple methods to collect the data in order to provide deep and rich information that combines subjective and objective measures of performance. Triangulation of the data collected is seen as imperative in order to make judgments regarding performance. The WCA may be seen as meeting a triangulation assessment process, in as much as a number of data sources are used, e.g. review of supporting documentation, interview and observation. However, the WCA does not incorporate an objective assessment of function and therefore the reliability, validity and utility of it as an assessment process may be questioned.

The current WCA process reduces work to a limited number of physical and cognitive/perceptual factors and descriptions that have very little bearing on whether an individual can or cannot work.

It may, therefore, be prudent to incorporate comprehensive and objective assessments of work capability carried out by occupational therapists who have skills and expertise in the objective assessment of function. The components of the objective assessment of function should be sufficiently comprehensive to reflect the actual demands of work, and not be a checklist of unconnected job factors that are removed from actual purposeful behaviour.

It is not surprising therefore, that occupational therapists support many of their clients to access benefits including Employment and Support Allowance (ESA). This involves the full process from supporting their clients to obtain an application form to attending medical examinations and tribunals. Supporting people through the application process, WCA appointment and appeals procedures including time to attend tribunals, is time consuming and a drain to NHS resources.

Occupational therapists have concerns about the outcome for a number of service users who have undergone a work capability assessment (WCA), which is used to determine eligibility to the Employment and Support Allowance (ESA).

Presently the main company contracted to carry out WCAs do **not**, that we are aware of, recruit or employ occupational therapists for this assessment. We understand, nurses, GPs and physiotherapists are employed to carry out the WCAs in England and nurses and GPs in Northern Ireland.

Occupational therapists in Northern Ireland are concerned that the WCA depends on self reporting and from what we understand some requests to show some movement s such as bend down, but not what an occupational therapist would term as a functional assessment. They have also voiced concerns that the WCA does not pick up on mental health problems well and the view and comments of assessors can be sometimes subjective e.g. how the person presents. They would like to see the process become less reliant on self reporting and move towards an evidence-based functional assessment that uses best practice in such things as triangulation of data.

They do not believe the present process of asking questions and filling in details on a computerised form which a decision maker subsequently looks at along with medical or other information presented will accurately assess a person's capability for work. Assessing capability for work is a complex process of using multiple methods to identify a person's limitations and abilities, which take more time the more complex the presentation on functional issues e.g. physical and mental health issues. Occupational therapists are also concerned that the part of the process which would allow or require information from a treating clinician, such as an occupational therapist, is not properly developed. Whilst not everyone will have a treating clinician involved, where relevant this may help give a more accurate functional assessment.

The system at present is fundamentally flawed if there are in the region of 40% of those appealing winning their cases. Occupational therapists are concerned that instead of promoting an individual's ability to work on health and wellness and managing their condition and improve their symptoms where this would be realistic or possible to do, going to tribunal is sometimes causing an opposite effect. They report that service users who are waiting to go to tribunal are often focusing on how ill they are, and not on how well they could become. This 'symptom magnification' they worry is making some service users more ill than well.

The College of Occupational Therapists would support the increased and enhanced role of occupational therapists in the fair and effective delivery of Work Capability Assessments. Occupational therapists would be very well placed to undertake work capability assessments particularly in relation to our biopsychosocial background and our specialism in functional ability and vocational rehabilitation. Occupational therapists are also trained at an undergraduate level to understand a wide range of physical, mental, cognitive and developmental impairments including the fluctuating and variable nature of disability. Occupational therapists are experts at evaluating an individual's ability to perform activities, analysing work tasks, and measuring a wide range of environmental factors that can affect work performance. Many ESA applicants have combined physical and mental health conditions and occupational therapists have dual training in these areas.

Whilst undertaking Work Capability Assessments, occupational therapists will act in accordance with the College of Occupational Therapists Professional Standards and Code of Ethics and Professional Conduct <http://www.cot.co.uk/standards-ethics/standards-ethics> The Professional Standards stipulates that occupational therapists work in partnership with the service user, acting in their best interests including respecting the human rights of the service users; ensuring decisions and actions are always in the best interests of the service user and where necessary, acting as, or arranging for, an advocate to promote the best interests of service users.

Occupational therapists in Northern Ireland feel the process could be improved. They would like to see that it incorporates values and vision of 'Transforming Your Care' where the individual is at the centre. They believe that work and health should provide an approach which will encourage a services user's self reliance and self management of their condition where appropriate to do so

The College of Occupational Therapists continues to engage with the government in England for a fair process of Work Capability Assessments. The College of Occupational Therapists submitted a formal response to the DWP's consultation in September 2011 (Work Capability Assessment Call for Evidence: Year 2 Independent Review) based on feedback from its members and service users where we cited a number of recommendations for improvement.

This can be read by visiting <http://www.cot.co.uk/consultation/uk/work-capability-assessment-year-2-call-evidence-42-10-11>



## Personal Independent Payments (PIPs)

The College welcomed the Work and Pensions Select Committee Report on 'Support towards additional living costs of working-age disabled people' (19 February 2012) calling on the Government not to introduce the new Personal Independence Payment (PIP) nationally until it is confident that the assessment process is fair and accurate. <http://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/news/dla-report/>

As part of the assessment for PIP will review all a person's activities of daily living an occupational therapy assessment would seem to be the most efficient and accurate to do this.

## Conclusion:

The College of Occupational Therapists welcome Welfare Reform but are concerned about

- The lack of occupational therapists involvement in the process and the added value their skills would bring with regards to Work Capacity Assessments.
- Disabled people who will be disproportionately affected by the size criteria for housing.

Policy in Northern Ireland is towards a whole systems approach and the need to move towards promoting health and well being. The aim proposed in the present Public Health consultation 'To improve the health and well-being status of all our people and to reduce inequalities in health' includes housing as an important element. We are pleased that Minister Mc Causland has been successful in changes which have been secured to the way Universal Credit can be paid to reflect Northern Ireland's unique circumstances. We do hope that that the under occupancy rule for disabled tenants can also be looked at.

Dame Carol Black and David Frost's Health at work – an independent review of sickness absence says "In an ideal system, people who are unable to work would be swiftly identified and supported; those with conditions that are compatible with their current work would receive early treatment and support to return quickly; and those needing to change jobs would be efficiently helped back into work. Costs would be fairly distributed between employers, individuals and the State, and incentives aligned to manage these costs."

The Review makes a number of recommendations to improve the sickness absence and benefits systems such as "Government should fund a new Independent Assessment Service (IAS). The IAS would provide an in-depth assessment of an individual's physical and/or mental function. It would also provide advice about how an individual on sickness absence could be supported to return to work. This service should usually be accessed when an individual's absence spell has lasted around four weeks. The College along with occupational therapists in England have been speaking to Lord Freud about this as well as looking at other elements of this overall system such as devising Allied Health Professionals (AHP) Fit notes

The College believe that occupational therapists are ideally placed to carry out work related assessments. There are many occupational therapists who are regularly conducting assessments of an individual's functional capacity for work. The College of Occupational Therapists therefore supports the increased and enhanced role of occupational therapists in the fair and effective delivery of Work Capability Assessments and their expertise be used to develop an approach which would link together health and work. An enhanced connection between all of the government departments responsible for work and health would enable a more joined up approach perhaps across a theme of reablement to work. Fiscal measures to achieve this would be necessary. The College would be pleased to engage further regarding this or to offer any assistance to any planning or development in this area.

**References:**

Dame Carol Black and David Frost CBE Nov 2011 *Health at work – an independent review of sickness absence* Department for Work and Pensions London

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Peggy Frost Work (Sept 2011) *Capability Assessment Call for Evidence: Year 2 Independent Review: Response from the College of Occupational Therapists* London

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Gerry McFeely Health at Work: an analysis of Black and Frost's independent review of sickness absence – what can OTs offer. *British Journal of occupational Therapy* , July 2012. 75(7), 343-345

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## Combat Stress Ex-Services Mental Welfare Society

Dear Sir/Madam,

The Ex-Services Mental Welfare Society – Combat Stress provides treatment and welfare support to ex-service personnel who may have suffered a psychological injury as a result of their military service.

As a welfare officer working for the Society in N Ireland veterans will often feel aggrieved that they are being discriminated against with regard to benefit entitlement. Many that have been injured, physically or psychologically, and are in receipt of a War Disablement Pension (WDP) or a Guaranteed Income Payment (GIP) as part of the Armed Forces Compensation Scheme (AFCS) are currently excluded from many benefits as their income places them above the thresholds. Presently only £10 or £20 is disregarded when calculating their entitlement. The only exception to this is Housing Benefit. In such instances WDP and GIPs are totally disregarded when calculating entitlement.

The Armed Forces Minister had been quoted in the national press as stating that from April 2013 changes would be made to welfare benefits regarding veterans. The changes would ensure that those veterans injured in the service of their country would not be disadvantaged when applying for benefits. WDP and GIP's would be totally disregarded when calculating entitlement.

I have read through the Bill and, as a lay person, can find no reference to such 'disregards' when calculating entitlement. I would therefore respectfully request confirmation that the new Welfare Reform Bill includes such provision.

Yours sincerely

Guy McCullough

Welfare Officer  
Combat Stress  
Ireland

Tel: 028 9026 9993  
Mob: 07736 490338

## Community Foundation for Northern Ireland

1. The Community Foundation for Northern Ireland welcomes the opportunity to make a written submission to the Assembly Committee for Social Development on the subject of the Welfare Reform Bill. The Community Foundation is an independent charitable grant making Trust which supports work in areas of deprivation and with disadvantaged groups across Northern Ireland. While primarily a grant making organisation, the Board of Trustees of the Community Foundation were so concerned about the likely impact of both the current Welfare Reform Bill, and related policy changes, that it agreed to fund a 3-year Community in Action Programme (2012 – 2014) to ascertain the impact of these changes on people's lives in practice. To this end it is working with local communities in
  - Donegall Pass, Belfast
  - Cregagh, Belfast
  - Ardoyne, Belfast
  - Doury Road, Ballymena
  - Taughnevan, Lurgan
  - Lettershandoney, Derry
  - Villages Together (Bready, Donemana), Co Tyrone
  - Fountain Street, Strabaneto monitor developments on life opportunities and to support community resilience.
2. In the initial set of community conversations that have been carried out it is clear that there is both fear and uncertainty about the nature and likely impact of the changes. This is augmenting already very high levels of stress and community fragmentation. There is also a concern about the negative stereotyping of groups of Welfare benefit recipients, such as the young unemployed or single-parent families.
3. In terms of community fragmentation the side effect of increasing rates of unemployment and poverty that is to be feared is the likelihood that new immigrant communities and residents will be blamed for a situation not of their making.
4. With regard to the specific provisions of the Welfare Reform Bill the Community Foundation understand the need to maintain parity, but equally feels that it is important to take account, where possible, of Northern Ireland specific circumstances. The latter may include
  - Restrictions in access to on-line technology increasingly required to make claims.
  - The number of claimants who may not have Bank Accounts.
  - The nature (and number of rooms) of the housing stock.
  - The limitations (real and/or perceived) in terms of where people feel secure in terms of living and working.
  - The impact on people living in remoter rural areas.
  - The number of job seekers experiencing significant work-limiting health considerations.
  - The relative lack of affordable child care in certain areas.
  - The high levels of people in Northern Ireland that will be affected by the introduction of the Personal Independence Payment, resulting in a disproportionate impact on the region.
5. The area studies conducted by the Communities in Action project has already highlighted a range of relevant concerns –

- 
- (i) The high cost of heating (oil/gas/electricity) and the limited choices available to low income consumers. This has resulted in high cost options such as purchase of fuel in £20 - £30 lots. The Assembly has already itself recognised the fuel poverty issue in Northern Ireland.
- (ii) The high cost of running a car/or 2 cars in rural areas. As one lady explained –
- “My husband runs a van to work and then I have a car but because we’re rural we were trying to work out how we could do with one vehicle but it just didn’t work out... I have to take my children to school every day and lift them, and I have to do it because one of my wee boys has a health issue... and life if we give one vehicle up it means my husband is going to have to give up his job, so it’s a constant battle – trying to run two vehicles is a nightmare... we’re constantly getting into debt to try to keep the two on the road because at this stage nobody wants to buy an old van because there’s no building site work...”*
- (iii) Even with the current benefit levels, debt is a constant worry. Another lady noted –
- “The milkman or the window cleaner, you see people avoiding them because they genuinely can’t afford them until their money comes in ... feeding your child is more important than owing a milkman £6 or £7, and then eventually the milkman doesn’t come ... so you’re switching back on your child getting more things, like we would all like to go out and feed the wee ones fresh vegetables and fresh fruit and have the best for them so that they can have a healthy lifestyle but the reality is we just can’t afford to do it...”*
- The constant balancing and financial juggling was reported to be reflected in higher rates of depression, and in extreme cases, leading to a breakdown in family relations...
- (iv) Concern was expressed about the concept of monthly payments which could well make already squeezed budgeting more difficult.
- (v) The issue of benefit being paid to the designated householder (often the man) was another area of distinct concern as noted by a number of mothers in particular –
- “It’s going to lead to more repossessions. It’s going to lead to your children not getting fed properly; clothed properly...”*
- with the additional concern that it could well lead to additional pressures on family relationships.
- (vi) Young people – especially where living a distance from major towns – referred to the existing expense of travelling for further study at FE Colleges. Alongside this a single-parent mother referred to the income related deterrence –
- “... Then I had my wee girl and obviously it was hard but I’ve actually found out over time that if I go back to Tech to study, I get all my money took off me, my Income Support that I get for my child – so it nearly seems like there’s not point in me going to Tech which is really bad for my child. I get my money took off me if I go back to Tech...”*
- In short what we are in danger of seeking is a contradiction in government policy between the administration of welfare benefits and policies that argue for ‘Lifetime Opportunities’ – particularly for young people that are not in education, employment or training.
- (vii) A further contradiction in government policy seems to appear with regard to home ownership, on the one hand, but lack of adequate housing support for those on benefits. As one Belfast interviewer reflected –
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*"Talking about the jobs and all that there, cuts in jobs and wage cuts and everything else. Up where I live there is a lot of people own their own homes and the amount of people who had their houses up for sale because they've lost their jobs, and the amount of separation in families – wives and husbands splitting up, where I live is ridiculous. (This is because of the stress of the money worries and everything else...) and then the 'For Sale' signs because they can't cope, because the husband has lost a job or the wife has lost a job..."*

There were considerable fears expressed about the proposed measures with regard to under-occupancy in the social rented sector which many people felt they would be increasingly forced into.

- (viii) There were extensive anxieties expressed over the treatment and representation of younger people in the Welfare Reform debates. This related to both the pressures that younger people were under (including the media ads for high interest loan companies) and the lack of employment which is in danger of resulting in a devaluing of education. A Ballymena mother noted –

*"Who I actually feel sorry for more is the kids leaving school, there's no jobs whatsoever. Like my daughter as I said she's 20, did all her GCSEs, pass them all; stayed on at school for an extra two years. Did A Levels, passed them all, applied for over 30 jobs and never got one interview, not one interview. There's no jobs for them. They tell you you need qualifications and you get qualifications and you can't get a job because you've no experience..."*

Similar stories were related in Lurgan, although there it was a graduate cited. The further demonisation of the young unemployed in the current welfare debates has aggravated feelings of injustice.

6. While the Community Foundation for Northern Ireland is not a welfare advice agency, we feel that the experience in local communities which have a high level of households in receipt of the benefits that are currently under scrutiny is valuable. With regard to specific provisions of the Welfare Reform Bill the Foundation is in support of the detailed representation proposed by Advice NI and the Law Centre (NI). On a general point we believe that is particularly important that resources are made available to allow independent advice, information and representation for claimants given current high levels of fear and confusion and in the face of the complexity of the proposed changes.
7. The Community Foundation is nevertheless in favour of measures that seek to simplify the current maze of welfare benefit entitlements. Its major concern is that this is not implemented in such a manner as to effectively introduce cutbacks in current entitlements, which themselves are meagre in terms of prevailing levels of relative deprivation. We view interim transitional arrangements proposed as just that – transitional (as related to the new Personal Independence Payment) and potentially in effect a longer-term reduction in entitlement.
8. We are further concerned by a recent report by the Institute of Fiscal Studies which found that after London, Northern Ireland will be the hardest hit by tax and benefit cuts announced and to be implemented under the Bill. It was estimated that the potential loss to benefit recipients in Northern Ireland will be more than £600 million per annum by 2014 – 2015.

Avila Kilmurray

Director  
October 2012

# Community Relations Council

Social Development Committee

Dr. Kevin Pelan

Committee Clerk,

Room 412,

Parliament Buildings,

Ballymiscaw, Stormont,

Belfast BT4 3XX

committee.socialdevelopment@niassembly.gov.uk

October 2012

Dear Committee Clerk

## **RE: Evidence Welfare Reform**

Thank you for your invitation to submit evidence to the Social Development Committee in relation to the Welfare Reform Bill.

Whilst the Community Relations Council (CRC) is not directly involved in the area of welfare advice/services, we do provide support via grant-aid to a range of organisations<sup>1</sup> that support Victims and Survivors of the troubles in this area of work<sup>2</sup> e.g. Welfare Advice workers and welfare advice sessions.

In response to concerns raised over welfare reform from our funded groups CRC facilitated a number of meetings with these groups and their members. The following issues were raised and are particularly significant to the current debate:

- Clients want to access an advice service that understands trauma relating to the conflict, and are concerned that this understanding/training will not be available in high street agencies;
- High profile cases aren't always comfortable accessing high street, statutory agencies therefore delaying benefit uptake;
- There are concerns about having to undergo a reassessments of physical disabilities;
- Lack of confidence and trust can make accessing welfare advice difficult for victims and survivors;
- Many clients are concerned over the 'pay monthly' proposals and the ability to budget over a monthly period.

In addition we would refer you to a recent report from WAVE (CRC funded group) 'The needs of Individuals and their families injured as a result of the Troubles in Northern Ireland'<sup>3</sup> which examined matters such as managing complex medical needs, economic and financial needs, families of the injured, post-traumatic stress, obstacles to work and ability to work since injury. These issues are specifically relevant to Part 4 of the Bill - Personal Independence Payment.

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1 Groups funded via the CRC Strategic Support Fund & Development Grant Scheme who provide welfare advice include Corpus Christi Services, CALMS, Relatives for Justice, WAVE, ELY, UDR Coleraine, and SEFF.

2 ESA assistance (appeals and questionnaires), DLA, Housing Benefits, JSA, Social Fund loans, Steps to Work, and Tax Credits.

3 'The needs of Individuals and their families injured as a result of the Troubles in Northern Ireland', Executive Summary; <http://www.wavetraumacentre.org.uk/files/WAVE%20Executive%20Summary.pdf>; Full Report: <http://www.surrey.ac.uk/politics/files/cii/WAVE%20Final%20Report.pdf>

Finally a CRC commissioned report in 2006 Who Cares for the Carers?<sup>4</sup> which also identified financial issues. The report found that the victim was often identified as the main breadwinner with this source of income now gone, and in other cases carers found themselves having to give up paid employment to provide care and support.

In conclusion, it is clear the legacy of the conflict continues to impact heavily on victims and survivors and their families. What has emerged very strongly during our engagement with the groups we fund and support are the genuine concerns about accessing financial support in the aftermath of the Welfare Reform Bill. These are important areas that need to be given serious consideration under the current welfare reform proposals.

We hope our comments assist the Committee in their deliberations. If you need clarification on any of the points raised please contact Gemma Attwood, Policy Officer at the following email [gattwood@nicrc.org.uk](mailto:gattwood@nicrc.org.uk) Please also note that from 12 November 2012 CRC's Victims & Survivors Programme will transfer to the new Victims Service.

Yours sincerely

Pp Gemma Attwood

**Jacqueline Irwin**  
**Chief Executive**

# Craigavon Borough Council



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RECEIVED IN  
16 JAN 2013  
SP 30.13  
SPEAKER'S OFFICE

30 December 2012

Mr William Hay  
Speaker of the NI Assembly  
Parliament Buildings  
Ballymiscaw  
Stormont  
BELFAST  
BT4 3XX

Dear Mr Hay

## **WELFARE REFORM BILL**

The Council at its meeting held on 3 December 2012, adopted the following Notice of Motion –

*"That this Council recognises the efforts being made to secure the best possible deal for Northern Ireland within the Welfare Reform Bill and encourages continuous negotiations with Lord Freud to deliver the best possible solution for Northern Ireland and calls on all Parties to work with the Minister and the Assembly to that end.*

*"This Council further calls on the Assembly to work to amend the Welfare Reform Bill consistent with the specific circumstances and needs of people living in Northern Ireland."*

The Council would ask that this be brought to the attention of the appropriate Assembly Committee.

Yours sincerely

Dr Theresa Donaldson  
**Chief Executive**



INVESTOR IN PEOPLE

# Disability Action



## Briefing Paper for Social Development Committee – Welfare Reform Bill Call for Evidence

October 2012

Any enquiry concerning this document should be made to

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# Briefing Paper For Social Development Committee

## October 2012

### Welfare Reform Bill – Committee Stage Response

#### About Us

- 1 Disability Action is a pioneering Northern Ireland charity working with and for people with disabilities. We work with our members to provide information, training, transport awareness programmes and representation for people regardless of their disability; whether that is physical, mental, sensory, hidden or learning disability.
- 2 21% of adults and 6% of children living in private households in Northern Ireland have a disability and the incidence is one of the highest in the United Kingdom.
- 3 As a campaigning body, we work to bring about positive change to the social, economic and cultural life of people with disabilities and consequently our entire community. In pursuit of our aims we serve 45,000 people each year.
- 4 Our network of services is provided via our Headquarters in Belfast and in three regional offices in Carrickfergus, Derry and Dungannon.
- 5 Disability Action welcomes the opportunity to respond to the Social Development Committee Call for Evidence. As requested we have provided a Clause by Clause response.
- 6 Disability Action's Information and Advice team have dealt with over 12,927 queries from disabled people, their families, carers and professionals in the last year.

#### United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)

- 7 On 1 March 2012, the Joint Committee on Human Rights, published its findings and recommendations of its parliamentary inquiry. Of relevance to this briefing, the JCHR found that:
  - reforms to benefits and services risk leaving disabled people without the support they need to live independently;
  - restrictions in ...eligibility criteria for social care support, the replacement of the Disability Living Allowance with Personal Independence Payment, ... and changes to housing benefit risk interacting in a particularly harmful way for disabled people;
  - the Government had not conducted an assessment of the cumulative impact of current reforms on disabled people

It stated that the Committee "Received evidence that impact assessments of current reforms were not adequately carried out, and did not take into account the likely cumulative impact of reforms on disabled people. We therefore argue that the Government should publish a unified assessment of the likely cumulative impact of the proposals on independent living".

The crucial point the Committee considered was the implementation of the Right of Disabled People to Independent Living. The Government has legal obligations under Article 19 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD). Article 19 requires states to take effective and appropriate measures that will facilitate full enjoyment by disabled people of key rights to independent living and their full inclusion and participation in the community.

## **Disability and Welfare Reform**

8 Disability Action would highlight the following key statistics in relation to disability and welfare reform.

- Approximately 117,000 people will be impacted by changes to DLA/PIP (DSD)
- Estimated 207,000 carers in Northern Ireland. Despite contributing an estimated £4.4 billion to the NI economy with unpaid care they provide, the vast majority are worse off financially as a result of becoming carers. (Carers NI)
- As it currently stands the weekly income of a disabled person who relies solely on benefits is approximately “£200 below the amount required to live an acceptable and equitable quality of life”. (Low Incomes Tax Reform Group)
- Disabled people's day-to-day living costs – for basic items such as mobility aids, care and transport – are 25% higher than those of a non-disabled person. (Papworth Trust)
- Statistics show that just over 10% of NI population is in receipt of DLA. In the last decade the proportion of working age population in receipt of DLA has risen from 8% to 9% and it is twice the rate of GB. Research evidence would suggest that ‘part of the explanation for higher reciprocity of DLA in Northern Ireland lies in the worse levels of ill health. (Disability Living Allowance Recipients in NI – Poverty)
- Disabled people are twice as likely to live in poverty as other citizens and are more likely to be hit first, hardest and longest by the current recession. (Disability Alliance The Coalition)
- For disabled people there has been a decline in the number of work placements available and increased insecurity for those in work. (Equality Commission – Employment Inequalities in the Economic Downturn, July 2010)
- Employers are twice as likely to offer a non-disabled candidate an interview as an equally qualified disabled candidate. (Leonard Cheshire Disability, Discrimination Doesn't Work, 2006)
- 12% of children living with a disabled adult are in severe poverty compared to 8% of those children who aren't living with a disabled adult. (Save the Children, Severe Child Poverty in Northern Ireland, 2011)
- Three in five disabled children were poor under the Consensual Poverty Measure (OFMDFM Child and Family Poverty, 2006)
- 38% of parents/guardians of children with disabilities under the age of 15 stated that benefits were their only source of income (NISALD, 2009)
- Disabled people who are in employment are more likely to be in low skill, low paid jobs earning less than non-disabled people. (Disability Poverty in the UK – Leonard Cheshire Disability.

## **Clause by Clause Response**

### **9 Universal Credit**

#### **9.1 Entitlement and Awards**

##### **9.1.2 Clause 4**

The regulations must take into account the definition of ‘receiving education’ to ensure that it offers an understanding that people with a disability may have missed part of their education or be receiving education later in life due to their disability.

##### **9.1.3 Clause 6**

Regulations must ensure that if the time-limiting of those who receive Contributory ESA and are in the Work Related Activity Group is to be applied then no waiting time should be applied.

#### 9.1.4 Clause 10

Under the new benefit there will be a 'disability addition' and a 'higher addition' for disabled children. Children who are in receipt of higher rate DLA (Care component) will get the 'higher addition', which will be paid at a similar level as now. However, those children who are currently receiving the lower level of support through the 'disability element' (because they receive low or middle rate DLA care component) will now receive the new 'disability addition' which will be worth only £27 instead of the current £54.

The NICCY report<sup>1</sup> found that "Large families where there is a severely disabled child are at risk of being affected by the benefit cap and this could potentially impact on the lives of 6,500 children in Northern Ireland".

In Northern Ireland we have the additional impact in relation to childcare costs and the availability of childcare for children with disabilities. Without the existence of a child care strategy which specifically considers the needs of disabled children and their parents then mitigating measures will need to be considered.

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- Provide additional support to provide for the extra cost of childcare for families with disabled children,
- and, at the very least extend the protection for additional financial support for children who receive the mid-rate care component of DLA.

#### 9.1.5 Clause 11

The EQIA<sup>2</sup> states that "the impact of the measure on households containing a disabled claimant or partner suggests that a higher proportion of households containing a disabled person would be more likely to be affected by the introduction of the size criteria".

It further states that "households containing a disabled adult and with a non-residential carer will be assessed as having a reasonable requirement for an additional room. This will have the effect of reducing the number of disabled claimants affected by the measure".

The mitigating measure only takes into account the need for an overnight carer and does not take into account the extra space that may be needed for aids and equipment, medical equipment or to provide therapies in the home.

It also does not take into account other factors in living in a particular area, for example, being close to family or friends that provide support, accessing community service, transport and being part of the community. The provision of accessible housing options may already significantly reduce the choice a disabled person has over where to live. By implementing the housing criteria as it currently stands disabled people may not have the opportunity to live independently in their own community.

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- Ensure that in the case of disabled person or families with a disabled child(ren) that 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.

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1 A child's rights impact assessment of the impact of welfare reform on children in Northern Ireland, April 2012, G Horgan and M Monteith (NICCY)

2 Welfare Reform Bill (Northern Ireland) 2011 Completed Equality Impact Assessment, April 2012, Department for Social Development

### 9.1.6 Clause 12

Severe Disability Premium (SDP) is presently available to adults who either live on their own, with another disabled adult or only with dependant children. It is intended to help with the additional costs of living alone as a disabled person without someone to assist them.

The removal of SDP under UC is a key concern. Extra support for disabled adults is built into the Universal Credit differently to the current system of premiums and tax credits. In some instances the loss of the SDP will lead to some people being less well off under the Universal Credit.

It is estimated that the reduction for some people will be up to £58 per week and even the most disabled adults will lose £28 a week.

The EQIA states that the additional cost of disability is accounted for through DLA/PIP. However, PIP/DLA does not take into consideration whether the person is living alone or with support. SDP has assisted many disabled people to live independently.

This clause also needs to consider how the circumstances of parents of a disabled child will be taken into consideration. There is little detail in the Bill and further clarification is required in this area.

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- SDP should be retained in full. If this is not possible then consideration must be given as to how the legislation and regulations can ensure that no-one is worse off due to this change.
- Ensure that the circumstances of parents of disabled children are taken into consideration and in particular access to childcare.

## 9.2 Claimant Responsibilities

Under UC, the work related requirement will be extended, where appropriate and dependent on the particular circumstances of the individual claimant. For example, people with regular and substantive caring responsibilities, limited capability for work and work-related activity will not have any work related conditions placed upon them. All claimants will be required to accept a 'claimant commitment'.

However, the draft regulations don't appear to recognise that disabled people can themselves be carers. For example, under Universal Credit claimants will only be able to receive either the LCW/LCWRA element or the carer element which is overly restrictive. This means that claimants will have to choose between their disability and their caring responsibility to establish their eligibility for UC.

### 9.2.1 Clause 14

At present clause 14 does not recognise the individuals' role in developing the claimant commitment. Disability Action, through the services we deliver, is aware of the many barriers disabled people face in accessing the workplace. Disabled people are the experts in their own conditions and lives and therefore there should be amendment to the clause to recognise this.

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- Adding an additional line in the clause that states that the Claimant Commitment shall be drawn up in partnership with the claimant and take into account their individual circumstances.
- An agreement of support and a minimum guarantee agreement must be in place to ensure that the person receives the required level of support.

### 9.2.2 Clause 15

There is little detail in the regulation as to how disabled people will be supported in relation to clause 15. The regulations must ensure that disabled people are given the appropriate support to ensure that these measures are accessible.

### 9.2.3 Clause 16

In relation to section 5 it is clear that the WRB does not take any account of the physical and attitudinal barriers which disabled people face in gaining and retaining employment.

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- Adding an additional line in the clause that states that the work preparation requirement will take into account the barriers which a disabled person may have in accessing the workplace such as location, number of hours and flexible working requirements.

### 9.2.4 Clause 17

This clause does not take any account of the physical and attitudinal barriers which disabled people face in gaining and retaining employment.

For example, section 3 (C) states, creating and maintaining an online profile. This takes no account of the fact that disabled people are less likely to have access to the internet than a non-disabled person and that disabled people face barriers in accessing websites due to accessibility issues.

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- Adding an additional line in the clause that states that the work search requirement will take into account the barriers which a disabled person may have in accessing the workplace.

### 9.2.5 Clause 18

Clause 18 may be of particular issue for those people who are finding they are not entitled to ESA but still have a level of disability or ill health that impact on them being able to be available for work. If they apply for JSA presently they have to be available for work but if they have been turned down for ESA applying for JSA is their only option. Disability Action, through our advice work are already aware of cases where people have been found 'fit to work' but when they turn up to apply for JSA they are being told by Job Centre staff that as they are not 'available for work' they are not entitled to apply for JSA.

Disabled people are also less likely to have qualifications, work experience and work history and these factors need to be taken into consideration.

Disability support in Universal Credit should be provided to working disabled people who are found to be fully 'fit for work' but are at significant disadvantage in the workplace as a result of an impairment of health condition. Loss of in work financial support for many disabled people could severely affect their ability to move into and retain a job.

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- Ensure that the situation of a person found fit to work through the Departments work capability assessment but who still have a disability or health condition is provided with the appropriate support.



#### 9.2.6 Clause 19

There is little detail of how conditionality will work in practice and we await further details on the regulations to better understand how it will impact on people with disabilities.

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- Ensure that conditionality requirements are clearly set out for carers and disabled people and that individual circumstances are considered at all times.

#### 9.2.7 Clauses 20, 21, 22, 23

The regulations must ensure that disabled people are given the appropriate support to ensure that these measures are accessible.

#### 9.2.8 Clause 26

The sanctions outlined in Clause 26 require further detail that will be available under regulation. Disability Action is concerned as to how the term 'with good reason' is to be interpreted in the regulations. For example, if someone has a disability or ill health and cannot attend a work placement will this be taken as 'good reason' and what will be the evidential requirement.

#### 9.2.9 Clause 30

Disability Action has concerns about delegation and contracting out and how the Department will ensure that contractors will have the specific skills and experience to work with disabled people in gaining and retaining employment. Disability Action has concerns over the payment by output related funding model for contractors and the negative impact that this can have on disabled people. This has been demonstrated through the experiences of disabled people in the work programme in England.

### **Part 2 – Working Age Benefits**

## **10 Job Seekers Allowance**

#### 10.1 Clause 45

It is clear that the WRB does not take any account of the physical and attitudinal barriers which disabled people face in gaining and retaining employment.

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- Adding an additional line in the clause that states that the claimant contract will take into account the individuals requirements and ensure that the persons has access to the appropriate support to enable them to comply with the claimant commitment.

## **11 Employment and Support Allowance**

#### 11.1 Clause 52

The Welfare Reform Bill will make changes to ESA. For people who are in the Work Related Activity Group (WRAG) for Contributory ESA then there will be a 365 day time limit on claiming for this group. This will come into affect straight away. So if people in this group have already received this benefit for 365 days then they will lose this benefit and will have to apply for other benefits.

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. There is little evidence to show what support has been given to those on the WRAG group in the time

period 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.

The average loss in net income for Contributory ESA cases subject to time-limiting is £30.50 per week for men and £32 per week for women<sup>3</sup>.

It is expected that 53% of those losing their contributory ESA will be wholly or partially compensated by income-related ESA<sup>4</sup>.

The mitigating measures proposed by the Department in its EQIA<sup>5</sup> are:

- Individuals with low or no other income may apply for income-related ESA. This will in effect act as a safety net to support those who have no means for supporting themselves.
- In addition individuals who do not qualify for income-related ESA will still be able to access the support offered by the Work Programme to help them continue to move towards work.

The proposal move towards alignment with contributory JSA but with a longer 'time-limit' to recognise some disability-related barriers to work.

Currently there is no 'Work Programme' in Northern Ireland. The Steps 2 Success Programme is currently out for consultation by DEL. Furthermore, the Steps to Work evaluation found that "Consultation findings suggest that not all Employment Service Advisors are using the more flexible and tailored support needed by those with significant barriers to employment". The report notes that less than one third (31%) of respondents with a disability indicated that they had been asked about their additional needs. It further states that the issue of having a disability is important as "results from the StW Leavers' Survey suggest that those with a disability are less likely to be in employment than those without a disability (14% compared to 26%)".

Under the current proposals the only option available to those receiving Contributory ESA in the WRAG after the 365 day time limit will be to apply for Income Based ESA or JSA. If the case is that JSA is to be applied for then when that person presents to apply for JSA and the details of their health condition or disability are made known that they are deemed not available for work and therefore not entitled to apply for JSA. This will lead to many people being in a situation where they cannot apply for with ESA or JSA (or the equivalent under Universal Credit).

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- Remove the time-limiting of Contributory ESA for those in the WRAG Group
- Exclude the time spent on the assessment phase (should time-limiting go ahead)
- The Executive must demonstrate that those who receive contributory ESA and are in the WCAG group have been given effective support to move into work. Evidence must be provided on how many people having gained and sustained employment in the WRAG before any change is made to the legislation.
- For the 47% that will not be eligible for income-related ESA then additional supports must be made available to ensure that these people are not pushed further into poverty by these measures (should time-limiting go ahead). This includes making provision to ensure that claimants are not in limbo between ESA and JSA or their equivalent under Universal Credit.

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3 Welfare Reform Bill (Northern Ireland) 2011, Completed Equality Impact Assessment, April 2012, Department for Social Development, (Page 66)

4 Ibid

5 Welfare Reform Bill (Northern Ireland) 2011, EQIA, (Page 68)

## 11.2 Clause 54

Disability Action is concerned that Contributory ESA Youth will also no longer be available under the legislation.

The EQIA states “Removing the youth provisions will affect young disabled people. The Executive is committed to promoting employment prospects for younger people, with and without health conditions, by investing in employment support, apprentices and further education.”

However, there is little detail about the provisions that are being made or the number of people that will be impact by this change. It may result in a person no longer having access to their own income and being financially dependent on someone else.

The removal of this benefit will have an impact on those young people leaving care and we would ask that the Department gives further information on what provisions are being made to mitigate the impact.

## 11.3 Clauses 55, 56, 57, 58

It is clear that the WRB does not take any account of the physical and attitudinal barriers which disabled people face in gaining and retaining employment.

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- Adding an additional line in the clause that states that the claimant commitment will take into account the individuals requirements and ensure that the persons have access to the appropriate support to enable them to comply with the commitments.
- Ensure that the work placement element will have a specific need for the person to be supported and the placement effectively monitored to ensure the person is receiving the appropriate support.

## 12 Income Support

### 12.1 Clause 60

Please see previous comments in relation to the claimant commitment (9.2)

## 13 Other Benefit Changes

### 13.1 Clause 69

Please see comments in section 9.5 (Clause 11)

### 13.2 Clauses 70 – 73

#### **Social Fund Reform**

The Department for Social Development recently consulted on a new Discretionary Support Policy for Northern Ireland.

The EQIA on the Welfare Reform Bill states that “figures for disability are not available from the social fund data scans”. However, given the nature of Community Care Grants a significant proportion will be people with disabilities, their families and carers.

Until such time as the new discretionary support policy is made available for consultation we have no further comment. A copy of Disability Action’s response to the high level policy consultation is available by contacting us or from our website.

## **14 Personal Independence Payment (PIP)**

- 14.1 The Bill lacks specific detail on PIP with much of the detail being left to regulations. Disability Action has already provided a briefing for the Committee in relation to the detailed design of PIP and has responded to a number of consultations in relation to how PIP will work including the descriptors and thresholds. We would seek confirmation that all the subsequent regulations are fully scrutinised before the Bill is passed into law.

Disability Action has a number of key concerns in relation to the introduction of PIP

- Lack of modelling to ascertain how many people will be affected by the changes in Northern Ireland.
- The proposed descriptors and thresholds for PIP have not yet been finalised and it is our understanding that the final versions will be available in November. Disability Action highlighted our key concerns in a response to the initial consultation (available on request).
- The face-to-face assessment will cause considerable stress to disabled people, their families and carers.
- “Life-time” or “indefinite” awards will no longer be available, even for those with progressive conditions. There may be 5-10 year awards but review periods will be set.
- Linking rules: these are rules which currently allow people who have come off DLA to reclaim the benefit within 2 years if they need it again, without having to ‘requalify.’ The Government plans to limit this to one year for PIP. Inevitably this will hit people with fluctuating conditions, for example, mental health conditions or multiple sclerosis, who might have reduced symptoms for twelve months but then need DLA again and have to go through the needlessly bureaucratic and stressful process of making a whole new claim.
- Motability: 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 their 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.
- Neither the knock-on impact on carers’ finances or the likely increase in caring responsibilities has been assessed 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. As disabled people become less able to stay independent because of a loss of income from DLA/PIP they will require more support from family members, increasing the pressure on carers with risks to their health, social inclusion and ability to juggle work and care.
- For families already struggling to make ends meet, often in debt and where caring is already taking a serious toll on their health there is the real risk that the loss of disability benefits could push them to breaking point, and making caring financially and physically impossible.

### **14.2 Clause 76**

Under the proposed residential test DWP has proposed that after 4 weeks abroad PIP entitlement would end, with the exception of when a person is receiving medical treatment, when it would be extended to 26 weeks. Currently under DLA a person can be absent for up to 26 weeks.

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- Ensure that the impact of those who have family commitments, work or study across the border.

#### 14.3 Clauses 77, 78, 79

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- Ensure that the descriptors and thresholds are amended to reflect the true context in which people with disabilities live. Activities must be located in the context and environmental (both physical and attitudinal) in which the individual with a disability exists.

#### 14.4 Clause 80

Under the regulations for DLA the person must satisfy the conditions with periods of three months before and six months afterwards. Under new proposals for PIP the person must satisfy the conditions for PIP three months before the date of the entitlement and nine months afterwards.

The rules which currently allow people who have come off DLA to reclaim the benefit within 2 years if they need it again, without having to 'requalify.' The Government plans to limit this to one year for PIP. This is dealt with in regulations.

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- To what exists currently under DLA and leave the period at six months afterwards.
- Retain the current time limit of 2 years that exists with DLA.

#### 14.5 Clause 87

Disability Action is concerned that the stress experienced by disabled people in having to undergo medical assessments and process will be further exasperated by the PIP procedure. In particular we are concerned that those with life long conditions that are unlikely to improve will have to be continually re-assessed.

The experiences for the WCA for ESA has demonstrated the problems with implementing this type of assessment, in particular the provision of additional information being provided to support a persons claim being taken into account by decision makers.

Disability Action would ask that the Committee considers amendments to the clause and/or the regulations to:

- Allow for people to avoid unnecessary face-to-face assessments when sufficient written evidence exists and ensure that people are not financially penalised when sourcing additional medical evidence.
- Ensure that people with long-term conditions that are unlikely to improve are not subjected to unnecessary re-assessment or re-assessment which is too frequent.
- Ensure that ongoing medical assessments do not have a detrimental effect on a person's health and mental well being.

#### 14.6 Clause 88

The time-frame for producing the first independent report is too short and should be reduced to one year. The clause or regulations should also ensure that the methodology for the independent report includes ensuring that disabled people are involved in the design and implementation of the research and report.

#### 14.7 Other

Disability Action would further ask that the Committee presses the Department to:

- Publish policy simulation modelling results and clearly state mitigating actions where the impact on disabled people and carers is required.



- Ensure that customer journey must be based on a rights based approach and ensure that people are given the support that they require to complete the process including, where necessary advocacy and advice from external organisations.
- 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.

## **15 Social Security: General**

### **Benefit Cap**

#### **15.1**    **Clauses 95 and 96**

Disability Action is concerned that there is little detail on the number of people that will be affected by the benefit cap and if disabled people or families where there is a disabled child(ren) will be disproportionately affected.

It has been stated that the impact of the benefit cap can be mitigated by people moving into employment. However, as we have already highlighted disabled people and families where there is a disabled child(ren) experience numerous barriers in accessing employment.

Disability Action would ask that further information is published by the Department on the number of people likely to be impacted by the cap and that is broken down by section 75 categories.

### **Appeals**

#### **15.2**    **Clause 101**

Disability Action supports a number people successfully at appeal stage in relation to a number of benefits. This stage of the process is key to ensuring that disabled people have a right to access justice in relation to decisions which have been made in relation to benefits.

The addition of the initial stage of 'applications for revision' need to be further considered. The purpose of the additional stage is to resolve disputes internally before going to appeal. We are concerned that this will lead to a reduction in the number of appeals and that disabled people will have less access to justice where the decision is erroneous.

Disability Action is also concerned that the additional stage will leave people with no income or a severely reduced income and that there needs to be consideration given to how urgent cases can move straight to appeal.

Finally we would ask that consideration is given to the time limits applied for both 'application of revision' and further appeal to ensure that they are fair and that they are dealt with in a timely manner.

### **Recovery of Overpayment**

Disability Action is concerned that if appropriate provision is not made to ensure that all the process for application are accessible to people with disabilities and that they are provided with the appropriate support to ensure that the application is correct.

#### **16.3**    **Clauses 103 and 104**

Disability Action is concerned that the application of this clause also would seem to allow overpayment to be reclaimed when it has been the Department at fault.

Disability Action would ask that further consideration is given as to which circumstances in which the recovery of an overpayment will not be made and what guidance will be available.

**16.4 Clauses 109 – 111**

The provisions in these clauses allow for a benefit payment to be introduced even where no overpayment has resulted and that the penalty will be £350 or 50% of the overpayment whichever is greater up to a maximum of £2000. Where no overpayment has arisen the benefit penalty will be £350.

Disability Action believes that the penalty of £350 is too high, particularly where there is no overpayment. The penalty for overpayment is also increasing and we do not feel that the increase is justifiable. Disability Action would recommend not introducing these charges.

**Miscellaneous****17 Clause 130**

Disability Action would ask that the Committee seek further information on the impact of those people in receipt of rate relief. It is our understanding that the rate relief scheme is going to be removed from the housing benefit scheme from 1 April 2013 and at present there is no indication of what will replace it. It is not clear how the scheme will relate to UC.

**Other Considerations****18 Getting the Support Right for Employment**

In Northern Ireland there has been a move away from Disablement Employment Advisors (DEA) to the generic Employment Support Advisor (ESA). This has resulted in a restricted service to people with disabilities. Whilst disabled people should be free to choose to access mainstream services, some people with significant disabilities benefited from support from specialist DEA's who had a role in advocacy and direct engagement with employers. Disability Action believes that the DEA role should be re-established in line with practice in GB. This would go some way to ensuring equitable inclusion for people with disabilities in any new employment programme.

**19 Digital Inclusion**

The matter of IT and process for application are dealt with in regulations and some areas of the Bill. Disability Action would like to make specific comment on the requirement for UC to be applied and managed using an online system.

A report<sup>6</sup> in 2011 found that internet use is linked to various socio-economic and demographic characteristics, such as age, disability and location. Groups of adults who were more likely to have never used the Internet included people over 65, people who have been widowed and people with a disability.

There were 4.20 million disabled adults, almost half of all those who had never used the Internet. This represented 35.9 per cent of those who had a disability. Of those adults who reported no disability, 11.9 per cent of adults had never used the Internet.

The region where people were least likely to have used the Internet was Northern Ireland, where 28.6 per cent had never done so.

Whilst we are aware that the Department is considering other methods of application we would ask that the Committee seeks further information on how disabled people are going to be protected to ensure that they are not further disadvantaged by the Governments 'digital by default' position.

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Internet Access Quarterly Update 2011, Q1, Office for National Statistics, May 2011

## **20 Getting the Message Right**

### **20.1 Mind your Language**

As organisations working for and with disabled people, their families and carers we are only too aware of the effect of 'the scrounger' message is having. Disabled people, families and carers already face negative attitudes on a daily basis. There is evidence that the language being used to gain public support for these welfare reforms is adding the stigma people face in their lives.

It is therefore essential that everyone when talking about welfare reform remembers that they have a social responsibility to ensure that they are not adding to the negative perceptions of disabled people. Public authorities are reminded of their duties under the DDO to promote positive attitudes to disability.

### **20.2 Communicating the Changes**

It is essential that people are made aware of the significant changes that will impact on their lives. It is imperative that communication strategies are developed and resourced to ensure that everyone is made aware of the changes that will impact them. All communication strategies must ensure that they are accessible to people with disabilities. For example, provision must be made to communicate using Easy Read, audio, Braille and large print.

### **Conclusion**

21 Disability Action would like to thank the Committee for the opportunity to provide evidence in relation to this important Bill and can provide further information on any element of this briefing if required.

22 This Bill will have a significant detrimental impact on the lives of disabled people and families with disabilities in Northern Ireland. We would ask that the Committee considers our amendments and advocates for the rights of disabled people to live independently in their own community.

# Equality Commission



## Welfare Reform Bill (Northern Ireland)(as Introduced) Briefing for Committee for Social Development (30th October 2012)

### BRIEF

1. The Equality Commission for Northern Ireland (Commission) made a response to the Department for Social Development (Department) consultation on the Welfare Reform Bill (Northern Ireland) 2011 Equality Impact Assessment in December 2011<sup>1</sup>. Furthermore, the Commission provided evidence to the Committee for Social Development (Committee) on 8th March 2012<sup>2</sup>.
2. In doing so, we advised both the Department and the Committee not only about the requirement<sup>3</sup>, but also the critical importance, of assessing the potential equality implications of its policy proposals. In this regard, we wish to remind the Committee that the Commission considered that the Department's 2011 equality impact assessment consultation paper:
  - provided no substantive analysis of the proposals nor did it provide any real consideration of the potential adverse impact; and
  - while recognising and endorsing parity, it did not consider the changes in the context of Northern Ireland policy and proposals not subject to parity.
3. The Commission expects that a range of the mitigating actions and alternative options should be addressed during the passage of the Bill in the Assembly. The implementation of the resultant Act will be subject to the commitments to screen and equality impact assess individual policies, and decisions, as they arise in accordance with the Department's Equality Scheme. The Committee may bring matters to the attention of the Department to assist it in the monitoring of its policies for adverse impact, to ensure that adverse impacts over time can be identified and mitigating measures put in place.
4. The Commission has previously raised concerns regarding the policy proposals within the Welfare Reform Bill and associated regulations, regarding some aspects of the Universal Credit, the Lone Parent Conditionality, the Housing Benefit Cap and Disability Benefit Reform. This briefing provides additional and targeted consideration of the provisions within the Bill, and related regulations, that may impact upon equality groups.
5. It is important for the Committee to note that, even at this stage, there are opportunities to amend the Bill without undermining the parity principle. In effect parity means maintaining a single system of social security, but not necessarily one that has the exact same regulations and operational procedures. In this regard, the Minister for Social Development has already demonstrated this potential, through his statement to the Northern Ireland Assembly, 22

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1 Response to the Department for Social Development's consultation on the Welfare Reform Bill (Northern Ireland) 2011 Equality Impact Assessment.

2 Response to the Department for Social Development's consultation on the Welfare Reform Bill (Northern Ireland) 2011 Equality Impact Assessment.

3 Schedule 9 of the Northern Ireland Act 1998, paragraph 4 (2) (b) "assessing and consulting on the impact of policies adopted or proposed to be adopted"

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October 2012, by negotiation with Lord Freud, that he has secured changes to allow: the housing cost element of Universal Credit to be paid direct to landlords rather than the customer; the payment of Universal Credit to be split between two parties in the household; and the payment of Universal Credit on a twice monthly basis. The Commission welcomes these changes along with the delay in the implementation of Universal Credit until April 2014. The Commission considers that other mitigating measures should be put in place to address outstanding adverse equality impacts stemming from the Bill. In respect to specific clauses within the Bill, the Committee may wish to:

#### **Payment to the Primary Carer**

- consider that the entire payment of Universal Credit should be made to the primary carer, usually the mother of children, rather than to be split between two parties within the household. (Clause 7)

#### **Standard Disability Premium**

- consider whether the removal of the direct link between receipt of the 'Standard Disability Premium' addition to Income Support for those in receipt of Disability Living Allowance under Personal Independent Payments will result in loss of income for claimants at either the enhanced or standard rate. The Committee could ask the Department why the 'Standard Disability Premium' addition to Income Support is not considered within this clause under the extra elements to the standard allowance within Universal Credit. (Clause 12)

#### **Passport Benefits**

- seek clarification regarding access to, and entitlement of, passport benefits taking account of changes to the benefit system as well as other wider benefits such as the operation of the Blue Badge Scheme etc.

#### **Online Systems & Accessibility**

- seek assurances from the Department that the development of the online system for Universal Credit will contain a range of safeguards against any immediate adverse impact on claimants where information relating to claimant's entitlements is wrongly calculated or recorded outside the control of the claimant. The Committee should ask the Department what action has already been taken or being taken in this regard.

#### **Claimant Commitment**

- seek clarification from the Department regarding the requirement for a claimant or "both members of a couple" to enter into a claimant commitment as part qualification criteria for Universal Credit. (Clause 14)

#### **Lone Parent Conditionality**

determine what measures are in place to provide support to parents with young children to meet the conditionality requirements of entitlement for Universal Credit / Income Support, and for those parents belonging to the Employment Support Allowance work-related activity group. (Clauses 13 to 18, 21 to 27 and Clauses 58 and 59)

#### **Pension Credit Entitlement for Couples**

- seek clarification as to whether a claimant reaching the qualifying age for Pension Credit will be subject to the conditions and sanctions associated with entitlements of Universal Credit until their partner reaches the qualifying age requirement for Pension Credit. The Committee could also seek assurances that this clause will not result in the loss of income for couples where one partner has not yet reached the qualifying age for Pension Credit. (Clause 32, Schedule 2)



### **Work Capacity Assessment**

- determine what measures will be taken for the implementation of Work Capability Assessments for work-related activity, under the Universal Credit, taking into account the failings of the similar assessment process for the transition from Incapacity Benefit to the new Employment Support Allowance, to ensure that fair, appropriate and individualised assessment processes and practices are put in place in Northern Ireland. (Clause 38)

### **Pilot Projects for Implementation of Universal Credit**

- determine what measures are in place to assess the effectiveness of the implementation of Universal Credit, including proper consideration of any adverse equality impacts, for example, what independent review and monitoring frameworks are in place to assess the outcome and impact of the implementation of Universal Credit. (Clause 42)

### **Penalties**

- ask the Department to outline what steps have been taken to ensure that disabled people / older people are not unduly penalised for failing to meet the requirements of entitlement for Job Seekers Allowance by taking account of claimant's individual circumstances. (Clause 47)

### **Housing Benefit and Under-Occupancy**

- whether assessments for Housing Benefit will fully take into account the needs (and rights) of tenants who are disabled, or who are separated from their partners and require additional rooms to respectively accommodate their carers and children. Furthermore, whether assessments for Housing Benefit will fully take into account of the tenants' ability to move to new accommodation considering the separate nature of social housing in Northern Ireland. The committee may wish clarification that tenants under these circumstances will not be placed under financial hardship. (Clause 69)

6. Finally, under Clause 33, the Department has the power, by regulations, to make such consequential, supplementary, incidental or transitional provision in relation to any provision of Part 1, Universal Credit, of the Bill, as the Department considers appropriate. These regulations may amend, repeal or revoke any statutory provision (whenever passed or made). The Commission recommends that the Committee regularly keeps under review the implementation and operation of Universal Credit in Northern Ireland, cognisant of developments in Great Britain, and where necessary takes action to ensure its operation is reflective of the unique circumstances in Northern Ireland, with particular regard to its impact upon equality groups under Section 75 of the Northern Ireland Act 1998.
7. The considerations we ask the Committee to address are further outlined within Annex 1; the Equality Commission for Northern Ireland's remit is outlined in Annex 2.

# Annex 1

## Introduction

8. The Committee is asked to note that the Commission's evidence is not concerned generally with the particular wording of the clauses in the Bill. Rather, the Commission addresses the detrimental and adverse impacts of the subject specific clauses identified within the Bill in relation to the promotion of equality of opportunity. Many of the clauses within the Bill are bound by regulations which detail the intended and actual effect of these clauses. In this regard, the Commission is not aware of the Department's considerations. For example, the outcome of two recent public consultations on the Personal Independence Payments. Therefore, our evidence is presented to highlight our overarching concerns with the Bill, recommending amendments where appropriate to lessen adverse impact on the relevant Section 75 equality groups.

## Part 1 Universal Credit, Chapter 1 Entitlements and Awards

### 'Awards' – Clause 7 – Basis of awards

9. The Committee may wish to consider that the entire payment of Universal Credit should be made to the primary carer, usually the mother of children, rather than to be split between two parties within the household.
10. We remain concerned that the Bill does not identify the negative impact on women with respect to the payment of Universal Credit. The payment of the new Universal Credit to the main earner following joint claim and joint assessment will, in many instances, leave women without income. Payment of benefit to women in their 'caring for dependents role' was an important social security reform introduced in the 1970s, recognising that women more readily spend on children and household essentials. We expected the Department to consider this matter further and include a qualifying clause to that effect in the Bill.

### 'Elements of an award' - Clause 12 - Other Particular needs or Circumstances

11. The Committee should consider whether the removal of the direct link between receipt of the 'Standard Disability Premium' addition to Income Support for those in receipt of Disability Living Allowance under Personal Independent Payments will result in loss of income for claimants at either the enhanced or standard rate? The Committee should ask the Department why the 'Standard Disability Premium' addition to Income Support is not considered within this clause under the extra elements to the standard allowance within Universal Credit.
12. This clause considers the amounts to be included in the Universal Credit award for other needs or circumstances which would be extra elements in addition to the standard allowance. The Commission understands this clause refers to additional income supplements for disabled people who are assessed as having limited capability for work or limited capability for work-related activity with reference to the existing 'Severe Disability Premium'. We note that this clause does not include an alternative provision for the 'Standard Disability Premium' addition to Income Support. We are concerned that this may result in loss of additional income for many disabled people.
13. We understand that this 'Standard Disability Premium', which claimants would receive in addition to their Income Support, will no longer be directly linked to the receipt of the new Personal Independence Payments, as it is under the current system of Disability Living Allowance. We have already highlighted to the Department our concern that disabled people who qualify for entitlement to the Personal Independence Payments will be required to take

an additional assessment for entitlement to additional income-related benefits which are currently automatically granted under the existing Disability Living Allowance framework<sup>4</sup>.

#### **Additional Concerns: Passport Benefits**

14. **The Committee may wish to seek clarification regarding access to, and entitlement of, passport benefits taking account of changes to the benefit system as well as other wider benefits such as the operation of the Blue Badge Scheme etc.**
15. Under the existing system, entitlement to Disability Living Allowance (DLA) and Attendance Allowance facilitates access to a range of other benefits which are vital to disabled claimants, such as Motability, Free Road Tax, Blue Badge Scheme, Income Support, and the Standard Disability Premium. We are concerned that there is insufficient detail on how passport benefits, plus other issues, such as childcare costs, carers' support allowance, rate rebates (in Northern Ireland) and mortgage interest support will be integrated into Universal Credit.

#### **Payment of Benefits Online**

16. **The Committee may wish to seek assurances from the Department that the development of the online system for Universal Credit will contain a range of safeguards against any immediate impact on claimants where information relating to claimant's entitlements is wrongly calculated or recorded outside the control of the claimant. The Committee should ask the Department what action has been taken or is being taken in this regard.**
17. Action to ensure safeguards, and the provision of accurate and timely information, to claimants is important. This is particularly important as many equality groups in Northern Ireland may exhibit lower internet usage than the general population. In recent research carried out on behalf of the Commission, it reported that there is clear evidence that there are large areas of information which are inaccessible to disabled people, see for example RNID and BDA (2009)<sup>5</sup> and the ECNI (2008)<sup>6</sup>, and it is particularly disappointing that a primary source of information, the internet, is underused by disabled people. A 2011 survey on internet usage by the Office for National Statistics (ONS)<sup>7</sup> revealed that in Northern Ireland, participants with a DDA<sup>8</sup> defined disability (46.3%) were much less likely than non disabled people (77.4%) to have "ever used the internet". The figures also reveal that internet usage amongst disabled people in Northern Ireland is less than the average in the UK for people with a DDA defined disability (63.8%)<sup>9</sup>.

4 Equality Commission response to DSD Draft Consultation on DLA Reform and Personal Independence Payment (PIP) – Completing the Detailed Design (2012), and Equality Commission response to DSD consultation on Personal Independence Payment (2012) [http://www.equalityni.org/sections/default.asp?secid=8&cms=Publications\\_Disability\\_consultation+responses&cmsid=7\\_33\\_229&id=229](http://www.equalityni.org/sections/default.asp?secid=8&cms=Publications_Disability_consultation+responses&cmsid=7_33_229&id=229)

5 RNID and BDA (2009) 'Access to Public Services for Deaf Language users'

6 ECNI (2008) Formal Investigation under the Discrimination legislation to evaluate the accessibility of Health Information in Northern Ireland for people with a Learning Disability, June 2006 to December 2007? See [http://www.equalityni.org/archive/pdf/FormalInvestDisability\(Full\).pdf](http://www.equalityni.org/archive/pdf/FormalInvestDisability(Full).pdf)

7 Office for National Statistics (2011) (ONS) 'Internet Access Quarterly Update 2011, Q1, <http://www.statistics.gov.uk/StatBase/Product.asp?vlnk=5672> Note: The disaggregated figures for disabled people in Northern Ireland contained in the raw data for this survey were unpublished and were obtained by Disability Action from the ONS in May 2011

8 Disability Discrimination Act (DDA)1995 as amended by the Disability Discrimination(Northern Ireland) Order 2006

9 Disability programmes and policies: How does Northern Ireland measure up? Monitoring Implementation (public policy and programmes) of the United Nations Convention on the Rights of Persons with Disabilities ("UNCRPD") in Northern Ireland. Full Report. Harper, C., McClenahan, S., Byrne, B., & Russell, H. (Disability Action). Equality Commission for Northern Ireland, Belfast (2012). <http://www.equalityni.org/archive/pdf/UNCRPDFullReportFINAL260112.pdf>

## Part 1 Universal Credit, Chapter 2 Claimant Responsibilities

### **‘Introductory’ - Clause 14 - Claimant Commitment**

18. **The Committee may wish to seek clarification from the Department regarding the requirement for a claimant or “both members of a couple” to enter into a claimant commitment as part qualification criteria for Universal Credit.**
19. This provision may have an impact upon for those with dependents and for women who are typically the primary carers in many households. We are concerned that if only one member of a couple accepts the claimant commitment and the other refuses, then both parties may be penalised. We believe this clause may have an unintentional adverse effect particularly when children are involved.

### **‘Work-related requirements: supplementary’ - Clause 25: compliance with requirements and ‘Reduction in benefits’ - Clause 26: Higher-level sanctions and Clause 27: Other sanctions**

20. **The Commission urges restraint in the blanket application of these sanctions and recommends that each case should be considered on its own merits taking into account the Departments equality obligations under Section 75 and the Disability Discrimination Act 1995 (as amended).**

### **‘Introductory’, ‘Work-related requirements’, Application of work-related requirements’, ‘Work-related requirements: supplementary’ and ‘Reduction in benefits’ – Clauses 13 to 18, 21 to 27 and Clauses 58 and 59**

21. **The Committee may wish to determine what measures are in place to provide support to parents with young children to meet the conditionality requirements of entitlement for Universal Credit / Income Support, and for those parents belonging to the Employment Support Allowance workrelated activity group.**
22. Here, we are concerned with Clauses 13-18, 21-27 58 and 59, and the Lone Parent Conditionality in respect of entitlement to Universal Credit / Income Support and Employment Support Allowance. The Commission is concerned that the lone parent conditionality, and the lack of appropriate, accessible and affordable childcare in Northern Ireland, may restrict<sup>10</sup> a claimant’s ability to seek education and training opportunities and may undermine, or run counter to, the plan within the Northern Ireland Executive’s Economic Strategy to “improve the skills and employability of the entire workforce so that people can progress up the skills ladder, thereby delivering higher productivity and increased social inclusion”.
23. The Assembly needs to provide the appropriate support infrastructure to assist lone parents into work, such as affordable and flexible childcare to help lone parents find sustainable employment.<sup>11</sup> The Committee should note that the statutory obligation to provide childcare is applicable only to England, Scotland and Wales. For example, unlike England and Wales where the Childcare Act 2006 imposes a duty on local authorities to identify and meet childcare needs, Northern Ireland has no corresponding childcare legislation, where both the availability and affordability of childcare does not meet the demand or the needs of local families<sup>12</sup>.

10 NI Welfare Reform Group Briefing Paper - Welfare Reform Bill, Second Reading House of Lords July 2011 page 4 - Evidence suggests that forcing lone parents of children under 5, the majority of whom are as the consultation paper acknowledges are women, would have an adverse impact on both the parent and the child / and older siblings - limiting educational and training opportunities to enable good quality work opportunities as opposed to a low pay unskilled job, as well address the need for quality child care that meets the ‘best interests’ of the child. It should also be noted the correlation between low income families and the increased likelihood of child poverty. Save the Children research points out that 21% of children in Northern Ireland live in persistent child poverty which is double the GB percentage rate, and severe child poverty stands at 40,000, almost 10%.

11 NI Welfare Reform Group Briefing Paper - Welfare Reform Bill, Second Reading House of Lords July 2011 page 4

12 Employers for Childcare Charitable Group (2011): Northern Ireland Childcare Cost Survey 2011 <http://vouchers.employersforchildcare.org/media/Website%20Version%20-%20Childcare%20Cost%20Survey%202011.pdf>

## Part 1 Universal Credit, Chapter 3 Supplementary and General

### **‘Supplementary and consequential’ - Clause 32 – Supplementary and consequential amendments and Schedule 2: Universal credit: amendments**

24. **The Committee may wish to seek clarification as to whether a claimant reaching the qualifying age for Pension Credit will be subject to the conditions and sanctions associated with entitlements of Universal Credit until their partner reaches the qualifying age requirement for Pension Credit. The Committee could also seek assurances that this clause will not result in the loss of income for couples where one partner has not yet reached the qualifying age for Pension Credit.**

25. We are concerned about the qualifying criteria for Pension Credit. In that, a member of a couple who has attained the qualifying age for Pension Credit may not receive it until their partner has reached the same qualifying age. We recommend that the Committee reviews this provision for the purpose of clarifying its intended effect. It is not clear whether those claimants who reach the state pension age are prevented from claiming Pension Credit because of the age status of their partners when their partners continue to be subject to requirements / conditionality of entitlement for Universal Credit.

### **‘General’ - Clause 38 - Capability for work or work-related activity**

26. **The Committee may wish to determine what measures will be taken for the implementation of Work Capability Assessments for work-related activity, under the Universal Credit, taking into account the failings of the similar assessment process for the transition from Incapacity Benefit to the new Employment Support Allowance, to ensure that fair, appropriate and individualised assessment processes and practices are put in place in Northern Ireland.**

27. The Commission strongly recommends a review of all procedures in determining a person’s capability for work-related activity and employment, given the recent controversy and media attention<sup>13</sup> around the Work Capability Assessments for the transition from Incapacity Benefit to Employment Support Allowance. In any assessment of this nature, it should include evidence from the claimant as well as medical evidence from the claimant’s own doctor, or relevant medical professional, and not left solely at the discretion of an independent medical assessor who has no previous knowledge of the claimant’s health condition or personal circumstances. According to the Department’s own figures, we note that approximately one third of Work Capability Assessments, in respect of the transition from Incapacity Benefit to Employment Support Allowance, are overturned on appeal<sup>14</sup>.

### **‘Regulations’ - Clause 42 – Pilot schemes**

28. **The Committee may wish to determine what measures are in place to assess the effectiveness of the implementation of Universal Credit, including proper consideration of any adverse equality impacts, for example, what independent review and monitoring frameworks are in place to assess the outcome and impact of the implementation of Universal Credit.**
29. In respect to the pilot schemes of the regulations under Part I of the Bill, we recommend that the Committee considers this in the context of the ongoing statutory equality duties on the Department, to ensure that the information gained from any pilot schemes assists in the monitoring of policies for adverse impacts, in line with Equality Scheme commitments. The Commission expects that all matters decided upon during implementation of the provisions of

13 See “Disability news roundup: Work capability assessment investigated” for a snapshot of the discussion. [http://www.bbc.co.uk/blogs/ouch/2012/08/disability\\_news\\_roundup\\_work\\_c.html](http://www.bbc.co.uk/blogs/ouch/2012/08/disability_news_roundup_work_c.html)

14 “67% of Employment and Support Allowance appeals upheld in Department’s favour” <http://www.northernireland.gov.uk/index/media-centre/news-departments/news-dsd/news-releases-dsdaugust-2012/news-dsd-010812-esa-appeals-upheld.htm>



the current Bill will be assessed according to the commitments in the Department's Equality Scheme (or that of any other implementing organisation), particularly the policies will be screened and if necessary, subject to an Equality Impact Assessment.

## Part 2 Working-Age Benefits, Chapter 1 Jobseeker's Allowance

### **'Claimant responsibilities for interim period' – Clause 47 (and related clauses) - Sanctions**

30. **The Committee may wish to ask the Department to outline what steps have been taken to ensure that disabled people / older people are not unduly penalised for failing to meet the requirements of entitlement for Job Seekers Allowance by taking account of claimant's individual circumstances.**
31. The application of sanctions, as specified in Clause 47 of the Bill, should be considered on a case by case basis, and in light of the effects a person's disability may have on that person in respect to failure to attend work-focused interviews, in leaving a job, and in refusing or failing to apply for a job. For example, a person with recognised mental health issues such as "depression" may be unable to meet all the conditions and requirements of entitlement during the timeframe in which their disability is symptomatic, and has an impact on their decision making abilities, in relation to accepting job opportunities and retaining employment etc. It is important that cases of this nature are considered on their individual merits and that sanctions are not applied without proper consideration of the individual claimant's personal circumstances.

## Part 3 Other Benefit Changes

### **'Housing benefit' - Clause 69 – Housing benefit: determination of appropriate maximum**

32. **The Committee may wish to ask whether assessments for Housing Benefit will fully take into account the needs (and rights) of tenants who are disabled, or who are separated from their partners and require additional rooms to respectively accommodate their carers and children. Furthermore, whether assessments for Housing Benefit will fully take into account of the tenants' ability to move to new accommodation considering the separate nature of social housing in Northern Ireland. The committee may wish clarification that tenants under these circumstances will not be placed under financial hardship.**
33. Clause 69 relates to the introduction of the size criteria into the calculation of housing benefit for working age tenants in the social rented sector. The Commission is concerned that the Department ensures that Housing Benefit assessments of disabled persons and separated parents, including those in similar situations, fully takes into account the needs (and rights) of these groups. Furthermore, the Commission is concerned in regard to a tenant's ability to move may be severely restricted, due to the separate nature of social housing in Northern Ireland. Therefore, the tenant may be placed in financial hardship because of a reduction in benefits due to under occupancy.
34. In implementing this provision, consideration should be given to the individual circumstances of each claimant and the support networks available to them in the communities and localities in which they currently live. For example, informal support networks developed by disabled people to meet their day-to-day living and mobility requirements, in particular those disabled people who may not be entitled to the new Personal Independence Payments or any additional consideration as a result of changes to their benefit entitlement status may still require additional rooms to meet their care / support requirements to deal with the affects of their disability.
35. The Commission recommends that the Department delay implementation of this provision / clause until appropriate housing stock is available to facilitate this provision, through the

implementation of the current draft Housing Strategy<sup>15</sup>. The Minister has acknowledged in previous statements to the Assembly that the Northern Ireland housing infrastructure cannot accommodate claimants affected by this provision, in particular, those claimants who require 1-2 bedroom accommodation<sup>16</sup>.

**‘Social fund’ - Clauses 70, 72 and 73 - Ending of discretionary payments, Determination of amount or value of budgeting loan and Community care grants**

36. These clauses refer to the ending of discretionary payments from the ‘existing Social Fund’. The Bill does not make clear, at this stage, what alternative arrangements are in place in relation to budgeting loans, crises loans and community care grants. The Northern Ireland Assembly should continue to invest the same level of resources in this core provision, and retain a non-loan grant scheme for those assessed as being unable to repay loans as a result of financial hardship.

## Part 4 Personal Independence Payments

**‘Personal independence payments’- Clauses 76, to 79**

37. In wider responses<sup>17</sup> we have raised concerns regarding the higher qualification criteria under the Personal Independence Payment (PIP) compared with the existing Disability Living Allowance<sup>18</sup> (DLA) and that the experiences faced by disabled people through the implementation of the ATOS assessment scheme for ESA and DLA (and the subsequent very high percentage rate of successful appeals for those refused DLA) should not be replicated for the implementation of PIP and that people currently in receipt of the DLA care component should not lose out under Personal Independence Payment (PIP).
38. The Commission has responded to both consultations undertaken by DSD and DWP regarding the regulations for the introduction of Personal Independence Payments. The Commission is not aware of the outcomes to responses to the two recent public consultations on the Personal Independence Payments.

**‘Entitlement and payability: further provision’ - Clause 85 – Hospital in-patients**

39. In respect to Clause 85 of the Bill, there appears to be no account taken of our recommendations regarding the withdrawal of the mobility component of the Personal Independence Payments for hospital inpatients. The Bill specifies that for the first 28 days after the claimant becomes a hospital inpatient that they will continue to receive the relevant disability benefit after which time it will be withdrawn. We have recommended to the Department that this period be extended for disabled adults to approximately the same period allowed for disabled children to retain the mobility component. We do not see the justification for limiting access to the mobility component for adults in comparison with the extended timeline provided for children<sup>19</sup>.

15 Facing the Future: Housing Strategy for Northern Ireland. Consultation on Northern Ireland Housing Strategy 2012-2017. Department for Social Development (2012) Department for Social Development. <http://www.dsdni.gov.uk/housing-strategy-consultation.pdf>

16 Welfare Reform Bill: Second Stage (9th October 2012).

17 Equality Commission response to Department for social Development Call for Evidence for the Independent Review of the Work Capacity Assessment (Professor Harrington), and ECNI and NIHR (2011) Evidence to the Joint Committee on Human Rights (JCHR): Inquiry into the implementation of the right of disabled people to independent living as guaranteed by Article 19, UN Convention on the Rights of Persons with Disabilities.

18 The proportion of working age people in receipt of DLA in Northern Ireland is approximately twice the level in Great Britain - 10.3 per cent of the Northern Ireland population ([http://www.dsdni.gov.uk/dla\\_publication\\_august\\_10.xls](http://www.dsdni.gov.uk/dla_publication_august_10.xls)) . Reform of the DLA system therefore could result in many thousands of disabled people in Northern Ireland losing entitlement to this benefit or receiving reduced support – with potential impact on personal mobility; independent life in the community and adequate standards of living.

19 Equality Commission response to DSD Draft Consultation on DLA Reform and Personal Independence Payment (PIP) – Completing the Detailed Design (2012[http://www.equalityni.org/sections/default.asp?secid=8&cms=Publications\\_Disability\\_consultation+responses&cmsid=7\\_33\\_229&id=229](http://www.equalityni.org/sections/default.asp?secid=8&cms=Publications_Disability_consultation+responses&cmsid=7_33_229&id=229))

## Annex 2:

### **The Equality Commission for Northern Ireland**

40. The Equality Commission for Northern Ireland (“the Commission”) is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the anti-discrimination legislation on fair employment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.
41. The Commission’s remit also includes overseeing the statutory duties equality duties on public authorities in Section 75 of the Northern Ireland Act 1998: to pay due regard to the need to promote equality of opportunity and pay regard to the desirability of promoting good relations, as well as the duties in Section 49A of the Disability Discrimination Act 1995 (as amended).
42. The Commission, along with the NIHRC, has also been designated as the ‘independent mechanism’ in Northern Ireland, tasked with promoting, protecting and monitoring implementation of the United Nation Convention on the Rights of Persons with Disabilities (UNCRPD).

# Equality Commission



## Response to the Department for Social Development's consultation on the Welfare Reform Bill (Northern Ireland) 2011 Equality Impact Assessment

December 2011

### **1. Introduction**

- 1.1 The Equality Commission for Northern Ireland ("the Commission") is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the legislation on fair employment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.
- 1.2 The Commission's remit also includes overseeing the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998 and the positive disability duties.
- 1.3 Further, the Commission has also been designated to act as an 'independent mechanism' jointly with the Northern Ireland Human Rights Commission, to promote awareness of, and monitor the implementation of the United Nations Convention on the Rights of Persons with Disabilities with regard to Government's obligations in relation to Northern Ireland.
- 1.4 The Commission welcomes the opportunity to respond to the Department for Social Development's (the Department) public consultation on the Equality Impact Assessment for the Welfare Reform Bill (Northern Ireland) 2011. Our response addresses the following:
  - A consideration of the broad policy aims of the Welfare Reform Bill (Northern Ireland) 2011 (the Bill); and
  - The potential impact of welfare reform in an economic downturn
  - The extent to which the Impact Assessment is carried out in a manner consistent with the principles enshrined in our Practical Guidance on Equality Impact Assessment.
- 1.5 Our response is also focused on a number of selected policy issues addressed in the EQIA, where these have identifiable equality implications, in accordance with our priorities. This response therefore also includes consideration of:
  - Universal Credit;
  - Housing Benefit Cap;
  - Lone Parent Conditionality; and
  - Disability Living Allowance Reform

### **2. Policy aims of the Welfare Reform Bill (Northern Ireland) 2011**

- 2.1 While the Commission agrees with the policy aim to '*seek to make the social security system fairer, more affordable and better equipped to deal with poverty and welfare dependency*', we recommend that the Department reconsiders and clarifies the statement that '*by accepting*

*personal responsibility for our individual circumstances, it is considered that each person has the ability to improve their situation’.*<sup>1</sup> It is recognised and widely evidenced that many barriers to employment exist for groups, including women, older people and people with disabilities. These barriers are often institutional or societal, and without appropriate support, it is incorrect to assume that everyone has the ability to improve their situation. Unfortunately, within this consultation document we are unable to see what additional measures the Northern Ireland Government will put in place to assist these individuals into skilled and well paid employment to ensure that welfare reform does not simply increase their experience of poverty and social exclusion.

- 2.2 The overarching intention “to promote the fact that work always pays and to incentivise individuals to enter the labour market” is of merit. We welcome any supportive measures from Government that will have the effect of improving access to employment for traditionally marginalised and excluded groups. However, the Commission is genuinely concerned that many of the proposed measures may have the effect of creating further poverty, particularly for already traditionally marginalised groups in Northern Ireland.

### **3. The potential impact of welfare reform in an economic downturn**

- 3.1 At a United Kingdom level, despite the current economic recession, the number of children in poverty among workless families fell during the period 2008-09, but those from working families rose slightly. Therefore, access to work is not necessarily the sole measure by which poverty can be reduced. The annual report on poverty and social exclusion by Joseph Rowntree Foundation and the New Policy Institute concluded that the Government faced a number of challenges including in-work poverty, the number of children/young adults with few/no qualifications, young adult unemployment, health inequalities, and low income households’ lack of access to essential services<sup>2</sup>.

- 3.2 A key issue arising from the Commission’s own research<sup>3</sup> suggests that the issue of welfare reform combined with the recession will have a serious impact on those already vulnerable in the labour market; in particular, the long term unemployed, disabled people, lone parents, young unemployed, and older workers. Of significant concern is the emphasis on conditionality and sanctions and benefit cuts as opposed to the need for investment in the support infrastructure needed to assist people to access work, such as affordable and flexible childcare to help lone parents find sustainable employment<sup>4</sup>. The Department’s equality impact assessment consultation paper provides no substantive analysis of the proposals nor does it provide any real consideration of the potential adverse impact.

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1 Department for Social Development (2011): Equality Impact Assessment for the Welfare Reform Bill (Northern Ireland) page 16.

2 Parekh, A., MacInnes, T. and Peter Kenway (2010), Poverty and Social Exclusion Report 2010, concluded that despite the current recession, the number of children in poverty in workless families fell in 2008/09, to 1.6m, the lowest since 1984, but those in working families rose slightly to 2.1m, the highest on record the thirteenth annual report in the Monitoring poverty and social exclusion series. See link <http://www.jrf.org.uk/sites/files/jrf/poverty-social-exclusion-2010-summary.pdf>

3 McQuaid, R., Hollywood, E. and Canduela, J. (July 2010): Employment Inequalities in an Economic Downturn (ECNI). The overall aim of this research was to: update understanding of the effect of the economic downturn on the employment status and prospects of relevant groups across the nine equality grounds in Northern Ireland (NI). It was carried out by the Employment Research Institute at Edinburgh Napier University for the Equality Commission Northern Ireland. <http://www.equalityni.org/archive/pdf/EconDownturnSummaryReport.pdf>

4 NI Welfare Reform Group (July 2011): Briefing Paper - Welfare Reform Bill, Second Reading House of Lords, page 4. <http://www.lawcentreni.org/Publications/Policy%20Briefings/WelfareReformGroupHoL.pdf>. Evidence suggests that forcing lone parents of children under 5, the majority of whom are as the consultation paper acknowledges are women, would have an adverse impact on both the parent and the child / and older siblings - limiting educational and training opportunities to enable good quality work opportunities as opposed to a low pay unskilled job, as well address the need for quality child care that meets the ‘best interests’ of the child. It should also be noted the correlation between low income families and the increased likelihood of child poverty. Save the Children research points out that 21% of children in Northern Ireland live in persistent child poverty which is double the GB percentage rate, and severe child poverty stands at 40,000, almost 10%.



- 3.3 While recognising and endorsing parity, the consultation document does not consider the changes in the context of Northern Ireland policy and legislation not subject to parity. For example, unlike England and Wales where the Childcare Act 2006 imposes a duty on local authorities to identify and meet childcare needs, Northern Ireland has no corresponding childcare legislation. There is thus no statutory requirement for the provision of childcare in Northern Ireland where it is recognised that the situation on both availability and affordability of childcare is the worst in the UK<sup>5</sup>. Whilst the proposals indicate that some flexibility can be included for lone parents<sup>6</sup>, it is not clear how this will be determined and how such a discretionary measure will be delivered fairly.
- 3.4 The Commission wishes to bring the following statistics to the Department's attention in respect to employment, unemployment and economic inactivity in Northern Ireland:
- The seasonally adjusted figures for Northern Ireland show that the economic inactivity rate for people aged between 18-64 currently stands at 26.6 per cent which is 2.3 percentage points lower than the rate 5 years ago which was at an all time high of 28.8 per cent. However, Northern Ireland has the highest economic inactivity rate of all regions in the UK (UK average 23.2 per cent)<sup>7</sup>.
  - UK-wide research concluded youth unemployment (16-24 year olds) was at 20.0 per cent<sup>8</sup> in 2010; the highest figure in 18 years. The statistic was slightly higher in Northern Ireland at 20.4 per cent youth unemployment<sup>9</sup>. Our own research concludes that the Welfare Reform proposals are likely to impact on single people, the greatest group largely composed of young people<sup>10</sup>.
  - Prior to the current recession disabled people were twice as likely to be unemployed as non-disabled people<sup>11</sup> - this statistic is unlikely to change in the current economic climate. Over 184,500 people in Northern Ireland currently receive Disability Living Allowance (DLA), representing 10.3 per cent of working age population in Northern Ireland - approximately twice the level in GB<sup>12</sup>. Furthermore, disabled people have a tendency to be over-represented in entry level jobs and under-represented in higher level occupations which is evidence that employment in itself is not a quality indicator of a reasonable level of income<sup>13</sup>.
  - While the unemployment rate in Northern Ireland is lower at present than the UK average, our own research indicates that continuing redundancies in the public sector will have a significant impact on women who make up the greater number of employees in the public sector. Most economists agree that the economy is overly dependent on the public sector and that redundancies in this area are set to continue for some time. As a result, Northern Ireland is likely to experience the highest level of unemployment throughout the UK. There is also a growing consensus among leading economists that Northern Ireland will take much longer to come out of the current economic recession because of its over reliance on the public sector in comparison with all other regions in the UK.

5 Employers for Childcare Charitable Group (2011): Northern Ireland Childcare Cost Survey 2011 <http://www.newkillercontent.net/media/EmployersForChildcare/Website%20Version%20-%20Childcare%20Cost%20Survey%202011.pdf>

6 Department for Social Development (2011), op cit., page 59 paragraph 1 and page 60 paragraph 1.

7 Department of Finance and Personnel (2011) Labour Force Survey 2011 1st Quarter [http://www.detini.gov.uk/lfs\\_quarterly\\_supplement\\_-\\_april\\_-\\_june\\_2011\\_\\_with\\_logo\\_.pdf](http://www.detini.gov.uk/lfs_quarterly_supplement_-_april_-_june_2011__with_logo_.pdf)

8 Parekh, A., MacInnes, T. and Peter Kenway (2010) op cit.

9 McQuaid, R., Hollywood, E. and Canduela, J. (July 2010) op cit., page 39.

10 Ibid page 97

11 ECNI (2007): Statement on Key Inequalities, page 12. [http://www.equalityni.org/archive/pdf/Keyinequalities\(F\)1107.pdf](http://www.equalityni.org/archive/pdf/Keyinequalities(F)1107.pdf)

12 Department for Social Development (August 2010): Disability Living Allowance Statistics – Summary of Statistics [http://www.dsdni.gov.uk/dla\\_publication\\_august\\_10.xls](http://www.dsdni.gov.uk/dla_publication_august_10.xls)

13 McQuaid, R., Hollywood, E. and Canduela, J. (July 2010) op cit., page 62.

- The proportion of lone parents in employment in Northern Ireland is well below the average for the United Kingdom, with female lone parents at the highest risk of poverty. Only one in seven lone parents in Northern Ireland are currently working. This is a smaller proportion of lone parents than for any other region within the United Kingdom<sup>14</sup>.
- Welfare Reform proposals will also place significant demands on other people with dependents. Parents with one or more children will be obliged to seek and find employment, requiring them to access high quality affordable childcare. However, unlike England and Wales where the Childcare Act 2006 imposes a duty on local authorities to identify and meet childcare needs, Northern Ireland has no corresponding childcare legislation and, therefore, there is no statutory obligation on the part of local or public authorities to provide high quality affordable childcare. Broadly, the consultation paper does not fully recognise the often complex and individual needs of children and/or the flexibility required by all parents, including those on low incomes and in receipt of benefits, both to work and to raise a family<sup>15</sup>.
- The Commission is also concerned that the Welfare Reform proposals are likely to undermine the UK Government's commitment to its international obligations, with respect to the impact of these reforms on children (arising from the conditionality requirement on lone parents) and disabled people. Specifically Government's obligations under the United Nations Convention on the Rights of Persons with Disabilities (e.g. Article 19 Independent Living) and the United Nations Convention on the Rights of the Child (Article 3) which requires government to consider the 'best interests' of the child in all actions that impact on children.
- Also, statistics show older people currently in receipt of welfare support are unlikely to find it easy to return to the job market. The emphasis on finding employment for younger workers may detract from government's efforts to find suitable employment for those other benefit recipients under pension age<sup>16</sup>.

#### **4. Comments on the Equality Impact Assessment process**

4.1 First of all we wish to point out that (in Chapter 1 of the EQIA) the text of Section 75 has not been quoted correctly.

4.2 Section 75 (1) requires that public authorities, when carrying out their functions relating to Northern Ireland, have due regard to the need to promote equality of opportunity between the listed groups.

The term "due regard" was intended to be, and is, stronger than regard. Every public authority is required by the statute to take these specific matters properly into account and to give them the required weight when carrying out its functions relating to Northern Ireland.

4.3 Section 75 (2) requires that a public authority shall have regard to the desirability of promoting good relations.

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14 Equality Scheme for Office of the First Minister and deputy First Minister (draft) (2011), Para 1.10, page 67. [http://www.ofmdfmi.gov.uk/ofmdfm\\_equality\\_scheme\\_sept\\_2011.pdf](http://www.ofmdfmi.gov.uk/ofmdfm_equality_scheme_sept_2011.pdf)

15 Northern Ireland Welfare Reform Group (2011): Joint Briefing Paper– Welfare Reform Bill 2nd Reading House of Lords, page 6. The Briefing also noted that between 2002-2009 the overall number of daycare places in Northern Ireland fell by 6% and further added that the decrease of the Childcare element of the Working Tax Credit from 80-70% from April 2011 was also having an adverse impact on low income family households. <http://www.lawcentreni.org/Publications/Policy%20Briefings/WelfareReformGroupHoL.pdf>

16 McQuaid, R., Hollywood, E. and Canduela, J. (July 2010) op cit., page 44. The research also notes that older people are likely to face discrimination from employers when trying to return to work after redundancy and that there was also evidence of a lack of flexible working conditions for older people compared to other age groups. It is likely there will be a higher percentage of older unemployed people as the ongoing redundancies in the Northern Ireland public sector take effect and this presents particular challenges for government, for while older people are valued while they are in work after redundancy or loss of occupation statistics show a lower rate of return to employment for the above reasons (page 43).

## General

- 4.4 The Commission acknowledges that the structure of the consultation document follows the 5 steps of the 7 steps process for Equality Impact Assessments as detailed in the Commission's *Practical Guidance on Equality Impact Assessments*. This process, however, is not an end in itself and we have considerable concerns regarding the way in which some of the steps have been completed.
- 4.5 The aim of an equality impact assessment to identify any potential adverse impacts and take steps to address these. Therefore, the consideration of mitigating measures and alternative policies is at the heart of the EQIA process as it is the outcomes from an enhanced policy that are of primary concern. Unless different options can be developed for delivering the policy aims, options which have a less adverse effect on or which better promote equality of opportunity for the relevant equality category, an equality impact assessment remains a 'box-ticking' exercise.
- 4.6 The Commission is aware that the prevailing view of parity is that it applies both to the rate of benefits and the conditions for receipt of benefits. However, the legislation does not *require* social security parity, but does signal the *desirability of providing coordinated systems* of social security.<sup>17</sup> Social security remains a transferred matter with separate primary and secondary legislation with its own separate administrative arrangements.
- 4.7 The Committee for Social Development was advised by DSD that "[u]nder the Northern Ireland Act 1998 and the principle of parity [...] we will bring forward a **Northern Ireland-specific** Welfare Reform Bill in 2012 [emphasis added]. That will be the enabling legislation, which will then need to be followed by detailed regulations on a number of the points in it."<sup>18</sup> We do not see however, how the subsequent proposals contained in the consultation document are Northern Ireland-specific.
- 4.8 We would also query why there are no proposals contained in the document for a replacement scheme for the Social Fund or possible arrangements for the Northern Ireland equivalent of the Council Tax Benefit (by way of parity with GB arrangements), despite the fact that the Westminster Welfare Reform Bill proposes to remove this discretionary fund from the ambit of social security.
- 4.9 The Commission appreciates that, due to the financial implications of breaking parity and other reasons,<sup>19</sup> there is limited scope for Northern Ireland to depart significantly from the current Westminster proposals. However, it is the Commission's firm view that wherever "breathing space"<sup>20</sup> between the two systems can be developed, this should be done. Furthermore, it should be done on the basis of a thorough and comprehensive equality impact assessment.
- 4.10 Therefore, the Commission considers it crucial that the Department is absolutely clear about the extent to which the policy options presented in the EQIA can still be altered/amended in light of the outcomes of the EQIA and what the possible alternative policy options are. Clearly setting out the available policy options in the EQIA would ensure a more effective focus by consultees on those issues where a positive difference can still be made.
- 4.11 The Commission notes the Minister's comments that "[i]t is difficult to be clear about the precise impact at this stage. Any precise measurement will be very difficult until we are

17 Law Centre (NI). Committee for Social Development (2011): Parity – Legislation – Social Security Parity – a Note for the Social Development Assembly Committee from the Law Centre (NI).

18 Heather Cousins, DSD quoted from Committee for Social Development Official Report (Hansard) Welfare Reform Bill: Social Security Agency, 10 November 2011.

19 As outlined in Department of Social Development (2011): Committee for Social Development 'Parity – Legislation; Understanding "Parity" – Departmental Briefing Paper.

20 Law Centre (NI) op cit.

further down the track and have seen more detail on the precise changes being made”<sup>21</sup>  
 The Commission’s guidance Section 75 of the Northern Ireland Act 1998- A Guide for Public Authorities (ECNI: 2010) advises that “For more detailed strategies on policies that are to be put in place, through a series of stages, a public authority should then consider screening at various stages during implementation” (page 52).

#### **Consideration of available data and research**

- 4.12 In order to determine how the proposed policies will impact on people on the ground, it is essential to gather and consider a wide range of qualitative and quantitative data. Given that the current welfare reform will have major impacts for the people of Northern Ireland [a recent report by the Institute of Fiscal Studies found that Northern Ireland as one of the poorest regions of the UK will inevitably be hardest hit from the welfare cuts<sup>22</sup>] the data considered by the Department is extremely limited.
- 4.13 We have already highlighted some additional data sources [see above at 3.4]. But there are many more that should be considered, in particular data specific to issues of poverty and deprivation. Existing quantitative data constitutes only a minimum base from which to judge the impacts and outcomes of a policy and the Commission is particularly concerned that qualitative data is completely absent from the current document. We would query why the wealth of qualitative information provided by sectoral groups since the Welfare Reform Bill and its implications for NI were first debated well over a year ago have not been considered in the EQIA.
- 4.14 We are also concerned that the Department has not taken any steps to address the existing data gaps it has identified in relation to religious belief, political opinion, racial background and sexual orientation. It is not acceptable for an EQIA to merely record that no data are available<sup>23</sup>. Furthermore, in the absence of any data no comments can be made on potential effects. It is incorrect to simply assume that “social security benefits are paid to individuals on the basis of entitlement and conditions which are in no way affected by affiliation to any of these 75 categories.” [page 23 of consultation document; emphasis added. Indeed, previous analyses suggest that characteristics like religious belief, political opinion, racial background or sexual orientation can put individuals at higher risk of exclusion and poverty<sup>24</sup> which in turn could impact on an individual’s need for support through social security benefits.

#### **Assessment of impacts**

- 4.15 While the Commission appreciates that assessing the impacts of a policy can be particularly challenging, we wish to emphasise again that a proper analysis of the impacts of the proposed policy is at the core of any EQIA, the purpose of which is to identify any potential negative impacts and take steps to address these. The Commission is therefore particularly concerned with the minimalist approach taken by the Department to this part of the EQIA.
- 4.16 The Minister himself has admitted that “[t]here will, undoubtedly, be a major impact”,<sup>25</sup> yet the Department’s equality impact assessment consultation paper provides no substantive analysis of the impact of the proposals or any real consideration of the potential adverse impact.

21 Minister for Social Development , Nelson McCausland, during NI Assembly Debate on 15 November 2011; <http://www.theyworkforyou.com/ni/?id=2011-11-15.3.25>

22 James Browne, The Impact of Tax and Benefit Reform to be introduced between 2010/11 and 2013/14 in Northern Ireland , Institute of Fiscal Studies Briefing Note 114, p 5, available at <http://www.ifs.org.uk/bns/bn114.pdf>

23 ECNI (2005): Practical Guidance on Equality Impact Assessment, paragraph 2.9, page 14.

24 See, for example OFMDFM (2006): Lifetime Opportunities, p. 81; and: [http://www.stonewall.org.uk/what\\_we\\_do/research\\_and\\_policy/2880.asp](http://www.stonewall.org.uk/what_we_do/research_and_policy/2880.asp)

25 Minister for Social Development, Nelson McCausland, during NI Assembly Debate on 15 November 2011; <http://www.theyworkforyou.com/ni/?id=2011-11-15.3.25>

- 4.17 In fact, in some instances, no assessment is made at all.<sup>26</sup> Instead, the Department relies heavily on percentage figures and statistical information, often simply focussing on whether or not a particular group is more or less likely to be affected. But while establishing a differential impact is a starting point, the focus of the EQIA should in the first place be on potential adverse impacts. Figures alone do not provide any information on the nature of the effect nor do they provide reasons or explanations for difference.
- 4.18 The document, for example, states that “As there is a higher number of single male claimants, any change to Housing Benefit can reasonably be expected to have a greater impact on male claimants.”<sup>27</sup> But no information is provided as to what this may actually mean for the affected group. But, as we highlight further down in our response (see below at 5.4) claimants, for example, who are the non-primary carer (in most cases a father) who has separated / divorced from their partner / spouse will be unable to exercise their right of access to their family as a result of moving to single room accommodation – in other words, a parent will not be able to accommodate their children overnight.
- 4.19 Similarly, the fact that certain changes will apply irrespective of a particular characteristic does not mean that therefore the impact will be neutral for this group. Such characteristics could, directly or indirectly, either exacerbate negative effects on the individual or, in some cases, they may have a positive effect. This is highlighted in the contradiction contained in the assessment of the impacts of the time-limiting of contributory employment and support allowance at 7.4, page 43. On the one hand the document states with respect to the Marital Status category that it is not envisaged that the proposed changes present any inequitable treatment on the grounds of marital status yet on the other hand, as noted in the paragraph above with respect to the age category, it is assumed that older recipients are likely to have e.g. a working partner and thus will not be left without income.
- 4.20 The assessments also fail to consider the cumulative effect the different proposals could have on individual groups. For example, the combined effect of the benefit cap and housing policies could be significantly adverse for those affected, particularly for families with children but this has not been assessed.
- 4.21 Similarly, Disability Living Allowance, which is a passport to other benefits, including Carers Allowance, is considered in this consultation. While we know that Disability Living Allowance claimants are comprised of approximately equal numbers of males and females, there are significantly more women than men claiming Carers Allowance. Again, the impact of this has not been assessed.
- 4.22 As was pointed out to the Committee for Social Development<sup>28</sup>, the welfare reform agenda has seen an increasing interdependency between social security and areas which are the responsibility of other Departments. This has been particularly apparent in areas which fall to the Department for Work and Pensions in GB but which fall to several Departments in Northern Ireland, for example, work-focused interviews (DEL), health and safety at work (DETI) etc. It was also highlighted that increasingly, there are interdependencies with a number of other areas, for example, health and affordable child care.
- 4.23 However, there is little concrete evidence in this impact assessment of Departments “currently working together to address issues arising from further proposals for welfare reform”.<sup>29</sup>

26 Department for Social Development (2011), op cit., for example, page 38: Persons with /without dependants; page 58: Lone Parent Conditionality and persons with/without a disability.

27 Ibid. page 34.

28 Department of Social Development (2011), op. cit.

29 Ibid.



### **Mitigating measures/ alternative policies**

- 4.24 As we have already pointed out above, the consideration of mitigating measures and alternative policies is at the heart of any EQIA process. Where negative impacts are identified, a course (or courses) of action should be considered in order to moderate or lessen any such impacts.
- 4.25 The Commission is therefore extremely concerned about the high number of assumptions, expectations and vague possibilities which are put forward as mitigating measures, without any evidence to support these.<sup>30</sup>
- 4.26 Furthermore, on a couple of occasions the document states that the Department is currently considering what mitigating measures might be necessary or available<sup>31</sup> without providing any detail on what these might look like.

No detail is provided on how the social protection fund and other mechanisms could be utilised to ensure that the already vulnerable will not be further disadvantaged and marginalized by these proposals

### **Formal consultation**

- 4.27 The Commission appreciates that the consultation document is available in a number of alternative formats. We are concerned, though, that the Department has restricted responses to those made in writing or by email and that no provision seems to have been made for face-to-face engagement with consultees, in particular those who may find it difficult or daunting to provide their views in a written document.
- 4.28 The Department will be aware that as part of the process of considering the potential impact of the Welfare Reform policies there is a requirement in accordance with equality scheme commitments for the Department to consult directly with affected groups and provide evidence of the contribution in the development of these proposed measures.

What effort has the Department made to ensure maximum access of those equality groups affected by the proposals, such as disabled people, children and young people or carers?

- 4.29 As regards the list of consultees, we would note the following:
- the list still includes Economic Research Institute for Northern Ireland (abolished) and the Civic Forum (suspended)
  - it includes neither the Older Persons Commissioner or the Older Persons Advocate
  - MLAs are not included
  - only women in greater Belfast area seem to be included
  - the Presbyterian Church does not seem to be included

## **5. Policy Issues**

- 5.1 The Commission strongly disagrees with the Department's view that "many provisions proposed, e.g. increased conditionality, are not considered as having a direct equality impact on benefit customers and merely facilitate the establishment of the legislative framework under which a number of the proposals [...] will be introduced." [p 23 of consultation document]

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30 Department of Social Development (2011) op. cit., for example on page 35: "the change could act as a stimulus [...]"; page 43: assumption that older recipients "will generally either have a working partner or capital over £ 16,000"; pages 46 and page 59: support to continue to move towards work assumes that jobs are readily available; page 58 : "there is a possibility that younger lone parents are likely to have more recent experience of the labour market" ; page 60: " it is envisaged that flexibilities and operational easements in place will ensure that no one will be penalised [...]".

31 Department of Social Development (2011),op. cit., for example pages 28, 29.

- 5.2 Below are our comments on selected aspects of the proposed reform and the impacts they may have.

### **Universal Credit**

- 5.3 The Commission welcomes the aim of the reform to simplify the benefits system. However, we are concerned that the equality impact assessment has not identified the negative impact on women. Paying the new Universal Credit to the main earner following joint claim and joint assessment will, in many instances, leave women without income. Payment of benefit to women in their 'caring for dependents role' was an important social security reform introduced in the 1970's. It was considered necessary to allow certain benefits, including Child Benefit, to be paid to women, recognising that women more readily spend on children and the household essentials. We expect the Department to consider this matter.
- 5.4 This position is made more serious given the cuts in Child Benefit and in the childcare element of Working Tax Credit already planned.
- 5.5 We are concerned that no consideration appears to be given to weekly payments of Universal Credit where that is preferred. Weekly payments would be a no or low cost provision that would assist those families on the least income<sup>32</sup>.

### **Housing Benefit Cap – Social Housing Rented Sector**

- 5.6 From the 1st of April 2013, it is intended to introduce size criteria for new and existing working age claimants on housing benefit for those in the social housing rented sector will replicate the size criteria that apply to claimants in the private rented sector. Under this measure, claimants will have their housing benefit reduced on the basis of 'under-occupancy' of tenancy in line with the private sector. While we agree in principle that under occupancy within the social housing sector should be addressed, the Commission is deeply concerned that this measure will have a serious impact on a range of equality groups. This measure may force claimants, of working age, to leave their homes if they no longer can justify the need for the rooms available in their property. Hence, someone at 59 years old, who may or may not have adaptations to their home as a result of their own circumstances, will receive reduced housing benefit or will have to seek alternative one bedroom accommodation if they have no dependents in their home. The Commission understands that several potential negative impacts may arise from this measure and raises a number of key issues:
- Claimants who are the non-primary carer (in most cases a father) who has separated / divorced from their partner / spouse will be unable to exercise their right of access to their family as a result of moving to single room accommodation – in other words, a parent will not be able to accommodate their children overnight.
  - Similarly, a disabled person who does not necessarily require personal support on a continuing basis will be unable to obtain overnight support during short periods when they do need assistance.
  - Potentially, claimants would have to move from their local community, regardless of their longevity of tenancy, causing undue stress.
  - The consultation paper acknowledges that there is very limited mobility in the social rented sector. Therefore, a tenants' ability to move may be severely restricted. Restricted mobility is particularly relevant to Northern Ireland as social housing is often segregated on the basis of community background. There is a risk of placing all social housing tenants in financial hardship, as the tenants maybe unable to move because of the de-facto lack of available alternative but still be subject to a reduction in their housing benefit.

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<http://www.wrda.net/Documents/The%20NI%20Economy%20%20Women%20on%20the%20Edge%20Report.pdf>

- 5.7 The Commission recommends that the Department ensures that housing benefit assessments of disabled people, with non-residential carers, fully takes into account the needs of disabled people, particularly when the effects of a disability may change within a time period. Similarly, assessments of parents separated from their children should also take into account that these claimants will be required to accommodate their children in their home to allow them full access to their offspring.

### **Lone Parent Conditionality**

- 5.8 Childcare is an essential feature in the eradication of child poverty, the removal of barriers to and in employment, achieving equal pay and protecting against poverty in later life. Despite this the UK, and Northern Ireland, failed to meet the Barcelona childcare targets<sup>33</sup>. Recent research<sup>34</sup> across the UK found that parents in Britain spend almost a third of their income on childcare – more than anywhere else in the world. Research to be published at the end of last month<sup>35</sup> will show that Northern Ireland remains the most expensive part of the UK to secure childcare. The UK study<sup>36</sup> pointed to the paucity of policy in Northern Ireland and the historical underinvestment – early years spend in 2007-2008 amounted to £630 per child in Northern Ireland compared with around £2,000 in Great Britain.
- 5.9 Broadly, the welfare reform measures developed at Westminster are predicated on the statutory obligation in Great Britain, under the Childcare Act 2006, to deliver good quality childcare and a more effective pattern of provision. This will therefore require the Minister for Social Development to allow an element of discretion, if it considers that appropriate affordable childcare is not available. In Northern Ireland, £12m<sup>37</sup> has been allocated over the current Budget period<sup>38</sup> to address the childcare need through a Childcare Strategy, currently being developed by the Office of the First and deputy First Minister. However, at the time of making response to this consultation, the Childcare Strategy had not been published to enable anyone to determine if the strategy can deliver accessible, appropriate and affordable childcare to all children in Northern Ireland.
- 5.10 The lone parent conditionality provision requires that lone parents be available for work when their child reaches the age of 5 years. However, this conditionality assumes that there is an affordable and appropriate childcare infrastructure in place in Northern Ireland available to the individual claimant – looking at the evidence above, this is currently not the case. The Department should urgently address this matter through liaison with OFMdfM to ensure that all lone parents can access appropriate and affordable childcare to enable access to, and continued employment.
- 5.11 The lone parent conditionality provision may also restrict a claimant's ability to seek education and training opportunities as lone parents will be required to claim Jobseeker's Allowance or Employment and Support Allowance. This approach may deny lone parents the opportunity to seek appropriate education or training to enable them to gain skilled, higher paid, employment to enable them to reach a reasonable level of income; to fulfill the rights of the child, and of the parent, to raise a child through an adequate standard of living and level of social protection. It should also be added that while there is a statutory legal obligation on public authorities in Great Britain to consider the welfare of the child no such obligation exists for public authorities in Northern Ireland.

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33 European Commission (2008): Childcare services in the EU EUROPA - Press Releases - Childcare services in the EU

34 Save the Children (September 2011): Making Work Pay – The Childcare Trap.

35 Employers for Childcare Charitable Group (2011), op cit.

36 Save the Children (September 2011) op cit..

37 This is £3m in each of the four years of the budget , compared with, for instance, £30m pa in Wales

38 Northern Ireland Executive: Budget 2011-15. [http://www.northernireland.gov.uk/revised\\_budget\\_-\\_website\\_version.pdf](http://www.northernireland.gov.uk/revised_budget_-_website_version.pdf)

- 5.12 The lone parent conditionality provision may undermine, or be counter to, the plan within the Northern Ireland Executive's Economic Strategy<sup>39</sup> to "improve the skills and employability of the entire workforce so that people can progress up the skills ladder, thereby delivering higher productivity and increased social inclusion". The lone parent conditionality provision may deny lone parents the additional training as outlined within the strategy's 'key rebalancing measure' to "delivery of 210,000 qualifications at Levels 2, 3, 4 and above by 2015, through Further Education, Higher Education, Essential Skills and Training". The Commission strongly advises the Department to consult with the Department of Enterprise, Trade and Investment in regards to how the lone parent conditionality provision may affect the objectives outlined within the economic strategy. Similarly, the Department should seek advice from the Department of Employment and Learning on this issue.

### **Disability Benefit Reform**

- 5.13 The Commission has previously made a number of public policy interventions on the issue of welfare reform as it may impact on disabled people, including our submission to the Department on the Independent Review of the Work Capacity Assessment. The Commission, jointly with the Northern Ireland Human Rights Commission, in our collective role as the Independent Mechanism for Northern Ireland to promote, protect and monitor the implementation of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), has also highlighted our concerns on this issue to the Joint Committee on Human Rights, Parliamentary Inquiry on the implementation of the right of disabled people to independent living as guaranteed by Article 19 of UNCRPD.

- 5.14 In summary, the Commission has a number of concerns in this area:

- The higher qualification criteria for the Disability Living Allowance (DLA) equivalent Personal Independence Payment (PIP);
- The assessment process and the very high percentage rate of successful appeals for those refused Disability Living Allowance; and,
- We note there will only be two components under Personal Independence Payment (PIP) in relation to daily living. We believe that people who are currently in receipt of the old DLA care component will lose out given the strict and objective criteria laid out in the proposed new test which determines whether or not a person receives support under PIP

## **6. Conclusion**

- 6.1 The Commission has advised policy makers of the critical importance of assessing the equality implications of their budget decisions and of ensuring that the most vulnerable people in our society are not affected to an unfair extent by reductions in public expenditure.<sup>40</sup> This applies equally to the current Welfare Reform.
- 6.2 Section 75 is a continuous duty and this EQIA should not be considered as a one-off exercise. Throughout the process of reforming the welfare system in Northern Ireland, which includes subsequent benefit specific reforms requiring further legislation to enact, every effort must be made to ensure that decisions are based on the needs of people, that the vulnerable are protected and that equality of opportunity is promoted. The Department is under an obligation to continuously consider the potential impact of its current and future proposals on affected groups, to seek and carefully consider input from consultees to gain a better understanding of the issues relating to equality of outcomes and to address potentially adverse impacts.

39 Northern Ireland Executive(2011): Economic Strategy: Priorities for sustainable growth and prosperity. Building a better future [http://www.detini.gov.uk/economic\\_strategy\\_\\_web\\_.pdf](http://www.detini.gov.uk/economic_strategy__web_.pdf)

40 See for example the Equality Commission's Response to draft Budget 2011-2015, February 2011.

- 6.3 We are also concerned that there is no account taken within the consultation paper of the wider agenda in relation to pensions. Nor does the paper consider the implications of the proposed reform for other government strategies like Lifetime Opportunities or the Child Poverty Strategy.
- 6.4 Finally we would like to highlight the following studies which may be important in informing the way forward:
- The Forthcoming J Rowntree Foundation study: Monitoring Poverty and Social Exclusion in Northern Ireland, to be published in Spring 2012<sup>41</sup>
  - The Social Security Advisory Committee's guiding principles for the design of passported benefits in relation to the universal credit, report to be published in January 2012.<sup>42</sup>
- 6.5 This response is made without prejudice to any consideration or determination which the Commission might make in performance of its statutory function to investigate individual complaints under Schedule 9 of the 1998 or conduct any other investigation under that Schedule.

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41 <http://www.jrf.org.uk/work/workarea/monitoring-poverty-and-social-exclusion>

42 <http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/111005-wms0001.htm>





## Welfare Reform Bill (Northern Ireland) 2011 Equality Impact Assessment

### Briefing for Committee for Social Development (8th March 2012)

1. While the Commission agrees with the policy aim to 'seek to make the social security system fairer, more affordable and better equipped to deal with poverty and welfare dependency'<sup>1</sup> we consider that there is a need to properly understand, consider and respond appropriately to the impacts of welfare reform.
2. The Commission has advised policy makers of not only the requirement<sup>2</sup>, but also the critical importance of assessing the potential equality (and good relations) implications of policy proposals.
3. The Commission is concerned that many of the proposed measures may have the effect of creating further poverty, particularly for already traditionally marginalized groups in Northern Ireland. However, the subject of the consultation was the Equality Impact Assessment, rather than the substantive policy proposals.
4. In its response to the Department, the Commission provided comments in the following areas:
  - A consideration of the broad policy aims of the Welfare Reform Bill (Northern Ireland) 2011, particularly given the potential impact of welfare reform in an economic downturn; and
  - The extent to which the Impact Assessment is carried out in a manner consistent with the principles enshrined in our Practical Guidance on Equality Impact Assessment.
5. In broad terms, our response to the DSD consultation on the Equality Impact Assessment of the Welfare Reform Bill (Northern Ireland) 2011 set out that:
  - The Department's equality impact assessment consultation paper provides no substantive analysis of the proposals nor does it provide any real consideration of the potential adverse impacts.
  - While recognising and endorsing parity, the consultation document does not consider the changes in the context of Northern Ireland policy and proposals not subject to parity.

### Equality Impact Assessment

6. The Commission considers that the Department's equality impact assessment consultation paper provided no substantive analysis of the proposals nor did it provide any real consideration of the potential adverse impact.

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1 Response to the Department for Social Development's consultation on the Welfare Reform Bill (Northern Ireland) 2011 Equality Impact Assessment;

2 Schedule 9 of the Northern Ireland Act 1998, paragraph 4 (2) (b) "assessing and consulting on the impact of policies adopted or proposed to be adopted"

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7. With regards to the way in which the EQIA was conducted, while the document follows the five steps as recommended in the Commissions guidance, we have considerable concerns about how some of the steps have been completed:
- in order to determine how the proposed policies will impact on people on the ground, it is essential to gather and consider a wide range of qualitative and quantitative data. Given that the current welfare reform will have major impacts for people in Northern Ireland<sup>3</sup> the data considered by the Department is extremely limited.
  - while the Commission appreciates that assessing the impacts of a policy can be challenging at this strategic level, we wish to emphasise that a proper analysis of the impacts of the proposed policy is at the core of any EQIA, the purpose of which is to identify any potential negative impacts and take steps to address these. The Commission is therefore particularly concerned with the minimalist approach taken by the Department to this part of the EQIA. In some places, there is no assessment at all.
  - the Commission noted with concern the high number of assumptions, expectations and vague possibilities which are put forward as mitigating measures, without any evidence to support these.<sup>4</sup>
  - the Commission considers it crucial that the Department is absolutely clear about the extent to which the policy options presented in the EQIA can still be altered/amended in light of the outcomes of the EQIA and what the possible alternative policy options are;
  - the Commission also commented on the accessibility of the consultation exercise, as it appeared that responses were invited in written formats only.

## Policy Considerations- Welfare Reform

8. Although the consultation was an Equality Impact Assessment, with no associated consultation on the whole policy framework as it applies in Northern Ireland, the Commission made some additional points about the reform proposals.
9. We disagreed with the Department's view that "many provisions proposed, e.g. increased conditionality, are not considered as having a direct equality impact on benefit customers and merely facilitate the establishment of the legislative framework under which a number of the proposals [...] will be introduced." [p 23 of consultation document]. By way of example:
- **Universal Credit:** We are concerned that the EQIA did not identify the negative impact on women. The payment of the new Universal Credit to the main earner following joint claim and joint assessment will, in many instances, leave women without income. Payment of benefit to women in their 'caring for dependents role' was an important social security reform introduced in the 1970s, recognising that women more readily spend on children and household essentials. We expect the Department to consider this matter.
  - **Lone Person Conditionality:** The lone parent conditionality provision requires that lone parents be available for work when their child reaches the age of 5 years. The Commission is concerned that the lone parent conditionality, and the lack of appropriate, accessible

3 A report by the Institute of Fiscal Studies considered that Northern Ireland, as one of the poorest regions of the UK, will inevitably be hardest hit from the welfare cuts. Browne, J.(2010) The Impact of Tax and Benefit Reform to be introduced between 2010/11 and 2013/14 in Northern Ireland , Institute of Fiscal Studies Briefing Note 114, p 5, available at <http://www.ifs.org.uk/bns/bn114.pdf>

4 for example on page 35: "the change could act as a stimulus [...]"; page 43: assumption that older recipients "will generally either have a working partner or capital over £ 16,000"; pages 46 and page 59: support to continue to move towards work assumes that jobs are readily available; page 58 : "there is a possibility that younger lone parents are likely to have more recent experience of the labour market" ; page 60: " it is envisaged that flexibilities and operational easements in place will ensure that no one will be penalised [...]".

and affordable childcare in Northern Ireland, may restrict<sup>5</sup> a claimant's ability to seek education and training opportunities and may undermine, or be counter to, the plan within the Northern Ireland Executive's Economic Strategy to "improve the skills and employability of the entire workforce so that people can progress up the skills ladder, thereby delivering higher productivity and increased social inclusion".

- **Housing Benefit Cap:** We agree in principle that under occupancy within the social housing sector should be addressed. However, the Commission recommends that the Department ensures that housing benefit assessments of disabled persons and separated parents, including those in others but similar situations, fully takes into account the needs (and rights) of these groups. Furthermore, the Commission is concerned in regard to a tenant's ability to move may be severely restricted, due to the segregation of social housing in Northern Ireland. Therefore, the tenant may be placed in financial hardship because of a reduction in benefits due to under occupancy.
- **Disability Benefit Reform:** In wider responses<sup>6</sup> we have raised concerns regarding the higher qualification criteria for the Disability Living Allowance<sup>7</sup> (DLA) equivalent Personal Independence Payment (PIP); that the experiences faced by disabled people through the implementation of the ATOS assessment scheme for ESA and DLA (and the subsequent very high percentage rate of successful appeals for those refused DLA) is not replicated for the implementation of PIP; that people currently in receipt of the DLA care component may lose out under Personal Independence Payment (PIP).

10. Further, while recognising and endorsing parity, the DSD EQIA consultation document does not consider the changes in the context of Northern Ireland policy and legislation not subject to parity. For example, unlike England and Wales where the Childcare Act 2006 imposes a duty on local authorities to identify and meet childcare needs, Northern Ireland has no corresponding childcare legislation. There is thus no statutory requirement for the provision of childcare in Northern Ireland where it is asserted that the situation on both availability and affordability of childcare is the worst in the UK<sup>8</sup>.

## Conclusion

11. While the Equality Commission welcomes efforts 'to make the social security system fairer, more affordable and better equipped to deal with poverty and welfare dependency'<sup>9</sup> we are concerned that many of the proposed measures may have the effect of creating further poverty, particularly for already traditionally marginalised groups in Northern Ireland.

5 Evidence suggests that forcing lone parents of children under 5, the majority of whom are as the consultation paper acknowledges are women, would have an adverse impact on both the parent and the child / and older siblings - limiting educational and training opportunities to enable good quality work opportunities as opposed to a low pay unskilled job, as well address the need for quality child care that meets the 'best interests' of the child. [NI Welfare Reform Group (July 2011): Briefing Paper - Welfare Reform Bill, Second Reading House of Lords, page 4]. It should also be noted the correlation between low income families and the increased likelihood of child poverty. Save the Children research points out that 21% of children in Northern Ireland live in persistent child poverty which is double the GB percentage rate, and severe child poverty stands at 40,000, almost 10%.

6 Independent Review of the Work Capacity Assessment (Professor Harrington) and ECNI (2011); Evidence to the Joint Committee on Human Rights (JCHR): Inquiry into the implementation of the right of disabled people to independent living as guaranteed by Article 19, UN Convention on the Rights of Persons with Disabilities

7 The proportion of working age people in receipt of DLA in Northern Ireland is approximately twice the level in Great Britain - 10.3 per cent of the Northern Ireland population ([http://www.dsdni.gov.uk/dla\\_publication\\_august\\_10.xls](http://www.dsdni.gov.uk/dla_publication_august_10.xls)). Reform of the DLA system therefore could result in many thousands of disabled people in Northern Ireland losing entitlement to this benefit or receiving reduced support – with potential impact on personal mobility; independent life in the community and adequate standards of living.

8 Employers for Childcare Charitable Group (2011): Northern Ireland Childcare Cost Survey 2011

9 Response to the Department for Social Development's consultation on the Welfare Reform Bill (Northern Ireland) 2011 Equality Impact Assessment;

12. On 1 March 2012, the Joint Committee on Human Rights, published its findings and recommendations of its parliamentary inquiry. Of relevance to this briefing, the JCHR found that:
- reforms to benefits and services risk leaving disabled people without the support they need to live independently;
  - restrictions in... eligibility criteria for social care support, the replacement of the Disability Living Allowance with Personal Independence Payment,... and changes to housing benefit risk interacting in a particularly harmful way for disabled people;
  - the Government had not conducted an assessment of the cumulative impact of current reforms on disabled people.
13. We consider that there is a need to properly understand, consider and respond appropriately to the individual and cumulative impacts of welfare reform. We consider that, effectively conducted, an Equality Impact Assessment should aid DSD to anticipate and address whether the most vulnerable people in our society will be affected to an unfair extent by the welfare reform proposals.

## Annex 1: The Equality Commission for Northern Ireland

14. The Equality Commission for Northern Ireland (“the Commission”) is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the anti-discrimination legislation on fair employment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.
15. The Commission’s remit also includes overseeing the statutory duties equality duties on public authorities in Section 75 of the Northern Ireland Act 1998: to pay due regard to the need to promote equality of opportunity and pay regard to the desirability of promoting good relations, as well as the duties in Section 49A of the Disability Discrimination Act 1995 (as amended).
16. The Commission, along with the NIHRC, has also been designated as the ‘independent mechanism’ in Northern Ireland, tasked with promoting, protecting and monitoring implementation of the United Nation Convention on the Rights of Persons with Disabilities (UNCRPD).

# Fermanagh District Council



Our ref: 1/mm

7 November 2012

Mr Alex Maskey MLA  
Chair of Committee for Social Development  
Room 412 – Parliament Buildings  
Ballymiscaw  
Stormont  
BELFAST  
BT4 3XX

Dear Mr Maskey

At the meeting of Fermanagh District Council on Monday, 5 November 2012  
Members passed the following Notice of Motion:

That this Council:

- Rejects the welfare cuts agenda and austerity policies being pursued at Westminster which are targeted at the most vulnerable and disadvantaged in our society and which will create significant hardship and difficulties for many individuals and families living in already socially disadvantaged unionist and nationalist communities.
- Calls on the Assembly to amend the Welfare Reform Bill consistent with the specific circumstances and needs of people living in the North of Ireland and to work together to ensure that the most vulnerable in our society are protected.
- Given the uncertainties and the likely number of appeals that will follow any implementation of the Welfare Reform Bill, this Council urges the Department of Social Development to make additional resources available to support front line advice agencies.

I would be grateful if you would bring this resolution to the attention of the Committee for Social Development.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brendan Hegarty'.

**Brendan Hegarty**  
**Chief Executive**

Brendan Hegarty B.S.Sc. F.C.A. Chief Executive

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# Fostering Network

## The Fostering Network NI – Issues for Foster and Kinship Carers in Welfare Reform

### 1. Introduction

- 1.1 The Fostering Network is the leading charity for foster and kinship carers in NI and we work to improve outcomes for children in care. We have 1900 members who are approved foster carers, including kinship carers, and we provide support, training and advice to ensure they can transform the lives of children in care.<sup>1</sup>
- 1.2 We also deliver the flagship Fostering Achievement scheme on behalf of the Health and Social Care Board. This provides additional resources and support to improve the educational outcomes of children in care; it includes the award winning Letterbox Club.
- 1.3 The Fostering Network (UK) campaigned at Westminster to seek significant changes to the Welfare Reform Bill on behalf of foster carers a number of which were accepted by the Department for Work and Pensions.<sup>2</sup> However, there remain a number of outstanding issues with the Welfare Reform Bill as proposed that could have a significant impact on fostering and which the Fostering Network would ask the Committee to address. In particular we want to ensure that the DSD Committee replicates these assurances for approved foster and kinship carers in Northern Ireland.

### 2. Children in Care in NI

1. There are currently 2644 children and young people in care in NI. This represents a 5% increase since last year and an underlying trend of increases since 2006. There is nothing to suggest that this trend is about to change and we should expect for the next five years either a continuing upward trend of children coming into care or it remaining at a similar level.
2. At the same time that the overall numbers of children in care has continued to increase the percentage looked after in foster or kinship care has also continued to grow. In NI at March 2012 75% of the total number of children in care were cared for by either foster or approved kinship carers. This represents an 18% increase over the last six years.
3. Care Matters and Transforming Your Care have both clearly indicated that they see foster and kinship care as the placement of choice for the future of care in Northern Ireland. Residential care has continued to shrink in-terms of the percentage of young people placed there and while there will always be some young people for whom this is appropriate, the majority of children and young people should be placed in a family setting.

### 3. Foster and Kinship Care in NI

1. We currently have around 2000 approved foster and kinship carers in Northern Ireland. However, not all of these are available for full-time care placements and many carers only undertake respite care.
2. Each week here, there are 2 children who require foster care and for whom a placement cannot be found because of lack of carers. We are already in a deficit position with the number of carers and it is also the case that for foster care to work effectively there needs

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1 Throughout this briefing we refer to foster and kinship carers. These are both carers who are approved as foster carers by Health and Social Care Trusts and are caring for a looked after child or children. An approved kinship carer is a family member or friend of a looked after child who has been approved as a foster carer and provides their care. They are treated differently for the purposes of tax and benefits than informal kinship carers whose needs are not addressed within this briefing.

2 See <http://www.dwp.gov.uk/docs/ucpbn-8-foster-carers.pdf>

to be space in the system. Matching a child with the best carer possible for them means we should ideally have more carers than placements required so that we have space to choose properly for children and to ensure carers are not over-loaded with too many placements.

3. There are also on-going concerns about the demographics of foster and kinship carers. Many carers are older and have been caring for a significant period of time and may be unable to continue caring. The ability to recruit new foster and kinship carers is critical to the ongoing needs of the most vulnerable children who come into care.
4. The vast majority of foster carers in NI are recruited by Health and Social Care Trusts, with only around 8% recruited by independent or voluntary foster care providers.
5. Unlike the position in England and Wales the very vast majority of carers in NI are voluntary and are not paid a fee. We have a small percentage of fee paid carers but most carers only receive an allowance to cover the costs of feeding and clothing a child and covering the cost of pocket money and birthdays, Christmas and one holiday per year.
6. In both Britain and NI there are many foster and kinship carers who rely on the tax and benefit system to support the work they do. However, given that NI has a substantially lower number of fee paid foster carers than any reduction in their access to benefits will have a substantially higher impact.
7. The Welfare Reform Bill as it currently stands could have a significant impact on the ability of Health and Social Care Trusts to recruit foster and kinship carers and by default a significant impact on the most vulnerable children in NI.

#### **4. Impact of 2011 Changes on Single Room Rents**

1. In January 2011 there were changes to Local Housing Allowances that have already begun to impact on foster and kinship carers and their ability to provide care for children.
2. New regulations came into force that meant for single people under 35 years of age their housing benefit claim would be restricted to the cost of shared accommodation, regardless of the kind of accommodation they currently occupied.
3. The Fostering Network is aware of a number of cases where single carers, who have no children of their own but are providing a foster or kinship placement have had their Housing Benefit reduced and have had to find the difference themselves. In one case this amounted to having to find almost £40 per week. Clearly shared accommodation was not an option for this carer and yet there is no exemption under the new regulations. (SR2011 No 293 – the Housing Benefit (Amendment No 2) Regulations (Northern Ireland) 2011.
4. The potential impact of further reducing access to housing benefit for approved foster and kinship carers could have a hugely detrimental effect on our ability to provide family based placements for children who need them.

#### **5. Impact of Welfare Reform**

1. As the Welfare Reform Bill was making its way through Westminster it became clear that it could have a significant impact on the ability of foster and kinship carers to offer a home to some of the most vulnerable children and young people.
2. A number of assurances were provided by the Westminster government in-relation to the impact of the Act on foster carers. These were:
  - Fostering Income would continue to be disregarded for the purposes of benefit calculation
  - The sole or main carer of fostered children under 16 would not have to seek work outside of fostering
  - Other exceptions may be made to reflect exceptional need

- Benefit payments would run on for a period of eight weeks after a fostered child leaves the placement.
3. The provisions under the Welfare Reform Bill in-relation to under- occupancy could both prevent people becoming foster or kinship carers and make it more difficult for those who currently are carers to continue.
  4. There was some recognition of this as the Bill passed through Westminster and it was agreed to create a ring-fenced fund that would provide additional support to carers.
  5. An additional sum was to be added to The Discretionary Housing Fund which would be applied to local authorities in Britain and was estimated to help 5,000 foster carers.
  6. Current evidence from the Fostering Network suggests that the discretionary nature of this support has not worked well. The response is patchy with some foster carers having access to the Fund and others not. The impact of this on foster placements is a significant cause of concern.
  7. **The Discretionary Housing Fund does not operate in Northern Ireland. Therefore a compensation based solution is not possible and there is already a lack of parity.**
  8. **The Fostering Network calls on the Committee to insert an exemption into the clause in the Bill which removes entitlement to all rooms that are under-occupied for approved foster and kinship carers.**
- 6. Priorities for DSD Committee**
- 6.1 The Fostering Network in NI would ask the DSD Committee in their scrutiny of the Welfare Reform Bill to write to the Minister and ask him to clearly outline the impact of the Bill on Foster and Kinship Carers and to provide similar assurances as were given in Westminster.
  - 6.2 The Fostering Network would ask the DSD Committee to seek clarification from the Minister in-relation to the under occupation rule and its impact on approved foster and kinship carers. It would also ask the Committee to raise with the Minister inserting an exemption to the under occupation rule for approved foster and kinship carers.
  - 6.3 The Fostering Network would further ask the Committee to clarify with the Minister if he is unwilling to give an exemption to the under occupancy rule for approved foster carers and kinship carers how will he ensure they are compensated in a similar way to England.
  - 6.4 The Fostering Network would also ask the DSD Committee to write to the Minister regarding the impact of the single room rent on foster and kinship carers since its introduction.

**Margaret Kelly**  
**Director**  
**The Fostering Network**  
**T: 028 9070 5056**  
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# Housing Policy Forum

## Welfare reform Bill (Northern Ireland)

The Housing Policy Forum (HPF) is an open network of voluntary sector organisations that have an interest in housing legislation and policy. The HPF aims to enhance the capacity of the voluntary and community sector to make policy responses and influence policy development in housing and homelessness.

HPF representation consists of core housing and homelessness organisations working in the Community & Voluntary sector throughout Northern Ireland. Membership includes: Council for the Homeless NI, Chartered Institute of Housing, De Paul Ireland, First Housing, Housing Rights Service, NICVA, NI Federation of Housing Associations, Shelter NI, and the Simon Community NI.

This response is informed by our collective knowledge and expertise as housing professionals and frontline practitioners working directly with individuals and families on low incomes and in vulnerable circumstances.

### Introduction and general comments

The HPF welcomes this opportunity to consult on the Welfare Reform Bill and the intention of the Westminster Government to make the Welfare System simpler, more efficient and to support people to return to work. However, the Welfare Reform Bill proposes a fundamental structural change to the Welfare System which we are concerned may disproportionately impact on homeless people. We also believe that the Welfare Reform Bill will result in major changes to the housing system in Northern Ireland with housing policy having to adapt to mirror welfare policy. This may not necessarily generate the best possible housing outcomes in the long-term. There is a real risk that housing policy and practice has not moved at the same pace as the welfare changes and that the solutions that are needed to manage and mitigate the impact of welfare reform are not currently in place.

We also believe a number of provisions in the Bill and their supporting regulations could lead to an increase in homelessness in Northern Ireland, as has been acknowledged by the DWP in relation to England<sup>1</sup>. It should be noted that homelessness presentations have risen in England by 18% on the previous year<sup>2</sup>.

Monthly payments of Universal Credit in arrears, the disparity between appropriately sized Social Housing stock and the determination of the appropriate maximum housing cost, increased sanctions for non-compliance and a reduction in the number of claimants eligible for PIP, will all impact on the ability of vulnerable people to access and maintain affordable housing.

While we agree that those who are capable of working should be supported to do so, many homeless people are distant from the workplace due to their complex needs. Consideration must be given to understanding these barriers, ensuring sanctions are sensitively applied, and do not lead to a further destabilisation of vulnerable individuals' return to or maintenance of independence in the community.

Failure to address these complexities of need, by investing in comprehensive advice and assistance, may mean the cost to the public sector (in terms of health, criminal justice, and temporary accommodation) is greater than the savings from benefit changes.

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1 *DWP. Impact Assessment, Housing Benefit, 16-02-2011. <http://www.dwp.gov.uk/publications/impact-assessments/equality-impact-assessments/2011/>*

2 *source: Shelter [http://england.shelter.org.uk/news/march\\_2012/homelessness\\_up\\_18](http://england.shelter.org.uk/news/march_2012/homelessness_up_18)*

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The HPF acknowledges the need to retain parity, but believes that where possible, due to a number of particular circumstances, the NI legislation should be amended. We would also urge operational flexibility in terms of payment schedules, direct payments to landlords on request, and split payments as highlighted by Minister McCausland.

## Key concerns

- Most of the changes will take place through regulation. It is our understanding that there is no legal duty to consult on these, and there will be no provision for debate or amendment once the Bill is passed. We would therefore ask that the GB regulations be scrutinised as part of the Committee Stage and that amendments in regard to Housing Benefit changes be made in the body of the Bill.
- We welcome universal credit in principle but are concerned about how it will work in practice. We believe that it may in actuality be a very complex new because of the many elements it contains making it difficult to administer and deliver.
- The housing costs element of Universal Credit must reflect real housing costs. The move from RPI to CPI will result in reduced availability of affordable Private Rented Sector accommodation and increased homelessness. The DWP estimate that CPI will rise by 2% a year and rent by 4%<sup>1</sup>.
- The benefit cap should not be applied to those living in temporary accommodation. This will be more easily achieved if, as is proposed in England and Wales, housing costs are removed from Universal Credit for all those living in supported housing to be administered separately.

## Specific issues

### (a) Universal Credit

- Many homeless people have difficulties in both accessing online technology or in using it. Sufficient alternate means of application must be provided for vulnerable people, as well as support and training.
- The need to provide all requested documentation before a claim is accepted, rather than use the date of engagement as a starting point has particular relevance for those in temporary accommodation. Often homeless people have lost documentary evidence, National Insurance Numbers, Birth and similar Certificates. It is likely this population will be more disadvantaged if the impact of homelessness in this area is not recognised.
- **Suggested Amendment:** That nominated third party verification can be considered in the first instance to activate a claim, while supporting documentation is collected.
- It is difficult for those living in temporary accommodation to open a bank account. This is particularly difficult for individuals with mental health or addiction problems. Steps must be taken by Government on behalf of these individuals to ensure equal access to banking products that will allow the deposit and withdrawal of Universal Credit by all claimants.
- Monthly payments of Universal Credit are likely to cause hardship to homeless people with chaotic lives. Weekly budgeting can be problematic for those with addictions or mental health issues. We recommend that, at the very least, claimants are proactively risk assessed and that there is provision for claimants with low financial capacity to be paid weekly.

### (b) Determination of the Maximum Amount

This clause (69) indicates that the Department will bring forward regulations that will introduce size criteria into the amount of benefit allowed for housing costs. In many cases this will have significant impact on tenants' ability to pay their rent. Initial indications are that this will have an adverse impact on approximately 6500 housing association tenants who will have to pay



an additional £9.00 per week if under occupying their home by one bedroom or £17.00 per week if under occupying by 2 or more bedrooms.

The reduction in benefit will bring financial hardship to many families who are already experiencing shortfalls elsewhere in their income. We have strong concerns that many tenants may be penalised by having their benefit reduced without being able to address this by moving to a smaller home because of the lack of suitable accommodation.

We would ask that consideration be given to

- Exempt disabled people living in social housing properties specifically adapted for their needs
- Take account of the local housing market and ensure that those who cannot move to smaller accommodation in their local community are not penalised by a reduction in their housing costs under Universal Credit
- Phase in this part of the Bill to enable social housing allocation policies and new provision to reflect the size of households being accommodated in social housing

## **(c) Extended Payments**

- 1.1 The Welfare Reform Bill does not allow for housing costs run-ons, also known as extended payments, when claimants start work. Under the current system housing benefit (or support for mortgage interest) continues for four weeks after an individual has found employment which helps claimants to transition from benefits to wages. We already know that the universal credit regulations being drafted in Westminster plan to abolish extended payments. HPF believes that the decision to abolish the current system of extended payments contradicts the government's objective of improving incentives for the long-term unemployed to take up work. Given the high levels of long-term unemployment in Northern Ireland the Assembly may wish to consider continuing extended payments upon the introduction of universal credit and write this provision into the Bill.

### **Suggested amendment**

Clause 11 (5) Regulations may: (c) provide for housing costs to continue for a period of four weeks after a claimant has found employment

## **(d) Exempt Accommodation**

Supported housing is vitally important for many vulnerable people in Northern Ireland and changes to how housing benefit is administered and paid could have significant impacts on the accommodation and services that are available to them. The Housing Policy Forum welcomes DWP's decision to remove the housing costs for supported housing from universal credit as it recognises the higher costs for this form of accommodation and the need for greater flexibility in providing support to tenants. However, this does still leave a number of issues to be worked out in relation to supported housing. For example, will removing these housing costs from universal credit mean that they are no longer demand-led and therefore mean a reduced pot of money if claimant numbers increase in the future.

- 8.1.2 We would suggest that a working group of supported housing providers and representatives is set up to work with officials in the Social Security Agency on how housing costs for exempted accommodation are to be managed within the new benefits context.

## **Conclusion**

The HPF are concerned to ensure that housing remains high on the agenda and is an integral part of on-going deliberations on the Welfare Reform Bill. We wish to work in partnership with Government to make certain changes to the Welfare System are adapted and modified to reflect the particular circumstances of Northern Ireland .

# Social Development Committee Submission: Welfare Reform Bill

**Presented by Nicola McCrudden (Policy & Communications Manager) October 2012**

Housing Rights Service (HRS) welcomes the opportunity to comment on the Welfare Reform Bill. The Bill allows for significant changes to the benefits system to be introduced mainly by regulations. We are concerned that some areas of policy detail are not yet sufficiently developed to allow adequate scrutiny at this stage. The Universal Credit (UC) regulations have not been drafted in NI but the equivalent, the Draft Universal Credit Regulations 2012, have been published in Britain. We have serious concerns about the content of the draft regulations which we highlight in this submission. The Social Security Advisory Committee (SSAC) has completed its scrutiny of the draft UC regulations and is due to report shortly.

- *HRS recommends that the Social Development Committee (the Committee) plays close attention to the content of the UC Regulations in Britain and to the SSAC's scrutiny report.*
- *HRS recommends that the Committee seeks clarification from the Department for Social Development (the Department) regarding the timetable for the publication of the draft UC regulations and requests that the Department outlines the scope for NI specific amendments.*
- *HRS recommends that provision is made within the Social Protection Fund to protect people who, as a result of cuts to assistance with their housing costs, are directly at risk of losing their home.*

This submission focuses on the clauses that relate to, or impact on, people's accommodation. In addition, it touches on the areas of concern that we have in relation to the content of UC regulations in Britain and their application in a Northern Ireland context.

WELFARE REFORM BILL CLAUSE	AREAS OF INTEREST TO COMMITTEE
<p><b>Clause 7 Basis for Awards</b></p> <p>This clause relates to the payment period for UC which will be calculated by calendar month, in arrears.</p>	<p>Monthly payments will undoubtedly create budgeting challenges for most of our clients. Stretching low income budgets over four weeks could exacerbate budgeting problems and potentially lead to increased debt levels amongst people who are financially vulnerable.</p> <p>Additionally, the loss of a defined benefit for housing costs and a move away from a direct payments system to landlords will present major challenges for local tenant claimants.</p> <p>Benefit recipients and low income households are often financially excluded from mainstream financial services and affordable credit impacting on budget options. Households in Northern Ireland are less likely to have a bank account than households elsewhere in England, Wales &amp; Scotland.</p> <ul style="list-style-type: none"> <li>• 12% of households do not have a transactional bank account, compared to 5% in the UK as a whole. ('Price of Being Poor' Consumer Council 2011)</li> <li>• 2 out of 10 consumers do not have a bank account ('Price of Being Poor')</li> <li>• 36% of NIHE tenants do not have bank accounts (NIHE Draft Corporate Plan 2012).</li> </ul> <p>It would be fair to conclude that substantially more NI claimants are likely to be considered as "vulnerable" compared to Britain (where it's estimated to be around 10%). Under UC vulnerable tenants will continue to have their housing cost payments made directly to their landlords.</p> <p><b>HRS supports the continuation of offering a direct payment option to all tenants. However, it is important that NI Assembly protects the most vulnerable and ensures that adequate systems are in place to process these housing costs claims (whether technically or manually).</b></p>
<p><b>Clause 11 Housing Costs</b></p> <p>This provides for an amount to be included in Universal Credit (UC) for accommodation "payments". Regulations will specify:</p> <ul style="list-style-type: none"> <li>• what is to be included which could be rent, mortgage costs or "other housing related costs"</li> </ul>	<p><b>HRS recommends that Committee seeks confirmation of what will be included and excluded from housing costs. In particular clarification is needed around services charges.</b></p> <p>HRS has serious concerns about the content of the Draft UC Regulations which will introduce further cuts to assistance with housing costs for all tenants. The regulations also impact on homeowners. The UK Government is yet to confirm the waiting period for assistance with mortgage interest costs and is considering extending this from 13 to 39 weeks.</p>

<ul style="list-style-type: none"> <li>• when a claimant is to be treated as liable/not liable</li> <li>• circumstances where a claimant it to be treated as occupying/not occupying including temporary absences</li> <li>• how the amount will be calculated and</li> <li>• when entitlement to housing costs will commence and cease (e.g. to prevent someone from receiving support for mortgage costs for a period at the beginning of their claim or limit how long a claimant may receive support for mortgage costs.)</li> </ul>	<p><b>Draft Universal Credit Regulations Concerns</b></p> <p><u>Overlapping entitlement</u></p> <p>Current law provides for a number of strict criteria where housing benefit can be paid on two properties or a property which they are not technically occupying. These circumstances will be narrowed under UC regulations and in some cases will be disallowed. As a result some households will be disadvantaged namely:</p> <ul style="list-style-type: none"> <li>• claimants who have moved but remain liable for rent on their old home for up to one month (e.g. family moving from private rented sector into social housing where tenants are often expected to move promptly to avoid void periods)</li> <li>• tenants waiting for a social fund payment to furnish a new property (e.g. moving from a homeless hostel into permanent housing)</li> <li>• households at risk of violence other than domestic violence (i.e. those forced to move temporarily because of fear of violence from neighbours, paramilitaries etc).</li> </ul> <p><u>Temporary absence</u></p> <p>Housing benefit is payable during periods of temporary absence, if the claimant intends to return to live in their home and the period of absence is unlikely to exceed 13 or 52 weeks. Under a UC claim the maximum amount of time eligible for assistance will be 6 months. Whilst this will favour some claimants, it will penalise others who would normally qualify for up to 52 weeks including e.g. those admitted to hospital, in respite care or imprisoned on remand.</p> <p><u>Loss of 13 week and 52 week protection</u></p> <p>Under current Housing Benefit (HB) rules a household is exempt from LHA restrictions or from 2013 under occupancy penalties where:</p> <ul style="list-style-type: none"> <li>- for 13 weeks if they could previously afford their rent and they were not receiving HB in the past 52 weeks (e.g. made redundant) - for 52 weeks if anyone in the household has died in the previous 12 months and claimant remains in the property.</li> </ul> <p>These protections will be removed under UC. The 52 week protection will be replaced by 3 month benefit run on.</p>
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	<p><u>Support for Mortgage Interest (SMI)</u></p> <p>Our primary concerns for homeowners centre on direct payments and the waiting period before support is payable. We welcome recent confirmation that SMI payments will continue to be made directly to lenders via Mortgage Interest Direct Scheme.</p> <p>However, the UK Government is yet to confirm the waiting period for SMI. It has been considering extending this from 13 to 39 weeks. We feel this would have disastrous consequences for new claimants including people who lose their jobs locally.</p> <p><b>HRS urges the Committee to be mindful of the affect this policy change would have on NI families particularly given the depressed local housing market. We recommend that that Committee seeks clarification regarding the UK Government's policy intentions in this area.</b></p>
<p><b>Clause 69 Housing Benefit: determination of appropriate maximum</b></p> <p>This provides DSD with powers to bring forward regulations to</p> <ul style="list-style-type: none"> <li>• set out the eligible rent which may be determined by reference to either the bottom 30<sup>th</sup> percentile LHA rate as set by NIHE or CPI – whichever is lowest; and</li> <li>• introduce size criteria for working aged tenants in social-rented housing. (under occupancy deduction)</li> </ul> <p>The Draft UC regulations in Britain state the under occupancy deduction will be 14% where the claimant under occupies by one room and 25% for two or more rooms.</p> <p>A claimant is entitled to 1 room for each of the following:</p> <ul style="list-style-type: none"> <li>• a couple</li> <li>• an adult</li> <li>• two children of the same sex</li> <li>• two children less than 10 years old</li> <li>• a child</li> </ul> <p>and an additional room for an overnight carer.</p>	<p>HRS opposed the move to up-rate Local Housing Allowance by CPI rather than local rents. This breaks the long established principle of linking HB payments with actual or representative housing costs in the private rental market.</p> <p><b>HRS would like to see the impact of CPI formally reviewed with a commitment to re-linking LHA to at least the 30th percentile if necessary.</b></p> <p>HRS disagrees with the introduction of size criteria for social housing. According to NIHE approximately 32,000 households will be affected (26,000 NIHE and 6,000 Housing Association). The average loss for NIHE tenants will be £8.25 (1 room) and £14.70 (2+rooms). The average loss for Housing Association tenants will be £9.42 (1 room) and £17.48 (2+ rooms). An extra £3.4m has been allocated to the Discretionary Housing Budget for social housing tenants (£2.5m NIHE and £0.9m HA). DHPs are awarded for a minimum of 6 months after which time they are reviewed.</p> <p>HRS acknowledges that NI is very likely to adopt this change, and recommends that the Committee considers the possibility of amending the occupation entitlement. The allocation of social housing in NI differs to the size criteria being proposed by Westminster. Under the Housing Selection Scheme two children under the age of 7 are expected to share. Under the draft UC regulations two children under the age of 10 are expected to share.</p> <p><b>Given the shortage of suitably sized accommodation, HRS recommends that the Committee considers maintaining the current system to ensure that those allocated housing today are not penalised at a later date for under occupying. Alternatively, it will be important to ensure that funding is secured to transitionally protect families who are approaching critical ages (i.e. 10 or approaching retirement)</b></p>



<p><b>Clause 70 Ending of discretionary payments</b> This repeals payments of crisis loans &amp; community care grants</p>	<p>It is still not clear what will replace the Social Fund. <b><i>As HRS clients often rely on crisis loans for rent in advance for private rented accommodation, we recommend that the Committee seeks assurances that similar payments will be available under any new scheme.</i></b></p>
<p><b>Clause 95 Benefit Cap</b> This provides for a claimant's benefit entitlement to be capped by reference to the average earnings of working households in Britain:</p> <ul style="list-style-type: none"> <li>• £500 – couples/lone parents</li> <li>• £350 – singles</li> </ul> <p>There will be some exemptions e.g. claimant in receipt of ESA support component, Attendance Allowance, Industrial Injuries Benefits, War Pension, DLA/PIPs</p>	<p>The Housing Benefit (Benefit Cap) Regulations will come into force in April 2013 when any working age households who receive more than the cap will have their HB reduced to the cap level. It is much more likely to affect larger families with children. Details about how it will be administered locally and how many people will be affected are yet to be confirmed.</p> <p>HRS is extremely concerned that the benefit cap will increase the risk of homelessness. The number of families affected may be small in comparison to the overall number of claimants. However the impact on those households will be great. Many will struggle to meet their contractual rental payments and if they lose their accommodation may be entitled to homelessness assistance provided by NIHE.</p> <p><b><i>HRS recommends that the Committee seeks clarification from the Department regarding the numbers likely to be affected broken down by tenure. This should include temporary accommodation (which tends to be more expensive than other forms of accommodation). We would like to see temporary accommodation excluded from the final regulations.</i></b></p>

Contact details for Nicola McCrudden: nicola@housingrights.org.uk Tel: 028 90267919 /028 90245640

# Include Youth

Dr. Kevin Phelan  
Room 412  
Parliament Buildings  
Ballymiscaw Stormont  
Belfast BT4 3XX

## **Re: Proposed amendment to the Welfare Reform Bill**

13 February 2013

Dear Mr. Phelan

Include Youth has followed the legislative progress of the Welfare Reform Bill closely in recent months. We have had serious concerns from its outset as to how it will impact on the young people we work with, young people who are extremely disadvantaged and vulnerable. Over three quarters of these young people come from a care background, 80% are from areas of social and economic disadvantage and two thirds will have mental health problems and literacy and numeracy difficulties.

Among the wide range of concerns Include Youth has in relation to the Bill and the potential impact of its proposals on these young people and others like them are the frequency of payment; direct payment of housing costs to the landlord; the under occupancy tax and its potential impact, including on foster carers; the 'digital by default' approach; the replacement of DLA with PIPs and the accompanying assessment process and the abolition of youth ESA and its replacement and the replacement of the Social Fund with a Discretionary Support Service.

Linked to the Welfare Reform Bill we also have concerns regarding the proposed Employment Programme, concerns we have highlighted in evidence submitted to the DEL consultation on the same.<sup>1</sup>

In view of these concerns we had hoped that the Ad Hoc Committee on Equality and Human Rights Compliance would have reached a different conclusion regarding the compliance of the Bill with equality and human rights requirements.

Despite this we still believe that there are a number of steps that the Assembly can take, which will not break parity but which will help to ameliorate the negative consequences of the Bill on those who are most vulnerable in our society, which includes young people such as those whom Include Youth works with.

**In this context we would urge the Social Development Committee to support the proposal presented to it by Advice NI<sup>2</sup> that it proposes an amendment to the Welfare Reform Bill that would highlight a statutory right to independent advice for those who are negatively affected by the Bill.**

We believe that such an amendment could have a real practical effect, providing those most vulnerable with advocacy support and representation when they may most need it. We know that the voluntary advice services are stretched to capacity as is tribunal representation.

One real difficulty we can already foresee is the issue of Universal Credit being 'digital by default'. Given that IT literacy is a common problem for the young people we work with we are very concerned about them not being able to cope with the IT requirements of the system and thereby not accessing the benefits they may be entitled to.

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1 [http://includeyouth.org/i/Response\\_to\\_DELs\\_consultation\\_on\\_Steps2Success\\_\(NI\)\\_12\\_Oct\\_2012.pdf](http://includeyouth.org/i/Response_to_DELs_consultation_on_Steps2Success_(NI)_12_Oct_2012.pdf)

2 NI Assembly (Hansard) Welfare Reform Bill Advice NI Briefing 23 October 2012 pages 3-4

We would urge the Social Development Committee to give serious consideration to this proposed amendment as we believe it represents one practical way in which, without breaking parity, our Assembly can attempt to ensure that those most vulnerable in our society are protected from the most negative impacts of the Welfare Reform Bill.

Yours sincerely

**Sara Boyce**

Policy Coordinator (Employability)

Include Youth

# Irish Congress of Trade Unions



Dr. Kevin Pelan  
Committee Clerk  
Social Development Committee  
Room 412,  
Parliament Buildings,  
Stormont,  
Belfast,  
BT4 3XX

5<sup>th</sup> October 2012

Dear Dr. Pelan

## Re: Parliamentary Passage of the Welfare Reform Bill

I am writing to you on behalf of the Northern Ireland Committee Irish Congress of Trade Unions, NICICTU, concerning the timetable of the parliamentary passage of the Welfare Reform Bill.

Congress is the single umbrella organisation for trade unions in Ireland representing a wide range of interests of almost 850,000 working people, both in the Republic and in Northern Ireland. There are 36 affiliated unions in Northern Ireland representing over 215,000 members. Our affiliates regularly represent workers suffering discrimination and/or harassment, work with employers in raising awareness of equality issues in the workplace and in developing policies and practices to prevent discrimination occurring. NICICTU has a long history of campaigning for equal rights and fighting discrimination both in the workplace and in wider society.

Congress supports an equality and human rights-based approach to the provision of social security which demonstrates an understanding of and focus on the needs and choices of all in receipt of benefits.

We understand that the Welfare Reform Bill will be referred to the Committee for its consideration stage from 10<sup>th</sup> October until 27<sup>th</sup> November, where scrutiny will take place two and a half days a week. Standing Orders allow 30 days for a Committee to consider a Bill, however, extensions can be sought.

We are seeking confirmation from the Committee that the commitment given to Congress for full line by line scrutiny will be honoured.

We are seeking reassurance the committee will request an extension to 90 days to allow for a full debate to occur on the practical consequences of any proposals within the Bill and to discuss potential options to mitigate impacts. It is vital that a real appraisal of the effect of these proposals locally is achieved. The welfare reform changes are likely to last a generation and any attempt to hasten the timetable will prove counter-productive.

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Congress believes it is appropriate to tailor a Northern Ireland approach to issues presented by the Welfare Reform Bill. Given the wide range of reforms, the implementation of the changes will impact upon a significant percentage of the working age population in Northern Ireland. Different arrangements could be made and we argue that, in previous circumstances, different arrangements have been made that reflect the very different challenges that face society in Northern Ireland.

Furthermore, despite the legislation being passed in Great Britain, there remains a high level of uncertainty around the finer detail of Universal Credit. It is clear from the regulations that a number of important issues have yet to be decided, for example the level of the assumed minimum income floor which will be set of the self employed and the question of whether to pay monthly or fortnightly.

The challenge posed by these proposed reforms provides the NI Assembly with a unique opportunity to demonstrate the positive value of a devolved government and to impact on the formation of social security policy here for the next generation. We hope that this opportunity is seized and maximized and we look forward to working with the Committee on this important task.

We look forward to hearing from you.

Yours sincerely

Pauline Buchanan  
Equality and Social Affairs Officer  
Irish Congress of Trade Unions



## Irish Congress of Trade Unions 2

### Irish Congress of Trade Unions Northern Ireland Committee Welfare Reform

October 2012

1. Congress welcomes the opportunity to respond to call for consultation and evidence for the Committee stage of The Welfare Reform Bill.
2. Congress expects the NI Executive to give the Welfare Reform Bill full scrutiny in order the NI Executive understand the full ramifications of this Bill on your constituents and on the wellbeing of society in NI. Congress believes that these proposals are not steeped in Equality and Human Rights, Congress urges the committee to look at the proposals in this context. Congress believes that as they stand the proposed welfare changes are predicted to make poverty worse. We are of the view that just to remove the most drastic aspects of this Bill is not enough as the remainder will impact negatively on thousands of citizens in NI. Our views on this are also reflective of the concerns of major organisations among the Voluntary and Community Sector and the Churches. Congress is responding in opposition to the this Bill which is predicated on cuts.
3. Congress is the central body for trade unions in Northern Ireland. There are 34 affiliated unions in NI representing over 215.000 workers who are employed in the full range of economic and social activity in our society. These workers also cover all of the S.75 categories and currently over 50% of trade union membership is female. Congress has a long history of campaigning for equal rights and fighting discrimination both in the workplace and in wider society.
4. Congress it should be noted has given particular attention to those workers with disabilities and has continued to work closely with the relevant Government departments to promote educational and job opportunities in the labour market. Congress has a core function in enhancing the lives of the unemployed and other social and economically disadvantaged groups by providing education, training, advice, representation and counselling to the unemployed and citizens of NI.
5. Congress provides information and campaigns on the issues, problems and social benefits affecting the employed and unemployed.
6. Congress promotes and conducts research into the causes of unemployment, strategies for employment and structures of the labour market.
7. Congress campaigns against and exposes the broader issue of poverty and its depilating impact on our society.
8. We are aware that 64,000 people are currently unemployed in Northern Ireland with a further 51,000 being economically inactive but who are willing to work if there was suitable employment opportunities. Congress believes that, at the current time, there are neither the jobs nor employment opportunities available to address the objectives of the proposals contained in the bill and we are seriously concerned that the safety net of the Welfare State will be removed at a time when it is needed more than ever.
9. Congress has responded to previous consultations and availed of opportunities to make direct representation to the Minister and Committee. It is regretted the views expressed

by Congress have not been reflected into the bill to meet the particular circumstances of Northern Ireland.

10. The table below and the attached documentation relate the views of Congress to the clauses of the bill before the committee. We would ask the committee to consider the documents in their entirety.
11. Congress welcomes the opportunity to provide evidence to the Committee. We trust you will find our comments helpful. If there is any further way in which we could contribute to this process we would welcome the opportunity to do so.
12. The Bill contains 7 Parts, 7 sub chapters, 134 clauses and 12 schedules.

<b>Part</b>	<b>Title</b>		<b>Clauses</b>	<b>ICTU Reference Page/Para</b>
1	Universal credit			
		1.Entitlement and Awards	1-12	6/11; 11/7.1; 54/Q5-Q6; 55/Q7; 56/Q8; 57/Q9-Q11; 58Q12; 58/4
		2. Claimants Responsibilities	13-30	
		3. Supplementary and General	31-44	11/7; 12/(ii)
2	Working-age benefits			
		1.Job seekers Allowance	45-50	7/15-16; 25/7.7; 26/7.8
		2. Employment and Support Allowance	51-58	6/12; 20/7.4; 23/7.5
		3. Income Support	59-60	7/15
		4. Entitlement to Work	61-63	6/13; 24/7.6
3	Other Benefit changes		64-75	6/11; 8/18; 8/20; 19/7.2-7.3; 31/7.10; 32/7.13;
4	Personal Independence Payment		76-94	7/17; 28/7.9
5	Social Security; General		95-120	5/10; 8/19; 8/21; 41/7.15; 43/7.17; 31/7.11
6	Miscellaneous		121-129	44-46
7	Final		130-134	

Pauline Buchanan, Equality and Social Affairs Officer  
Irish Congress of Trade Unions.

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# Irish Congress of Trade Unions 3

**DRAFT BRIEF Welfare Reform Bill** - To be read in conjunction with– Welfare Reform Bill – Explanation and Financial Memorandum – which gives an explanation for each of the 134 clauses. (Copy Attached)

**The Bill contains 7 Parts, 7 sub chapters, 134 clauses and 12 schedules.**

Part	Title	Sub Chapter	Clauses	ICTU Reference Page/Para
1	Universal credit			
		1.Entitlement and Awards	1-12	6/11; 11/7.1; 54/Q5-Q6; 55/Q7; 56/Q8; 57/Q9-Q11; 58Q12; 58/4
		2. Claimants Responsibilities	13-30	
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		3. Income Support	59-60	7/15
		4. Entitlement to Work	61-63	6/13; 24/7.6
3	Other Benefit changes		64-75	6/11; 8/18; 8/20; 19/7.2-7.3; 31/7.10; 32/7.13;
4	Personal Independence Payment		76-94	7/17; 28/7.9
5	Social Security; General		95-120	5/10; 8/19; 8/21; 41/7.15; 43/7.17; 31/7.11
6	Miscellaneous		121-129	44-46
7	Final		130-134	

**This brief is set out:**

- Part number (1-7) e.g. Part 1 Universal Credit
- Sub Chapter e.g. Entitlement and Awards
- Reference for ICTU submissions; page number/paragraph number e.g.6/11
- Clause (1-134)
- Relevant ICTU submission for each group of clauses.

## Part 1 Universal Credit

### Entitlement and Awards

#### **Extracts for ICTU submissions**

6/11; 11/7.1; 54/Q5-Q6; 55/Q7; 56/Q8; 57/Q9-Q11; 58Q12; 58/4

Clause 1: Universal credit

Clause 2: Claims

Clause 3: Entitlement

Clause 4: Basic conditions

Clause 5: Financial conditions

Clause 6: Restrictions on entitlement

Clause 7: Basis of awards

Clause 8: Calculation of awards

Clause 9: Standard allowance

Clause 10: Responsibility for children and young persons

Clause 11: Housing costs

Clause 12: Other particular needs or circumstances

6/11;

**Housing Benefit.** We believe that the impact on older people in particular is not only unfair but cruel. People will be forced to give up their 'family home' or be penalised, tenants cannot be treated as commodities. Congress believes that families will also be disadvantaged where people are returning to the family home due to loss of work, illness, relationship breakdown etc.

11/7.1;

**(i) Universal Credit**

Universal Credit will be introduced in October 2013 yet there is little or no detail available in relation to how it will be implemented. This is concerning as the lack of detail at this stage would suggest that DSD are not in a position to implement these reforms in NI. That said we believe that Universal Credit is a punitive regime predicated on sanctions and conditionality. The claim that it will make work pay is hard to accept when the number of people currently looking for work in NI is close to 115,000, yet there are fewer than 5,000 vacancies. This is compounded by the fact that the social security budget will reduce by £500 million in NI (£18 billion overall), making these proposals actual cuts dressed up as reforms. On that basis we would argue that the **adverse impact in NI across the categories will be real and detrimental to health and well being due to the potential to increase poverty.**

It is proposed to calculate Universal Credit with reference to a standard allowance for persons who fall under the Section 75 Groups, including those with caring responsibilities or a severely disabled person. **Can you confirm if the Severe Disability premium and the Carers premium will be paid simultaneously as they are now?** Should this not happen then there will be adverse impact on those groups. **How will this element be dealt with under Transitional Protection?**

We believe that carers who are predominately women will be adversely impacted by your proposals.

There is no detail in relation to the rates of Universal Credit to allow us to understand maximum amounts when combined with certain other benefits outside Universal Credit. In the absence of knowing what the other benefits are, we cannot determine any potential adverse impact and therefore the Department. Would not be able to identify or mitigate when so much information is absent.

**54/Q5-Q6; 55/Q7; 56/Q8; 57/Q9-Q11; 58Q12;**

**Question 5: What are the potential advantages and disadvantages for claimants, delivery agents and advice services of changing the eligibility criteria for passported benefits under Universal Credit?**

**Advantages**

If done correctly changing the eligibility criteria could streamline and simplify the passported benefits system. It could lead to better and more widely available information for claimants on the availability of passported benefits which would increase access.

**Disadvantages**

Congress is deeply concerned about the possible withdrawal of access to a range of passported benefits which provide important assistance to individuals and families alike. Any change to the eligibility criteria immediately raises concerns that fewer people will qualify for passport benefits. We recognise that with more claimants on Universal Credit the existing passport benefits may be more thinly spread. On balance the solution should still ensure those most in need receive greatest help. We recognise this poses challenges for keeping the arrangements simple. We would be concerned by any further moves to restrict access to support via passport benefits for people on benefits.



Congress urges the introduction of safeguards for those not eligible for UC such as Asylum Seekers who currently qualify for some passported benefits.

The intention to taper UC will result in the withdrawal of support leading to crises. The option favoured by Congress is to passport all entitlement to all families on UC.

**Question 6: How might passported benefits under Universal Credit be designed to enhance work incentives at no extra cost? How might this need to vary by type of passported benefit?**

Congress believes the key to this may be about providing clear information about what passport benefits are paid on Universal credit and how a move into work will affect this. A passport calculation should be available to claimants from their Personal Adviser.

Work incentives cannot be enhanced using passported benefits unless there is significant investment. Ensuring entitlement reaches those in low paid work involves funding. Congress is opposed to measures that take money away from the poorest and most vulnerable households.

To ensure work incentives are not reduced by the way passported benefits are withdrawn, it may be necessary to integrate those of most significant financial value into Universal Credit. By extending access to everyone claiming Universal Credit this disincentive to work will be removed and parents will find returning to work easier. This will provide the exchequer with additional revenues from income tax and national insurance contributions which over time will offset additional costs from increased access to passported benefits.

**Question 7: How could passported benefits be simplified under UC at no extra cost? What would be the advantages and disadvantages of simplification?**

Congress recognises the desire to simplify access to passported benefits under Universal Credit, but this must be done correctly and not at the expense of the actual needs met by existing passport benefits. It is vital that passported benefits are considered in the simplification of the benefit system under Universal Credit. Delaying any change to passported benefits until after the roll out of Universal Credit can only lead to confusion and additional cost. Under the ideology of Universal Credit passported benefits should form part of the benefit assessment process. Individuals will then be made aware of what passported benefits are available to them at the point of claim. This will allow for more eligible people to claim and will also be a more efficient system for delivery staff.

**Question 8: What would be the implications if in-kind passported benefits became cash benefits under Universal Credit? How, if at all, would these implications differ for different in-kind passported benefits?**

While we appreciate that providing in-kind passported benefits as cash benefits would be the simplest option we have considerable concerns about this approach. Additional cash may be welcomed by some claimants and we understand that this does offer greater independence for individuals in receipt of passported benefits. However, this proposal could have a significant impact on some families in receipt of benefits. Many passported benefits are designed to guarantee real practical assistance to families and to children in particular. The removal of the actual service of passported benefits could have severe implications on the physical and mental wellbeing of children.

There are no guarantees if a cash benefit is paid that the same benefit will be realised. Further the Bill proposes that in joint applications Universal Credit is to be made as a single payment to one nominated person; we assume that the cash benefit in lieu of the passported benefits will be included in this single payment. It is likely that the nominated person will be the man for most claiming families. If so, this will severely limit the economic independence of women and could have a negative impact on children as money going into a family via the mother is more likely to be spent on the children.<sup>[4]</sup> The potential impact on child poverty cannot be underestimated.

The Bill and policy behind it focus on getting people into work but it fails to address the extent and complexity of poverty. Child poverty stands at more than one in four children, with Northern Ireland the only part of the UK to have increased child poverty figures by 2 percent in 2009/10. [5] Moreover 21 percent of children live in persistent child poverty[6] which is more than double the GB rate, and severe child poverty stands at 40,000 or almost 10 per cent.[7] Therefore, if the guarantee associated with passport benefits for children's needs is lost the already grim situation could deteriorate further.

**Question 9: If passported benefits were to be withdrawn as earnings increased and UC entitlement decreased, how might this be done? How, if at all, would this vary by type of passported benefit and what interactions between different passported benefits need to be considered?**

Given the aim is to make the changes in a cost neutral way, it may be that some passport benefits are lost straight away while others are withdrawn more gradually.

**Question 10: Can you please provide us with details of any research or other evidence, including case studies and specific examples, relevant to our enquiry?**

For further information on the potential impact in Northern Ireland consideration should be given to the following research:

IFS Briefing Note 114, The Impact of Tax and Benefit Reform to be introduced between 2010/11 and 2013/14 in Northern Ireland

Save the Children, Severe Child Poverty in Northern Ireland, Feb 2011

Women's Resource and Development Agency, The Northern Ireland Economy, Women on the Edge, July 2011

We are not aware of any specific research work into what motivates people into work which is Northern Ireland focused.

**Question 11: Are there any other issues relating to passported benefits that you wish to draw SSAC's attention to? Please give details.**

Consideration should be given to whether the effect of the withdrawal of passport benefits will be shielded by the principle that nobody shall be worse off under Universal Credit. We would also welcome further information about the way in which passport benefits will be administered outside of Universal Credit, for example, in relation to Pension Credit.

Changes to DLA also have a large impact on passported benefits. While that is not within the Terms of Reference of this consultation, it must not be forgotten about and the Committee must investigate these changes when the legislation is written. DLA and Attendance Allowance allow access to a range of other benefits which are vital to claimants, such as Motability, Free Road Tax, Blue Badge etc. When simplifying the rest of the system, this must be taken into account as the aim is to make savings of up to 20 percent as a result of the introduction of the Personal Independence Payment.

58/4

#### 4. Conclusion

Welfare reform needs to take account of specific Northern Ireland circumstances. Congress encourages the Committee to consider the different circumstances in Northern Ireland for example, the lack of an equivalent to the Work programme, greater incidence of physical and mental ill health, lack of childcare, the predicted slower rate of economic recovery and greater incidence of large families. This needs to be considered when assessing the objective ramifications of any change to passported benefits for claimants in Northern Ireland.

Congress welcomes the opportunity to provide evidence to the Committee. We trust you will find our comments helpful. If there is any further way in which we could contribute to this process we would welcome the opportunity to do so.

## Claimants Responsibilities

### **Extracts for ICTU submissions**

6/11; 11/7.1; 54/Q5-Q6; 55/Q7; 56/Q8; 57/Q9-Q11; 58Q12; 58/4

### **Printed for previous section**

Clause 13: Work-related requirements: introductory

Clause 14: Claimant commitment

Clause 15: Work-focused interview requirement

Clause 16: Work preparation requirement

Clause 17: Work search requirement

Clause 18: Work availability requirement

Clause 19: Claimants subject to no work-related requirements

Clause 20: Claimants subject to work-focused interview requirement only

Clause 21: Claimants subject to work preparation requirement

Clause 21: Claimants subject to work preparation requirement

Clause 23: Connected requirements

Clause 24: Imposition of requirements

Clause 25: Compliance with requirements

Clause 26: Higher-level sanctions

Clause 27: Other sanctions

Clause 28: Hardship payments

Clause 29: Concurrent exercise of certain functions by Department for  
Employment and Learning

Clause 30: Delegation and contracting out

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# Supplementary and General

**Extracts for ICTU submissions**

11/7; 12/(ii)

Clause 31: Supplementary regulation-making powers

Clause 32: Supplementary and consequential amendments

Clause 33: Power to make supplementary and consequential provision etc

Clause 34: Abolition of benefits

Clause 35: Universal credit and state pension credit

Clause 36: Universal credit and working-age benefits

Clause 37: Migration to universal credit

Clause 38: Capability for work or work-related activity

Clause 39: Information

Clause 40: Couples

Clause 41: Interpretation of Part 1

Clause 42: Pilot schemes

Clause 43: Regulations

Clause 43: Regulations

Clause 44: Assembly Control



11/7

**Printed for clauses 1-12**

12/(ii)

**(ii) Benefit Cap**

It is proposed to implement a household benefit cap from April 2013; this pre dates the planned introduction of Universal Credit in Oct 2013. In our view this is a cut that will impact on households already struggling to survive. **We disagree with a cap that will adversely impact on families with multiple roles i.e. carers, parents and the disabled. We believe that households claiming Carers Allowance should not have a cap imposed.** This is because this group of people are carrying out an important role in caring for disabled persons and in doing so are actually saving the Government millions of pounds per year. Therefore this cap has the potential to leave households vulnerable and having to make decisions as to whether they can continue to be carers. This therefore **will adversely impact on both the Carer and the Disabled person.**

## Part 2: Working-age benefits

### Job seekers Allowance

#### **Extracts for ICTU submissions**

7/15-16; 25/7.7; 26/7.8

Clause 45: Claimant commitment for jobseeker's allowance

Clause 46: Interviews

Clause 47: Sanctions

Clause 48: Procedure for regulation-making powers

Clause 49: Consequential amendments

Clause 50: Claimant responsibilities for jobseeker's allowance

7/15-16;

**Lone Parent Conditionality.** Congress believes that this will have a direct impact on women. Congress does not believe that there is an adequate childcare strategy in place to support this proposal Congress further believes that lone parents with a child with a disability/ies may be doubly disadvantaged. Congress is concerned that this proposal will increase the stress on those who are already struggling to cope and who are likely to be already living in poverty.

**Conditionality, Sanctions And Hardship.** Congress again raises concern about a properly resourced and accessible childcare strategy. Congress is also concerned about the proposals for a 3 tier sanction strategy, which may in affect be more complex. Congress believes that imposing sanctions without putting in place proper and appropriate support mechanisms will lead to a spiral of poverty if people are forced to live below the standard set as a reasonable amount to live on.

25/7.7; 26/7.8

## 7.7 Lone Parent Conditionality

The document states that **Lone Parents with children aged 5** and over will move either to Jobseekers Allowance or Employment and Support Allowance dependant on their circumstances. The movement of Lone Parents into the full conditionality group of Jobseekers Allowance will have an adverse affect on this group and this has a **direct impact on women** as more than 96% of Lone Parents are women. The document talks of an agreement under Jobseekers Allowance but this will be replaced by a commitment and the stringent conditionality requirements will apply to this group under Universal Credit.

The document refers to increased opportunity and equality of opportunity between men and women but as Northern Ireland has no childcare strategy and Lone Parents are already dealing with cuts applied to the help for childcare this mitigation has no tangible credibility.

The document also refers to the fact that Lone Parents who have responsibility for a **disabled child** over 5 will remain entitled to Income Support but Income Support will no longer exist and there is no mention of how long this exemption will apply nor how they will categorise this group under the new system: i.e. work preparation, keeping in touch with the labour market or no conditionality.

The economic crisis has created a rise in unemployment and there is an increase in job losses from the public sector where there would be greater flexibility for working lone parents. Lone parents face many difficulties and barriers in gaining employment and this will only be exacerbated in these tough labour market times. Congress is concerned that this conditionality could lead to greater increased stress and tension for lone parents, many of whom are already struggling to cope. Congress urges the NI Executive to work together to provide the childcare that is desperately needed and to ensure that lone parents are not disadvantaged through financial sanctions.

**This section totally contradicts the next section which explains the conditionality requirements of customers. There is no mention of any easement for Lone Parents with children over the age 5 as they will fall into the full conditionality group. The impact of these changes on this group which is predominantly women has not been fully explored and the data used in the document is over a year out of date.**

## 7.8 Conditionality: Sanctions and Hardship

Under the Welfare Reform EQIA **Lone Parents of children over 5** will have full conditionality, while a partner on a couples claim can have reduced or restricted conditionality on the basis that they have responsibility for a child between the ages of 5 and 13? Therefore **Lone Parents with children in this age category (5-13) will be adversely impacted as opposed to**

**couples in the same category.** Also at present NI doesn't have a child care strategy and the while the impact of childcare will be a consideration for couples conditionality, the impact on Lone Parents is ignored. The document on the whole with regards to conditionality, sanctions and hardship excludes Lone Parents by the very fact of not addressing their needs.

The paper states that all those who fall into the full conditionality category must sign a commitment to partake in any activity deemed reasonable by the governing department.

There are 3 tiers of sanctions applied in ascending order of conditionality and offence. The lower level sanction is applicable to both the ESA WRAG group and the group whose conditionality is limited capability for work under Universal Credit. The middle level sanction is applicable to Job Seekers actively seeking employment but excludes the use of the term Disallowance or Disentitlement within the labour market decision. The higher level sanction is applicable to those who refuse a reasonable job offer.

The new sanctions regime has the potential to be more complex than the existing one. Overall in our view **it will be a wider ranging and harsher regime.** Unlike the stated low rate percentage of people sanctioned previously under JSA the new regime could see rising levels of sanctions imposed.

From the figures in the document it appears that those in the **age group aged 18-24** as the highest recipients of JSA would be more adversely affected by the changes proposed in the bill. These figures however are not accurate as they are only taking account of 52,414 unemployed and the actual current unemployment rate is not included. It also does not take into account partners on JSA claims with dependants under 16, Lone Parents or partners on IS claims. It follows therefore that the overall impact on various age groups will be greater than the data used would suggest.

Hardship is a reduced level of benefit which is deemed necessary as the customer and their family would be at risk if it was not paid. The Hardship payment exists within the benefit system as a safety net for customers who find themselves in this situation. In the current benefit system a customer who is sanctioned can apply for Hardship.

In the new system a customer will have no option but to take what now would be a Hardship loan to cover the period of their sanction. This loan would then be recoverable at the end of the sanction period. This in itself creates a spiral of poverty as customers/families are being forced to continuously live below the standard set as a reasonable amount to live on.

# Employment and Support Allowance

## **Extracts for ICTU submissions**

6/12; 20/7.4; 23/7.5

Clause 51: Dual entitlement

Clause 52: Period of entitlement to contributory allowance

Clause 53: Further entitlement after time-limiting

Clause 54: Condition relating to youth

Clause 55: Claimant commitment for employment and support allowance

Clause 56: Work experience etc

Clause 57: Hardship payments

Clause 58: Claimant responsibilities for employment and support allowance



6/12;

**Employment Support Allowance.** We believe that this proposal will have severe impact on those with disabilities. We are concerned that this change will affect adversely those who are terminally ill. Those who have chronic illness, older people and younger people. We believe that at what may be a person's most challenging and stressful time in their lives to take away financial independence is likely to be discriminatory and is most unfair. Congress also wishes to raise the issue that an individual could have paid into the National Insurance Scheme for 30/40 years whilst in employment yet all they can now expect to receive back is one year's contributory benefit, this is a fundamental change to the National Insurance Scheme and would beg the question where does the rest of the money go from that individuals contributions paid over 20/40 years?

20/7.4; 23/7.5

#### 7.4 **Time-Limiting Contributory Employments and Support Allowance to one Year for those in the Work Related Activity Group**

Currently if a person pays the appropriate National Insurance Contributions and satisfies the Contribution Conditions of Employment and Support Allowance, they remain entitled to Contributory Employment and Support Allowance until they are found capable of work following a Work Capability Assessment, carried out by a professional healthcare worker. Under the revised rules, regardless of the fact that it has been determined at a medical assessment that they are unfit for work, customers benefit will cease after receiving Contributory Employment and Support Allowance for only one year.

This seems to be based on the assumption that customers claiming incapacity benefits are fit to return to the workplace within one year of falling ill. Is there any evidence to support this assumption? Long-term Incapacity Benefit customers who are currently being assessed under the Work Capability Assessment in order to transfer to Employment and Support Allowance are in the main being found incapable of work - only 18% of 4500 assessed were disallowed benefit.

**The proposed change will have a severe affect on "people with disabilities" covered by Section 75** – people whose disability or loss of functionality is significant and due to their on-going condition are not fit to work and need continued support of the welfare state.

**The limiting of Contributory Employment and Support Allowance to one year for customers in the Work Related Activity Group will disproportionately affect older people as 47% of people in this group are aged 50 or over.** This group have already limited job prospects in what is already a very small and competitive area. It is also likely that a higher proportion of older people will not qualify for Income Related Employment and Support Allowance and thereby further reduce their standard of living.

**Customers with terminal illnesses with a life expectancy of more than 3 months or those that require regular dialysis will be placed in the Work Related Activity Group and subsequently denied financial support in what is a very challenging and stressful time of their lives.** Macmillan Cancer Support say 70% of cancer patients face financial worries as a direct result of their disease and have estimated they will be £94 a week worse off. This is obvious discrimination against this section of society. These people who will have paid into the National Insurance scheme for most of their working lives and are now excluded for it after one year.

**A person with a chronic illness should be able to have financial independence** and not have to rely on the financial support of partners, many will be a **carer** who may also be the sole provider and who as we pointed out will be disadvantaged on multiple levels by your proposals. Expecting a person with a chronic illness to rely on the support of their partner after just a year of illness may put that person at a disadvantage compared to a person who does not have a partner because that person may be more likely to be entitled to income

related Employment and Support Allowance. **It may also discriminate against a Person with Dependants and people, who may be working whilst caring for the disabled or terminally ill partner.**

The figures in the consultation paper relate simply to those customers currently in the work related activity group receiving Contributory Employment and Support Allowance. It does not take into account the potentially very large volumes of customers who enter the work related activity group as a result of Incapacity Benefit/Income Support Reassessment.

Reference is made in the EQIA that individuals who do not qualify for income related Employment and Support Allowance will have access to the support of the Work Programme. This is not available to any customer living in Northern Ireland.

## **7.5 Abolition of Concessionary Employment and Support Allowance ‘Youth’ National Insurance Qualification Conditions**

The proposal to abolish Employment and Support Allowance for Young People is being made without access to any data relating to Employment and Support Allowance for Young People. All the data relates to Incapacity Benefit in Youth so this is at best inaccurate, and at worst deeply flawed.

**Employment and Support Allowance in Youth is a support mechanism for the most vulnerable young people in society, specifically “young people who have severe mental or physical disabilities”. To remove this step into benefits would have a severely detrimental impact on this group.**

Employment and Support Allowance Youth enables incapacitated young people to qualify for contributory Employment and Support Allowance when due to their age and disability they would not have had the opportunity to qualify for the benefit under the normal contribution conditions.

The mitigation states that the abolition of the ‘youth’ provisions will put this group on the same contributory footing as everyone else. Simply put, the **young people who now qualify for employment and Support Allowance Youth would not be able to qualify for Employment and Support Allowance** as they would not have had the opportunity, due to their age and their disabilities to pay enough contribution to satisfy the contribution conditions and therefore qualify. Although it may seem to be putting people on an equal footing **it is deeply discriminatory against disabled young people under Section 75.**

# Income Support

## **Extracts for ICTU submissions**

7/15

Clause 59: Entitlement of lone parents to income support etc

Clause 60: Claimant commitment for income support

7/15

**Lone Parent Conditionality.** Congress believes that this will have a direct impact on women. Congress does not believe that there is an adequate childcare strategy in place to support this proposal Congress further believes that lone parents with a child with a disability/ies may be doubly disadvantaged. Congress is concerned that this proposal will increase the stress on those who are already struggling to cope and who are likely to be already living in poverty.

# Entitlement to Work

## Extracts for ICTU submissions

6/13; 24/7.6

Clause 61: Entitlement to work: jobseeker's allowance

Clause 62: Entitlement to work: employment and support allowance

Clause 63: Entitlement to work: maternity allowance and statutory payments

6/13;

**Entitlement to Work Condition – Contributory Benefits and Statutory Payments.** Congress is concerned that this proposal may discriminate against migrant workers. Congress is not satisfied that all support mechanisms are in place to assist with documentation particularly when the person may have a disability or when English is not their first language.

24/7.6

## 7.6 Entitlement to Work Condition – Contributory Benefits and Statutory Payments

Currently anyone subject to immigration control does not qualify for means tested, non-contributory benefits, however it is possible that illegal workers could be paying enough National Insurance Contributions (NI Cons) over an appropriate period to qualify for contributory benefits or statutory payments.

The proposed change in policy is the introduction of the entitlement to work rule to contributory benefits and statutory payments.

The proposed introduction of the entitlement to work aspect to contributory benefits would essentially mean that workers who have paid NI Cons would have paid for a service provision that they would never be able to receive.

It seems reasonable that if you pay into an “insurance” scheme then you should be able to avail of the benefits of that scheme.

There are no figures available according to the report, regarding the number of people working illegally (i.e. without an entitlement to work) in Northern Ireland so simply to assume that this change would only affect a limited number of people would be wrong.

**It is our contention that the introduction of this policy would disproportionately affect young migrant workers who have come to Northern Ireland to look for work and to enjoy a better life. To exclude them from receiving the contributory benefits that they paid and qualified for would appear to us to be deeply discriminatory.**

## Part 3: Other benefit changes

### **Extracts for ICTU submissions**

6/11; 8/18; 8/20; 19/7.2-7.3; 31/7.10; 32/7.13;

Clause 64: Injuries arising before 5th July 1948

Clause 65: Persons under 18

Clause 66: Trainees

Clause 67: Restriction on new claims for industrial death benefit

Clause 68: Determinations

Clause 69: Housing benefit: determination of appropriate maximum

Clause 70: Ending of discretionary payments

Clause 71: Purposes of discretionary payments

Clause 72: Determination of amount or value of budgeting loan

Clause 73: Community Care Grants

Clause 74: State pension credit: carers

Clause 75: State pension credit: capital limit



6/11;

**Housing Benefit.** We believe that the impact on older people in particular is not only unfair but cruel. People will be forced to give up their 'family home' or be penalised, tenants cannot be treated as commodities. Congress believes that families will also be disadvantaged where people are returning to the family home due to loss of work, illness, relationship breakdown etc.

8/18;

**Industrial Injuries Benefit.** Congress is concerned about proposed removal of the right to apply for an accident declaration. What are the committee's views on this?

8/20;

1. **Social Fund.** Many of those claiming from the Social Fund are those who are most disadvantaged and vulnerable. Many also have been affected by the conflict.

19/7.2-7.3;

## **7.2 Restriction of Housing Benefit Entitlement in the Social Sector**

It is clear this proposal is aimed at seeking to reduce the overall budget for Housing Benefit. This policy would impact negatively on the older person who because of this change may be forced to move to smaller accommodation purely because their children have left home. This will impact negatively on individuals whose "home" will effectively be removed from them because they can no longer live in their home because of the reduction in Housing Benefit. Is it not a right that older people (even less than State Pension Age) should be able to live in dignity and not be forced to give up their "family home" for the reasons set out in the EQIA? Similarly male single Housing Benefit claimants will be negatively impacted upon. While the data does not show the reasons for the larger proportion of single males claiming Housing Benefit it is likely to be because of family and relationship breakups which mean that more males are single than females. It is therefore not acceptable to force a single male to move home because of this element.

A tenant and their families should not be treated like a commodity which can be hived off or moved from their home which they may have lived in for many years because of a downsizing of their family unit. Tenants are real people who deserve to be treated with dignity.

The proposal also does not take account of children and others returning to the family home in cases of having worked abroad (and perhaps returning home due to job loss in the world economic crisis), returning from university, in the event of relationship breakdown, illness or a whole host of other reasons which mean that the home and family support is vital.

## **7.3 Housing Benefit Up-Rating Local Housing Allowance by Consumer Price Index**

This is a general issue which impacts on all categories. Congress believes the Government's decision to up rate benefits by the CPI rather than the RPI is an error and will have a long term effect on the value of all benefits including the proposed Universal Credit. Congress is strongly opposed to the up rating of benefits by CPI rather than RPI.

31/7.10;

## **7.10 Industrial Injuries Disablement Benefit**

The Consultation document states the removal of the right to apply for an accident declaration will not result in financial loss and is often a nugatory process. The Accident

Declaration is used by workers to have it on record that they have suffered an accident in the workplace, but may not at that time be incapable of work for more than 90 days and therefore not entitled to Industrial Injuries Benefit. However, having the accident recorded, they will be covered should their health deteriorate at a later stage and they then need to make a claim to Industrial Injuries Disablement Benefit. It is also used by workers who may want to claim through their employers' schemes. How will this be done if this process is removed and how does a worker prove an accident occurred? **Clearly the absence of a declaration has the potential to impact adversely on "people who may develop disabilities" through an injury or disease in the workplace.**

32/7.13;

### 7.13 Social Fund

Under proposed arrangements will the Treasury continue to provide adequate funding to a scheme to replace the existing Social Fund that will provide for the most vulnerable in Northern Ireland?

Unemployment in many parts of Northern Ireland has reached a peak and continues to rise creating a greater need for Social Fund payments as many struggle to pay debts. There has been a greater need for alignment awards as time for JSA appointments has increased due to the workload and increase in the JSA register.

#### Age - Crisis Loans

Table 23 Figures of June 2010 show that there were 150,380 Crisis Loans awards made in year 2009/10 of which 34% was from **18-24 year olds** and 29% from **25-34 year olds**. Many of this group will be **Lone Parents** and **young people with a disability**. Many have little qualifications while others have a learning disability. Some come from areas of deprivation associated with the conflict and where the current education system has failed them. This is also fuelled with unemployment being at an all time high. This age group find it difficult to get work as there are no jobs and even when there are jobs they tend to be unsuccessful as they don't have experience.

The support mechanism for this age group has decreased over the years mainly due to the fact that Northern Ireland is coming out of conflict with all its consequences of deprivation and associated problems unique to Northern Ireland.

Many in the **18-34 age groups** suffer from Post Traumatic Stress Disorder and associated problems which stem from the conflict and troubles in Northern Ireland and continue to be fuelled by residual issues, for example:

- alcoholism,
- drugs,
- attempts to establish themselves in the community after custodial sentences and discharge from institutional and residential accommodation

Many of this age group for various reasons come from broken and single parent households. Many are estranged from their parent(s) and lack a stable environment.

- Figures produced by the Peace and Reconciliation Office in NI prove that issues associated with the legacy of the troubles and conflict are unique to Northern Ireland and that the same problems do not exist in other regions of the UK. Statistics showing the level of intimidation and threat amongst this age group continue to escalate. The victim depends solely on Social Fund to meet the urgent need at the time for example – to help them get out of the area to avoid paramilitary attack.

- This vulnerable group often have no access to credit facilities and depend on Social Fund for basic living expenses and payment of bills which others take for granted. Quite often they have no one to turn to for support.
- Crisis Loan customers require Social Fund for basic living expenses as they struggle to pay off the deficit between Housing Benefit and the rent for their accommodation.
- Customers on discharge from prison and institutional or residential accommodation depend on crisis loans to enable them to establish themselves back into the community.
- Crisis Loans are also used as an attempt to alleviate the group from the fuel poverty trap. Energy fuel prices in Northern Ireland are significantly higher in comparison to those in other regions.
- Many claim crisis loans for the purchase of heating oil especially due to the last 2 harsh severe winters. Pensioners get an annual fuel allowance payment. They and customers who are disabled and those with children under 5 get a Cold Weather Payment if the conditions are satisfied whilst the 18-34 years old making up the majority of the crisis loans applications have to rely on a loan to purchase heating energy. This leads to fuel poverty amongst the young in our society.
- They are often estranged from their families and have no means of support, savings or access to credit facilities. The Social Fund was their only protection from ending up on the streets as homeless.

**Table 24** shows that 73% of the age group **18-24 year olds** Social Fund Crisis Loans had a favourable decision and 76% of **25-34 year olds**.

- These groups are largely made up of **Lone Parents, young people with learning difficulties and mental illness** with many of the issues stemming from the conflict.
- 36% of 18-24 group and 45% of 25-34 year olds have children under 5 making it difficult for them to work even if they had the necessary skills and qualification.
- They don't have access to proper and reasonable child minding or built in support mechanism from family and friends. It is argued that there is a pandemic of teenage pregnancies and young single mothers in Northern Ireland.
- Erosion of Social Fund crisis loans would have a detrimental effect on the **age group of 18-34** year olds for the reasons listed above. Older customers have a better chance of getting a Community Care Grant as they satisfy the criteria more than the younger age group.

#### **Gender - Crisis Loans**

- 55% of crisis loans in year 2009/10 was made to single males in comparison of 39% to **single females**.(Table 27)
- The majority of applications were made by unemployed JSA customers
- It could be argued that females have a better chance of getting a Community Care Grant as opposed to a crisis loan as females tend to be Lone Parents with young children under 5.
- Another reason for the contrast in the number of crisis loans between males and females is possibly due to the economic recession and loss of jobs in the Construction industry (mainly male jobs).
- Males tend to claim crisis loans on discharge from prison and institutional or residential accommodation to enable them to establish themselves back into the community.
- Figures produced by Peace and Reconciliation office in NI prove that issues associated with the legacy of the troubles and conflict are unique to Northern Ireland and that the same problems do not exist in other regions of the UK. Statistics showing the level of intimidation and threat amongst males in society continue to escalate. These males often have no access to credit facilities and depend on Social Fund for basic living expenses

and payment of bills which others take for granted. Quite often they are estranged from their families and have no one to turn to for support.

- Males tend to apply for crisis loans for rent in advance and household items to set up home whilst a female with children is more likely to be awarded a Community Care Grant.
- Males require Crisis Loans from Social Fund for basic living expenses as they struggle to pay off the deficit between HB and the rent of their accommodation.
- They also use Crisis Loans as an attempt to alleviate fuel poverty. Energy fuel prices in Northern Ireland are exorbitant. Females with young children get a Cold Weather Payment if the conditions are satisfied whilst the male has to rely solely on a crisis loan.

### **Disability - Crisis Loans and Community Care Grants**

There were no figures for crisis loans for year 2009/10 available from the Social Fund data scan for people with a disability.

However we do know that 96.8 % of **Lone Parents are females** (Page 58) and 22% of Lone Parents in comparison with 19% of working people has a **disability** as defined under the DDA and can be included in the group with disabilities. These disabilities include many different groups including those suffering from;

- Mental and Behaviour problems.
- Patients/residents being discharged from institutional and residential accommodation.
- Musculoskeletal problems.
- Post Traumatic Stress Disorder and associated problems stemming from the troubles in Northern Ireland , for example:
- Alcoholism.
- Drugs.
- People with a disability find it difficult to find work and employers may be biased and discriminate against this group.
- This group depend on crisis loans to meet their short term need and how will they manage if crisis loans were stripped away. They are often not entitled to Budget Loans or Community Care Grants as many are in receipt of Incapacity Benefit which does not qualify them.
- People with a disability often have a greater need in comparison to those without a disability.
- They normally feel the cold and require extra heating.
- Up to last year they had to pay for their medication.
- Depending on their disability their mobility may be limited resulting in extra travel costs as often they will have to travel by taxis rather than walk or public transport.
- They normally have more hospital appointments incurring travelling expenses which aren't refundable if they are not in receipt of a qualifying benefit.
- They often need help with caring and daily living issues such as housework, preparation of meals, shopping, washing etc.

### **Age - Community Care Grants (CCGs)**

The loss off CCGs will have an adverse affect on the most vulnerable in our society. CCGs are non payable grants paid for a range of expenses including household equipment and the intent is to keep people in the community rather than enter institutional or residential care. Payments are also made to allow customers to attend a relative's funeral and visit sick relatives and care call alarms for the elderly.

24,936 awards were made in year 2009/10 year totalling £13.67 million. The majority of those accepted for CCGs are the **over 45 year olds and the elderly**.

If the CCGs scheme was eroded it would have detrimental impact on both the **elderly and single parents of which most are female falling into the 18- 34 age** bracket. This proposal will greatly affect their health and safety by putting more and more pressure on the home and families resulting in many incidents and potential admission to residential accommodation.

This group of young females is made up of single parents with young children and others with unplanned pregnancies of whom many are estranged from their parent(s). The CCG is their only life line or else to be admitted into care.

### Gender

52 % of CCGs awarded in 2009/10 was paid to single females compared to 32% of single males, the reason being primarily that females are more likely to be caring for children and satisfy the criteria easier than males. Any dilution of this provision will have an adverse impact on this group.

### Disability

There are no statistics for people with disabilities claims and awarded CCGs but office statistics would indicate that **pensioners with a disability** are more likely to be paid CCGs as there may be a risk of entering residential accommodation compared with younger people with disability.

As we see it the government is planning to strip away any help from social fund for people in genuine need. Lone parents need help to keep their family together and protect their health and safety. The elderly are scraping by on what little pension they already have. Even now most pensioners are faced with the daily choice of whether to heat their homes or whether to eat. These are the people that need help. Overall, NIPSA are concerned that the proposals in the Welfare Reform Bill will impact adversely on the above mentioned groups.

### Age - Alignments

The **age group 18-24** years old will suffer and be discriminated against if Social Fund alignments are abolished and replaced with Universal Credit interim payments.

- The majority of Crisis Loan applications were made by unemployed JSA customers in the age bracket **18-34 years old**.
- 39% of crisis loans for alignment purposes were paid to 18-24 year olds and 26% to those **aged 25-34**.
- Many of these young people have ongoing issues and are estranged from their parents.
- This age group normally move between training and JSA and ESA and JSA They depend on an alignment award to meet their basic needs until their JSA/ESA is awarded.
- They have no access to credit and have no savings. They are less likely to have a partner to rely on for short term assistance until their benefit is processed.

We have are concerns about what might happen if a benefit application to Universal Credit is complex and the Decision Maker decides not to make an interim payment, for instance:

- There will be a greater movement of customers moving between being sick and unemployed. Many of these customers from the **younger groups** will fail the capability test yet not satisfy the conditions as being able to work. What will happen to these vulnerable customers and what will they do for basic daily living expenses.
- If the Interim Payments are stripped away how will the person starting work and not receiving their first wage until the end of the month and in some case the following month



manage as with the current system they could be paid an alignment to their wages. This again could affect **18-24 year olds and lone parents**.

- How will the person manage leaving benefit to start work as currently if not entitled to a job grant they could apply for an alignment to their wages. Many of these customers are estranged from their parent(s), have no savings or access to credit

**Section 75**; if the current Social Fund crisis loans are stripped away there could be potential discrimination against the **young and disabled in our society**. These groups are unlikely to have savings or access to credit facilities or have a partner on whom they can depend on for financial assistance in the short term.

If the Social Fund is replaced with a scheme delivered by an organisation other than the SSA will there be consistency in the decisions? Will there be a possible conflict of interest? If it is delivered by local authorities or Social Services will the decision be neutral or will the decision be influenced by local knowledge rather than making decision based on the evidence ensuring that the law is satisfied.

If the scheme was delivered by Social Services would it impact on custody of children etc issues? Would the customer be entitled to a review/appeal if not satisfied with the outcome? Overall we are concerned that if there is a diminution of the services the vulnerable groups highlighted in the above paragraphs will be impacted. Congress are of the view that Social Fund services must remain within the Social Security Agency/DSD as our members are the experts in delivering this vital support to those vulnerable and disadvantaged in our communities.

## Part 4: Personal independence payment

### **Extracts for ICTU submissions**

7/17; 28/7.9

Clause 76: Personal independence payment

Clause 77: Daily living component

Clause 78: Mobility component

Clause 79: Ability to carry out daily living activities or mobility activities

Clause 80: Required period condition: further provision

Clause 81: Terminal illness

Clause 82: Persons of pensionable age

Clause 83: No entitlement to daily living component where UK is not competent state

Clause 84: Care Home Residents

Clause 85: Hospital in-patients

Clause 86: Prisoners

Clause 87: Claims, awards and information

Clause 88: Report to the Assembly

Clause 89: Abolition of disability living allowance

Clause 90: Amendments

Clause 91: Power to make supplementary and consequential provisions

Clause 92: Transitional

Clause 93: Regulations

Clause 94: Interpretation of Part 4

7/17;

1. **Dla/ Personal Independence Payment.** Congress is concerned that one of the purposes of PIP is to reduce spend on those with disabilities. Congress urges the committee to take into account the level of disabilities including mental health conditions in NI due to the conflict. The committee may be aware of the recent World

Mental Health survey carried out by the University of Ulster and Omagh based trauma treatment experts, who concluded that NI has the world's highest recorded rate of post traumatic stress disorder. The survey showed that violence had been a distinctive cause of mental health problems and suggested that 40% of the population have had a conflict related traumatic incident. Further to that the lead researcher stated that "the report provides policy makers with the most reliable available information upon which they will be able to base their choices".

28/7.9

## 7.9 Disability Living Allowance Reform

As yet the final decision on the replacement of Disability Living Allowance (DLA) by the Personal Independence Payment (PIP) has yet to be determined. Therefore exactly how the new benefit will function in relation to any EQIA cannot be commented on.

However it is clear that **part of the purpose of PIP is to reduce the number of benefit recipients and then to reduce the current DLA spend by 20%**. Evidently this will, by its very nature, **have serious consequences on "people with disabilities"** and there are widespread concerns about the impact this will have on the largest group of DLA customers, **those with "mental health problems"**.

- There is no indication that the new benefit will make the new assessments more consistent or transparent.
- The levels of benefit payable for the two components has yet to be determined, therefore, it is difficult to assess how groups will be affected.
- Eligibility for PIP will increase the qualifying period from 3 to 6 months. This will have an adverse impact on those with disabilities.
- Moving away from automatic entitlement based upon certain conditions such as visual impairment or deafness will have an adverse effect on customers with this entitlement.

**From March 2013 withdrawing the mobility component from PIP customers if they go into a care home will have an adverse affect not only on the customer but also on family who may be availing of the mobility scheme.**

**There is no evidence that the new benefit will enable disabled people to overcome barriers to lead full independent lives.** With less money how will this be possible?

Our current understanding is that disability charities and user led organisations have grave concerns on the effect of this new benefit will have on disabled people.

### Age

There are widespread concerns that, while these new proposals will only apply to working age customers, PIP will roll out to **under 16's and over 65s**.

### Gender

Our current understanding of the new benefit is that the low rate care component will be removed and based on current statistics more **women** than men will be adversely affected.

### **Persons with a disability and persons without**

There is no evidence to show that this new benefit is better focused in supporting people to overcome barriers to participation. There is also no indication as to what these barriers to participation are.

### **Mitigation**

There is no indication that this new process will remove any barriers to the disabled.

How can this new process be a fairer benefit when the number of components is being reduced and the knock on effect on the rest of the health service has not been taken into consideration?

As the knock on effects on passported benefits such as **carers** allowance and the disability premium has yet to be determined therefore cannot be commented on. But with a reduction in the amount of people entitled to the new PIP there will be a subsequent reduction in entitlement to carers allowance and the disability premium.

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## Part 5: Social Security: General

### **Extracts for ICTU submissions**

5/10; 8/19; 8/21; 41/7.15; 43/7.17; 51/7.11

Clause 95: Benefit Cap

Clause 96: Benefit cap: supplementary

Clause 97: Claims and awards

Clause 98: Powers to require information relating to claims and awards

Clause 99: Payments to joint claimants

Clause 100: Payments on account

Clause 101: Power to require consideration of revision before appeal

Clause 102: Electronic communications

Clause 103: Recovery of benefit payments

Clause 104: Deductions from earnings: other cases

Clause 105: Application of The Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339) (N.I.11)

Clause 106: Powers to require information relating to investigations

Clause 107: Time limits for legal proceedings

Clause 108: Prosecution powers of the Housing Executive

Clause 109: Penalty in respect of benefit fraud not resulting in overpayment

Clause 110: Amount of penalty

Clause 111: Period for withdrawal of agreement to pay penalty

Clause 112: Civil penalties for incorrect statements and failures to disclose information

Clause 113: Benefit offences: period of sanction

Clause 114: Benefit offences: sanctions for repeated benefit fraud

Clause 115: Cautions

Clause 116: Information-sharing in relation to provision of overnight care etc

Clause 117: Information-sharing in relation to welfare services etc

Clause 118: Unlawful disclosure of information

Clause 119: Sections 116 and 118: supplementary

Clause 120: Information-sharing for social security or employment purposes etc



5/10;

**Benefit Cap.** We believe that this will adversely impact on families with multiple roles i.e., carers, parents and those with disabilities. We are also concerned about the issue of Housing Benefit and how the proposal will work. We are unclear of how the benefit will work on the grounds of age. We are concerned that the cap will have a negative affect on women and children, particularly those living in poverty. Will the cap adversely affect larger families? We are concerned and unclear about the calculation which may be used for the cap. Will it be the GB median wage or not? We remain concerned also about the NI childcare strategy or lack of one, which is a major barrier to assisting mainly women into work.

8/19;

**Fraud Penalties and Sanctions.** Congress is concerned about the phrase 'attempted fraud' Congress is concerned about this proposal which includes a charge if people are found 'negligent' with their claim. Congress raises the issue of the poor educational attainment particularly amongst those most disadvantaged which lead to forms and policy documents etc not being fully understood or properly filled in. Congress also raises these concerns in relation to those with disabilities and those who have little or no English. Congress believes that this proposal has the potential to create a vicious cycle of debt.

8/21;

Congress also has concerns around the issues of payment on account of benefits, revision before appeal, child maintenance and parity.

41/7.15;

## 7.15 **Consideration of Revision Before Appeal**

The current policy is that if a customer is unhappy with or disputes a decision made, they can either ask for an explanation of the decision, ask for the decision to be looked at again i.e. a reconsideration or appeal against that decision or all of the above.

There is at present no requirement for a customer to ask for an explanation or reconsideration prior to the lodging of an appeal.

Based upon the figures provided, during the year 2010 – 2011 there were 14,333 appeals registered with The Appeals Service (TAS). Of the 14,333 recorded by TAS, 12,428 (86.7%) were in connection to sickness or **disability benefits**.

Of the 12,428 appeals relating to sickness or disability benefits, 5538 or 44.56% were appeals against Employment & Support Allowance decisions. The vast majority (85%+) of ESA appeals are in connection with negative outcome decisions after the Work Capability Assessment (WCA).

Currently if a customer has a negative WCA outcome decision, their payments stop immediately. If a valid appeal against this decision is received then payments can be reinstated pending the outcome of the appeals process. Forcing customers to go through at least 1 and possible 2 more steps will greatly delay the resumption of payments to customers who have doctor certified incapacities or disabilities.

Based on the figures provided 1463 (26.4%) of the ESA appellants won their appeals once they had been heard by a full independent tribunal and is simply wrong to intentionally make incapacitated and **disabled people** have to wait longer on their benefits, which is frequently their only source of income, being reinstated.

**The figures in the Equality Impact Assessment do not take into account the ongoing Incapacity Benefit/Income Support reassessment which is moving customers from IB & IS to Employment Support Allowance.** This will greatly compound the number of people affected. Whilst the EQIA does reference IB appeals, this number is not robust as during the past number of years IB medicals had been deferred due to the introduction of ESA.

**This policy will greatly disadvantage “disabled and incapacitated” customers at a period in their lives when they need more support from the government and the state, not less.**

**Much of this new policy is also unnecessary as “The Harrington Report” into ESA and the weaknesses of the WCA process has already made recommendations that reconsideration is automatically carried out** as part of a more robust and expansive appeals process. The appeal writer will look critically at the original outcome decision and will carry out a reconsideration based on all the available evidence. It is our contention that not only is the introduction of this policy discriminatory towards disabled peoples it is also wholly unnecessary.

43/7.17;

#### **7.17 Child Maintenance**

In April 2011 NIPSA, one of our affiliates, submitted a response to the Green Paper “Strengthening families, Promoting Parental Responsibility” which detailed proposals to change the future delivery of Child Maintenance.

Among the concerns that were highlighted at the time, reference was made to a number of issues and these included observations on the possible impact on equality. We would like to take this opportunity to develop the points made at that time.

31/7.11

#### **7.11 Fraud Penalties and Sanctions**

The proposed changes in the Welfare Reform bill plan to make the penalties for fraud more stringent. It is also intended to “widen the punishments available for attempted fraud”. **It is not clear what “attempted fraud” actually is.**

It is stated that Hardship payments at a reduced rate will be available for vulnerable groups who are subject to penalties and sanctions. Hardship payments are currently a reduced rate of benefit usually 60%. It is not clear if this is what is meant by a reduced rate or if Hardship payments will be reduced even further.

It is claimed that these changes will not discriminate against any one group. It states that hardship payments at a reduced rate will be available for vulnerable groups and for those who would be left in hardship if they did not receive any benefit payment. However anyone not in a vulnerable group will have to pay these hardship payments back from future benefit. This means the **customer will be surviving on a reduced rate of benefit. This will cause more hardship to the customer forcing them to claim social fund and sending them into a vicious cycle of debt** they will not easily recover from. They will also be charged £50 if they have been negligent with their claim which could be most if not all of their weekly rate.

It is claimed that the circumstances for all benefit fraud will be looked at before introducing the penalties. Mitigation factors such as serious illness or disability will be considered under the public interest test. Who will administer this test? Will it be the department or the public prosecution service?

The penalty's that are proposed in this bill are harsh and extreme. They will only cause more hardship to customers who are already vulnerable. Further information about implementation of the new regime is needed before adverse impact on Section 75 groups can be properly assessed

## Part 6: Miscellaneous

### **Extracts for ICTU submissions**

44-46

Clause 121: Supporting maintenance agreements

Clause 122: Collection of child support maintenance

Clause 123: Indicative maintenance calculations

Clause 123: Indicative maintenance calculations

Clause 125: Fees

Clause 126: Exclusion from individual voluntary arrangements

Clause 127: Use of jobcentres by sex industry

Clause 128: Reduced fee for dog licences

Clause 129: Orders of Secretary of State under Administration Act

## 44-46

### Summary

The main proposals put forward in the Green Paper include the provision of a new IT system, a simplified calculation process, a “gateway” whereby parents would be provided with assistance in making their own family based arrangements and finally the introduction of charges for some aspects of the new statutory service.

**The initial response broadly welcomed the provision of an improved IT system which had been highlighted in the Henshaw Report (2006) as one of the Agencies failings at that time.**

**We have a number of serious concerns surrounding the introduction of charges for calculating the liability and also the collection service that will manage cases where the parents have been unable to reach their own private agreements.**

Other **issues** that **were highlighted** were mainly **relating to the delivery of the advice and guidance and who might provide this service and additionally it was queried that the validity of some of the “assumptions” underpinning the whole approach was questionable.**

**We believe that the current Child Maintenance and Enforcement Division has made significant progress in a number of key areas** including the number of **children benefiting**, amount of maintenance collected and the cost of each £1 collected. It is our belief that **this progress should be continued** and that the provision of a **new, improved, IT system** and simplified, more transparent calculation process **would see significant further improvements.**

The CMED’s greatest asset is the skills and knowledge of its staff however the recruitment embargo coupled with higher than average attrition has had the effect of reducing staffing levels significantly and been detrimental to the progress of the CMED in general.

The main components of the proposed new service and our comments are detailed below.

### The Gateway

It is anticipated that the Gateway process will enable families to reach mutual agreement and that this will then have a beneficial effect on the children involved reducing the number of cases managed by the Agency. Given that the Options Service has been in operation since 2008, by March 2010 an estimated 13% of parents who availed of this service subsequently went on to make their own arrangements and a similar number went on to use the statutory service. What evidence is there that this has proven to be a cost effective service?

A concern shared by not only by Congress but also the Women’s Support Network and Gingerbread among others is **that many lone parents will be pressurised into making inappropriate agreements rather than pay the charges that the new system proposes.** With the vast majority of **Parents with Care (PWC) being women, 93% in NI**, and given that there is ample evidence that they are a group who are particularly vulnerable to poverty, what guarantees are there that the proposed changes will not exacerbate this known problem?

### Calculation Only Service

Once an initial calculation of liability has been carried out, any further calculation will be subject to additional charges. The initial calculation has been estimated as being between, £20-£25 with reductions for PWC’s on benefits. Previous estimates had estimated this charge might be higher and it has been anticipated that it should have no significant Gender impact. **Given that only 7% of lone parents are male** and the PWC in the vast majority of cases makes the initial contact **how can it be construed that it will have no adverse impact on Gender when clearly women will be paying more often?**



### Maintenance Direct Policy

This element of the new scheme is one of the most worrying from a Gender standpoint. Where previously both parents had to agree to Maintenance Direct it is now proposed that the Non Resident Parent (NRP) will be able to pay directly without the PWC consenting. It is suggested that this will incentivise parents to make and maintain their own arrangements as neither would incur the charges that accompany the statutory collection service. In reality, **it may cause PWC's to accept reduced and or missed payments rather than pay for the collection service and/or possible calculation fees.** What mechanisms will be put in place to ensure that children are protected in these arrangements and parents are not being pressurised into inappropriate arrangements.

Will means tested benefits take into consideration the possibility that the lone parent may not, in some cases be in receipt of any financial support but at the same time be unwilling to revert to the statutory system due to the expense?

### Age

There are no obvious elements contained in the proposals that would cause concern in relation to the ages of either PWC's or NRP's. **There is however some concern in relation to another area of the Bill**, namely that which refers to the age of the **Qualifying Child**. It is proposed that once a child reaches 5 years the **lone parent will be actively encouraged to re-enter the employment market**. Parents with care will be moved onto JSA or ESA. **What guarantees are in place to ensure that this does not impact on those who are receiving less than the calculated amount of maintenance in an arrangement that the Agency has encouraged them to accept?**

## Part 7: Final

Clause 130: Rate relief schemes: application of housing benefit law

Clause 131: Repeals

Clause 132: General Interpretation

Clause 133: Commencement

Clause 134: Short Title

## Law Centre NI

### Submission to the Committee for Social Development: Welfare Reform Bill

#### Introduction

The Law Centre's submission to the Bill is set out in a clause by clause format as sought by the Committee. At this point, amendments to the Bill have not been drafted as we would prefer to receive a sense of the areas in which the Committee would like to receive possible amendments. Moreover, many of our comments relate to proposed regulations which will be drafted following the Bill.

The Law Centre has considerable concerns about the implementation of major items contained in the Bill for example, the introduction of Universal Credit and Personal Independence Payment. Nonetheless, we start from the premise that there is neither the time, money or IT within Northern Ireland to devise an alternative social security system. As a result, our response is aimed at improving the proposals designed for Great Britain taking into account the specific circumstances and needs of Northern Ireland.

The Welfare Reform Bill is in large measure an enabling Bill with much of the detail left to regulations. There are a number of critical issues being left to regulations including the essential details governing entitlement to housing credit within Universal Credit, the final level of earnings disregards for the various category of claimants on Universal Credit, the details of what exactly will be required of people in the all work related requirements, the rates of benefit payable, the details of daily living activities and daily mobility activities which will govern entitlement to Personal Independence Payment etc.

We do want to flag up issues which we think require scrutiny by the Committee and further clarity from the Department. The DWP has signalled its intentions on some issues and published draft regulations following the passing of the Welfare Reform Act in Britain.

The Committee should ask the Department to provide a draft plan including a timetable for publishing the regulations due to be made under the Bill.

Many of the key regulations are to be made under the confirmatory resolution statutory rule procedure. We understand this entails making and laying the regulations before the Assembly setting out the date of coming into effect. These regulations can be brought into effect, albeit they will cease to have effect after six months unless the Assembly has approved the regulations by way of a resolution.

Many of the areas where things can be done differently in Northern Ireland will be contained in regulations, or accompanying guidance, or different operational arrangements. As a result, the scrutiny process must find a way of addressing where legislatively the exact scope for specific flexibilities actually lie.

#### Part 1 Entitlement and Awards

##### **Clauses 1 and 2: Universal Credit claims**

Universal Credit may be awarded to a couple or an individual who is not a member of a couple. Clause 2 provides the power to make regulations to specify circumstances in which a member of a couple may claim for a single person.

It is important that consideration is given to ensuring that there are powers to award Universal Credit to a single person who remains a member of a couple (for example, if only one member of a couple is willing to sign the claimant commitment see clause 14). The Committee should seek an assurance from the Department that there is sufficient flexibility to award Universal Credit to one member of a couple only in appropriate circumstances. This is separate from the issue of whether some or all of the Universal Credit should be paid to the primary carer.

### **Clauses 3 and 4: Universal Credit entitlement**

These clauses govern the basic conditions of entitlement to Universal Credit. Clause 4 provides powers for regulations to determine the details of rules governing when a person is treated as being or not being in Northern Ireland; circumstances in which temporary absences from Northern Ireland will be allowed and what is receiving education when excluding entitlement to Universal Credit. The regulations will also provide for exceptions to the requirements.

#### **The issues for the committee to follow up include:**

- (i) the intention is that both members of a couple must be above qualifying age for a couple for state pension to be paid otherwise couples must claim Universal Credit. With pension age being equalized for men and women by April 2018 this means that one member of a couple could be well above pensionable age and still face work related requirements and claimant commitment conditions. A woman aged 61 with a male partner aged 70 who has already retired claiming a means-tested benefit for the first time in October 2013 will move to Universal Credit rather than Pension Credit.

The arrangements for seeking work etc in these types of cases should be explored with the Department.

- (ii) will the existing rules regarding absence from Northern Ireland, being in Northern Ireland, when able to study and retain benefit be altered from current arrangements for Income Support (IS), income related Employment and Support Allowance (ESA and Jobseeker's Allowance) (JSA)? If so, what is the rationale for such changes? It is worth noting the introduction of income related ESA led to more restrictive conditions for studying and retaining benefit.

The DWP has signalled its intention to allow for up to one month and up to 26 weeks absence from home in specific circumstances. This includes payment of housing credit for up to 26 weeks where a person is in residential care or hospital. This contrasts with housing benefit rules which allow up to 13 weeks absence in some circumstances and up to 52 weeks where other conditions apply (for example, due to going into hospital or residential care on a temporary basis).

Entitlement to UC for 16 and 17 year olds to Universal Credit in certain circumstances is to be retained. The Department for Work and Pensions (DWP) has set out five circumstances in which 16-17 year olds may qualify for UK namely:

- those with dependent children – lone parents or couples;
- sick or disabled young people who have satisfied the Work Capability Assessment or are waiting to be assessed with medical evidence;
- those who are caring for a severely disabled person;
- young women who are pregnant between 11 weeks before and 15 weeks after the expected date of confinement;
- young people who are without parental support.

Young people coming out of care will continue to be supported outside the social security system as currently. Under the current rules, payments can be made on a discretionary basis where severe hardship occurs. We believe this provision should be retained.

#### **Clause 5: financial conditions**

This introduces a savings rule for Universal Credit which we understand will match the current capital limit for IS, JSA and ESA ie £16,000 with a tariff income for savings between £6,000 and £16,000.

This is a significant change for some claimants as tax credits and pension credit have no upper capital limit. Pension credit applies a tariff income on savings above £10,000 and tax credits ignores savings but, takes account of any taxable income generated by savings subject to a £300 per year disregard.

The new capital rule is likely to affect older claimants who have had more time to save towards retirement. There are two issues. First, will tax credits claimants transferred to UC be able to remain entitled under transitional protection arrangements? An assurance should be sought that such protection will be provided. Secondly, would the capital threshold be appropriate for people on Universal Credit where the claimant or one member of the couple has reached 60 years of age. This would recognise the importance of savings for people who are close to retirement age. The recent Joseph Rowntree Foundation report into 'Monitoring Poverty and Social Exclusion in Northern Ireland 2012' noted a rise in pensioner poverty in contrast to a fall in Great Britain. A significant contributory factor was the far less reliance on occupational pensions in Northern Ireland. Some claimants are likely to have modest savings yet low income. As a result, consideration should be given to an amendment confining the capital rules to people less than 60 years of age.

#### **Clause 6: restrictions on entitlement**

This clause allows for regulations to be made to exclude entitlement in specific circumstances. We understand this will apply to members of religious orders and prisoners. This applies to current means-tested benefits. The committee should seek clarity from the Department whether the regulations intend to go any further than the current exclusions provided for in IS, JSA and ESA.

#### **Clauses 8 – 10: calculation of awards**

These clauses cover calculation of awards including standard allowance and payments for children.

The DWP has signalled that it may restrict certain EU nationals (ie work seekers) entitlement to the standard allowance only.<sup>1</sup> Any such arrangement would be a retrograde step and possibly unlawful both under domestic law and European Union law. The Committee should seek clarity on the intention for Northern Ireland. In our view, there is no objective justification to paying EU migrants lower rates of benefits than those payable to UK and Irish nationals.

New standard allowance rates for Universal Credit will be paid based on the following categories

- single claimants under age 25
- single claimants aged 25 or over
- couples where both members are under age 25 and
- couples where one or both members are aged 25 or over.

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1

DWP Explanatory Memorandum Universal Credit regulations June 2012 see SSAC website

This is a simpler structure than applies for IS, ESA and JSA. However, we understand that some young people under 25 claiming UC will receive lower rates of benefit than under existing benefits. The Committee may wish to seek clarity on this point.

A significant new feature of UC is that the self-employed will be treated as having a deemed minimum income which will reduce entitlement to UC. The DWP has yet to announce the amount of the deemed income. This 'minimum income' will not be applied during a one year period from the date of claim where on actual reported income will be applied. The DWP has also recently suggested it will only allow one start up period for self-employment every five years. Further, present proposals expect self-employed people on UC to report on income on a monthly basis. These arrangements if applied will have a substantial disincentive to try out or continue in self-employment. The proposals make no provision for people in self-employment falling ill or facing a downturn in orders or income by still applying the deemed minimum income. Moreover, most small self-employed businesses manage their reporting on a six monthly or annual basis and a monthly reporting requirement is unduly onerous. Monthly reporting for self-employed business where income ebbs and flows is likely to lead to constant changes to UC. In Britain, small employer organisations have made substantial representations to the Department that the current proposals are unworkable and likely to the original policy discourage rather than promote self-employment as a route out of benefit. The Committee should consider questioning the Department closely as to how they see Universal Credit working for people in self-employment.

The actual rates of allowances have yet to be announced for Universal Credit. Nonetheless, based on the information provided to date the recent report by Disability Rights UK and others has identified specific groups who will be worse off under Universal Credit<sup>2</sup>. First, there are families with disabled children who currently receive additional financial support of £57 a week through the disability element of Child Tax Credit. Under UC this will be reduced to £28 a week unless the child is registered blind or on the high rate component of DLA.

Secondly, severely disabled adults who either live on their own, with another disabled adult or only with dependent children may be eligible for a severe disability premium of £58 a week within IS, income based JSA or income related ESA. The DWP has said that this support is being abolished in order to redistribute money to the most disabled adults. However, as the Disability Rights UK report notes the redistribution will still leave people with the most severe level of impairment who have no adult to assist them substantially worse off. Thirdly, disabled people working more than 16 hours a week are entitled to the disability element of Working Tax Credit worth up to £52 a week. Under UC any person requiring additional support because of a disability will have to undergo the Work Capability Assessment (WCA). Anyone found fully fit for work following a WCA will receive no equivalent additional financial assistance to the disability element of WTC. There is clear evidence that people with disabilities who are in work face additional costs (as recognised by DLA and PIP benefit paid whether in or out of work). While transitional protection provides temporary respite it will inexorably be eroded inexorably while young people with disabilities reaching adulthood will not be able to avail of such transitional protection. We would urge the committee support the recommendations of the Disability UK report.

### **Clause 11: housing costs**

Almost all of the essential detail about the payment of housing credit is being left to regulations. The payments are essentially rent, mortgage interest and other owner occupation payments and service charges.

One key change being signalled by the DWP is that an owner occupier on Universal Credit will lose help with housing costs if doing any paid work (the zero earnings rule see paragraph 82 of the DWP Explanatory Memorandum for Universal Credit regulations). As a result, for

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2 Holes in the Safety net the impact of Universal Credit on disabled people and their families – Disability Rights UK, Citizens Advice Bureau and the Children's Society (2012)

example, a lone parent who takes a mini-job one day a week on a temporary basis will lose all help with mortgage interest. This is likely to undermine the financial incentive to work for many owner occupiers with outstanding mortgage liabilities. As a result, the Committee should ask the Department to set out its intentions and the ramifications of any such approach for claimants in Northern Ireland.

The waiting period before housing costs are paid to owner occupiers who claim UC is still to be determined. There used to be a waiting period of up to 39 weeks for claimants on IS, JSA and ESA. This was modified to 13 weeks for new claimants from January 2009. Tax credit only claimants do not get help with mortgage payments. Early clarity of the waiting period is important.

The limit of help with mortgage interest to two years for income related JSA claimants only is being transferred to Universal Credit. This will affect potentially much larger numbers as it effectively extends this provision to former IS and ESA claimants. The Committee should explore with the Department the likely numbers involved and what can be done to protect households affected by these provisions.

## Chapter 2: Claimant Responsibilities

### **Clause 14: claimant commitment**

A claimant or both members of a couple will be required to enter into a claimant commitment as part of a claim for UC.

Our understanding is that both partners must sign the 'claimant commitment' for UC to be paid. As a result, if one partner signs the commitment and the other refuses (for example, due to relationship tensions, or one partner's addiction or mental health problems) then, no UC is paid. This appears to penalize both the partner willing to meet the condition and any children in the claim. As a result, we recommend that powers be taken and provision made to pay UC at the single person rate with child allowances in such circumstances.

### **Clauses 15 – 24: work related requirements**

There will be four types of work requirements that will be imposed on claimants depending on their circumstances namely:

- **work focused interviews:** attend periodic interviews to discuss plans and opportunities for returning to work (immediately or in the future);
- **work preparation:** actions to prepare for work – such as attending training courses, preparing a CV or taking part in the work programme;
- **work search** – take all reasonable action and any particular specific actions to find work – such as applying for suggested vacancies or registering with a recruitment agency;
- **work availability** – be available and willing to immediately take up work.

In certain circumstances for example, where a woman is about/has recently given birth there will be no work requirement.

The following issues need to be scrutinized by the Committee.

**Clause 16(4)** introduces a work focussed health-related assessment. This was originally part of the requirements for claiming ESA but, was suspended it was designed to look at employability though not part of establishing entitlement to ESA. There does not appear to be any need to reintroduce this additional assessment.

The Committee may wish to explore whether it is being restored and, if so, on what basis.



**Clause 22** the all work requirement is the most onerous commitment and applies to all those who do not fall into the other categories. The DWP has signalled that most claimants will be expected to spend 35 hours a week looking for or preparing for work. In practice, this appears almost impossible to meet on an ongoing basis. While CVs can be updated, employers written to, jobs and benefit offices visited, websites and newspapers perused for vacancies etc there will come a point where all this work searching has been done and a claimant is waiting on a response. To continue to spend 35 hours a week searching for work over a period of months is not practical. This is an area where proportionate operational arrangements need to be put in place. The corollary of not spending 35 hours a week in work search activities is the possibility of sanctions being applied.

**Clause 22** the DWP has stated that EU workers or jobseekers will always be placed in the 'all work related requirement' group. This is provided for in Schedule 1 para 7 of the Bill (see page 15). This is clearly discriminatory, appears to be based on a particular Ministerial view of EU migrant workers within the DWP. It is likely to be unlawful and serves no reasonable purpose. The Committee should ensure that no such prejudicial arrangement are introduced in Northern Ireland.

**Clause 22** all work requirements can be imposed on claimants in work who earn below a specific threshold. This is new. Claimants in part time work on tax credits are currently not expected to seek work on top of their part time commitments. It is unclear how this will work in practice. The DWP has said it wishes to pilot approaches from October 2013 onwards. The Committee should determine what approach will be taken in Northern Ireland.

The clauses introduce significantly increased sanctions for claimants who fail to meet the conditionality requirements under Universal Credit. There are higher level sanctions and effectively medium, low and lowest level sanctions.

Existing JSA sanctions of one to 26 weeks which apply to employment related requirements are replaced with new provision of 13 weeks within the all work related requirements for a first failure, 26 weeks for a second failure (within 52 weeks of the first failure) and three years for a third failure within 52 week period. The new sanction regime applies to failure to apply for a particular vacancy without good reason, to take up an offer of work without good reason, leave work through misconduct or voluntarily without good reason or lose pay voluntarily or through misconduct without good reason. The actual periods are to be covered in regulations.

Medium level sanctions can be imposed on claimants subject to all work related requirements. Those sanctions cover failure to undertake all reasonable work search action, or fails without good reason to be able and willing immediately to take up work (or more paid work or better paid work). The sanction anticipated is 28 days for a first failure, and 13 weeks for a second and subsequent failure within 52 weeks of the first failure.

The lower level of sanctions will apply to claimants subject to all work related requirements, work preparation and work focussed interview requirements. The lower level sanctions include failure to undertake specified work action without good reason, failure to comply with a work preparation requirement without good reason, failure to comply with a requirement to provide evidence or confirm compliance without good reason and failure to comply with a work focussed interview requirement without good reason.

The level of sanction anticipated is

- (i) an open ended sanction until the claimant complies with the condition plus
- (ii) a fixed period of seven days for a first failure, 14 days for a second failure within a year of the first failure and 28 days for a third failure within a year.

A lowest level sanction will be introduced for claimants with work focussed interview (WFI) requirements who fail to participate in a work focused interview or a connected requirement. The sanction will be open ended until the required condition is met.

A summary of the arrangements is included in the table below:

#### UC sanction durations

Sanction	Applicable to	Duration		
		1st failure	2nd failure	3rd or subsequent failure
<b>High level</b> eg failure to take up an offer of paid work	Claimants subject to all work-related requirements	91 days	182 days	1095 days
<b>Medium level</b> eg failure to undertake all reasonable action to obtain work	Claimants subject to all work related requirements	28 days	91 days	
<b>Low level</b> eg failure to undertake particular, specified work preparation action	Claimants subject to all work related requirements	Open ended until re-engagement plus		
	Claimants subject to work preparation and work-focused interview requirements	7 days	14 days	28 days
<b>Lowest level</b> Failure to participate in a work-focused interview	Claimants subject to work-focused interview requirements only	Open ended until re-engagement		

There are a number of issues for the Committee to consider. They include

- (i) is the increased level of sanctions proportionate given its impact on the rest of the household including children? We would suggest the increase is disproportionate and sanctions of 13 weeks, 26 weeks and 3 years is too long.
- (ii) regulations in Britain only provide five working days for a claimant to establish good reason before a sanction is applied. The penalty for non-compliance will be increased sharply to should a longer period to provide details of a good reason also be provided. The Law Centre would suggest an increase to at least 15 working days to show reasonable cause.
- (iii) the DWP has introduced some of the increased sanctions arrangements for JSA and ESA in advance to broadly align with UC. This seems unnecessary given that the apparent advantages of Universal Credit are not available to claimants in the interim.
- (iv) a sanction for failing to take up more paid work or better paid work is new and raises questions of the appropriateness of such a provision.

Sanctions arrangements is also an area where operational flexibilities could be put in place and the Department should be pressed hard on this issue with specific undertakings given. These could include specific safeguards for people with mental and physical health

problems, with learning disabilities. Research has shown that people in these groups are disproportionately prone to being sanctioned<sup>3</sup>.

#### **Clause 28: hardship payments**

This provides a power for regulations to provide hardship payments for a claimant who has been sanctioned.

A new feature of hardship payments is that they will be recoverable (in effect loans). The DWP has signalled that the hardship rate will be 60 per cent of the daily amount by which the claimant's UC has been reduced by a sanction.

The Law Centre recommends that the hardship payments should not be recoverable. Evidence on sanctions has revealed that around 20 per cent of claimants did not know they had been sanctioned until after the event.<sup>4</sup> The loss of a significant amount of benefit is a sufficient punishment without a claimant having to pay additional money back. The preponderance of sanctions applied to people with mental health problems for example, is likely to create even greater difficulties in circumstances where hardship payments are made recoverable.

## **Chapter 3 – Supplementary and General**

#### **Clause 31 – regulation making powers**

This clause and Schedule 1 provides powers for regulations to cover income and savings rules including what is to be taken into account as income and savings and what it to be ignored.

The DWP has said the rules on savings are not going to change significantly. One change signalled by the DWP is that a claimant who spends savings reasonably and moves on to benefit will no longer be caught under 'deprivation of capital' rules. The Committee should seek clarity as to what, if any other changes will be made.

**Schedule 1 paragraph 6** provides for regulations to pay all or part of UC through vouchers. The Committee should seek information about when a voucher will be paid to claimants. The Law Centre can see no immediate basis for paying UC through vouchers.

**Schedule 1 paragraph 7** allows for regulations to provide that claimants from the EU with a right to reside who fall into the no work-related requirements, work focussed interview requirement only and work preparation requirement only can instead be made subject to the all work related requirements. We would recommend that this clause be deleted from the Bill. The provision is likely to prove unlawful. Article 14 of the European Convention of Human Rights provides for freedom from discrimination. The right is not free standing and must be invoked alongside another substantive right in the Convention. Article 1 of the Convention provides for a right to property. In *Sec v UK* (2005) the Grand Chamber of European Court of Human Rights held that social security benefit whether funded on a contributory or non-contributory basis were covered by Article 1 or Protocol 1. This leaves the Department having to provide an objective justification for treating EU nationals adversely. We can see no objective basis for such discrimination.

#### **Clause 32: regulation making powers**

This clause allows other regulation making powers under Schedule 2.

The scheme provides for amendments to allow some UC claimants to receive free school meals or legal aid. The relationship between UC and passport benefits remains unclear and

3 Sanctions in the benefit system: Evidence review of JSA, IS and IB sanctions SSAC occasional paper No1 (2006)

4 op cit

the Committee should press the Department for clarity on this issue as it potentially impacts on incentives to take work.

Paragraph 49 of Schedule 2 amends the State Pension Credit Act to ensure couples with one partner under pensionable age cannot receive pension credit. This may be an area where the Committee want to consider an amendment to safeguard older claimant couples forced to remain on UC.

#### **Clause 37: migration to Universal Credit**

This covers the provisions for transitional protection when moving from IS, JSA or tax credits onto Universal Credit and also provides for a short gap in benefit to not automatically lead to a loss of transitional protection. The Committee has already sought details of the arrangements for transitional protection and this will need to be carefully scrutinized. We understand that the transitional protection is likely to be eroded as benefits are uprated each year.

#### **Clause 42: pilot schemes**

This provides for pilot schemes to be introduced for specific purposes as part of the implementation of UC. The Committee should ask the Department what pilot schemes if any, are envisaged.

#### **Clause 43: regulations**

Sub-paragraph (6) allows for regulations to be made for different provision for housing costs and other additional needs to be made in different areas. The Committee should seek clarity from the Department as to what is the purpose of this provision.

#### **Clause 44: statutory rules procedures**

This sets out the statutory rules procedures for regulations. The committee should seek a plan with a time frame for the regulations as they remain a critical part of the scrutiny process.

#### **Clause 47: sanctions**

This clause introduces the anticipated new increased sanctions arrangements for Universal Credit into JSA in advance of the introduction of UC. As the improved earnings disregard arrangements will not be implemented in advance of UC we can see no justification in implementing a more punitive sanctions regime in advance. It also implements new hardship payments in advance of UC including turning these payments from grants into loans. The Committee should consider not implementing this clause.

#### **Clause 52: Employment and support allowance: restriction of entitlement**

This clause limits entitlement to contributory ESA for people in the work related activity group to 52 weeks. The provision is to be applied retrospectively in that claimants on contributory ESA for before enactment of this clause will have that period of entitlement counted towards the 52 weeks. In effect, many people will lose contributory ESA immediately. Claimants affected by this clause can move to income-related ESA if satisfying the means-test or alternatively lose benefit altogether where the claimant has a partner in work or savings above £16,000. Figures available from the DWP Equality Impact Assessment showed that almost half of those affected in Britain were aged 50 years of age or older. The implementation of this clause may be contrary to Article 1 Protocol 1 of the European Convention of Human Rights. In *Kiartan Asmundsson v Iceland* (2004) the Court held the removal of an industrial injury benefit from existing claimants was contrary to the right to property under Article 1 Protocol 1. The Court held if the pension had been reduced proportionately rather than terminated altogether then there would have been no breach. The Bill envisages that claimants already receiving contributory ESA for 12 months prior to

the introduction of the clause will lose benefit immediately, this clause is introduced. We understand the Department is likely to introduce this clause shortly after the Bill receives Royal Assent giving claimants on contributory ESA for 12 months little notice of the change.

The Committee should consider either not implementing this clause or amending it. There is a cost to such action which is currently estimated at £12.25 million in 2012/2013, £52.88 million in 2013/2014 and £56.92 million in 2014/2015. It is not clear if this is a net cost ie after taking into account the displacement costs of some claimants moving to income-related ESA or not. The Committee may wish to seek further information from the Department. In the alternative, an amendment to tie this provision to the age of a claimant eg those under 50 or 55 years of age or arrangements for the 12 months period not to commence until actual implementation might be considered.

#### **Clause 54: ESA in youth**

This abolishes ESA in your which is payable to young people under 20 (and in certain circumstances under 25) without the normal national insurance contributions conditions being satisfied. Existing claimants who are in the work related activity group will lose the benefit after 12 months. The Committee should consider not implementing this clause. The current cost is estimated at £390,000 a year. It is not clear whether this is net of the displacement costs of claimants moving to other benefits eg JSA.

#### **Clause 57 and 58: hardship payments/claimant responsibilities**

These clauses introduce the new claimant responsibilities, sanctions and hardship payment arrangements (including loans) for Employment and Support Allowance.

The new claimant responsibilities will not be introduced until the introduction of Universal Credit. The higher level sanctions arrangements associated with the 'all work requirements' do not apply to ESA. However, the increase in sanctions in other work related categories will be introduced in advance of Universal Credit to broadly align with the UC arrangements.

The Work Programme equivalent will not be introduced until October 2013 at the earliest and the improved work disregards will not be made available in advance of Universal Credit. As a result, it would be inequitable to introduce the increased sanctions in advance of Universal Credit.

Once UC is introduced the increased sanctions will only be relevant to claimants on contribution based ESA.

#### **Clauses 61, 62 and 63 entitlement to work: JSA and ESA**

These clauses create new requirements for claimants to have an entitlement to work for contributory JSA, contributory ESA, maternity allowance, statutory maternity, paternity and adoption pay.

Current immigration rules provide that people 'subject to immigration control' are excluded from income related JSA and income related ESA. These provisions will be extended to Universal Credit. The exclusion does not extend to contributory benefits where a person has paid his or her tax and national insurance contributions.

We can see no basis for creating this new provision. Moreover, a person whose legal status may have changed and who is legitimately challenging the situation will be denied a contributory benefit despite lawfully working during the period of building up contributions. Moreover, under the old A8 work registration scheme it was possible to lose the 'right to reside' status almost overnight in some circumstances.

These clauses should not be passed. The Department should be asked to provide likely numbers affected and cost savings. The figures (if available) will be very small though the impact on individuals will be significant.

### **Clause 69: housing benefit – determination of the appropriate maximum**

This is a significant clause which allows the Department to set the local housing allowance by reference to the lower of either the Consumer Price Index or bottom 30th percentile of private rented sector and to introduce the new public rented sector size related criteria into the calculation of HB for people of working age.

The calculation of the LHA by the lower rate of CPI or 30th percentile of private rented sector will have a considerable impact. The average increase in CPI since 1997 is around 2 per cent compared with a 4 per cent increase in 30th percentile rents in the private rented sector. At present, claimants on HB are expected to find accommodation in the cheapest 30 per cent of rents. Based on past evidence, the new arrangements will lead inexorably to HB claimants having to find accommodation in an even more restricted bottom end of the market or pay the difference in cost. This change needs to be considered as part of the wider cumulative impact of HB savings already implemented. This estimated savings for this £1.3 million in 2013/2014 rising to £7.92 million in 2014/2015.

In areas where demand for private rented sector accommodation is high, HB claimants will not be able to access accommodation. We recommend that this clause is not passed.

This clause also introduces the new size related element of housing credit for people of working age living in public/rented sector housing. This will lead to a reduction in maximum eligible housing credit of 14 per cent where a claimant is deemed 'over-occupying' by one bedroom and a 25 per cent reduction where deemed 'over-occupying' by two bedrooms or more. Draft regulations suggest that there will be few exceptions to this rule. The provision is unlikely to apply to accommodation registered

As a result, the new proposed arrangements will affect significant numbers of households in Housing Executive and Housing Association accommodation. The Housing Executive stock includes 44.3 per cent of homes with three bedrooms or more which have three bedrooms or more. The Housing Executive and Housing Association movement has yet to come up with alternative proposals to manage the difficulties created by this provision.

Moreover, the significant proportion of 'single identity estates' contained within the Housing Executive stock will also make moving tenants to smaller accommodation even less straightforward. These proposals are likely to face legal challenges on a number of fronts. First, in *Burnip v Secretary of State for Work and Pensions (SSWP) 2012* *Trengrove v SSWP (2012)* and *Gorry v Secretary of State for Work and Pensions (2012)* the Court of Appeal considered similar provisions which had been applied to HB in the private rented sector. The Court of Appeal held that the provision was indirectly discrimination which was covered by Article 14 of the ECHR and that HB was covered by Article 1 Protocol 1 of the Convention. In two of the cases, the applicants were severely disabled and required an extra bedroom for full time carers. This circumstance was resolved by an amendment to the HB regulations introduced in April 2011. The exemption in the size related criteria in the public sector covering the need for an extra bedroom for a full time carer has been included in draft regulations. However, in the third successful appeal (*Gorry*) the issue concerned two daughters aged 10 and 8 who both had disabilities which meant it was impractical for the children to share a room. The Department has not added this to the exemptions in either the private sector HB regulations or the draft proposed public sector size-related regulations. This omission is unlikely to survive a further legal challenge bearing in mind that discretionary housing payments were also available in the cases before the Court of Appeal.

A further challenge is also likely to arise under the right to a home, family and private life under Article 8 of the European Convention on Human Rights in cases where an extra room is provided for legitimate family reasons during temporary absences or in circumstances where a family is prepared to move to accommodation of a reduced size and no such transfer is forthcoming the private rented sector provides less secure tenure and a reduction in housing credit is applied.



As a result, the Law Centre would recommend that a delay in implementing this clause is made until firm and clear proposals for dealing with the issue are in place. In the alternative, additional exemptions from the provisions should be provided in the regulations including for families with children under 10 years of age with disabilities where sharing a room is not appropriate, foster carers who are between fostering placements and other circumstances where an additional bedroom is retained for legitimate family purposes.

The savings anticipated from this provision is £15.51 million a year from 2013/2014 onwards. The Committee might wish to get more details of how this has been calculated and what additional discretionary housing payments are expected to be paid as a result of the new arrangements.

#### **Clause 70: ending of discretionary payments**

This clause paves the way for the end of the discretionary part of the Social Fund (ie community care grants, budgeting loans and crisis loans). In Britain these payments will be administered by local authorities from April 2013. In Northern Ireland a replacement scheme will be introduced alongside the existing discretionary housing payments scheme administered by the Northern Ireland Housing Executive. Awards in advance of payment of benefit will be covered by Universal Credit. We understand the Department is considering the retention of the Social Fund beyond April 2013 as any replacement scheme will have to be consulted on, developed and may also require legislation. This will not therefore be completed by April 2013. As a result, this clause is unlikely to be introduced immediately. The Committee should ask the Department to clarify its intentions and timetable for replacing the Social Fund.

#### **Clause 71: purposes of discretionary payments**

This allows the discretionary Social Fund to pay loans for maternity expenses. Access to social fund maternity grants has been curtailed and the average social fund maternity grant (£506.87 in 2009/2010) and funeral expenses payment (£967.86 in 2009/2010) does not cover the actual costs associated with a birth or death.

#### **Clause 74: state pension credit carers**

This clause appears to extend entitlement to the additional amount of the guarantee credit beyond claimants receiving carer's allowance. It is not clear what the extension will be as this is being left to regulations.

#### **Clause 75: state pension credit: savings rules**

This introduces a savings limit for housing credit which will be paid as part of Pension Credit. The existing arrangements for Pension Credit claimants with housing costs involve claiming HB which also has a savings limit. For owner occupiers with outstanding mortgages, the capital limit is new as help with mortgage interest in Pension Credit is not subject to a capital limit. The Committee may wish to ask the Department to provide details of the numbers affected by this provision.

## **Chapter 4: Personal Independence Payment**

### **Clauses 76 – 94 Personal Independence Payment**

These clauses introduce the framework for Personal Independence Payment (PIP) which will be replacing Disability Living Allowance for working age claimants.

The new benefit is due to be introduced from June 2013 onwards. The Treasury Report produced at the time of the announcement of PIP stated the aim to save 20 per cent over projected expenditure on DLA. In Northern Ireland savings of £22.19 million and £65.94 million are projected from 2013/2014 and 2014/2015.

PIP will have two components – a daily living component and a daily mobility component. The details of both will be contained in regulations. The details of the components and the scores attached to satisfying the conditions have been the subject of consultation but, remain to be finalized.

The new benefit will also entail more regular medical assessment which will be provided outside of the DSD. The Committee may wish to press the Department on the terms of any new contract including any penalty clauses for poor quality assessments bearing in mind the problems associated with the delivery of the ESA medical assessment contract by ATOS Healthcare.

Changes to the framework between the DLA and PIP which have been confirmed by DWP include the following:

a claimant must satisfy the conditions for PIP for three months before the date of entitlement and six months afterwards. This compares with periods of three months before and six months afterwards for DLA. We would recommend amending clause 80(1)(b) and 80(3)(b) to six months

where an award has ended and a claimant's condition has deteriorated then, where a new claim is made within 12 months, the new three month waiting period does not have to be served. This is a reduction from the 2 years that applies to DLA. This will be dealt with in regulations.

a new residence/presence test is being introduced. The new past presence test will be much more restricting than the current test. The new past presence test will expect claimants to have been in the UK for two of the past three years. The previous residence/presence test was unlawful in European law terms (see ECJ C 503/09 *Stewart v United Kingdom*). The new test is also unlikely to survive a challenge in the European Court of Justice. This issue will be dealt with in regulations.

PIP will not be paid to prisoners or people held on remand after 28 days.

If a person is held on remand and there is no sentence of imprisonment or detention, or any charge is dropped or any conviction is quashed then no arrears will be paid. DLA is not paid to prisoners or those held on remand, however, if released without charge or a conviction is quashed then arrears of benefit are paid. The arrangements for PIP are unfair to people wrongly held on remand. We would recommend amending clause 86 to restore the position that applies to DLA.

The rules on temporary absence from the UK are being made tougher. They will allow entitlement to PIP for only four weeks or up to 26 weeks where a claimant goes abroad for treatment. For DLA temporary absences of up to 26 weeks do not normally affect entitlement and temporary absences for treatment do not have a specific time limit. This will be dealt with in regulations.

## Part 5: Social Security General

### **Clauses 95 and 96: benefit cap**

These clauses pave the way for the Benefit Cap. Regulations will set out the level of the cap, how the cap will be calculated, the benefits which will be taken into account, how any reductions in benefit will be applied and exceptions from the cap. The cap will be set at a level designed to match the average weekly wage after tax and national insurance payments. A separate figure will be set for single people (£350 a week) for lone parents and couple households (£500 a week).

The numbers affected by the benefit cap is likely to be small in Northern Ireland due to lower housing costs. Nonetheless, those affected will find it difficult to deal with what will be a significant loss of income. The Department should be asked to provide detailed figures of the numbers likely to be affected. The saving that will be made as a result of the cap is estimated at £7.26 million in 2013/2014 and £8.58 million in 2014/2015. We would be interested in how these figures were calculated. In the meantime, the Law Centre recommends that carer's allowance Widow's and Bereavement benefits and contributory based ESA are added to the list of proposed benefits exempt from the application of the benefit cap. Current exemptions proposed from the cap include households where DLA, Attendance Allowance, PIP, industrial injuries benefits, the support component of ESA and War Widow or Widowers Pensions are payable.

#### **Clause 98: powers to require information relating to claims and awards**

This clause amends the Social Security Administration (NI) Act 1992 to provide wider powers to require individuals or others to provide information or evidence which is relevant to a potential claim or an existing claim or award for benefit. Regulations will set out who is to be covered by this provision. We would suggest the Committee asks the Department which individuals and organisations will be covered by the regulations drawn up under this provision and the specific purposes of the wider powers beyond the examples provided in the explanatory memorandum.

#### **Clause 100: payments on account**

This clause provides for payments on account to be made in cases of need and in circumstances where the Department considers that prescribed criteria are met and a payment can reasonably be expected to be recovered.

It is not clear whether or not this is the legislation vehicle for the introduction of a replacement to the Social Fund. The Committee should seek clarity on this issue and also ask for a detailed process, timetable and substantial plans for any replacement to the Social Fund (see also clause 70).

#### **Clause 101: mandatory revision before appeal**

This clause provided for changes to appeals procedures so that all appeals are initially treated as applications for revision. Where the application is not changed as a result of the mandatory reconsideration the claimant must then seek a further appeal in writing. The Law Centre would suggest three changes to the proposals where have been separately consulted on. First, that where a mandatory revision does not provide the claimant with what has been requested then, the original application should be automatically treated as an appeal without the claimant being required to lodge a further appeal. Secondly, provision should be made to proceed straight to appeal in cases which are urgent (for example, in right to reside disputes where the decision often leaves a claimant without any income). This would not prevent the Department looking again at the issue in the interim. Thirdly, time limits are applied to claimants to deliver both the initial application for mandatory reconsideration and further appeal. A time limit should be applied to the Department to ensure an appeal is dealt with in a timely fashion. The Department of Work and Pensions and HMRC are both considering a 42 day time period in Britain. The Committee should seek an assurance that similar provision will be enacted in Northern Ireland.

#### **Clauses 103-104: recovery of overpayment of certain benefits**

This clause significantly changes the law governing the recovery of overpayments of JSA, ESA and UC and housing credit payable within state Pension Credit.

Currently, an overpayment of JSA and ESA is recoverable where the claimant or someone acting on his or her behalf fails to disclose relevant information or misrepresents circumstances (accidentally or otherwise) and the failure to disclose or misrepresentation

causes the overpayment. In effect, the claimant must have caused or contributed to the overpayment.

The new clause replaces this concept with a right to recover any amount of Universal Credit, JSA, ESA or housing credit in SPC. In practice, this can include where the overpayment is the fault of the Department and the claimant could not reasonably have realised there had been an overpayment. This is broadly in line with powers currently taken by HMRC to recover overpayments of tax credits.

The Committee should ask the Department for details of the circumstances in which a recovery of an overpayment will not be made. In addition, for tax credits the details of when a recovery is not sought is contained in a code of practice document COP26. The Department is likely to produce its own equivalent and details of the Code of Practice and what it will contain should be requested.

This clause also provides the Department with powers to recover overpayments through employers (including social fund loans and HB overpayments) without having to go to court and to add court costs to the sum recovered from benefit where court action is taken. The clauses also require employers to comply with the obligation to deduct money from an employees earnings and a failure to do so can be a criminal offence. An administrative charge (to be specified in regulations) can be levied for paying money over to the Department. All of these provisions are new.

#### **Clauses 109 -111: benefit penalties for benefit fraud not resulting in over-payment**

These clauses introduce additional powers to issue benefit penalties. At present, a benefit penalty can only be applied where there has actually been an overpayment. The benefit penalty as an alternative to prosecution is 30 per cent of the actual overpayment. The new powers allow for a benefit penalty to be introduced even where no overpayment has resulted and will increase the penalty to £350 or 50 per cent of the overpayment whichever is the greater up to a maximum of £2000. Where no overpayment has arisen the benefit penalty will be £350. At present, there is a 28 day cooling-off period to decide whether to accept the alternative to prosecution. This will be reduced to 14 days.

The Law Centre's view is that a minimum penalty of £350 is disproportionate particularly where no overpayment has arisen. In cases where there has been an overpayment the increase of a penalty from 30 per cent to 50 per cent of the overpayment (on top of the recovery of the overpayment itself) is also disproportionate. We would recommend not introducing those changes.

#### **Clause 112: civil penalties for incorrect statements and failure to disclose information**

This introduces an additional penalty over and above recovering any overpayment in specific circumstances. A similar provision is available to HMRC for tax credits but is new for covering UC and other social security benefits. The civil penalty was introduced in Britain on 1 October 2012 and is £50.

#### **Clauses 113 – 115: benefit offences – period of sanction**

These clauses increase the sanction periods imposed on social security benefits (save for certain exempted benefits) where a conviction or benefit penalty as an alternative to prosecution or caution instead of prosecution is secured. This is sometimes known as the 'one strike rule'. Where a second benefit offence occurs within five years a further period of sanctions is applied under the two strikes rule. The increase in the loss of benefit period increases proposed is as follows:

	One strike rule	Two strike rule	Serious organized or identify fraud
Current provision	Four weeks	13 weeks	No specific provision
Proposed changes under the WR Bill	13 weeks (or four weeks if accepting benefit penalty or formal caution)	26 weeks or three years if within five years of a two previous offences including benefit penalty	Three years

The Law Centre does not condone fraud. However, we believe the increased provisions are disproportionate. For example, a person whose actions have led to no overpayment and who accepts a benefit penalty will now have to both repay £350 and a loss of benefit of up to four weeks. Furthermore, a three year loss of benefit for repeated or serious offences of fraud is likely to have a severe impact on the rest of a benefit household including children who have not been involved in the subterfuge. We believe it would be better to use the extensive criminal law powers already available to deal with offenders rather than punishing innocent parties.

Clause 115 will lead to an end to cautions as an alternative to prosecution. Instead the more severe administrative penalty will be applied instead.

#### **Clause 130: rate relief schemes**

The Law Centre would recommend the Committee seek clarity from the Department as to what changes, if any, will be made to the Rate Rebate Scheme. In Britain, Council Tax Benefit (CTB) has been passed to local authorities allowing them to implement their own schemes. The money transferred to local authorities included a ten per cent reduction from the money spent on CTB. The Law Centre is unclear whether a similar ten per cent reduction is being made in Northern Ireland and if so, how this reduction in funding is being realized.

#### **Law Centre (NI)**

October 2012

## Suggested Amendments to the Welfare Reform Bill 2012: A Paper for the Social Development Committee

The Law Centre would recommend the following amendments to the Welfare Reform Bill.

### **Amendment 1: Clause 11 Housing Costs**

Page 5, clause 11 line 31

5(b)(ii) add the words 'not exceeding 13 weeks'

#### **rationale**

From 5 January 2009 modified rules were introduced for income support, income related JSA and income related ESA to protect claimants from losing their homes by normally requiring only a 13 week waiting period before help with mortgage interest and other payments become available. Prior to this claimants had to serve either a 26 week or a 39 week period before receiving help with mortgage and other costs. The DWP has yet to announce what waiting period will apply under Universal Credit. The initial grounds for the modification in January 2009 have not significantly changed with repossessions currently on the rise. The amendment to clause (5)(b) will ensure the preservation of the current provision.

### **Amendment 2: Clause 11 housing costs**

Page 5 clause 11 line 31

Add 5(c) 'provide for the calculation of an award under subsection (1) to be made according to different criteria for the first 13 weeks of a claim in such circumstances as may be prescribed'.

#### **rationale: 13 – week rule amendment**

Under current housing benefit rules, a claimant has a period of 13 weeks during which they may receive benefit equal to their full rental liability before broad rental market area restrictions apply from 14 weeks onwards. This is to allow a claimant time to find and move to a new address that is within the LHA and broad rental market area restrictions or a person who loses a job to find other work. It will confirm that the 13 week rule will continue under UC.

### **Amendment 3: Clause 14 claimant commitment**

Page 7 line 3

At the end add

(b) regulations shall prescribe circumstances to allow payment of a modified amount of a standard allowance and amounts under section 10, section 11 and section 12 where only one member of a couple accepts a claimant commitment.

#### **rationale**

We understand that where only one member of a couple agrees a claimant commitment no Universal Credit will be paid. This in effect penalises the claimant willing to sign up to the claimant commitment and also any children who are part of the household. The regulations published in Britain do not provide an exemption to entitlement where the other partner refuses to make a claimant commitment for example, due to a family dispute or other dispute with the Department. The amended clause would allow for example, the Department to pay the partner an amount to cover a single person only plus an amount for children and housing costs. Without such an option a partner would be forced to leave the relationship to obtain



any benefit. In some circumstances, this may not be appropriate or wise (for example, due to fear of domestic violence).

#### **Amendment 4: Clause 26 higher level sanctions**

Page 13 line 13

Replace the words 3 years with '26 weeks'

##### **rationale**

This would ensure that the maximum period of disallowance that currently applies to income support, income related JSA and income related ESA is maintained. Current sanctions apply from one to 26 weeks depending on circumstances. A sanction of loss of benefit for three years for a third failure to comply with a requirement within a year is disproportionate. Evidence suggests that people with mental health problems, learning disabilities and people with literacy problems are more prone to face sanctions. A three year loss of benefit combined with a backstop of a new hardship payment regime with tougher conditions and making payments through loans will particularly affect any household with children. The impact of a reduced income which is repayable for such a long period for households with children is counterproductive to the Northern Ireland Executive's aim of reducing severe child poverty.

#### **Amendment 5: Clause 26 higher level sanctions**

Page 13 line 24

Add

(9) 'a claimant shall be provided with at least fifteen days to provide a good reason for not complying with any requirement in this section.'

##### **rationale**

The Department has reduced the time to show good cause for failing to meet a requirement for income support JSA and ESA to five days in current regulations. Given the intention to significantly increase the period of sanctions there should be a more reasonable period to allow a claimant to show good cause. The Department in Britain does not appear to be willing to extend the time to show good reason. Five days is insufficient in a variety of circumstances for example, the death of a close relative, family emergency, serious ill health. Fifteen working days is a more reasonable minimum.

#### **Amendment 6: Clause 27 other sanctions**

Page 14 line 20

Add

(10) 'a claimant shall be provided with at least fifteen days to provide a good reason for not complying with any requirement in this section.'

##### **rationale**

see amendment

#### **Amendment 7: Clause 28 hardship payments**

Line 35

Delete (2)(f) whether hardship payment are recoverable

**rationale**

The Department for Work and Pensions has confirmed that a hardship payment will be a fixed rate of 60 per cent of the daily amount by which the claimant's UC has been reduced by a sanction. This is a significant reduction in entitlement.

The additional condition of making the payment a recoverable loan is disproportionate. To qualify for a hardship payment a claimant has to demonstrate a need for a payment to meet the most basic and essential needs, in effect, accommodation, heating, food and hygiene needs. To make the payment a loan will only create longer term difficulties. A household with children where a sanction is applied will face prolonged financial difficulties and hardship. The Northern Ireland Executive has set a target to reduce severe child poverty and sub paragraph (2)(f) runs counter to this aim.

**Amendment 8: Clause 45 claimant commitment for jobseeker's allowance**

Page 23 after line 37 add

(ii) regulations shall prescribe circumstances to allow payment of a modified amount of benefit where only one member of a couple accepts a claimant commitment.

**rationale**

This ensures where only one member of a couple agrees to enter a claimant commitment for jobseekers allowance then some benefit is payable. Regulations could provide for example, that a single person rate is payable.

**Amendment 9: clause 47 sanctions**

Page 25 line 4 to page 29 line 30 Delete clause 47

**rationale**

This clause is designed to introduce the increased sanctions powers and the new hardship payments including paying such payments by loans. The government in Westminster has argued that claimants will be helped back into work through improved earnings disregards and a comprehensive Work Programme tailored to claimants needs. In return, claimants are expected to take additional responsibilities and the failure to do so will lead to greater sanctions. The improved earnings disregards will not be in place within jobseeker's allowance and the programmes to support claimants back to work are not as comprehensive as those available in Britain. Moreover, the earliest any new programmes will commence is October 2013. This clause applies the stick part of the new arrangements in advance of the introduction of Universal Credit without the carrot. It is therefore unfair and unreasonable.

**Amendment 10: clause 50 claimant responsibilities for jobseeker's allowance**

Page 35 line 14

In 5(b) replace 3 years with 26 weeks

**rationale**

This maintains the current maximum length of sanction of 26 weeks as a sanction covering three years is disproportionate (see amendment 4).

**Amendment 11: clause 50 claimant responsibilities for jobseeker's allowance**

Page 36 line 26 add

(10) A claimant shall for any purpose of this part be provided with at least fifteen days to provide a good reason for not complying with any requirement in this section.

**rationale**

As per amendment 5 this provides a claimant with more time to offer an explanation to the Department and to avoid a sanction being applied.

**Amendment 12: clause 52 – period of entitlement to contributory allowance**

Page 39 Line 7 delete sub paragraph (4)

**rationale**

This would allow claimants entitled to ESA in youth to continue to be entitled to benefit.

People who have become severely disabled in youth should be entitled to a sustainable income to support the transition from dependent young person to independent adult without being affected by decisions about work, education and relationships at a vulnerable age.

Currently, people who are disabled from birth or early in life may claim contributory ESA in youth from age 16. This kind of support has been a feature of the social security system in different guises since 1975.

The availability of contributory ESA is also of particular importance to:

- young disabled people who have been temporarily in and out of care as it provides a secure, independent income;
- young disabled people who have built up savings to be used for an adapted car, disability equipment, deposit on a property or future care needs. In the absence of non means-tested support, using savings for basic daily living costs, will have long-term implications for the future expenditure on care needs when their carers (usually elderly parents) are no longer able to provide care and accommodation;
- young disabled people who may be vulnerable to forming unsuitable relationships, and exploitation, due to fears about losing an independent income;

The retention of ESA in youth provisions has a modest additional cost of £390,000 a year which could be met for example, within the Social Protection Fund.

**Amendment 13: clause 52 – period of entitlement to contributory allowance**

Page 39 line 22

Amend subparagraph (b)

After allowance delete the rest of the sub paragraph and replace with the words ‘only days occurring after the coming into operation of this section are to be counted’.

**rationale**

This amendment provides that the removal of entitlement to contributory ESA for people in the work activity related group will not be applied retrospectively. This provides time for claimants already on benefit to prepare for the loss of entitlement including adjusting financial commitments etc and recognises that when originally claiming contributory ESA there was no limited period of entitlement attached to the benefit.

There will be a cost to such a provision but, this could be met through the Social Protection Fund and be part of any additional welfare protection fund which should be introduced to protect claimants from the impact of welfare reform. The extra costs will be for those claimants who cannot transfer to income related ESA due to having a partner working or savings over £16,000. This will be offset to an extent by savings made on tax credits for some claimants who would have lost ESA(C) earlier would also have seen an increase in WTC and/or CTC.

**Amendment 14: clause 54 conditions relating to youth**

Page 40 line 15 for clause 54 substitute the following:

54 In section 1 – 4 of Schedule 1 of the Welfare Reform Act (Northern Ireland) Act 2007 (employment and support allowance after subsection (3) insert

3A the third condition is that;

- (a) the claimant has limited capability for work-related activity; and
- (b) he was under 20 when the relevant period of limited capability for work began; and
- (c) he has had limited capability for work for at least 28 weeks.

**rationale**

To make provision for young people to be eligible for contributory ESA where they have not had a chance to build up national insurance contributions and are in the support group.

This allows contributory ESA in youth to remain at least for those in the support group. Given that people in the support group are to be exempt from the one-year limit on contributory ESA entitlement, there is good reason to maintain eligibility to ESA in youth for those in the support group.

**Amendment 15: clause 55 claimant commitment for employment and support allowance**

Page 41 after line 14 add

(7) Regulations shall prescribe circumstances to allow payment of a modified amount of benefit where only one member of a couple accepts a claimant commitment.

**rationale**

This ensures that where only one member of a couple agrees to enter a claimant commitment that some benefit is payable, Regulations could provide for example, that a single person rate is payable.

**Amendment 16: clause 58 claimant responsibilities for employment and support allowance**

Page 50 after line 8 add

(d) after paragraph 102A there is inserted

102B ‘Regulations shall for any purpose of this part provide for at least ten days to provide a good reason for not complying with any requirement in this section’.

**rationale**

As part amendment 5 this provides a claimant with more time to provide an explanation to the Department and will help avoid claimants with health problems facing sanctions.

**Amendment 17: clause 60 claimant commitment for Income Support**

Page 51 after line 15 add

(7) Regulations shall prescribe circumstances to allow payment of a modified amount of benefit where only one member accepts a claimant commitment.

**rationale**

This ensures where only one member of a couple agrees to enter a claimant commitment for income support then some benefit is payable. Regulations could provide, for example, that a single person rate if payable.

**Amendment 18: clause 61 entitlement to work: jobseeker's allowance**

Page 51 line 25 delete clause 61

**rationale**

This clause created new requirements for a claimant to have an 'entitlement to work' for contributory JSA, contributory ESA, maternity allowance, statutory maternity, paternity and adoption pay.

Current immigration rules provide that people 'subject to immigration control' are excluded from income based JSA and income related ESA. These provisions will be extended to Universal Credit. The exclusion does not currently extend to contributory benefits where a person has paid his or her tax and national insurance contributions.

We can see no basis for creating this new provision. As a result, a person whose legal status may have changed and who is legitimately challenging the situation will be denied a contributory benefit despite lawfully working during the period of building up contributions. Moreover, under the old A8 work registration scheme it was possible to lose the 'right to reside' status almost overnight in some circumstances.

This clause should not be passed. The Department should be asked to provide likely numbers affected and cost savings. The figures (if available) will be very small though the impact on individuals will be significant.

**Amendments 19: clause 62 entitlement to work: employment and support allowance**

Page 52 line 5 delete clause 62

**rationale**

See amendment 18

**Amendment 20: clause 63 entitlement to maternity allowance and statutory payments**

Page 52 line 27 delete clause 63

**rationale**

see amendment 18

**Amendment 21: clause 69: determination of appropriate maximum**

Line 15 delete clause 69

**rationale**

This is a significant clause which allows the Department to set the local housing allowance by reference to the lower of either the Consumer Price Index or bottom 30th percentile of private rented sector and to introduce the new public rented sector size related criteria into the calculation of HB for people of working age.

The calculation of the LHA by the lower rate of CPI or 30th percentile of private rented sector will have a considerable impact. The average increase in CPI since 1997 is around 2 per cent compared with a 4 per cent increase in 30th percentile rents in the private rented sector. At present, claimants on HB are expected to find accommodation in the cheapest 30 per cent of rents. Based on past evidence, the new arrangements will lead inexorably to HB claimants having to find accommodation in an even more restricted bottom end of the market or pay the difference in cost. This change needs to be considered as part of the wider cumulative impact of HB savings already implemented. This estimated savings for this £1.3 million in 2013/2014 rising to £7.92 million in 2014/2015.

In areas where demand for private rented sector accommodation is high, HB claimants will not be able to access accommodation.

This clause also introduces the new size related element of housing credit for people of working age living in public/rented sector housing. This regulation in Britain shows that this will lead to a reduction in maximum eligible housing benefits credit of 14 per cent where a claimant is deemed 'over-occupying' by one bedroom and a 25 per cent reduction where deemed 'over-occupying' by two bedrooms or more. Draft regulations in Britain suggest that there will be few exceptions to this rule. The provision is unlikely to apply to accommodation registered

As a result, the new proposed arrangements will affect significant numbers of households in Housing Executive and Housing Association accommodation. The Housing Executive stock includes 44.3 per cent of homes with three bedrooms or more which have three bedrooms or more. The Housing Executive and Housing Association movement has yet to come up with alternative proposals to manage the difficulties created by this provision.

Moreover, the significant proportion of 'single identity estates' contained within the Housing Executive stock will also make moving tenants to smaller accommodation even less straightforward. These proposals are likely to face legal challenges on a number of fronts. First, in *Burnip v Secretary of State for Work and Pensions (SSWP) 2012* *Trengrove v SSWP (2012)* and *Gorry v Secretary of State for Work and Pensions (2012)* the Court of Appeal considered similar provisions which had been applied to HB in the private rented sector. The Court of Appeal held that the provision was indirectly discrimination which was covered by Article 14 of the ECHR and that HB was covered by Article 1 Protocol 1 of the Convention leave is being sought to appeal further to the Supreme Court.

In two of the cases, the applicants were severely disabled and required an extra bedroom for full time carers. This circumstance was resolved by an amendment to the HB regulations introduced in April 2011. The exemption in the size related criteria in the public sector covering the need for an extra bedroom for a full time carer has been included in draft regulations. However, in the third successful appeal (*Gorry*) the issue concerned two daughters aged 10 and 8 who both had disabilities which meant it was impractical for the children to share a room. The Department has not added this to the exemptions in either the private sector HB regulations or the draft proposed public sector size-related regulations. This omission is unlikely to survive a further legal challenge bearing in mind that discretionary housing payments were also available in the cases before the Court of Appeal.

A further challenge may also arise under the right to a home, family and private life under Article 8 of the European Convention on Human Rights in cases where an extra room is provided for legitimate family reasons during temporary absences or in circumstances where a family is prepared to move to accommodation of a reduced size and no such transfer is forthcoming the private rented sector provides less secure tenure and a reduction in housing credit is applied.

As a result, the Law Centre would recommend that either a delay in implementing this clause is made until firm and clear proposals for dealing with the issue are in place or a phased approach is applied with a penalty only applying to households over occupying accommodation by two bedrooms. As an additional alternative, therefore exemptions from the provisions should be provided in the regulations including for families with children under 10 years of age with disabilities where sharing a room is not appropriate, foster carers who are between fostering placements and other circumstances where an additional bedroom is retained for legitimate family purposes. It is clear that discretionary housing payments will not fill this gap. Moreover, it is clear that discretionary housing payments are not intended as anything other than a temporary solution to individual cases.

The savings anticipated from this provision is £15.51 million a year from 2013/2014 onwards.



**Amendment 22: clause 95 – benefit cap**

Page 66 after line 30 after subsection (4) insert new subsection

(4)(a) ‘The regulations under this section must not impose a benefit cap to the welfare benefits of claimants with entitlement to carer’s allowance or additional amounts within universal credit for claimants with regular and substantial caring responsibilities’.

**rationale**

This amendment would ensure that where a claimant or partner is providing full time care of at least 35 hours a week to a disabled person then the benefit cap would not apply. In practice, such carers save the state a considerable cost in not having to provide alternative care to that provided in the home. Applying the benefit cap which is designed to move people into work is likely to push a carer into giving up this role and the savings from the benefit cap may well be displaced by additional expenditure elsewhere.

**Amendment 23 – clause 95 – benefit cap**

Page 67 after line 4 inserts (c) and (d)

(c) child benefit under the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(d) employment and support allowance under the Welfare Reform (NI) Act 2007 or an additional amount in universal credit based on having limited capacity for work or limited capability for work related activity because of their physical or mental condition.

**rationale**

These amendments ensure that the payments of child benefit to meet a child’s needs and ESA and the additional sum paid in universal credit to people with significant health problems can be used to meet their purpose. The needs of children and additional costs of having serious health problems should not be eroded through the benefit cap. In addition, those people recognised as having limited capability for work or limited capability for work related activity are unlikely to be able to enter employment in order to avoid the impact of a benefit cap.

**Amendment 24. Clause 101: powers to require consideration of revision before appeal**

P70 after line 8 insert

101A payments pending appeal

In Section 5(1) of the Social Security Administration Act (NI) 1992 (regulations about claims and payments) after paragraph (r) insert (s) for the making of a payment pending appeal.

**Rationale**

This amendment provides for payment pending appeal. This is necessary to enable claimants to financially survive while waiting for social security appeals, which are currently taking months to be heard. The motivation for this amendment is natural justice. A high number of appeals are decided in favour of appellants, and it is unjust and unfair for appellants and their families to be left without benefit while they are waiting for their appeals to be heard. In the case of appeals relating to housing costs, this could result in, at best, rent or mortgage arrears, and at worst, possession proceedings and homelessness. In the case of appeals relating to personal allowances for claimants or their children, this could result in severe hardship, and in the worst case scenarios, destitution, or children being taken into care. Under the current system, there is provision for payment of the basic level of employment and support allowance pending an appeal about work capability assessment. We believe this provision should be carried forward into universal credit and extended to appeals relating to other elements of universal credit.

**Amendment 25: Clause 103 recovery of benefit payments.**

P71 after line 30 insert

(8) For the purposes of this section, “entitlement” means the amount that would have been awarded to the claimant had the claim been correctly represented and all relevant material facts disclosed for the period to which the overpayment applies.

**Rationale.**

To apply to Universal Credit the rules on the recovery of overpayments that reflect those currently applying to most benefits namely that official errors by the Department that a claimant could not have known about are not recoverable and to provide for the offset of ‘underlying entitlement’ from overpayments.

The current rules on recoverability of overpayments that apply to income support, JSA, ESA, DLA, pension credit and other benefits is that overpayments are recovered where there has been a misrepresentation, or failure to disclose a material fact, by a claimant or any other person.

This is a fair and just test, which has been in place for many years. Its purpose is to allow recovery of an overpayment which arose as a result of a claimant’s actions or failures (whether innocent or fraudulent) but protects the claimant in cases where the overpayment arose because of official error by the Department. This balances the responsibilities of claimants to correctly notify their circumstances when claiming benefit, and the Department to correctly calculate and pay awards based on the information available to them.

Clause 103 of the Bill proposes to allow recovery in all cases, regardless of culpability. This alters the balance of responsibilities and justice unfairly in favour of the Department. It would mean, for example, that a claimant could be presented with a large bill for repayment amounting to many thousands of pounds, many years after an overpayment occurred, even though the overpayment was entirely due to the errors of the Department. This is unfair and unreasonable. The Department of Work and Pensions has recognised the justice of such a contract by indicating that it would provide for non recovery in cases of official error in a code of practice on recovery. We believe that it is essential that this provision is statutory, so that a wronged claimant has a right of appeal against recoverability to an independent tribunal. It should be noted that the Government has expressed its confidence that the introduction of universal credit will significantly reduce the scope for official error (see chapter 5 of the White Paper, Universal Credit: welfare that works Cm7957 November 2010). If this is the case, the administrative burden of retaining protection for the claimants unjustly prejudiced by official error overpayments should be greatly reduced.

The system of automatic recoverability (supplemented by a non statutory code of practice) being proposed by Clause 103 mirrors the system which applies to tax credits. This system has injustice and hardship, and has been condemned in reports by the Parliamentary Ombudsman and Select Committees of the House of Commons. It has also resulted in thousands of complaints to MPs, the Revenue Adjudicator and the Ombudsman.

The proposed amendment provides for the offset of underlying entitlement when calculating overpayments. Underlying entitlement means the entitlement that would have been paid to the claimant had a claim been correctly made at the time. For example, an overpayment may arise if a claimant had separated from their partner and the claim continued to be paid as a couple claim for several weeks after the date of separation. The claimant had not declared the change of circumstances immediately and had told their personal adviser that they were not aware that they needed to because they had hoped the separation was temporary. The claim is cancelled from the date of separation and the claimant must make a new claim. However, had he or she immediately declared the change, then the claim would have been reassessed as a single claim, so it would have given rise to the entitlement as a single claimant which could be offset against the overpayment as ‘underlying entitlement’.

This mirrors the approach taken in the housing benefit regulations which ensures that only the true amount of excess entitlement is recovered.

This provision is particularly needed in relation to universal credit because there is a requirement for the benefit to be claimed by with either a single claimant or by both members of a couple, which, as the case with tax credits, results in many notional overpayments when there is a change of status from single to joint claims, and vice versa. HMRC belatedly recognised the needs for the offset of underlying entitlement in such cases and has introduced non statutory provision for this from January 2010-. This Bill gives the opportunity of providing for offsetting on a statutory basis, ensuring that if applied fairly, openly and consistently.

**Amendment 26: Schedule 1 Universal Credit: Supplementary regulation – making powers**

P99 line 5

Delete subparagraph 7 work related requirements.

Schedule 1 subparagraph 7 allows for regulations to provide that claimants from the EU with a right to reside who fall into the no work related requirements, work focused interview requirement only and work preparation requirement only can instead be made subject to the all work related requirements. We would recommend that this clause be deleted from the Bill. The provision is likely to prove unlawful. Article 14 of the European Convention of Human Rights provides for freedom from discrimination. The right is not free standing and must be invoked alongside another substantive right in the convention. Article 1 of the Convention provides for a right to property. In *Stec v UK* (2005) the Grand Chamber of European Court of Human Rights held that social security benefits whether funded on a contributory or non contributory basis were covered by Article 1 of Protocol 1. The UK government has accepted this ruling in a number of cases concerning the status of social security benefits under Article 1 or Protocol 1. This leaves the Department having to provide an objective justification for treating EU national adversely. We can see no objective basis for such discrimination. It is also arguably contrary to age discrimination legislation as it will require EU claimants of pensionable age to meet work conditions requirements while making no such provision for British and Irish nationals. The Department for Work and Pensions has stated that “claimants from the European Union who are workers or jobseekers and are entitled to Universal Credit will always fall into the all work related requirements group ( see paragraph 233 Explanatory Memorandum for the Social Security Advisory Committee Universal Credit Regulations 2012). In effect, this provision enables the Department to treat an EU national who has a right to reside to meet all work requirements which will entail normally looking for work 35 hours a week. The right to reside test will already exclude work seekers or new arrivals from other EU member states. Instead it will impact on people from the European Union who have worked from Northern Ireland for example, where the claimant:

- has earnings above the individual conditionality threshold
- has caring responsibilities for a severely disabled person
- is a lone parent with a child under 12 months old
- is a nominated foster parent or adopter of a child under 12 months old
- is pregnant and within 11 weeks of the baby being due or for the first 15 weeks after birth
- above state pension age

This provision proposes to do something contrary to European Law and the Human Rights Act 2000 and is therefore unlawful. As the Welfare Reform Bill is secondary legislation under the Human Rights Act the courts have powers to strike down the clause. As a matter of law and principle the clause should be deleted.

## Universal Credit Case studies

### Case Study 1 – Conditionality

Tom suffers from MS, which is reasonably controlled with medication, but sometimes it will flare up causing him pain and to become debilitated. He used to work in an office, but became unemployed and has been claiming Universal Credit for some time. He has been assessed under the Work Capability Assessment of ESA as having limited capability for work. He recently attended a work focused interview and was told that he must attend a two month computer course to improve his computer skills. He feels that this is inappropriate for him, as he already is fully skilled using computers.

The options available to him are either to attend the course (which he feels is inappropriate for his needs) or not to attend and face the prospect of a sanction being imposed on him. The sanction would be a low level sanction and he would continue to be sanctioned until he complies with the requirement. He can appeal the Department's decision to sanction him but he would continue to be sanctioned while waiting for the appeal (and mandatory revision process) to be resolved.

#### **Context**

Low level sanctions are applied where there is a failure to undertake a specific work search requirement, work preparation requirement or attend a compliance interview. The sanction will normally be loss of the standard personal allowance (or 50% of a joint couple allowance) until the requirement is met plus a further fixed period of 7 days for a first failure , 14 days for a second level failure within a year , and 28 days for a subsequent failure within a further year.

It is intended that hardship payments should become recoverable. They will only be paid during a sanction where a claimant is unable to meet immediate, basic and essential needs for accommodation, heating, food and hygiene. In addition, claimants must also have made every effort to access alternative sources of support and to cease to incur other expenditure. They will also have to reapply for hardship payments every month.

As currently, there will be no right of appeal to a tribunal against the work requirement direction to attend the course. Disputes will have to be addressed with the claimant's personal adviser or their manager. There will be a right of appeal against a Department decision to impose a sanction, including whether there was 'good reason' for not complying with a requirement, but claimants will have to apply for an internal revision first.

### Case Study 2 - Monthly awards

#### **Examples**

##### **Monthly assessments**

Megan has a child two days before the end of her assessment period. The child allowance will be included in UC award for the whole month. As a result she gains considerably.

Ian's daughter leaves the family home 29 days into his assessment period. He will lose the child allowance for the whole month. If his daughter had departed one day later then Ian would have retained the full monthly allowance for her.

Susan moves into more expensive accommodation and is entitled to more housing costs just before the end of her assessment period. If she notifies the change immediately, she will receive the extra payment for the whole of the month. If she fails to notify the change until after the end of the assessment period (i.e a few days later), she will only receive the increased payment from the start of the following assessment period, unless she can establish that there were grounds for late notification.

**Context**

Universal Credit will be assessed on a monthly basis, with changes of circumstances normally taking effect from the first day of the period in which they occur. It means that claimants will have to wait up to a month for an award to be changed to reflect a change in circumstance, but also that any change is treated as occurring from the beginning of the month, regardless of when it actually occurred. This whole month approach will benefit claimants where the change increases entitlement, but lead to rough justice and losses for claimants whose entitlement reduces or ends.

It also opens up the prospect of claimants and advisers planning the most advantageous time to effect changes in order to be maximise entitlement. Where a change of circumstances is advantageous, it must be notified before the end of the assessment period in which it happens for it to be treated as occurring at the start of assessment period. If it is notified late, it will only take effect from the start of the assessment period in which it is notified, unless the claimant can establish grounds for late notification.

# Low Incomes Tax Reform Group



Low Incomes  
Tax Reform  
Group

A voice for the unrepresented

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## Welfare Reform Bill (Northern Ireland) – Committee Stage Evidence from the Low Incomes Tax Reform Group

### 1. Who we are

- 1.1 The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes.
- 1.2 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

### 2. General Comments

- 2.1. We are pleased to have the opportunity to submit evidence to the Committee about the provisions contained in the Welfare Reform Bill.
- 2.2. The Bill is very much a framework Bill that sets out the broad structure of Universal Credit (UC) with enabling powers but provides very little other detail. This makes it difficult to give detailed comments and it is therefore important that Committee members have available to them a full set of draft regulations to inform their deliberations.
- 2.3. We are generally supportive of many of the aims of UC such as administration under one Government department rather than two, a single withdrawal taper for earned income rather than many and one set of rules governing what were previously several different benefits. However, we are concerned that many of these positive aims will be lost if UC becomes complex in its rules and is not adequately resourced (when many of the proposals seem to rely on face to face intervention).
- 2.4. The proponents of UC refer to the fact that it will ensure that people are better off in work than on out of work benefits. However without taking into account things like passported benefits and travel to work costs, as well as acknowledging that some people will face higher marginal deduction rates under UC, we are not convinced that the reality will match the intent.
- 2.5. Our evidence is primarily concerned with the proposals in the Bill that impact on those who are self-employed. Based on our experience of the current tax credits system, we are also concerned about how the civil penalty provisions will impact on all claimants of UC.

### 3. Self-employment (Schedule 1, Para 4(4))

- 3.1. There are more than 4 million self-employed people in the UK, over 100,000 of whom are in Northern Ireland. The self-employed are a diverse body of people, ranging from budding entrepreneurs to those with little or no business acumen, and all sorts in between. Self-



employment can also be an important option for people for whom traditional employment may not be suitable (eg for reasons of health or disability). Finally, it is a real alternative for those living in Northern Ireland who are finding employment opportunities scarce due to the current difficult economic climate. As a result, those figures are likely to continue to rise.

- 3.2. Self-employment can be precarious and carries a great deal of risk. It can also be a long time before it begins to generate a profit. Given the importance of self-employment in the economy, and for those where employment is not a realistic option, it is crucial that work incentives in the tax and benefits system encourage those who are self-employed at least as much as the employed worker.
- 3.3. There is also an argument that support from the State should be more generous for the self-employed, given the advantages enjoyed by the employed in return for their NI contributions – reduced rates where an employer contributes to their pension, holiday pay, protection during illness, and paid leave for maternity, paternity and adoption – none of which are available to the self-employed.
- 3.4. To do this effectively, it is imperative that welfare systems, like tax, should aim to reflect the economic reality of a business. It is right that as a business becomes more profitable, welfare support for the entrepreneur should diminish; equally, declining profits, trading losses and substantial investment in or expenditure on essential equipment can be a drag on the performance of a business and welfare provision for the entrepreneur should reflect that.
- 3.5. At present this is broadly achieved through the structure of working tax credit (WTC). As the basis of assessment of WTC is the tax year, and the measure of income is broadly the profit or loss for income tax self-assessment purposes, the tax credits award simulates how the business is doing financially. Relief for losses through tax credits operates in much the same way as for income tax, with adjustments to reflect the fact that tax credits are awarded jointly to couples, and to remove the facility for carrying losses back to earlier assessment periods that are closed for tax credits purposes. Crucially, as for income tax, loss relief is only granted where a business is ‘carried on upon a commercial basis with a view to the realisation of profit’<sup>1</sup> – thus manipulation and avoidance can be countered, and support directed towards those whose business activity is genuine and not simply a (possibly extended) hobby.
- 3.6. As the tax system recognises, and as is currently reflected in the WTC, periods of little or no profit, or of substantial investment in the wherewithal to carry on a business, are not confined to the early years. It is important to note that a business can experience difficulties at any time, not just when it is starting out. For example, a one-person business can easily dip into loss when the proprietor decides to take on a new employee, perhaps for the first time. A state that helps and encourages people into work should equally support new employers to provide that work. The current system recognises the economic reality of self-employment.
- 3.7. The 2010 White Paper<sup>2</sup> stated that the Government proposed a ‘minimum income floor (MIF)’ so that under UC the self-employed should be deemed to have earnings at least equal to the national minimum wage for the hours they work.
- 3.8. Schedule 1, para 4 (4) of the Bill allows this MIF to be implemented. The justification for this MIF was to deal with claimants (of which we are told there are some in the tax credits system) who under-declare their income, or are carrying on a hobby rather than trade or are not working the hours that they declare. That is a justification for targeting those who manipulate their accounts to maximise their UC claim or who are not honest about the hours they work, not for denying support to the majority of genuine cases who really need it.
- 3.9. The notional income rules in tax credits, the enabling provision for which is replicated in para 4(3)(a) of Schedule 1, already give protection against such abuse through under-declaring

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1 Tax Credits (Definition and Calculation of Income) Regulations 2002, SI 2002/2006, reg 3(1) Step 4.

2 <http://www.dwp.gov.uk/docs/universal-credit-full-document.pdf>

of income. Similarly, the tax credits legislation requires hours worked to be ‘for payment or in expectation of payment’ which ensures that only those who are genuinely self-employed receive support for the actual hours they are working.

- 3.10. Creating an additional power to impose an MIF adds nothing to the powers that already exist; it is otiose. We firmly believe that implementing the MIF for all self-employed claimants will mean that self-employment will no longer be a viable option for many. This includes those who cannot find any other form of employment or people with disabilities who may not be able to take on an employed job but would be able to work as self-employed.
- 3.11. We therefore recommend removal of Schedule 1, para 4(4). If the MIF is to be implemented it is crucial that those who are starting out in self-employment and those who find themselves hitting difficult times (for example through the loss of a client) are protected and not subject to the MIF.
- 3.12. Along with removal of the MIF, it is essential that any regulations enacted under the Bill also support those in self-employment by ensuring that the definitions of self-employment and income from self-employment are aligned to those in the tax system, that recognition is given for genuine business expenses and that genuine trading losses are fully taken into account.

#### **4. Civil penalties – Clause 112**

- 4.1. Clause 112 of the Bill introduces new clauses 109C and 109D to the Social Security Administration Act 1992. The clause seeks to implement a penalty for claimant error, with no parallel clause relating to official error even though in the current system claimant and official error are roughly equal.
- 4.2. The imposition of a civil penalty on claimants without any similar recognition of official error would create an unfair balance of responsibility on claimants, many of whom struggle to understand and meet their responsibilities due to language, literacy or sickness and disabilities. Claimants should not be subject to penalties for ‘innocent’ errors in addition to the recovery of the overpayment that arises from the error.
- 4.3. The Impact Assessment claims that the aim of introducing a civil penalty is to deter errors and place greater emphasis on personal responsibility for errors that could have reasonably been prevented. However, overpayments that arise from errors are likely to be higher than £50 and sufficient in themselves to encourage those genuinely negligent to take more care in the future. UC claimants will include some of the most vulnerable members of society who may make frequent numerical or clerical errors, or fail to understand and put right errors made by the Department, through ignorance and inability to understand or deal with complex matters rather than through deliberate non-compliance.
- 4.4. According to their 2011 annual report<sup>3</sup>, HMRC imposed only 1,221 penalties issued to tax credits claimants under similar legislation in 2010/11. These figures also include penalties for fraud – and 70% were in fact waived. These statistics suggest that HMRC have not in fact found these powers of widespread value in improving claimant responsibility.
- 4.5. We do not think the use of a £50 penalty is warranted in innocent/genuine error cases. The liability to repay substantial overpayments will itself be sufficiently penal and therefore the additional penalty is unnecessary and ineffective. Penalties should be reserved only for cases of deliberate error.

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3 <http://www.hmrc.gov.uk/specialist/annual-report-com-tax-credits.pdf>

# Macmillan Cancer Support

## WE ARE MACMILLAN. CANCER SUPPORT

### Macmillan Cancer Support response to DSD Committee Consultation on Welfare Bill

From: Heather Monteverde, Macmillan Cancer Support

Date: 19 October 2012

#### Key Points on the Bill:

Macmillan worked hard to reform the Bill as it went through Westminster. However, we are still concerned over two particular aspects for cancer patients:

- 1) We were pleased that the UK Government backed down on increasing the time people had to wait to receive PIP to 6 months – (although we are still concerned that 3 months can be a long time to wait before support would be available).
- 2) We were disappointed that the UK Government stuck to its' 12month time-limit on ESA before means testing – and would prefer this to be taken out of the Bill in Northern Ireland
- 2a) However, as the Bill was going through, we also worked with the UK Government over the last 3 years on the Harrington Review of ESA – and believe that if what the government say about the *proposed* new guidelines are true and implemented properly; then cancer patients should not be subjected to unnecessary face-to-face work assessments or deemed to be fit to work before they are properly ready – therefore greatly reducing the number of cancer patients effected by the impact of the 12month means test.

#### Work to be done:

Macmillan believes the UK Government have moved a long way since the beginning of this review process - and they have accepted that more cancer patients going through or just finished treatment, including those receiving radiotherapy and oral chemotherapy would be 'presumed' to be in the 'Support Group' of ESA than before.

We still await the actual UK Govt regulations and guidelines to how this is meant to work in practice - and when we have them we will want to work with DSD and the Health service in NI to ensure they are implemented properly on a day-to-day basis. The aim will be to ensure fewer cancer patients are asked to go for face-to-face assessments - and fewer cancer patients are placed in the 'Work related activity' ESA group.

*Macmillan believes that Stormont Ministers and Members have shown real understanding and concern around the difficult issue of welfare reform and are well placed to make the best of a difficult situation for cancer patients (attached press release from DSD Minister Mr McCausland).*

We urge MLAs:

- **To ensure the Social Security Agency and Health Service in Northern Ireland are ready to implement the new system for cancer patients.**
- **To work with Macmillan to train health & social care, & advice staff in Northern Ireland, including decision makers and ATOS staff.**
- **To ensure that cancer patients have access to Financial Information and Benefits Advice to help them navigate the new complicated welfare system at such a vulnerable time in their life**

#### **Latest Northern Ireland Executive Position on ESA:**

On 20 September 2012 – a press release from **DSD Minister Nelson McCausland** welcomed the UK Government rule change to support cancer patients:

“New proposals, published by the Department for Work and Pensions (DWP) in Great Britain, will mean that hundreds more people in Northern Ireland, and across the UK, who are awaiting, receiving, or recovering from any form of chemotherapy or radiotherapy for cancer will be placed in the Support Group for Employment and Support Allowance (ESA). Here they will get the financial support they need while unable to work.

Minister McCausland said: “This is a very welcome step and it is one that I have been calling for, for some time.

“I am pleased to see that our efforts have been well received, that the DWP has listened to our concerns, and that people suffering from cancer will now be properly supported by our benefit system.”

The simpler process will mean that all types of cancer treatment are seen as having the potential to be equally as debilitating, rather than the current rules which distinguish between different forms of treatment.

This means more people should qualify for the ESA Support Group, where before they may have been placed in the Work Related Activity Group (WRAG) and expected to make efforts to return to work.

Other changes being made to support cancer sufferers include:

- Removing the condition that treatment must be continuous for six months;
- Acceptance that it is the impact of the treatment, not the duration, which should be considered; and,
- The development of a new ‘light touch’ evidence gathering process which will see claimants with cancer being directed to a dedicated part of the ESA50 form, negating the requirement to complete the whole questionnaire.

Nelson McCausland added:

*“I have no doubt that people who can work should work, but similarly, I believe that those who are unable to work, or who are unable to carry out work-related activity because of their ill-health should not be forced to do so; nor should they be in fear of being forced to do so.*

*“These proposals will make a difficult time a little easier for those who are having treatment for cancer.”*

# Member of the Public 1

## **To Stormont Social Development Committee**

### **Response to Welfare reform Act to whom it may concern.**

Please bring this to the attention of the Ministerial team drafting legislation.

From J.Graham  
BT9 6UA

5 October 2012

### **Illegality of measures.**

The Welfare Reform Act has at its core an unlawful element.

It is without legality in respect of the following :

The Human Rights Act Article 8. Right to privacy.

In seeking from anyone requiring poor relief the Government are wishing to make legal the need and requirement for an individual to disclose their medical condition as determined by the Medical Practitioner responsible for their treatment.

It is an A priori fact that the information between any Doctor and the Patient shall remain Confidential.

It is a fundamental practice in operation since the Hippocratic Oath was developed and under which **ALL** medical practice is administered.

The General Medical Council rules of Medical Confidentiality are the Laws under which the practice of Medicine and treatment is practiced in these islands and beyond.

It would not be possible for a system to work without this basis of privacy being in place for everyone.

It cannot be set aside for pecuniary reasons.

I believe this to be a fundamental requirement essential in the proper delivery of treatment and anything not related or causal in treatment to be in breach of Human Rights.

There will be a point when this reality is properly asserted and to undermine treatment is itself of great harm until a fair system is in place.

Yours faithfully

**J. Graham**

## Member of the Public 2

### **Gary Hunter**

18 Dermott Park, Comber, BT23 5JQ

### **Welfare Reform Bill**

Bill Number: Bill 13/11-15

Dear Members of the Committee

In 2008 I was diagnosed with Chronic Lymphocytic Leukaemia (an incurable blood cancer). My condition is progressive and incurable. Last year I underwent a course of chemotherapy. The treatment is palliative and I will require further chemotherapy at some stage.

In 2009 I was diagnosed with Transitional Cell Carcinoma of the renal pelvis and underwent a nephroureterectomy (removal of right kidney, ureter and excision of bladder cuff).

I accepted medical retirement in 2011 after many years working in the media and in local government. I receive DLA and ESA. In addition to a small occupational pension. As a person living with cancer and struggling financially as well as emotionally, due to the condition, I would like to ask the Committee to consider how the proposed adoption of certain clauses of the Welfare Reform Bill will affect those of us facing the daily challenge of living with this devastating illness.

### **Personal Independence Payment (Part 4)**

#### **Disability Living Allowance has been a huge part of increasing equality for disabled people.**

It has been our means of working around the problems of a disabling world, our means of, at least partially leveling the playing field and *doing it ourselves* - not relying on charities or government organisations to determine exactly what we need in the way of transport or help at home. I believe that the introduction of Personal Independence Payments threaten this for a great number of people.

People with cancer, and the parents of children with cancer, are very worried about how the Welfare Reform Bill will affect them. Living with cancer is expensive and many people rely on benefits to make ends meet. I hope you will ensure that your reform of the welfare system works for people with cancer, so that cancer patients receive the support they need when they need it the most.

### **Clause 77 - Daily Living Component**

I am concerned about the levels at which the rates for the daily living components will be set; many cancer patients will lose out because of the reduction from three to two rates.

If simply the lower rate of care is removed it will be cancer patients who need help for part of the day and help with cooking who are most likely to lose out. In these circumstances financial support provided by the lower care rate is often used to retain independence by, for example, paying for online deliveries, cleaners, pre-prepared vegetables, microwaves etc.

Removing the lower rate care component would have a particular impact on, for example, breast cancer patients who have had the lymph nodes removed and as a result experience restricted arm movement or cancer patients who continue to experience severe fatigue and have difficulty doing many tasks, such as many patients with cancer of the head and neck. As well as the direct financial support provided by DLA, removing lower rate care will also mean that many cancer patients will lose related passported benefits.

As a result of treatment cancer patients often experience a sudden onset of daily living and/or mobility needs that can result in significant additional costs that are often long-term.



Thousands of cancer patients rely on DLA to help meet these costs at a time when their income has often decreased significantly. Without this support we fear that many cancer patients will be unable to meet the additional costs of living with their condition, which will exacerbate existing issues that contribute to cancer poverty.

Currently, there are two million people living with and beyond cancer in UK and this figure is rising by three per cent each year. As cancer survival rates continue to improve, people diagnosed with cancer will increasingly join people with other long term conditions in living with ongoing support needs. Some people living with and beyond cancer have serious physical, emotional, social problems that need addressing. As a result of these reforms it seems inevitable that thousands of cancer patients who are living with additional costs as a result of their conditions will be left without the crucial financial support that is currently offered by DLA.

### **Gateway Benefits**

I wish to express my unease and deep concerns over people losing passported benefits as a result of UK wide changes in the wake of this legislation. DLA is a Gateway Benefit. For example, if you are in receipt of the middle or higher rate Care Component of DLA, then a partner, friend or family member who is unable to work full time because of their caring responsibilities may be able to claim Carer's Allowance. Receiving some rates of DLA can mean VAT exemption on some essential equipment. If you are in receipt of the higher rate Mobility Component of DLA, you are eligible for a Blue Badge. There is a very real danger that many disabled people will lose out on the important gateway aspects of DLA which help to make their difficult lives more bearable.

### **Fluctuating conditions**

I believe it is crucial to ensure that those carrying out the PIP assessment consider how a person's condition fluctuates over the course of a day. We know that due to severe fatigue that can result from cancer treatment many cancer patients' ability to carry out everyday tasks will change dramatically over the course of a day. For instance, a cancer patient who is able to prepare a meal in the morning may be unable to prepare a meal in the evening.

With regards to applicants who are awaiting treatment the technical briefing note states that the descriptor choice will be based on the *"likely continuing impact of the health condition or impairment as if any treatment or further intervention has not occurred"*. Although I understand the difficulties in predicting the likely impact of treatment this approach could be particularly problematic for cancer patients, who often experience significant debilitation as a result of their treatment. Unless their situation is reviewed following the start of treatment it is likely that their real needs will not be captured accurately and they may not receive the rate of PIP that they are entitled to.

### **Employment and Support Allowance (ESA) Chapter 2**

I was dismayed at the Government's decision to overturn a Lords' amendment that would protect sick and disabled people including cancer patients from losing a vital out of work benefit – Employment and Support Allowance (ESA) - after 12 months. Ciarán Devane, Chief Executive of Macmillan Cancer Support, said:

*"We are bitterly disappointed on behalf of the thousands of cancer patients that the Government has today failed to protect. They will now be forced to bear the brunt of the economic crisis. "Despite mass opposition from Lords, the public, their own supporters and the whole cancer community, the Government has pushed through an unfair proposal which means thousands of cancer patients – still recovering from their illness and therefore too sick to work - will see their income drop by up to £94 a week from April."*

I urge the Committee to give close consideration to the additional hardship the imposition of such a time limit will have on people in Northern Ireland who live with cancer. A diagnosis

of Cancer is devastating emotionally, physically and financially. I implore the Committee to work with bodies like Macmillan Cancer Support and pay attention to its concerns on welfare reform.

Yours faithfully

**Gary Hunter**

14/10/2012

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## Member of the Public 3

Dear Alex Maskey

This is my submission to your committee over the Welfare Reform Bill.

It regards personal independence payment PIP

Currently 182,000 people are in receipt of DLA. The majority use this money to live on and a significant number have had to fight to get their allowance by going through the appeal process of tribunals right up to the Social Security Commissioner.

Let me give you two examples of the stain people are put through the present system. This will be no different under PIP

A friend had an incurable brain tumor which affected her mobility and mentally and affected her sensory abilities to she had to be looked after at all times. She was up for review of her DLA and was turned down. She came to me and I told her she must appeal the decision. She was very depressed because of this. She went with her husband to the appeal tribunal and presented her situation to them. The chairman of the tribunal stopped the proceedings and told her she shouldn't have had to come before him and apologized and her benefit was reinstated. A year later she died.

Another example is a friend who has various disabilities has only just applied for DLA as the felt they didn't need it.

There are many people in the two above situations.

Two specific points I want to make about PIP

Firstly those in receipt of indefinite DLA awards should automatically be entitled to PIP. They also should not be subject to a face to face assessment as many have been through the appeal process right through to the Social Security Commissioner and the Social Security Agency holds all the evidence about these people already. These claimants have already suffered enough without have to fight for PIP the same way they have had to to get DLA.

Finally the Equality Commission should have a role in monitoring the implementation and the effectiveness of PIP

Yours sincerely

**Andrew Flavelle**

# Mencap NI



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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.<sup>1</sup> 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)<sup>2</sup> 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**

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.

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.

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 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.<sup>3</sup>

1 The impact of tax and benefit reforms to be introduced between 2012-11 and 2014-15 in Northern Ireland, 2012, Institute of Fiscal Studies,

2 [http://www.dsdni.gov.uk/index/publications/other\\_reports/equality.htm](http://www.dsdni.gov.uk/index/publications/other_reports/equality.htm)

3 Disability Benefits Consortium: key amendments to the Welfare Reform Bill 2011(April 2011)

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 loss out on additional support.

**Amendment allowing for a disability disregard**

Part1, 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.’

‘(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 amount to be disregarded.’

**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 visit<sup>4</sup>, 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.
- 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 2011<sup>5</sup>, 56% of disabled people said they would have to stop or reduce work if they lost DLA. This could potentially result in 1200<sup>6</sup> disabled people

4 Royal College of Nursing based on 2009 NAO statistics, see [http://www.rcn.org.uk/\\_\\_data/assets/pdf\\_file/0008/317780/003598.pdf](http://www.rcn.org.uk/__data/assets/pdf_file/0008/317780/003598.pdf)

5 [http://www.disabilityalliance.org/r68.doc#\\_Toc285815634](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.

in Northern Ireland becoming unemployed which would lead to a loss of £6 million, based on the average NI salary<sup>7</sup>, 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.
- 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.

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7 NI Annual Survey of hours and earnings 2011, DFP

- 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

**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.

Authors:

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**Jane Alltimes**

Senior Campaigns & Policy Officer (London)

## Mencap NI 2

Dear Committee members,

Please find below some additional information that was mentioned by myself and Disability Action presented to the social development committee last week

I have also attached our consultation responses to the work programme and the assessment and thresholds of PIP

Some more information re: Disability Disregard from the Disability Benefits Consortium briefing on the Bill

### **Calculation of awards (support for disabled people in work): 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.

More clarity is also needed 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.

Please contact me if you need anymore information.

Many thanks,

Jenny

Jenny Ruddy  
Campaigns Officer  
Mencap Northern Ireland



# National Deaf Childrens Society

## Welfare Reform Bill

National Deaf Children's Society (NDCS) briefing: Committee for Social Development, Northern Ireland Assembly

Date: 19/10/12

### About NDCS

NDCS is the national charity dedicated to creating a world without barriers for deaf children and young people. We represent the interests and campaign for the rights of all deaf children and young people from birth until they reach independence. NDCS believes that the family is the most important influence on a deaf child's development. We support the deaf child through the family as well as directly supporting deaf children and young people. NDCS estimates that there are approximately 1,400 deaf children and young people in Northern Ireland.

#### 1.1/ Design of PIP for young people (16-24)

NDCS believes that there is a valid case for the design of PIP to be different for 16-24 year olds. We support the view of others including the Every Disabled Child Matters Campaign and Clic Sargent, that disabled young people aged 16-24 are a distinct group with specific and unique needs. This must be recognised in the benefits system if PIP is to successfully meet their needs.

#### 1.2/ The assessment process and young people (16-24)

We are concerned about how the proposed PIP assessment process will work for this age group. Face-to-face assessments for benefit can be very stressful and are likely to harm the self esteem of many young deaf people. It is unrealistic to expect most deaf young people under 18 to present accurate information on the impact of their disability to an unfamiliar professional in a single face-to-face meeting. NDCS Family Officers report that they and parents regularly find inaccuracies in questionnaires which have been completed by young deaf people with a professional who either has limited knowledge of the young person themselves, or of deafness, or both. We know that 40% of deaf young people will already experience mental health problems. Subjecting this vulnerable group to a stressful assessment process will exacerbate this.

#### 1.3/ Recommendations for PIP

For PIP assessment to be easily accessible for deaf young people the assessment questions must be tailored to their needs, there is also a need for assessors' to be given deaf awareness training. If these conditions are not met deaf young people could be faced with considerable additional stress at a key transitional time in their lives. There would also be serious question marks over the accuracy of any information attained through such assessments. Such requirements should be included in the regulations as a result of welfare reform.

NDCS would call for the NI Executive to ensure that assessment for PIP is adapted to reflect the additional support and costs disabled Northern Irish 16-25 year olds need during transition.

#### 2.1/ Changes to disability additions

Currently, families with deaf children, who receive Disability Living Allowance (DLA) for the child, are entitled to a top up of their benefits. This 'addition' is currently worth £53.62 per

week. Families with a child in receipt of the high rate care component of DLA also receive a 'top up addition' worth £21 per week.

Proposals under the Universal Credit will see lower benefit 'additions' halved. The majority of deaf children, who receive DLA (but not at the higher rate) will see their addition reduced to £26.75 per week. This could cost a vulnerable family with a profoundly deaf child nearly **£1,400 per year**.

Deaf children do not generally qualify for higher rate of the care component of DLA. This is not because deafness is not a serious disability, but rather they often don't have significant night time care needs. Deaf children have significant care needs at other times and their families face many and varied related costs. Parents also sometimes have to give up work to care for their child, as highlighted by what parents have told us below.

#### **What parents have told us-**

A mother with two deaf children told NDCS that accessing sign language classes alone for her family incurred huge cost - £7,500. This was accompanied by over 30,000 miles worth of diesel in order to travel to these classes, as the family live in rural area – that would cost over £3,000 today\*. But without this the parents would not be able to communicate with their sons, and their hearing daughter would not be able to communicate with her brothers.

Sarah, mother to Will, a profoundly deaf 12 year old says,

*Over the years, by the far the biggest financial cost to us has been lost earnings. I had to pretty much give up work for three or four years when Will was very young because we had so many home visits and therapy and hospital appointments to attend – at least two or three a week (which also cost us in train fares, etc.) ...and he needed so much daily language and communication support at home... It was simply impossible to continue working and support him properly during those years. I still don't think we have recovered from the financial losses of that time, even now, ten years down the line.*

\* [http://www.theaa.com/allaboutcars/advice/advice\\_rcosts\\_diesel\\_table.jsp](http://www.theaa.com/allaboutcars/advice/advice_rcosts_diesel_table.jsp)

## **2.2/ Recommendations to disability additions**

The National Deaf Children's Society (NDCS) believes that proposals in the Welfare Reform Bill will mean that vulnerable families with deaf children stand to lose £1400 a year, risking pushing them in to poverty.

NDCS therefore supported Baroness Meacher's amendment to Clause 10 of the Bill which was passed by the House of Lords. The amendment is detailed below.

#### **Clause 10 (2)**

Page 4, line 36, at end insert

"Such additional amount to be paid at a higher rate, a middle rate or a lower rate. The middle rate shall be no less than two-thirds of the higher rate as may be prescribed. The lower rate shall be no less than one third of the higher rate"

NDCS Northern Ireland would like the Welfare Reform Bill to ensure that the disability addition contained in the Universal credit sufficiently recognises the considerable care needs and costs attached to childhood deafness. An amendment similar to that tabled in the House of Lords by Baroness Meacher would go some way to doing that.

**3/****Summary**

NDCS Northern Ireland is concerned that the Welfare Reform Bill could disproportionately affect deaf children and young people. If the Bill as currently proposed is introduced deaf young people could ultimately receive a service not tailored to their needs. As the majority of deaf children are not in receipt of the higher rate of DLA, most deaf families will be losing around £1,400. NDCS Northern Ireland do not believe this reduced disability addition to the universal credit sufficiently recognises the additional costs incurred by childhood deafness.

# NI Housing Council

Dr Kevin Pelan  
Clerk, Committee for Social Development  
Room 412  
Parliament Buildings  
Ballymiscaw  
Stormont  
Belfast BT4 3XX

19th October 2012

Dear Dr Pelan

## **Welfare Reform Bill**

Thank you for inviting the Northern Ireland Housing Council to comment on the Welfare Reform Bill.

Unfortunately, due to the limited timescale for responding, the Housing Council was unable to have an opportunity to debate the Bill or prepare a response to each clause of the legislation.

This response therefore is a summary of the main issues of concern for the Housing Council based on discussions at previous Meetings.

Members' main areas for concerns are as follows:

### **Universal Credit and direct payment to tenants**

The introduction of Universal Credit, paid monthly in arrears directly to those on benefits, raises concern with regard to the ability of families and individuals to budget their income and manage household expenses. This is a retrograde step in terms of the management of Housing Benefit and rent collection for Public Sector landlords.

Furthermore, it is understood that where the total benefit has to be capped, the Housing Benefit amount will be the sum adjusted downwards.

Members have also highlighted an anomaly unique to Northern Ireland with regard to the Equality legislation where difficulties may arise where a public sector tenant, in financial hardship, has the rent on their property reduced, whereas there is no reduction on the rent of a property occupied by a tenant who is in a position to pay.

The Housing Council strongly recommends that consideration is given to the viability to pay the housing component of Universal Credit direct to landlords.

### **Under-occupancy in properties**

One of the major changes in the Welfare Reform Bill will affect people under 35 receiving the shared room rate, with the potential to lose between £20 and £40 per week in benefit. This change may also affect some of the most vulnerable in society who may be unable to remain in their private accommodation, and, as a consequence, may find themselves homeless.

Housing Benefit changes will also affect those people, below pensionable age, under-occupying their homes. There is the potential for these people to lose between £7 and £14 per week in Housing Benefit. Given that 40,000 tenants could potentially be affected by these changes, this could have a significant effect on the level of debt for rent charges.

This will impact on the demand for suitable, affordable housing in both the public and private sector. More funding will need to be made available for the provision of more affordable housing.

**Administration of the Universal Credit**

The Housing Council feels that it is vital to ensure that tenants receive as much information as possible on the implications of the proposed reforms at the earliest opportunity.

With regard to the administration and the complexities of Universal Credit and the proposals for the system to be administered by the Social Security Agency, Members expressed concern about the potential lack of experience of SSA staff in the assessment of Housing Benefit. Also this will have a significant impact on staff resources.

The Housing Council are also concerned about the 20,000 public sector tenants who pay full rent as there is no indication as to how the reforms and the continuing economic crisis in Northern Ireland will affect them.

**New Build Programme for Social Housing**

Members have expressed concern regarding the potential increase in demand for social and affordable housing in Northern Ireland. Waiting lists are already at their highest level since the 1970's and the indications are that the implications from Welfare Reform will increase the demand especially for smaller units of accommodation.

Caution must be taken however, if the new build programme concentrated on building smaller units of accommodation, this could potentially lead to a legacy of problems in future years as cycles of housing need change.

The Housing Council receives regular updates from the Housing Executive on the proposed Welfare Reform Bill. During the next 3 months the Housing Council's sub-committees will be focusing on the implications of the new legislation for the people of Northern Ireland.

Representatives from the Housing Council have joined the Housing Executive's Working Group to analyse the proposals and the implications of the introduction of the Welfare Reform for housing in Northern Ireland. Members' views will be fed back through this forum on a regular basis.

The Housing Council requests that their views and concerns are passed on to the Committee for Social Development for Committee as part of this consultation.

Yours sincerely

A handwritten signature in black ink that reads "C. James Brown". The signature is written in a cursive style, with the first letters of each word being capitalized and prominent.

**J Brown**

Chairman

Northern Ireland Housing Council

# NI Human Rights Commission



NORTHERN  
IRELAND  
HUMAN  
RIGHTS  
COMMISSION

## Response on the Welfare Reform Bill 2012

### Summary

- A. The Commission has prepared this advice to assist the Northern Ireland Assembly as it scrutinises proposed reforms to the social security system for rights holders in Northern Ireland. International human rights law recognises that it is legitimate for Governments to reform their social security provision. However it stipulates the parameters within which these reforms must take place.
- B. The Commission is concerned at the absence of detailed human rights analysis of the Bill and its potential implications. A full assessment of the potential implications of the Bill is particularly complicated by the heavy reliance on secondary legislation.
- C. The Commission supports the aim of the Bill to assist people into work. The right of people to work is recognised in the European Social Charter and the Commission advises that the NI Executive must ensure access to the training and experience necessary to obtain employment is made available to people seeking work.
- D. The establishment of Universal Credit as an all-encompassing benefit payment is welcomed in principle. The Commission raises concerns regarding the payment of Universal Credit to one member of the household which may compound the difficulties faced by vulnerable families.
- E. The Commission notes the proposed replacement of Disability Living Allowance (DLA) with Personal Independent Payments (PIP). These payments are intended to assist disabled people in overcoming societal barriers and to enable their full participation in the community. Whilst costs savings is a legitimate aim of Government the Commission is concerned that achieving the required 20% reduction in spending on DLA/PIP has led to a focus on the medical model of disability rather than the social model of disability, which focuses on overcoming the societal barriers faced by people with disabilities.
- F. The Bill proposes that those in receipt of benefits will be subject to various work related requirements, failure to comply with which may result in the imposition of a sanction. The Commission advises that the sanctions regime must be proportionate and procedurally fair. Furthermore, the Commission advises that the imposition of a sanction must not result in any individual being destitute.
- G. In respect of work related requirements the Commission raises a particular concern regarding women with child care responsibilities. There is a potential disparate impact on such women due to the absence of affordable childcare. The Commission advises that this issue be given specific consideration.
- H. The Bill proposes the abolition of the Social Fund which currently serves to assist individuals and families in maintaining an adequate standard of living. The Commission advises that the Committee examines the sufficiency of the proposed alternative emergency payment arrangements.
- I. The Bill proposes changes to the level and nature of support for housing costs under the Universal Credit, with the amount payable to be relative to household size and circumstances as well as actual rent. The Commission raises concerns regarding the potential implications of this proposal on tenants with disabilities currently in adapted accommodation within a supportive community. The Commission highlights the need to have regard for the particular characteristics of the Northern Ireland housing stock.



The Bill envisages a role for private and voluntary sector providers in the assessment of claimants. The Commission advises that when carrying out activities of a public nature, private and voluntary sector providers must be required to comply with the Human Rights Act 1998.

### **Introduction**

1. The Northern Ireland Human Rights Commission ('the Commission') pursuant to Section 69 (4) of the Northern Ireland Act 1998 advises the Assembly whether a Bill is compatible with human rights. In accordance with this function the following statutory advice is submitted to the Committee for Social Development ('the Committee').
2. The Commission bases its position on the full range of internationally accepted human rights standards, including the European Convention on Human Rights as incorporated by the Human Rights Act 1998 and the treaty obligations of the Council of Europe and United Nations systems. The relevant international treaties in this context include;
  - The European Convention on Human Rights, 1950 ('ECHR') [UK ratification 1951];
  - International Labour Organisation Social Security (Minimum Standards) Convention, 1952 [UK ratification 1954];
  - European Social Charter, 1961 [UK ratification 1962];
  - The International Covenant on Civil and Political Rights, 1966 ('ICCPR') [UK ratification 1976];
  - The International Covenant on Economic, Social and Cultural Rights, 1966 ('ICESCR') [UK ratification 1976];
  - The Convention on the Elimination of Discrimination Against Women, 1979 ('CEDAW') [UK ratification 1986];
  - The United Nations Convention on the Rights of the Child, 1989 ('UNCRC') [UK ratification 1991];
  - The United Nations Convention on the Rights of Disabled Persons, (UNCRPD') [UK ratification 2009].
3. The Northern Ireland Executive is subject to the obligations contained within these international treaties by virtue of the United Kingdom's ratification. The Commission, therefore, advises that the Committee scrutinises the proposed Bill for full compliance with international human rights standards.
4. In addition to these treaty standards there exists a body of 'soft law' developed by the human rights bodies of the United Nations. These declarations and principles are non-binding but provide further guidance in respect of specific topic areas. The relevant standard referred to in this context is;
  - United Nations Declaration on Social Progress and Development, 1969.
5. The Commission has provided this advice in the timeframe available to it. There are a number of issues which merit further analysis however this is not possible in the time available.

### **Human Rights Analysis**

6. By virtue of Articles 12 and 13 of the European Social Charter and the International Labour Organisation's Social Security (Minimum Standards) Convention, 1952, the Northern Ireland Executive is obligated to maintain a system of social security at a satisfactory level and should endeavour to raise progressively the system of social security to a higher level. International human rights law recognises that it is legitimate for Governments to reform their social security system. However standards also stipulate the parameters within which these

reforms must remain; for instance an individuals' right to an adequate standard of living<sup>1</sup> must not be undermined.

7. The Commission recalls that Section 24 (1) of the Northern Ireland Act 1998 requires that all acts of the Northern Ireland Assembly are compatible with the ECHR. In addition, Section 26 also requires compliance with international obligations.
8. The Commission notes that during the passage of the Welfare Reform Bill through the House of Commons the Joint Parliamentary Committee on Human Rights (JCHR) was critical of the absence of a detailed human rights memorandum and, in addition, the JCHR raised numerous concerns regarding human rights issues. The Commission notes with regret the absence of a detailed human rights memorandum accompanying the Welfare Reform Bill, and in particular the absence of any consideration of the human rights issues raised by the JCHR.<sup>2</sup>
9. Recalling the human rights concerns raised by the JCHR, the Commission refers the Committee to section 35 of the Standing Orders, which makes provision for the establishment of an Ad Hoc Committee to consider and report on whether the draft Bill is in conformity with the requirements of human rights law.
10. The Bill has significant implications for the enjoyment of socio-economic rights as recognised in the ICESCR and European Social Charter. International standards, ratified by the UK Government and binding on the NI Executive, require the removal of barriers so as to ensure the progressive realisation of socio-economic rights.

#### **Particular Circumstances of Northern Ireland**

11. It is important that the Committee give detailed consideration to the particular circumstances of Northern Ireland many of which emerge from the legacy of the conflict. The Committee should note the high levels of socio-economic deprivation and reliance on welfare benefits. For example, 1 in 10 people in Northern Ireland claim Disability Living Allowance.<sup>3</sup> In addition, the level of religious segregation in social housing restricts housing choice. The Commission advises that the Committee considers both the implications of the Bill on individual households and the cumulative impact on communities.

#### **Use of Regulations**

12. The Bill permits the Minister for Social Development to set down Regulations as regards claims and entitlement for benefit, basic conditions for award, exclusion from restrictions, claimant responsibilities, and capability for work or work-related activities. A full assessment of the potential implications of the Bill is particularly complicated by the heavy reliance on secondary legislation. The Commission advises that the Committee consider whether those Regulations proposed by the Bill subject to the negative resolution procedure should in fact be subject to either the affirmative resolution procedure or confirmatory procedure to ensure human rights compliance.
13. The Commission advises that the Committee also considers the implications will wish to consider the implication of this Bill on parallel reforms to the health and social care system, such as the proposals contained in 'Transforming Your Care'.

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1 International Covenant on Economic, Social and Cultural Rights, Article 11

2 Joint Parliamentary Committee on Human Rights 21st Report Legislative Scrutiny Welfare Reform Bill

3 102.7 per 1,000 population in Northern Ireland receive DLA compared to England with 49.6; Wales with 80.7; and Scotland with 65.9: Northern Ireland Assembly Research Briefing Paper, An Introduction to Welfare Reform, January 2011, NIAR 606-10, p 20.

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### Supporting Rights Holders into Work

14. ICESCR recognises the right to work under Article 6 which states that;
 

*“(1)The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.*

*(2) The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.”*
15. The European Social Charter also recognises the right to work and obligates the NI Executive to ensure adequate support for rights holders in exercising this right. There are a number aspects of this Bill which could potentially assist rights holders in obtaining work. However, to do so they must be implemented appropriately with regard to the particular circumstances of the individual concerned.
16. Article 9 of the European Social Charter *“to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped”*. The Commission advise that the Committee in considering the impact of the Bill consider the adequacy of current investment in vocational training provision.

### Payment of Universal Credit

17. The Universal Credit ('UC') is to replace the current benefits system which encompasses working tax credit, child tax credit, housing benefit, income support, income-based job seekers allowance ('JSA') and income-related employment and support allowance ('ESA').
18. The Commission acknowledges that UC is intended to be a single regular payment encompassing a range of benefits, and emulating a salary payment. This is designed to ease the transition into employment and afford a greater degree of financial autonomy to recipients.
19. The Commission notes that in the case of a joint claim by a couple, the benefit will be paid to one person only. Clause 99 provides that the Department will have the power to determine whether payment is made to a nominated person or to a person 'irrespective' of a nomination. This raises a concern with respect to instances of abuse within the home and the possibility of a nomination under duress.
20. The Commission notes that men are the primary earners in the majority of households in Northern Ireland.<sup>4</sup> It seems, therefore, that men may be more likely to be the nominated recipient of UC. This may impact upon a women's access to resources and control over her own finances. International law prohibits discrimination on the grounds of sex. The CEDAW focuses solely on the issue of discrimination on the grounds of sex and Article 13 requires that;
 

*“States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:*

  - (a) The right to family benefits;*
  - (b) The right to bank loans, mortgages and other forms of financial credit;*
  - (c) The right to participate in recreational activities, sports and all aspects of cultural life. “*

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4 Women's Resource and Development Agency (2011) The Northern Ireland Economy: Women on the Edge? A Comprehensive Analysis of the Impacts of the Financial Crisis, pg122

21. Children are particularly vulnerable and Article 27 of the UNCRC recognises that children are entitled both to an adequate standard of living and a right to social security under Article 26, which states that;

*“1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.*

*2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.”*

21. The Commission is concerned that payment of UC to one member of the household may result in restrictions on the more vulnerable member of the household, inhibiting their autonomous decision-making in respect of their financial needs and investment of their benefits. The Commission draws particular attention to the obligations of non-discrimination under CEDAW and the paramouncy of the best interests of the child under UNCRC. The Commission advises that the Committee apply the international standards when examining the arrangements for payment of UC in light of the potential implications on the rights of women and children.

#### **Personal Independence Payments**

22. Personal Independence Payments (PIPs) will replace the current Disability Living Allowance. It is a specific benefit intended to assist disabled persons with the additional financial pressures they face. This is an important measure in ensuring that disabled people are able to exercise their right to independent living as protected by Article 19 of UNCRPD.
23. Clauses 77 and 78 of the Bill set out basic entitlement conditions for the Daily Living component and Mobility component. The Bill provides the Minister for Social Development with the powers to introduce Regulations on qualification criteria for PIPs. It is noted that the Department of Social Development has engaged in two public consultations on the assessment criteria.<sup>5</sup>
24. The UNCRPD requires the NI Executive to adopt the social model of disability. The social model of disability identifies systemic barriers, negative attitudes and exclusion by society (purposely or inadvertently) that mean society is the main contributory factor in disabling people. It is the society as a whole which is responsible for creating barriers to full participation of persons with disabilities, and it is the society as a whole which has the responsibility to remove them.
25. The Commission advises that the Committee assess the proposed basic entitlement conditions contained within the Bill to ensure they adequately reflect the social model of disability. The Commission notes that the Office of the First Minister and deputy First Minister is currently developing a Disability Strategy which has the social model at its core. The Commission refers the Committee to a concern raised by the House of Commons Select Committee for Works and Pensions that an earlier version of PIP assessment criteria was reflective of the outdated medical model, which sees disabled people as having needs and requiring treatment.<sup>6</sup> Qualification criteria for PIPs should be based upon the social circumstances of the individual.

5 Initial draft of the Personal Independence Payment assessment criteria – published May 2011 DSD, Second draft of the Personal Independence Payment assessment criteria – published 14 November 2011

6 House of Commons, Work and Pensions Committee, Government support towards the additional living costs of working-age disabled people (19 February 2012) pp. 34-41

26. The stated objective for the introduction of PIPs is to reduce expenditure by 20%.<sup>7</sup> There is a strong presumption against retrogression in international human rights law, the Committee on Economic, Social and Cultural Rights in its General Comment No. 3 stated:

*“Any deliberately retrogressive measures...would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources.”<sup>8</sup>*

27. The Commission advises that the Committee assess any retrogressive measures of the Bill in line with this General Comment, in particular provisions relating to PIPs.

### **Sanctions Regime**

28. The Bill establishes a range of claimant responsibilities, which are principally connected to work-related requirements. It further permits sanctions to be imposed for non-compliance without good cause.
29. Requiring benefit claimants to comply with certain conditions prior to the payment of benefits does not in principle raise human rights issues. The European Court of Human Rights (‘ECt. HR’) has held that the ECHR;

*“places no restriction on the Contracting State’s freedom to decide whether or not to have in place any form of social security scheme, or to choose the type or amount of benefits to provide under any such scheme.”<sup>9</sup>*

30. It is important that the conditions are reasonable and proportionate to the aim. The ECt. HR recognises that the national authorities are in a better position to determine public interest on economic or social grounds and it represents;

*“the legislature’s judgment as to what is “in the public interest” unless that judgment be manifestly without reasonable foundation.”<sup>10</sup>*

31. The Commission notes that the imposition of financial sanctions on a benefit recipient who fails to comply with certain work requirements is not incompatible with international human rights standards. The UN Committee on Economic, Social and Cultural Rights has also stated that “[t]he withdrawal, reduction or suspension of benefits should be circumscribed, based on grounds that are reasonable, subject to due process, and provided for in national law.”<sup>11</sup>
32. Contributory and non-contributory benefits are proprietary rights and are, therefore, protected under Article 1 of Protocol 1 of the ECHR. Any interference with a proprietary right must be in accordance with the law, for a legitimate aim and proportionate to that aim.
33. Reducing a benefit does not, in principle, violate Article 1 of Protocol 1; however, the ECt. HR has found a violation in the case of *Asmundsson v. Iceland*.<sup>12</sup> The key consideration for the Court was whether the claimant faced an excessive and disproportionate burden as a consequence of the withdrawal of benefit. The Commission advises that the Committee assess the proposed sanction regime in light of this ruling.
34. The removal, or reduction, of benefits engages the right to an adequate standard of living which is protected under Article 11 of ICESCR which states that;

7 Department of Work and Pensions, Disability Living Allowance Reform, Equality Impact Assessment (March 2011) paras 18-20

8 Committee on Economic, Social and Cultural Rights, General Comment 19 on The Right to Social Security (2008) E/C.12/GC/19, at [42]

9 *Stec v. the United Kingdom* (2006) 43 EHRR 47, at [54]

10 *James and Others v. the United Kingdom* (1986) 8 EHRR 123, at [46]

11 UN Committee on Economic, Social and Cultural Rights, General Comment 19 on The Right to Social Security (2008) E/C.12/GC/19, para 24

12 *Asmundsson v Iceland* (2005) 41 EHRR 42

*“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”*

35. Where the claimant is a parent, it is important to consider the impact of a reduction in benefits upon the family as a whole. Article 3(1) of the UNCRC requires that in all matters concerning a child, “the best interests of the child shall be a primary consideration”. The UNCRC also requires under Article 26 that;

*“States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.”*

36. The UNCRC further states that children have the right to an adequate standard of living and that;

*“States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”<sup>13</sup>*

37. Any measure which would impact upon the above rights would not be considered to be in a child’s best interests. The Committee must ensure that ‘best interests’ considerations are taken into account when imposing a sanction, given that it may have a wider impact upon children in the family.
38. The Commission advises that the Committee must assess the proposed sanction regime to ensure that it is procedurally fair and proportionate to the legitimate aim which it pursues. Carrying out this assessment is complicated by the absence of the relevant draft Regulations which must also be subject to scrutiny for full human rights compliance.

### **Hardship Payments**

39. The Bill provides for hardship payments, under clauses 28 and 57, in circumstances where a sanction has been imposed.
40. It is not clear at this point if a hardship payment will be made immediately or if there will be a delay between the imposition of the sanction and the availability of relief. It is also unclear how a claimant will demonstrate hardship. The Commission advises that the Committee consider these issues in light of the international standards.
41. The impact of a disproportionate reduction in benefits may engage Article 3 ECHR, which prohibits inhuman or degrading treatment or punishment. The NI Executive is under a positive obligation under Article 3 to prevent hardship at a level that may amount to inhuman or degrading treatment.
42. For treatment to fall within the scope of Article 3 it must reach a minimum level of severity, and the assessment of that threshold will be relative and dependent on the circumstances of the case. The House of Lords have found that treatment resulting in the severe poverty and social deprivation of a group of individuals may amount to inhuman and degrading treatment.<sup>14</sup>
43. The reduction in benefits, as a result of a sanction, may risk a claimant being exposed to destitution, with a hardship payment being the only means to improve their situation. At this point a violation of the positive obligation under Article 3 may have already occurred. The Commission advises the Committee to ensure that, in order to act as a safety net, the hardship payment needs to prevent destitution from occurring in the first instance rather than

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13 UN Convention on the Rights of the Child, Article 27(3)

14 R. (on the application of Adam, Limbuela and Tesema) v. Secretary of State for the Home Department [2005] UKHL 66

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seeking to remedy the problem. The risk of destitution should be taken into consideration prior to the imposition of any sanction.

### **Child Care Responsibilities**

44. Article 18 of the UNCRC requires the Executive to:

*“render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children... [AND] take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.”*

45. The United Nations Declaration on Social Progress and Development, 1969, also provides at Article 22(c) for;

*“the establishment of appropriate child-care facilities in the interest of children and working parents.”*

46. The Commission notes the potential requirement on those with a child over the age of one to attend a work focused interview (Clause 21(1)(a)) and the potential requirement on those with a child over the age of four to engage in work preparation (Clause 21(5)). The ability of those with child caring responsibilities to comply with such requirements will be heavily restricted by the need to secure childcare, both in terms of its cost and availability. In addition, sanctions for failure to comply with requirements will disproportionately impact upon those with caring responsibilities and may be considered indirectly discriminatory against women.

47. In England and Wales the Childcare Act 2006 imposes a duty on local authorities to identify and meet childcare needs. NI has no corresponding childcare legislation, no lead Government department charged with developing a childcare strategy for NI, and no strategy agreed by the Executive. As the Social Security Advisory Committee states, “[m]any of the UK welfare reform proposals for both lone parents and working age couples with children are underpinned by the assumption of sufficient readily accessible and affordable childcare. This underpinning is simply not in place for Northern Ireland.”<sup>15</sup> Whilst the Commission notes a number of positive policy developments the provision of childcare in Northern Ireland remains inadequate.<sup>16</sup>

48. Article 8 of the ECHR protects the right to private and family life. The ECtHR has found that the right to private and family life extends to a right to seek employment and acknowledged that “[i]t is, after all, in the course of their working lives that the majority of people have a significant opportunity of developing relationships with the outside world”.<sup>17</sup> The ECtHR has found that where a measure has a disparate impact on certain groups, this may be considered to be discriminatory and a breach of Article 14.<sup>18</sup>

49. Article 1 of CEDAW defines discrimination as;

*“[A]ny distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”.*

15 Social Security Advisory Committee, 21st Century Welfare – A Response to the Department for Social Development (DSD) from the Social Security Advisory Committee, 2010 p.2. See also, Gingerbread and University of Ulster, Lone Parents and Work in Northern Ireland: Issues for Policy Makers, July 2009 and Horgan and M Monteith, What can we do to tackle child poverty in Northern Ireland?, November 2009, JRF.

16 HSC Board “Family Matters: Supporting Families in Northern Ireland – Regional Family and Parenting Strategy (March 2009)

17 Campagnano v. Italy (2006) 48 EHRR 43, at [53]

18 Thlimmenos v. Greece (2001) 31 EHRR 15, at [47]

50. The imposition of unreasonable work related requirements on those with child care responsibilities may lead to a significant number of carers failing to meet these requirements and incurring sanctions due to the absence of adequate child care provision. In light of the fact that it is principally women who bear child care responsibilities this is likely to have a disparate impact on women. The Commission advises that the Committee considers what additional measures can be taken to assist women with child caring responsibilities and to mitigate against any potential legal challenge. This is an example of the need for a co-ordinated approach to welfare reform which takes into account societal barriers faced by rights holders.

### **Social Fund**

51. The Bill proposes to abolish payments of crisis loans, community care grants and budgeting loans from the discretionary Social Fund. A range of alternative emergency payments are to be introduced to replace the Social Fund.
52. The Commission notes that the availability of these measures has provided a safeguard for families and individuals who find themselves in financial difficulties. The Commission further notes that people with disabilities account for approximately 45 percent of all applications for community care grants, followed by pensioners (24 percent) and lone parents (21 percent).<sup>19</sup>
53. The Social Fund currently safeguards the right to an adequate standard of living, as protected by Article 11 ICESCR, through assisting families and individuals who have encountered unexpected financial difficulties. It also safeguards disabled people's right to an independent living, as protected by Article 29 UNCPRD, by offering financial assistance for unanticipated costs.
54. The protections offered by the Social Fund are significant and the Commission advises that the Committee examine the sufficiency of the proposed alternative emergency payments.

### **Housing Benefit**

55. ICESCR recognises that the provision of adequate housing is essential to ensuring the right to an adequate standard of living. In its General Comment No. 4, the Committee for Economic, Social and Cultural Rights observed that all "individuals, as well as families, are entitled to adequate housing regardless of age, economic state, group or other affiliation or status".<sup>20</sup> Furthermore, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.<sup>21</sup> The European Social Charter similarly recognises that the provision of family housing is a necessary condition for the full development of the family under Article 16.
56. Clause 11 sets out the intention to provide for an amount to be included in UC to cover housing costs. It does not provide for benefit entitlement to be related to actual rents in the local housing market. This has the potential to cause disconnect between housing costs and actual rents and, over time, this could create hardship.
57. Clause 69 of the Bill empowers the Department to set an approximate maximum housing benefit. For the private rented sector, the Department will be empowered to set rents at the lower end of either Consumer Price Index or the bottom 30th percentile of private sector rents. This change from the current approach where payments are linked to the 50th percentile.

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19 Law Centre (NI) and Housing Rights Service Response to DWP Consultation on Social Fund Reform: debt, credit and low-income households, June 2010

20 Committee for Economic, Social and Cultural Rights, General Comment 4 on The Right to Adequate Housing (Art.11 (1)): . 13/12/1991

21 Ibid, para 8(a)

58. For the social housing sector, the Department will bring forward regulations setting out the process for determining the approximate maximum housing benefit. It may introduce size criteria into the calculation of housing benefit for working age tenants in social housing. While the Bill does not currently provide detail on how these changes would be introduced, should the department take a similar approach to that taken in England, housing benefit payments for social housing tenants would be reduced by 14% of their rent for under-occupation by one bedroom, and by 25% for under-occupation by two or more bedrooms.<sup>22</sup>
59. Taking an average rent, a tenant on full Housing Benefit who is under-occupying by one bedroom would see their benefit reduced by £8.25 per week and for a tenant occupying by two or more bedrooms, the figures would be £14.70 per week.<sup>23</sup> The Commission is concerned at these figures and advises that the Committee examine the level of hardship which may be felt among low income households as a result.
60. The Commission advises that the Committee consider the particular circumstances of Northern Ireland and the segregated nature of housing stock. It is likely that changes to housing benefit will result in households that face shortfalls seeking to move home. In social housing, where the stock is highly segregated, choice is restricted. The Commission recalls the continued prevalence of sectarianism and the threat which this poses to human rights.<sup>24</sup>
61. Northern Ireland's housing stock has traditionally been dominated by larger dwellings which should be taken into account when determining eligibility on the basis of size.<sup>25</sup> The Commission understands that there is a scarcity of smaller housing units in Northern Ireland and this may lead to difficulties in respect of the introduction of size criteria into the calculation of housing benefits.
62. The Committee for Economic, Social and Cultural Rights have outlined that effective monitoring is an obligation of immediate effect, requiring that;
- “for a State party to satisfy its obligations under article 11 (1) it must demonstrate, inter alia, that it has taken whatever steps are necessary, either alone or on the basis of international cooperation, to ascertain the full extent of homelessness and inadequate housing within its jurisdiction. In this regard, the revised general guidelines regarding the form and contents of reports adopted by the Committee (E/C.12/1991/1) emphasize the need to “provide detailed information about those groups within...society that are vulnerable and disadvantaged with regard to housing”. They include, in particular, homeless persons and families, those inadequately housed and without ready access to basic amenities, those living in “illegal” settlements, those subject to forced evictions and low-income groups.”<sup>26</sup>*
63. The Commission advises that the implementation of this proposal must be monitored closely. The impact on disabled persons must in particular be considered. Article 19 of UNCRPD states that;
- “Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community.”*

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22 See [http://www.nihe.gov.uk/welfare\\_reform](http://www.nihe.gov.uk/welfare_reform) [accessed 19.10.12]

23 Ibid.

24 See, Brendan Murtagh & Geraint Ellis (2011): Skills, Conflict and Spatial Planning in Northern Ireland, Planning Theory & Practice, 12:3, at 365; Louise Arbour (2006) Economic and Social Justice for Societies in Transition, International Law and Politics, 40:1, pp. 8-9

25 Northern Ireland Housing Executive (2009) Housing Condition Survey - The 2009 House Condition Survey found high proportions of larger homes- bungalows (22%); terraced houses (31%); semi-detached houses (20%); detached houses (19%) with apartments and flats accounting for just 8%- approximately the same size as 2001- indicating that the proportion of these homes should not have been expected to dramatically increase since 2009.

26 Ibid, para 13

64. The Commission advises that the Committee consider providing for monitoring to ensure that changes to Housing Benefit do not result in disabled persons moving into accommodation that is not suited to them and away from supportive communities and individuals upon whom they rely.
65. The Commission notes that concerns have previously been raised regarding a proposal to abolish provision for direct payments to landlords. It is noted that the Minister for Social Development indicated an intention to retain provision for the direct payment of landlords. This is welcomed.

#### **Private and Voluntary Sector Contractors**

66. Clause 30 of the Bill allows for contracted providers in the private and voluntary sectors to exercise functions of the Department of Social Development or the Department for Employment and Learning relating to work-related and connected requirements. The Commission notes the significant role which assessment relating to work-related and connected requirements may have on an individual's entitlement and benefits and, by extension, on their right not to be treated in an inhuman or degrading manner and their right to an adequate standard of living.
67. The duty to comply with the Human Rights Act 1998 extends not only to public authorities but also 'include[s] bodies which are not manifestly public authorities, but some of whose functions only are of a public nature'.<sup>27</sup> This was reiterated in March 2012 during debate on the Health and Social Care Bill when Parliamentary Under-Secretary of State for Quality, Lord Howe reiterated that, *'the Government's view is that all providers of publicly funded health and care services should indeed consider themselves bound by the [Human Rights] Act and the duty.'*<sup>28</sup> *This is the position that we expect private and third sector providers to follow*'. The Committee for Economic, Social and Cultural Rights has further reiterated that the state must take responsibility for the effective administration of the social security system.<sup>29</sup>
68. The Commission advises that the Committee give consideration to inserting a clause in the Bill requiring contracted private and voluntary sector providers must be required to comply with the Human Rights Act 1998.

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27 HL Debs, col. 797 (November 24, 1997), The Lord Chancellor's comments on section 6(3)(b) of Human Rights Act 1998.

28 HL Deb 13 March 2012 at column 238 concerning proposed amendment 292A to the Health and Social care Bill 2012.

29 Committee on Economic, Social and Cultural Rights, General Comment 19 on The Right to Social Security (2007) E/C.12/GC/19, para 11

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# NIACRO

Date: 19/10/2012



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4 Amelia Street  
Belfast  
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Committee for Social Development  
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Dear Dr Pelan,

## **Welfare Reform Bill**

Thank you for the opportunity to comment on the Welfare Reform Bill, currently being considered by the Committee for Social Development. NIACRO is a voluntary organisation, who has been working for over 40 years to reduce crime and its impact on people and communities. We provide services for, and work with, children and young people; with adults in the community and with people in prison and their families, whilst working to influence others and apply all of our resources effectively.

NIACRO receives funding from, and works in partnership with, a range of statutory departments and agencies in Northern Ireland, including criminal justice, health, social services, housing and others.

Given our experience of working with some of the most vulnerable and marginalised groups in society, we are keen to share our knowledge and provide our views on this particular piece of legislation, which will have far-reaching implications for many people in Northern Ireland. To that end, and notwithstanding the importance of maintaining the principle of parity, we are keen to ensure that the legislation introduced by the Northern Ireland Assembly has due regard for, and cognisance of, the particular needs of our society, which include higher rates of both unemployment and disability than other regions. We, therefore, strongly urge the Assembly not to miss this opportunity to develop legislation that responds appropriately to our needs, and protects the most vulnerable people in our society.

Attached you will find our substantive response, which addresses some clauses directly as well as providing more general commentary on the principles underpinning the legislation and its practical implications. We hope this is helpful and should you require anything further from us, please let us know.

We look forward to observing the Committee's further deliberations on this matter.

Yours sincerely,

**Olwen Lyner**  
Chief Executive

## NIACRO Position Paper: Welfare Reform Bill

### **Welfare Support - First Principles**

NIACRO believes that, in terms of first principles, we need a welfare system that is flexible, that considers individuals' needs, and facilitates claims in advance of critical events, such as redundancy, retirement or release from custody. Such a system should be able to react to changing events, including offers of employment, in real time to ensure a smooth transition from benefit dependency to waged independence. We are concerned some of the current proposals will either hinder or prevent that, and that many are based on unrealistic assumptions about peoples' capacities or needs.

### **Date of claims**

Briefings supplied by the Department of Social Development (DSD) indicate that the date of claim for Universal Credit will in future be determined by the date that the completed benefit form is accepted by DSD, and not the date of first contact as is currently the case with Disability Living Allowance and Jobseeker's Allowance. NIACRO believes this is inherently unfair, as it will disadvantage those claimants who are less technically able and struggle with digital and online applications, as well as those with literacy and numeracy issues or learning disabilities.

### **Online claims**

Whilst we understand the pressure to move towards online applications and claims, which can often be more efficient for both claimants and staff, there are very real issues in Northern Ireland in terms of access to the internet. In both disadvantaged and rural areas, there are people who simply do not have regular or reliable access to such services. The new system requires claimants who apply to check their Universal Credit online accounts regularly for messages and instructions. In many cases, our service users will be able to make their initial applications online with our support, but this would then require people who use a centre such like NIACRO to check in regularly with NIACRO for messages. This is both unfair and unrealistic, and we recommend that the Department considers inviting applicants to indicate on their claims forms how they wish to be contacted.

A further issue with the online application format for Universal Credit is that the questions boxes provide no room for free text to add additional information material to the application, in a further departure from the current procedures. As well as restricting the capacity for individuals' particular circumstances to be taken into account, this presents further difficulties given that Section 112 of the Bill introduces penalties for incorrect statements and failures to disclose information. We recommend that, in order to ensure people are given the maximum opportunity to disclose information to be taken into consideration, the forms are amended to include the capacity to provide free text.

### **Monthly payments**

We are aware that officials have been attempting to negotiate some flexibility in the system to protect the provision of weekly and fortnightly payments, and avoid a uniform move to one monthly payment in all cases. We strongly support this approach as we know many of the people we work with simply do not have the skills to manage a monthly budget. We deliver training in financial capability in a range of settings and that experience demonstrates to us that such skills are seriously lacking in Northern Ireland, particularly amongst the marginalised groups with whom we often come into contact.

To that end, we recommend that consideration is given to including some of the people we work with, such as people who have been in custody, within the exceptional circumstances group (payments exception service), to ensure that they receive payments on a weekly or fortnightly basis.



### **Bank accounts**

While bank accounts are the preferred option for the payment of Universal Credit, we are keen to highlight the hesitancy that remains within the banking sector to engage in a process with the Northern Ireland Prison Service to facilitate people in prison to open bank accounts. Many of these people have minimal experience of continuous employment, and as a result enter prison without ever having opened a bank account in their own name. There is a range of barriers that exist for such people, who can't give a proof of address or utility bill, to actually opening an account either prior to or immediately after release. We would, therefore, argue that until banks are required to co-operate and facilitate a scheme for people who have been in prison, an alternative to payments directly into bank accounts must be maintained. We would welcome any leverage the Department can use with the banking sector to move this issue forward to a positive conclusion, to enable people planning for release to open a basic bank account for their immediate use upon release.

### **The “bedroom” tax**

We are strongly opposed to any reduction in Housing Benefit to Housing Executive or Housing Association tenants who reside in a property that is deemed to be under occupied. Introducing such a tax would punish those people who need housing support for the inadequacies of, and lack of flexibility in, the social housing stock available in Northern Ireland. We know that many recipients of Housing Benefit are single people, but there are very few single bedroom properties available, and claimants should not be penalised as a result. We also know that there is a distinct lack of Houses in Multiple Occupation (HMOs) available outside the urban hubs and Greater Belfast area, which again is no fault of any claimant.

There is also a wide range of legitimate reasons why people may need to reside in a property with additional bedrooms, such as:

1. Families of people in prison who intend to return to the parental or family home upon release;
2. Families of students who may move out of parental accommodation during term time and return during holidays or after course completion;
3. Separated couples who have custodial access to children on a regular but infrequent basis;
4. People who are hospitalised for short periods;
5. Foster-carers or respite carers who are required to have a spare bedroom for people to stay for short periods; and
6. People with disabilities who have a carer stay over on a regular but infrequent basis.

For these reasons, we urge the Committee to consider amending this element of the legislation to ensure tenants are not unduly penalised.

### **The Bill**

Turning to the legislation as currently drafted, we also wish to make a number of comments on specific elements therein.

#### **Section 4 - Basic conditions**

The Bill requires that in order to claim Universal Credit a person must be at least 18 years old. Section 4 (3) allows for a lower age limit to apply in specific circumstances, such as lone parents under 18 or young people estranged from their family. We recommend that 16 and 17 year olds who are registered for training with the Employment Service but have not secured an immediate placement should also be added to this list of specified groups, to mirror the current provision for discretionary Jobseekers' Allowance.

## **Section 11 - Housing Costs**

Section 11 (1) states that the calculation of an award of Universal Credit is to include an amount in respect of any liability of a claimant to make payments in respect of the accommodation the claimant occupies as his or her home. We are concerned about this aspect of the Bill as it places responsibility on the benefit claimant to pay their landlord directly from their lump sum payment.

We urge the Department to amend this section of the Bill to allow the option of direct payments to landlords. As we have noted elsewhere, we have concerns for many of the people we work with who are simply not financially capable of managing money or budgeting; who have learning disabilities and mental health issues; who have addictions to drugs and/or alcohol and who will ignore their responsibility to pay their rent and misuse the housing costs element of their benefit. Given the consequences of persistent non-payment, which can eventually lead to eviction and homelessness, we urge the Department to help such vulnerable people to maintain their tenancies by facilitating payments for accommodation costs directly to landlords.

## **Section 16 - Work preparation requirement**

We recommend that engagement with NIACRO employability services, and other similar programmes offered by voluntary and community organisations, is recognised as contributing to work preparation in fulfilment of these requirements.

## **Sections 70–73 - Social Fund**

Provision is made in these sections of the Bill for the repeal of crisis loans, community care grants and budgeting loans under the discretionary social fund. The Office of Social Fund Commissioner and the Independent Review Service are also repealed. We understand that work is ongoing to develop a replacement Discretionary Support Scheme but we are keen to emphasise the importance of the availability of support for assisting the resettlement needs of people moving from prisons or hostels into independent living arrangements in the community. Without more detail on the qualifying criteria for the new scheme, it is hard to be more definitive on its impacts, but we recommend that these particular circumstances are recognised in the regulations governing the Discretionary Support Scheme.

## **Section 86 - People in prison**

As currently drafted, the legislation is not clear as to whether payment of the daily living component of Personal Independence Payment (PIP) will continue for the first 28 days of custody, as is provided in Sections 84 and 85 for people entering a care home or hospital respectively to meet ongoing costs.

Further to that, we recommend an amendment is inserted to Section 86 to take account of people who spend lengthy periods on remand in prison, only to be released without charge, as well as those who serve long sentences only to have their convictions quashed on appeal. We believe that in these instances, where a person was in receipt of PIP prior to their period in custody and where medical evidence substantiates that they satisfied the qualifying conditions of PIP during their incarceration, a backdated award of PIP should be made to them for the entire period of imprisonment.

## **Section 95 - Benefit cap**

We are aware that there has been considerable controversy over the suggestions that payments would be limited on the basis of the number of children in a household. Given the current economic crisis, in which record numbers of people previously in stable employment are suddenly finding themselves unemployed and reliant on welfare payments, we strongly urge more detailed consideration be given to this proposal. There will be many parents who had always been able to financially support their family, and who could be penalised simply for having more children.

### **Section 97 - Claims and awards**

Subsection (2) amends section (5)(1)(d) of the Social Security Administration Act 1992. Section (5)(1)(d) allows for the making of advance claims to benefit where a claimant does not presently but soon will meet the conditions of entitlement for a benefit. Throughout the new proposals, significant emphasis has been placed on access to, and competence in, digital access with the preferred method of application for Universal Credit being online.

We know from our experience of providing resettlement services that access to financial support within the first few days after release from prison is a critical determinant in preventing reoffending. We, therefore, ask that people are facilitated in making claims for Universal Credit in advance of their release from custody, and that DSD works closely with the Northern Ireland Prison Service to ensure that appropriate resources and equipment are made available to permit advance claims for Universal Credit from prison.

### **Section 99 - Payments to joint claimants**

This section sets out to whom a benefit is paid in the case of a couple claiming jointly. We are mindful that some relationships are defined by domestic abuse and financial abuse and recommend that the regulations require that the views of both claimants are ascertained, to establish to whom payment should be made. Furthermore, we recommend that an amendment is introduced to provide that an appropriate third party, such as social services, may alert the Department to the need for an alternative payment arrangement to be made, and that this be treated both sympathetically and efficiently. Universal Credits could be comprised of Jobseeker's Allowance, housing costs, Child Tax Credits, etc., and a claimant may also be eligible for Child Benefit and Personal Independence Payment. In order to serve the best interests of children and vulnerable young people we ask that further flexibilities are introduced to the Universal Credit system to ensure that payments can be paid to the person in the household who has the main caring duties.

Given the extent of imprisonment for fine default in Northern Ireland, we also wish to highlight potential problems for such a system of large single payments to only one individual within a household. In some households, one partner will be named on utility bills and television licences, etc. If that same person is not able to access the money being paid into their partner's account, in order to pay the bills on time, they could quickly end up in a debt situation, with potential consequences that could include eventual imprisonment. We believe this is inherently unfair, as it creates clear risks that those named will be held accountable with their having any real power.

In cases where payment is made to one member of the household, we also emphasise the disproportionate impact that this will have on the families of people who may enter prison for varying periods of time. In the event that payments are made to the husband, for example, and such payments would be immediately suspended on committal to custody, a wife may be left alone and with additional caring responsibilities on the outside, without access to any financial assistance or support. We recommend that specific provision is made to ensure that a work-around is quickly identified in such cases to provide ongoing financial support for families who have a member in prison.

### **Section 100 - Payments on account**

NICARO welcomes this element of the legislation as a payment of this kind will bridge the gap between custody and the community while an individual is waiting payment of Universal Credit. Given its importance we ask that released prisoners awaiting the outcome of benefit decisions are specified in subsection 5 (1) (ii) "cases in need".

## **Conclusion**

In conclusion, we request that the Committee uses its power to influence this legislation to include additional safeguards and protections for the most vulnerable. In particular, we must stress that many of the people we work with, whether on supervision in the community, in custody or people who have historical convictions, have lower levels of literacy and numeracy and higher levels of mental health and substance abuse issues. As a result, they are often among the most marginalised groups in society and we believe the legislation, as currently drafted, creates further barriers to their successful integration. We do not expect any blanket provisions to be made for any particular groups, but request that greater evidence of flexibility be introduced within the system, to allow for the very complex needs of people in exceptional circumstances.

# NIAMH

## The Welfare Reform Bill 2012

Submission of Evidence to the Social Development Committee

by

Niamh (the Northern Ireland Association for Mental Health)

22 October 2012

## Executive Summary

### i Introduction

Niamh is the largest and longest established mental health charity in Northern Ireland. We deliver community based mental health services in every Assembly constituency through Beacon and Carecall. Welfare reform will significantly impact the lives of our service users (members). We note Minister McCausland's assertion that the first principle of welfare reform is to protect the vulnerable in our society. We welcome the cross party recognition that welfare reform will have specific impacts on persons who experience mental ill-health.

Northern Ireland is distinct from other parts of the UK not only because of the higher prevalence of mental ill-health recognised as a consequence of the conflict, but also because of the human rights and equality protections provided to this group through the unique legislative framework under the Northern Ireland Act 1998. Our views have been informed by legal analysis on the Bill's human rights compliance and justiciability.

We note that the policy simulation modelling results have not been published. Consequently it is not possible to present detailed figures about those impacted by the various components of the Welfare Reform Bill.

This submission is structured in three sections. In this Executive Summary we present the recommendations made in each section. Sections One and Three deal respectively with the overall Bill, and key themes in the implementation of the legislation. Section Two contains reference to specific clauses that we seek to have amended.

### 1. Section One Recommendations: Human Rights Compliance and Justiciability

**We recommend** that the Assembly applies the *Northern Ireland Act 1998* mandatory legislative provisions to the Welfare Reform Bill so that the Bill is both human right compliant on the face of the legislation and moulded to the particular needs of those seeking welfare assistance in Northern Ireland, in particular those individuals who experience mental health problems.

### 2. Section Two Recommendations: Amendments to the Welfare Reform Bill

#### 2.1 Evidence

**We recommend** that there is a mandatory requirement to seek independent, mental health expert opinion from health professionals and / or voluntary organisations with which the claimant has an established relationship at all stages of the welfare reform process including before sanctions are imposed.

## **2.2 Sanctions**

**We recommend** that an individual has access to independent advice and representation in order to compile and present his / her evidence in situations in which sanctions are being considered.

## **2.3 Employment and Support Allowance**

**We recommend** the removal of the time-limiting of Contributory ESA for WRAG claimants.

**We recommend** that individuals are able to re-qualify for ESA if they meet the eligibility requirements for either the Support or Work Related Activity Group at the end of the 365 day period (if this is retained) or subsequently, should their condition fluctuate or deteriorate.

## **2.4 Personal Independence Payment**

**We recommend** that the arbitrary rotating 12 month assessment period is amended to allow for discretion in relation to persons experiencing mental ill-health.

## **2.5 Advice and Representation**

**We recommend** the inclusion of mandatory access to independent advice and representation for persons experiencing mental ill-health through accredited organisations within the voluntary sector.

# **3. Section Three Recommendations: Implementation of the Welfare Reform legislation**

## **3.1 Regulations**

**We recommend** the timely publication of draft Regulations to ensure full scrutiny including human rights compliance.

**We recommend** the passage of regulations by affirmative resolution of the Assembly.

## **3.2 Public Information**

**We recommend** an effective public information campaign for vulnerable groups.

**We recommend** that all individual and public communications regarding welfare reform are reviewed in order to minimise anxiety and harm.

## **3.3 'Digital by Default'**

**We recommend** the development of a short form to register an application for welfare benefits, which would be used as the commencement date for the claim i.e. the full application form does not need to be completed before the commencement date is registered.

**We recommend** that supports are put in place for non-digital application by persons who have no or limited digital access or who do not have the skills to undertake their application online by themselves.

**We recommend** clear guidance regarding the completion of applications with the assistance of third parties.

## **3.4 Stigma and Welfare Reform**

**We recommend** that there is MLAs agree to avoid the use of stigmatising and inflammatory language about welfare reform and benefit claimants.



**We recommend** that MLAs use their influence to promote a measured and informed debate about welfare reform that recognises the necessity of social security provision for vulnerable members of society.

### 3.5 Procurement

**We recommend** that there are stringent performance requirements linked to the quality of medical assessments; and that mental health assessments are specified within this.

**We recommend** the inclusion of mandatory monitoring and review systems for private sector contracts including the use of proportionate, escalating and timely sanctions such as financial levers for poor performance.

## i. Introduction

This is a submission to the Social Development Committee on the Welfare Reform Bill by Niamh (the Northern Ireland Association for Mental Health). We note that we issued a briefing of mental health and welfare reform on 9 October when the Bill had its Second Reading and that this was circulated to all MLAs and political parties.

Niamh is the largest and longest established mental health charity in Northern Ireland. We have been providing community based mental health services through Beacon to persons with experience of significant mental ill-health since 1959. In 2011 – 2012 Beacon delivered support for people with experience of mental illness, through supported housing (351 places), day support (accessed by 1139 people) and advocacy (totalling 5600 cases). Through our Carecall service we cover 435 842 lives in workplace and further education settings. In 2011 – 2012 Carecall provided counselling and psychological therapies through 19 000 sessions to 4 500 people, as well as mental health and wellbeing programmes.

We have a research unit, which generated evidence on which this submission is based. In 2010 our research unit conducted a needs assessment of our housing support services; and in 2012 it conducted a review of our day support services. We have a public affairs and policy unit, which compiled this submission.

Welfare reform will have a direct impact on the people that we work with across Northern Ireland. In our Beacon Housing Support Services research in 2010 found 75% of residents were in receipt of DLA, 36% Incapacity Benefit, 10% State Pension, 50% Income Support, and 10% Housing Benefit. In our Beacon Day Services research in 2012 found 95.8% of members are in receipt of state benefits; this includes: 79% DLA, 50% Income Support, 39% Housing Benefit, 19% State Pensions, 11% Incapacity Benefit (and 2% Employment Support Allowance), 5% Tax Credits, 5% Child Benefit, 3% Job Seekers Allowance, and 7% Statutory Sick Pay. (2012) Carecall's clients include those in low paid work and further education for whom welfare benefit payments form an essential part of their income.

Niamh is a member of the Northern Ireland Welfare Reform Group (NIWRG). In this submission of evidence we focus on specific issues related to persons who experience mental ill-health. We concur with the broader issues and recommendations made by the NIWRG in its submission of evidence for example with regard to frequency of payments, payment of housing benefit directly to landlords, and splitting the payment of benefits.

While the call for evidence from the Social Development Committee has directed a specific format for response in so far as each response must be on a clause by clause basis, it is our considered view that it is essential that certain matters of general applicability to the entirety of the Bill are highlighted at this stage so that a view may be taken by the Committee as to the appropriateness of the overall context, applicability, human rights compliance and justiciability of the current provisions of the Bill.

We consider that this particular approach to be crucial as it is evidential that people experiencing mental ill health will be impacted by many of the proposed changes. Therefore, our overarching concern that the Bill, as drafted, is not human rights compliant must be viewed as permeating all our concerns throughout this submission. *This is dealt with in Section One.*

We consider that the provisions of the Welfare Reform Bill will have significant impacts on individuals who experience mental ill-health. We focus on a number of specific clauses that we recommend are amended. *This is dealt with in Section Two.*

We consider that there are a number of matters regarding the implementation of the legislation, which it would be valuable for the Committee to take a view on. *This is dealt with in Section Three.*

## 1. Section One: Human Rights Compliance and Justiciability

This section is informed by legal analysis on the human rights compliance of the Bill.

### 1.1 Overview and comments of general applicability to the Bill

- 1.1.1 The Bill makes provision for the welfare landscape in Northern Ireland corresponding to provision in the *Welfare Reform Act 2012*, applicable in England and Wales.
- 1.1.2 As such, the Bill is deemed to be part of the ongoing process of welfare reform and modernisation of the benefit system. This objective is consistent with the ethos of many international human rights instruments, which recognise the right to work, and the right to an adequate standard of living.
- 1.1.3 In seeking to justify the human rights compliance of the Bill, each proposal must be considered to be reasonable and necessary and in pursuit of a legitimate (in this case, social welfare) aim.
- 1.1.4 It is inherent on the government that, in seeking to utilise the law to advance more widely applicable human rights standards, they act compatibly with both national and international human rights law.
- 1.1.5 This notion of advancement of human rights is inherently linked to the legal concept of retrogression. This requires that once acquired, rights should not be removed or limited so as to result in a move away from a previously more beneficial position.
- 1.1.6 This presumption against retrospective measures, and indeed a states continuing obligation under human rights principles, is viewed within the context of available state resources. However, we at Niamh consider that the Bill as currently drafted identifies significant areas of retrospection vis-à-vis people with mental health problems. These will be highlighted below in the 'Comment on selected clauses' below (1.5).
- 1.1.7 It has in the past been the case that Bills seeking to reform matters relating to social welfare are accompanied by human rights memorandum.<sup>1</sup> These memorandums highlight the informed parliamentary scrutiny process undertaken to ensure that the relevant Bill(s) are human rights compatible, which in turn suggests that they are more likely to withstand judicial scrutiny. The outward matching of legislative proposals with human rights obligations would serve to demonstrate both a commitment towards and an ongoing awareness of national and international treaties and conventions to which the UK is a signatory state.
- 1.1.8 It is our view at Niamh that the absence of such transparent scrutiny will make any subsequent legislation vulnerable to judicial review, both on fact specific cases as well as general challenges to the compatibility of such legislation with human rights law.

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1 For example the Child Poverty Bill and the Education Bill.

## 1.2. Responsibilities under the *Northern Ireland Act 1998*

- 1.2.1 While the UK government did not attach a human rights memorandum to the *Welfare Reform Act 2012*, there is nothing to prevent the devolved government in Northern Ireland carrying out such an exercise.
- 1.2.2 It is our view in Niamh that it is in fact mandated by the *Northern Ireland Act 1998* that an analysis of impact and obligation viewed through the lens of existing human rights provisions is carried out when the proposed legislative provisions are to impact in a wide ranging way throughout in relation to those most vulnerable in society.
- 1.2.3 We further consider that discussions around parity requirements should be informed not only by the different characteristics of Northern Irish society including its experience of conflict, levels of socio-economic deprivation and high rates of mental ill-health, but also the distinct legislative framework provided by the Belfast Agreement and *Northern Ireland Act 1998*.
- 1.2.4 We note that equality is a fundamental commitment within the Belfast Agreement. The *Northern Ireland Act 1998* sets down the politically agreed and socially mandated legislative framework within which the Assembly must operate.
- 1.2.5 The 1998 Act requires the Assembly and the Ministers to uphold and protect the rights guaranteed under the European Convention in Human Rights Act. This is implicit in the provisions of the 1998 Act, which mandate that the overarching ethos of legislative standards be derived from the provisions of the ECHR.
- 1.2.6 For example, in the 1998 Act:

**Section 6** provides that a provision is outside the legislative competence of the Assembly if it is incompatible with any of the Convention rights;

**Section 24** provides that a Minister or Northern Ireland Department has no power to introduce subordinate legislation or to do any act in so far as that would be incompatible with any Convention rights; and

**Section 75** requires a public authority to have due regard to the need to promote equality of opportunity between categories of persons, which includes matters surrounding disability.

- 1.2.7 These specific provisions within the 1998 Act focus attention on both the human rights compliance requirements of the legislature in Northern Ireland while also, under section 75, enabling specific emphasis to be placed on the particular context of Northern Ireland when considering human rights obligations.
- 1.2.8 The 1998 Act also served to create the Equality and Human Rights Commissions in Northern Ireland, and it is our view that these two bodies should have a significant role in participating in and scrutinising the human rights implications of the Welfare Bill within the particular circumstances of Northern Ireland.
- 1.2.9 At present, there is no evidence to indicate that any or any detailed analysis has been carried out into the impact of the Welfare Reform Bill on individuals who experience mental ill health.

**We recommend** that the Assembly apply the *Northern Ireland Act 1998* mandatory legislative provisions to the Welfare Reform Bill so that the Bill is both human right compliant on the face of the legislation and moulded to the particular needs of those seeking welfare assistance, in particular those individuals who experience mental health problems.

## 1.3 The international framework

- 1.3.1 As well as considering their human rights obligations under the European Convention on Human Rights (ECHR) and any impact the welfare reform provisions may have on protected rights (most notably Article 3, protection from inhuman or degrading treatment, and Article

8, respect for private and family life), the Assembly must also take cognisance of a variety of international treaties and conventions to which the UK, as the member State, is a signatory.

- 1.3.2 There would appear to be a complete absence of any analysis of compatibility having been carried out under the ECHR, the International Covenant on Economic and Social Rights (ICESR) and the United Nations Convention on the Rights of Disabled People (UNCRPD).

#### **1.4 Absence of Regulations providing legislative certainty**

- 1.4.1 We at Niamh are concerned that a significant level of detail as to the administration of Schemes and the way in which discretionary powers are to be exercised under the Welfare Reform Bill will manifest in secondary legislation in the form of Regulations.
- 1.4.2 The absence of draft Regulations to be considered and assessed concurrently with the draft primary legislation makes it impossible to properly scrutinise, from a human rights perspective, the likely impact of the outworking of the Bill's reforms.
- 1.4.3 This is all the more concerning if subsequent Regulations under the Bill are subject to negative affirmation rather than positive affirmation, as this will greatly limit any subsequent Assembly scrutiny. This concern also applies given the proposed 'confirmatory procedure' to which the Regulations are to be subjected.
- 1.4.4 We at Niamh are of the opinion that the planned provision of safeguards and the outworking of the primary legislation under the Welfare Reform Bill in secondary legislation, such as Regulations, are impossible to assess in a vacuum, yet may prove fatal to what may currently be considered human rights compliant provisions under the Welfare Reform Bill.
- 1.4.5 To this end, we would welcome a future opportunity to consult on the regulatory framework, which will serve to bring the provisions of the Bill to life.

#### **1.5 Comment on selected clauses**

The following are representational of our overarching concern that the Bill is not human rights compliant and are therefore illustrative rather than exhaustive.

- 1.5.1 Part 1, Chapter 1 – Universal Credit, Sections 1-12 (so referred to in the Bill)
- Payment of universal credit to only one member in a household could result in a reduction in the personal autonomy of individuals who suffer from mental ill health.
- 1.5.2 Part 2, Chapter 2 – Employment and Support Allowance; Sections 51-58
- The sanction of reducing benefits for individuals who fail to comply with work related requirements may result in destitution, arguably engaging Article 3 of the European Convention on Human Rights. The positive act of the state in introducing provisions which restricts the availability of benefits coupled with a resulting situation which falls within the definition of "inhuman or degrading treatment" would serve to violate an individual's Article 3 rights. This would apply particularly to individuals with mental ill health who are, *de facto*, unemployable and who as a result of the manifestation of their mental ill health, lack the awareness or understanding of the need to inform the authorities within five working days of their "good reason" not to work. Such a test also inherently fails to take into account the fluctuating nature of mental ill health.
  - In the absence of detailed Regulations, it is not possible to predict how the government may provide for vulnerable people to be assessed as to whether a particular activity is appropriate for that person or not. The complexity of factors affecting those with mental ill health negates against a Regulation being able to be significantly flexible and sensitively applied so as to allow a proper and appropriate assessment of that person to be carried out.
- 1.5.3 Part 4: Personal Independent Payment (PIP); Sections 76-94

- PIPs may result in a negative impact and a possible rights violation on the right of disabled people to independent living.
- PIPs fail to take into account the matrix of social, geographic and practical barriers experienced by those people whose interaction with society is limited through disability and mental ill health.
- PIP timeframes for qualification and assessment may leave people exposed at a very vulnerable time.
- The timeframes detailed throughout the provisions relating to PIPs seem arbitrary and without any evidence base.
- The absence of a discretionary power within the context of timeframes is unnecessarily harsh and practically challenging.
- Eligibility for PIPs continues to focus on the medical model of assessment rather than the social model, thereby resulting in significant factors such as social and practical issues, being delegated in significance or worse, ignored.

## 2. Section Two: Amendments to the Welfare Reform Bill

### 2.1 Evidence

We stress that full and fair assessment, decision making, appeals procedures and consideration of sanctions about persons who experience mental ill-health must be informed by independent *and* mental health opinion.

We note the misperception within the social security system that anyone with a health qualification is able to provide a valid opinion of a person with a mental health condition. Mental health is a specialist area of knowledge and many health professionals have only a basic training in this area.

We note the misunderstanding within the social security system that an individual's GP or statutory mental health team is always best placed to provide an opinion. If an individual's mental health has stabilised then the best source of current knowledge may be from a voluntary service which provides housing, day or other support.

As well as being fundamental to assessment, decision making and appeal, evidence is of central importance to the issuing of sanctions, discussed below.

**We recommend** that there is a mandatory requirement to seek independent, mental health expert opinion from health professionals and / or voluntary organisations with which the claimant has an established relationship at all stages of the welfare reform process including before sanctions are imposed.

### 2.2 Sanctions - The need for an evidence and advocacy based approach

Given the severity of the sanctions proposed in the Bill, we consider there is a need for an evidence and advocacy based approach to decision making.

**We recommend** that an individual has access to independent advice and representation in order to compile and present his / her evidence in situations in which sanctions are being considered.

#### Clause Specific Changes

##### Part 1, Chapter 2:

*Claimant's responsibilities:*

Clauses 26 and 27 - Relate to work related sanctions. It is clear from the wording of Clauses 26 and 27 that there is a requirement that “no good reason” should exist for a failure of a claimant to comply with requirements imposed under the Bill relating to work. Clause 25 provides for Regulations to make provisions for the circumstances in which a claimant may be treated as having complied with a requirement. The Explanatory and Financial Memorandum to the Bill does not indicate how the Regulations provided for by Clause 25 will be made, i.e. affirmative, confirmatory or negative resolution. We are of the view at Niamh that Regulations created under Clause 25 should be subjected to the affirmatory procedure for the reasons we have outlined above in light of the democratic and human rights benefits of this procedure.

In addition, we consider that possible “reasons” for failure to comply with work related requirements should specifically consider and address the particular vulnerabilities faced by people who suffer mental ill health and provide for a sufficiently flexible evidence base to allow for these vulnerabilities to be properly considered and given due weight. We also consider it essential that there is a legislative presumption, clear on the face of the legislation, that people with ill health be encouraged and facilitated to utilise independent mental health advocacy assistance in helping them prepare their evidential basis for seeking to establish their “reasons” for failing to comply with work related requirements. Such assistance should also be extended to allow independent advocate to assist the individual in the articulation of their case to the relevant authority, acting as the persons advocate should that be required.

## **Part 2, Chapter 1**

### *Jobseeker Allowance*

Clauses 46 - Interviews: Clause 46 amends Article 10 of the Jobseekers Order and requires attendance at and participation in an interview. People with mental ill health subjected to such interviews should be permitted to bring an independent advocate with them to assist them in participating fully in such interviews. The advocate should also be permitted, should the applicant wish it, to represent the views of the applicant at such interviews. We at Niamh are of the view that there should be a legislative presumption inserted into Article 10 of the Jobseekers Order 1995 as to the use of such independent mental health advocates rather than a discretionary power to allow them to be utilised in the way advocated for by us. A presumptive permission permitting the use of such advocates would limit any potential inconsistency in the use of discretionary powers as to when an advocate may or may not be used. This will provide legal certainty as well as arguably limiting the potential to challenge the Jobseekers Order by way of judicial review.

Clause 47, relating to Jobseekers Allowance, seeks to amend Article 21 of the Jobseekers Order. This should also include a regulatory presumption as to the use of an independent mental health advocate as both an assistant to create an evidence base for any reasons relied on and as an oral advocate at any subsequent hearing.

Clause 50 replaces provisions in the Jobseekers Order 1995 that relate to the responsibilities that JSA claimants must meet and the imposition of sanctions where JSA claimants fail to meet those responsibilities. The legislative intention for the amendments to the Jobseekers Order 1995 is to impose requirements on JSA claimants which are the same as for those who are subject to all work related requirements in universal credit. We therefore reiterate our previous request for the insertion of a presumption of advice and assistance to allow people with mental ill health to collate the necessary evidence base to enable them to fully articulate their position and to have access to the use of a mental health advocate to assist them in doing so, in whatever way is most effective for them.

## **Part 2, Chapter 2**

### *Employment and Support Allowance*



The above comments and recommendations, relating to the necessity to provide for legislative basis for facilitating a claimant with mental ill health prepare an evidence base and utilising an independent mental health advocate is also applicable to Clause 58, which deals with a claimant's responsibilities for employment and support allowance.

## **Part 4**

### *Personal Independence Payment*

The above comments and recommendations, relating to the necessity to provide for legislative basis for facilitating a claimant with mental ill health prepare an evidence base and utilising an independent mental health advocate, apply also to Clauses 79 and 80, which deal with the tests relating to a claimant's ability to carry out daily living activities and/or mobility activities.

### **An example of how the “particular circumstances” of NI may be reflected in the Regulations**

The provisions of Clause 79 permit extensive use of regulatory powers to provide further detail required when assessing each individual claimant. For example, Clause 79 (3) (c) provides that Regulations “may” make provision about matters which are or are not to be taken into account in assessing a person. The use of the word “may” denotes a discretionary power to so act. It is, therefore, completely within the gift of the Assembly to ensure that Regulations introduced under the provision of Clause 79 (3) (c) reflect the particular mental ill health faced by people in NI as a result of the conflict and ensure these matters are dealt with appropriately and sensitively within the Regulations drafted.

A further example of how “particular circumstances” may be provided for within the legislation is Clause 79 (4). The wording of this Clause also includes the word “may” as it relates to Regulations detailing the information or evidence required for determining the questions when assessing a person's functioning relating to their activities of daily living and/or their mobility. This allows the Assembly to focus on particular on the type and methodology of data required and to ensure that people with mental ill health have access to the services they need to establish their individual evidence base. Clause 79 (4) (a) ostensibly provides a flexible approach which would also allow for the presumption of the use of an independent mental health advocate in the ways detailed previously.

## **2.3 Employment and Support Allowance (ESA)**

We note that the policy intent of the one year time limit for contributory ESA Work Related Activity Group (WRAG) claimants is to underline the principle that it is considered as a short-term benefit and that claimants placed within the WRAG are expected to move towards work with the right support in place (EQIA p17). However we are concerned that this short time limit will not allow for adequate support for individuals experiencing mental ill-health to recover and stabilize their mental health to a level that enables them to seek work.

The focus of mental health care is on recovery, which is an individual journey that is influenced by the person's fluctuating mental health and well-being. Many individuals in the WRAG may have no or limited work experience, low educational attainment, and poor knowledge and skills that are necessary for employment. Such skills include self confidence, emotional regulation, problem solving, and inter-personal communication. The pressure of short timeframe may create undue stress and anxiety and undermine the individual's mental health.

The one year limit to the contributory ESA WRAG payment has been described as arbitrary, unfair and stressful, and without an evidence base. It provides an insufficient period of time for individuals to find employment. Coalition Government figures indicate that 94 per cent of people in the WRAG will need ESA for longer than 12 months. In the House of Lords debate, Lord Patel commented: “I believe that people with a disability or illness who have paid into the system should be able to receive support for as long as they meet the eligibility criteria for ESA and are unable to work due to their condition. What they need is enough time and the

right support. What they do not need is to be penalised for not recovering quickly enough.” (Hansard House of Lords, 11 January 2012, Column 150).

Further, he noted that it is extremely important that a person in the WRAG who has been subject to the ESA time limit of 365 days is able to re-qualify for the contributory benefit at any time that they are subsequently assessed as eligible for the support group. This is very relevant to individuals with fluctuating conditions including mental ill-health. (Column 155)

It is noted that the Coalition Government acknowledged that it had not conducted a robust assessment about the impact that time-limiting ESA would have on the number of people in poverty, on health and social care budgets, and on the demand for benefits advice services. (Columns 153-4). This chimes with our concerns about the hidden costs of welfare reform for the health and advice sectors.

**We recommend** the removal of the time-limiting of Contributory ESA for WRAG claimants.

**We recommend** that individuals are able to re-qualify for ESA if they meet the eligibility requirements for either the Support or Work Related Activity Group at the end of the 365 day period or subsequently, should their condition fluctuate or deteriorate.

### **Clause Specific Changes**

#### **Part 1, Chapter 2**

##### *Employment and Support Allowance*

Clause 52 inserts amendments after section 1 of the Welfare Reform Act (NI) 2007. The proposed new 1A (1) and 1A (4) (a) provide that the period for which a person is entitled to a contributory allowance must not exceed 365 days.

## **2.4 Personal Independent Payment**

We note that the experience of ESA assessment, decision making and appeal foreshadows similar processes under PIP. It is difficult to have any confidence that these processes under PIP will cause any less anxiety and distress.

Niamh considers that the rotating 12 month assessment period appears to be an arbitrary period that does not properly reflect the subjective nature of mental ill health and its fluctuating character with regard to: manifestation, pattern and behaviour over a period of time.

The requirement that a person has their condition at the same level for three months prior to and six months following assessment is not appropriate for persons with fluctuating mental health problems and / or those who are trying to progressively recover their mental health. The requirement of a continuous level of mental ill-health is contrary to the principle of mental health recovery.

It is our view that, should flexibility in approach not be regulated for when considering people with significant mental ill health, then there exists a very real risk that such people may be made vulnerable and be exposed to factors which may serve to greatly exacerbate their condition.

**We recommend** that the arbitrary rotating 12 month assessment period is amended to allow for discretion in relation to persons with mental ill-health.

### **Clause Specific Changes**

Part 4, Clause 80 - Niamh recommends the insertion of a provision in the Regulations relating to the “required period condition”, provision for which is made under Clause 79 (2), which gives cognisance to the likely impact of frequent reviews on persons with significant mental ill health. There is specific mandatory flexibility contained in Clause 80 (4) (a) and (b), which would allow discretion to be exercised in relation to this particular group of people.

## 2.5 Advice and representation provision

We at Niamh work closely with colleagues in the independent advice sector and recognise the essential work undertaken with local services and communities. The value of this advice and representation has been apparent in the successful rates of ESA appeal decisions. We note that there is not currently a clause providing mandatory access to independent advice and representation.

**We recommend** the inclusion of a clause(s) that establish mandatory access to independent advice and representation for persons experiencing mental ill-health through accredited organisations within the voluntary sector.

## 3. Section Three: Implementation of the Welfare Reform legislation

### 3.1 Regulations

The issue of Regulations is raised in Section One of this submission with regard to ensuring that the Welfare Reform legislation is human rights compliant. We note that much of the detail of welfare reform will be contained within the Regulations. It is difficult to anticipate the full implications of the provisions of the legislation without the draft Regulations.

We are concerned that the draft Regulations may be published so close to the commencement of the Welfare Reform legislation that it will not be possible to have full Assembly and public scrutiny. We are concerned that the Regulations will be a direct mirror of those introduced in the rest of the UK and will not reflect the specific characteristics of Northern Ireland, particularly with regard to the prevalence of mental ill-health, lack of employment opportunities, and the limitations on freedom of movement to access employment due to the sectarian geography of certain parts of the jurisdiction.

**We recommend** the timely publication of draft Regulations to ensure full scrutiny including human rights compliance.

**We recommend** the passage of regulations by affirmative resolution of the Assembly.

### 3.2 Public Information

Responses to discussions about welfare reform amongst our service users (members) range from acute distress and fear to assertions that 'it is nothing to do with me' by individuals who have been assured by social security staff that they are on DLA for life.

It is widely acknowledged that the welfare reform agenda represents the most fundamental change to the social security system since the establishment of the welfare state. We are seriously concerned at the lack of public information currently available about the scope of the reform, and the lack of planning for an effective public information campaign that will reach vulnerable groups. We consider that a public information campaign with specific supports of the scale and quality of the recent 'Digital Switchover' is required to ensure effective communication of welfare reform.

Niamh's Housing Needs Assessment (2010) and Day Services review (2012) found low levels of educational attainment, low levels of literacy and numeracy; in addition to the comprehension challenges of cognitive impairment associated with mental ill-health and the effects of some psychiatric treatments.

**We recommend** an effective public information campaign for vulnerable groups.

**We recommend** that all individual and public communications regarding welfare reform are reviewed in order to minimise anxiety and harm.

### 3.3 Digital by Default

The Niamh's Day Services Review provides an insight into the levels of digital access and competence amongst individuals experiencing mental ill-health. It found that almost one half (143, 46.9%) of Beacon members did not have access to or own a computer while more than a half (162, 52.9%) did not have access to the internet. Over two fifths are incapable of using a computer (41.8%, 127) or using the internet (48.6%, 148). Capability of using a computer and using the internet both decreased with age. (2012)

Concerns raised by the NIWRG regarding the 'Digital by Default' approach have included individuals low access to a private computer and quality of internet access; the lack of privacy and time limitations in accessing a public computer (for example in a library); the delay in registering a claim if the full form has to be completed; and the lack of clarity about the role of third parties in assisting individuals to complete the application form.

In terms of ongoing communication between the claimant and the social security office, we are concerned that this lack of access to computers and the internet, is compounded by individuals on low incomes and who are experiencing mental ill-health having access to a telephone.

**We recommend** the development of a short form to register an application for welfare benefits, which would be used as the commencement date for the claim i.e. the full application form does not need to be completed before the commencement date is registered.

**We recommend** that supports are put in place for non-digital application by persons who have no or limited digital access or who do not have the skills to undertake their application online by themselves.

**We recommend** clear guidance regarding the completion of applications with the assistance of third parties.

### 3.4. Stigma

Negative attitudes towards persons experiencing mental ill-health within neighbourhoods, workplaces and families have increased according to the Equality Commission for Northern Ireland's report 'Do You Mean Me?' (2012). Research by the Strathclyde Centre for Disability Research and the Glasgow Media Unit found increasingly negative reporting of disabled people with articles focusing on disability and benefit fraud; the alleged 'burden' disabled people place on the economy; and an increased of pejorative language to describe disabled people that reinforced the idea of disabled claimants as being undeserving (October 2011). Disability Rights UK's study 'Press portrayal of disabled people. A rise in hostility fuelled by austerity?' (August 2012) reported that such portrayal has led to disabled people feeling: hounded, humiliated, harassed, ashamed, depressed, inferior, degraded, devalued and scared. Persons who experienced mental ill-health reported deterioration in their condition.

We have launched Niamh's anti-stigma guidance for political representatives as part of our Change Your Mind campaign (October 2012).

**We recommend** that MLAs agree to avoid the use of stigmatising and inflammatory language about welfare reform and benefit claimants.

**We recommend** that MLAs use their influence to promote a measured and informed debate about welfare reform that recognises the necessity of social security provision for vulnerable members of society.

### 3.5 Procurement

We note the National Audit Office's report on DWP's management of the contract with Atos Healthcare: 'Department of Work and Pensions: Contract management of medical services'

(produced June 2012, published 18 October 2012). The report found that only 10% of the penalties triggered by poor performance had been applied; that the DWP had failed to check the accuracy of performance data submitted by Atos Healthcare; and that problems with the accuracy of forecasting data and the apparent lack of impacting the consequences of policy change hindered the Department's efforts to manage under performance.

**We recommend** that there are stringent performance requirements linked to the quality of medical assessments; and that mental health assessments are specified within this.

**We recommend** the inclusion of mandatory monitoring and review systems for private sector contracts including the use of proportionate, escalating and timely sanctions such as financial levers for poor performance.

NICCY 1



## Submission by the Northern Ireland Commissioner for Children and Young People to the Committee for Social Development on the matter of the Welfare Reform Bill

### Introduction

The Office of Commissioner for Children and Young People (NICCY) was created in accordance with 'The Commissioner for Children and Young People (Northern Ireland) Order' (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland.

Under articles 7(2)(3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. In determining how to carry out her functions, the Commissioner's paramount consideration is the rights of the child and NICCY is required to have regard to any relevant provisions of the United Nations Convention on the Rights of the Child.

The Commissioner has already put on record her deep concerns regarding the potential impact that the Welfare Reform bill will have on children and young people across Northern Ireland. The Office commissioned two reports on the issue of Welfare Reform which were launched in 26th April 2012 entitled "Welfare Reform Making Children Visible: Assessing the Impact on Children" and "Welfare Reform Making Children Visible: The Parity Question"<sup>1</sup>. To complement this submission we also enclose a copy of the briefing we gave to the Committee at the time of the launch of these reports.

The Committee may be aware that I entered into correspondence with the Minister in November 2011 expressing my concerns that the Department had failed to meet their statutory responsibility under section 75 to assess the impact of these proposed policies on children and young people and asking him to review the EQIA conducted at that time. The Minister responded to me in December 2011 indicating that the draft EQIA document specifically stated that the "Department does not, as a matter of course, monitor certain s75 groupings for the purpose of administering the social security system in Northern Ireland, primarily because benefits are paid to individuals on the basis of entitlement and conditions which are in no way affected by affiliation to any of these Section 75 categories". I would reiterate that any change to the benefits system which is paid to any member of a family, irrespective of who the claimant is, would have an impact on the children of the family.

I would renew my call to the Minister to ask him to conduct a further EQIA of this bill now that it is at the legislative stage and in so doing to ensure that the deficiencies in the first EQIA process are remedied to ensure that the potential impacts on children and young people are assessed.

Since the publication of our reports, the Commissioner has met with Lord Freud, the head of the Social Security Agency and representatives of the children's sector. Further the office has sat as an Observer on the Welfare Reform group co-ordinated by the Law Centre NI who, we understand, are producing a clause by clause response to the bill.

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<http://www.niccy.org/article.aspx?menuid=14265>



Clearly my focus is on the implications of this bill for both children and young people as direct recipients of benefits but also as indirect recipients and therefore my comments are confined to these areas.

In respect of Universal Credit and Personal Independence Payments at Parts 1-3 and 4 of the Bill, I have concerns regarding the impact of the proposals listed below on children and young people:

## **1. Conditionality and sanctions**

Any sanction imposed on a claimant will have a detrimental impact on the children of the family. Children will have no control over their parent's compliance with conditions under the new system but will without question feel the impact of any sanction. Even the Westminster commitment to continue to pay the "child element" of benefits to "sanctioned" parents will not go far enough to protect the rights of children in "sanctioned" families as the removal of any income from household budgets will have a severe adverse impact.

I would therefore call on the DSD to ensure that the regulations which are to be issued on this matter ensure that no child suffers because of sanctions. The UNCRC is clear at Article 26 that a child's independent rights to social security and an adequate standard of living should never be affected by the imposition of benefit sanctions upon their parents or carers. In order to realise the rights of a child under Article 3 (best interests) the regulations should ensure that any decision to impose a benefit sanction upon a claimant with dependent children must take account of the best interests of the children of the family.

## **2. Proposed mechanisms to pay the benefit to the recipients.**

My concerns focus on to whom the Universal Credit should be paid and also when it should be paid.

Under the current proposals Universal Credit will be paid to the main claimant, which is likely to be the male in a couple. There is evidence that money that goes directly to the mother is more likely to be spent on children than when it goes to the father. The Child Poverty Action Group has stated that "this transfer for thousands of pounds per family "from the purse to the wallet" will threaten allocation within household budgets to meet children's needs".<sup>2</sup>

Evidence would show that a move from weekly or fortnightly budgeting to monthly budgeting will cause serious difficulties, the consequences of which will be borne by children of the family. Further, given the reliance on one payment, any failure in the IT system or incorrect decision/delays/involvement in the appeals process could have severe consequences for families with children and could breach several Articles of the UNCRC including Article 26 (right to social security), 27 (right to adequate standard of living), 3 (best interest of the child) and 24 (right to enjoy the highest attainable standard of health").

I would call therefore that the Assembly should decide that the benefit should be paid to the main carer of the children of the family.

I have previously called for the Assembly to consult with groups of people bringing up children on low incomes and with other devolved governments for ideas on how these potential problems should be overcome.

I welcome the Minister's commitment to make representations to Lord Freud regarding the issue of "operational" flexibility for Northern Ireland in relation to the mechanisms for payment. It is my understanding that this should involve an IT amendment as opposed to any break in parity.

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2 <http://www.cpag.org.uk/2011/120111.htm>

**3. Benefit Cap.**

As set out in my report above, we predict with confidence that 6,500 children in Northern Ireland will see their families lose money as a result of the benefit cap because they have 5 or more children. I would call on the Assembly to consider ways in which larger families can be supported to meet the needs of their children outside of the Universal Credit system.

**4. Abolition of the Social Fund.**

The Social Fund has long been a mechanism which has assisted families in urgent hardship. Figures from DSD in 2011 show that over half of the awards of Community Care Grants are made to lone parents. The Social Fund, if not replaced by a “ring-fenced alternative” protected in the Northern Ireland budget as an emergency fund for families, will result in a failure to provide for the best interests of the child, in accordance with Article 3 of UNCRC and is likely to result in breaches of the right to enjoyment of the highest attainable standard of health (Article 24). Given that the Fund has previously been used to assist families fleeing domestic violence situations, any failure to guarantee crisis support could potentially put children at risk of abuse which would engage Article 19 of the UNCRC.

Crisis loans should also be available to claimants and families in need irrespective of whether these claimants have accrued debt or arrears of rent.

I would call on the Assembly to ensure that enough money is allocated to meet the basic material needs of families with children and that this money, however it is to be administered, is ring-fenced.

**5. The Claimant Commitment.**

As set out above in respect of sanctions, I have real concerns regarding the impact on children and young people of the Claimant Commitment. In particular where there are issues relating to the capacity of claimants to make the commitment on an informed basis and further for those with fluctuating conditions which may impact on their capacity to comply with the commitments. Any sanctions which would follow would inevitably have a detrimental impact on any children of the family.

I would call therefore for the Assembly to ensure that in regulating for this consideration is given, at all stages of the Claimant Commitment, from drafting the conditions through to the implementation and sanctioning of same that the best interest of the associated children of the claimant is taken into account.

**6. Factors which are particular to Northern Ireland which could cause an impact on children and young people.**

**Childcare**

Further, given the lack of a childcare strategy for Northern Ireland and an associated lack of accessible childcare there may be difficulties for parents to either go into work or to increase their hours as may be required by the Department.

**Housing**

There are housing factors particular to Northern Ireland also in relation to the type of housing stock in Northern Ireland both in the social and private rental sector in terms of a lack of houses of “multiple occupancy” and a lack of houses with certain numbers of bedrooms. Further there are the issues associated with the perception of housing being segregated in relation to religion/political opinion which would mean that a family’s choice of housing could be constrained.

## **DLA**

It also cannot be overlooked that Northern Ireland has double the proportion of its population in receipt of DLA than in GB with recipients with mental health issues representing 23% of DLA claimants here compared with 17% in GB.

### **7. Changes to Housing Benefit.**

The changes in the housing benefits system which have already been introduced, threaten children's rights – this will be compounded by Welfare Reform. NICCY has already called for NIHE accommodation which is deemed to be under-occupied but has children in it to be exempt from reductions in Housing Benefit.

NICCY has further previously highlighted the issue of non-resident parents who have contact with their children to be exempt from the shared room requirement in relation to housing benefit.

The potential for children to lose their home or have to move home and potentially schools, could infringe their rights under the UNCRC namely Article 3 (best interests) and Article 27 (adequate standard of living).

### **8. Changes to the Youth Employment and Support Allowance eligibility.**

Youth ESA is a special arrangement which allows certain young people with long term significant or severe disabilities to qualify for contributory ESA without having to satisfy the usual National Insurance contribution conditions which require other claimants to have paid a minimum amount of contributions to qualify. If the Assembly confirm the proposed change then young people with severe disabilities will only be entitled to ESA if they satisfy the same requirements re contributions and income as everyone else. This is of particular importance to certain groups of disabled young people for example young disabled people who have been in the care system.

It is pertinent to highlight at this point that NICCY's remit extends to young people up to the age of 21 where the young person has a disability or has been care experienced.

NICCY would call for the Assembly to ensure that in regulating for this that the best interests of the children are considered and in particular that Article 23 of the UNCRC is respected. This provides that a child with a disability has the right to live a full and decent life in conditions that promote dignity, independence and an active role in the community. The numbers who receive "Youth ESA" are small enough to cost relatively little in breaking parity to maintain their rights.

### **9. Abolition of DLA and replacement by PIP.**

Children under the age of 16 will be impacted by the abolition of DLA and its replacement by Personal Independence Payments in so far as their parents/carers are affected. However, due to the high rates of disability and ill-health among the NI population, many children with and without disabilities will risk a decrease in their family's income due to the changes.

As above, NICCY's remit extends to young people up to the age of 21 who are disabled. There are currently about 5,000 young people aged 16-20 receiving DLA. In particular the mobility element of DLA is vital part for the additional transport costs faced by many disabled young people. This relative independence will be threatened by the changes.

The rights of disabled children, or children of disabled parents are under threat. The Assembly has the power to protect the rights of these children and young people under Articles 2,3,6,23,24,26,27 and 28 and we would call on it to ensure that these rights are respected.

NICCY have previously called for the setting up of an expert group to examine the Work Capability Assessments (WCA) being carried out in regard to the new assessments for PIP. We have suggested that the expert group should include psychiatrists who work with people who have PTSD (due to legacy of the conflict issues) as well as pediatricians and other experts in childhood disability.

In conclusion, it is clear that a range of children's rights may be severely compromised by some of the provisions of the Welfare Reform Bill 2012. I would call on the Assembly to ensure that, in legislating, they ensure that the best interests of children and young people are a paramount consideration in their deliberations.

**Patricia Lewsley-Mooney**

Commissioner

19th October 2012

# NICCY 2



northern ireland commissioner  
for children and young people

## Research Reports on Northern Ireland Welfare Reform Proposals Briefing for the Northern Ireland Assembly

**Social Development Committee**

21 June 2012

This briefing paper provides an overview of two research reports commissioned by the Northern Ireland Commissioner for Children and Young People (NICCY) to inform the development and scrutiny of the forthcoming Northern Ireland Welfare Reform Bill. The paper:

- Outlines the role and duties of NICCY;
- Introduces the rationale for commissioning each of the reports; and
- Provides a summary of the key findings of each of the two reports.

### **1.0 The Role and Duties of the Northern Ireland Commissioner for Children and Young People (NICCY)**

NICCY was created in accordance with The Commissioner for Children and Young People (Northern Ireland) Order 2003 to safeguard and promote the rights and best interests of children and young people in Northern Ireland. Under Articles 7 (2)(3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. The remit of the Office is children and young people up to 18 years or 21 years if the young person is disabled or in the care of Social Services.

In order to fulfil its duties, NICCY undertakes a broad range of activities. This includes responding to queries and complaints regarding services for children and young people and supporting them and their families in legal proceedings against public bodies, scrutinising legislation and policy and commissioning research into issues affecting children and young people. In addition, NICCY also creates effective participation opportunities for children and young people and actively supports good participative practices by other organisations.

In determining how to carry out her functions, the Commissioner's paramount consideration is the rights of the child and NICCY bases all of its work on the United Nations Convention on the Rights of the Child (UNCRC).

### **2.0 Report: 'A Child Rights Impact Assessment of the Impact of Welfare Reform on Children in Northern Ireland'.**

*Goretti Horgan and Marina Monteith, University of Ulster.*

#### **Purpose of report**

The Minister for Social Development, in September 2011, published a draft Equality Impact Assessment on the Welfare Reform Bill (Northern Ireland) 2011. Under Section 75 of the Northern Ireland Act 1998, the Department has a statutory duty to assess the impact of the proposed legislation on nine categories. The Commissioner was concerned to note that the EQIA did not assess the impact of the proposals on children, under the age category.

The EQIA process is an important way of protecting vulnerable groups from being adversely affected when Government Departments are carrying out their functions, in ensuring that any potential adverse impacts are identified and consideration given to alternative policies which might better achieve the promotion of equality of opportunity.

The Commissioner raised her concern with the Minister for Social Development, who responded by stating that any gaps in the EQIA was a result of a lack of data and that he welcomed any information we could provide on this matter. In response, NICCY commissioned an assessment of the impact of the proposals on children from Goretti Horgan and Marina Monteith of the University of Ulster. The findings of this research were provided to the Minister, and released publically, in April.

### **Summary of findings**

Families with children are being hardest hit by welfare reform across the UK. But because Northern Ireland has a relatively large proportion of households with children and higher levels of disability, it will lose more income than any other region of the UK outside London. Households with children will lose about 7 percent of their incomes, some 2-3 percent more than childless households. The poorest families will lose most because:

- Benefit rates will progressively become lower and lower as the Consumer Price Index (CPI) is used to uprate them rather than the Retail Price Index (RPI)
- Child Benefit and Working Tax Credit have been frozen;
- Child Tax Credit will be withdrawn at lower income levels than before; and
- The weekly working hour's requirement in Working Tax Credit has been increased from 16 to 24 for couples with children – additional hours which are hard to get in the current economic crisis.

The most urgent issue that faces families with children in NI is the impact of changes to Housing Benefit that have already been introduced. These threaten a child's right under Article 27 to a standard of living which is good enough to meet their mental and physical needs. Many families with children will lose their owner-occupied homes; others will fall into growing arrears until evicted by private sector landlords, while other families will ration food or buy less healthy food in order to pay rent shortfalls. There are several ways in which the Assembly can make a difference without threatening parity:

- DSD can work with mortgage lenders to explore ways, e.g. co-ownership, or renting from banks, that families with children can remain in homes that are being repossessed.
- Households with children could be exempted from the move calculating LHA on 30th percentile.
- DSD could work with mortgage lenders and with landlords to bring down mortgage to rent ratios.
- Housing Executive accommodation that is deemed to be under-occupied, but has children in it could be exempted from reductions in Housing Benefit.
- The Assembly needs to make a clear decision about how older children are dealt with in the calculation of under-occupancy.
- The Assembly should exempt non-resident parents from the shared room requirement in relation to Housing Benefit.

The Assembly does not have power over tax matters, which are not devolved. However, working and child tax credits will be phased out with the introduction of Universal Credit and the Assembly will have the power to protect families with children, particularly those with a disabled member, in deciding how it will implement Universal Credit.

For example, it can explore ways to take into account of the very low paid nature of much self-employment in Northern Ireland and it can ensure that the criteria under which the disability elements of Universal Credit are triggered do not disadvantage children.

The Assembly should set up an expert group to ensure the Work Capability Assessments (WCA) being carried out to move claimants from IB to ESA and the new assessments which



will be introduced as DLA is abolished and PIPs introduced take into account the particular issues of a region emerging from conflict where our high levels of mental ill-health are severely exacerbated by PTSD.

Benefit changes and the introduction of Universal Credit (UC) will also impact on children's rights in Northern Ireland. For example, families with three or more children where there is a severely disabled child are at risk of being affected by the benefit cap while families with five or more children will be hit by it whether or not there is a disabled child. The Assembly should examine how it can stop this effective limit on family size or find other ways of helping larger families meet the needs of their children.

The Assembly must ensure that the scheme to replace the Social Fund is allocated enough ring-fenced money to meet the basic material needs of families with children.

The Assembly can ensure that Universal Credit regulations around conditionality and sanctions take into account Northern Ireland's high levels of mental ill-health, its lack of accessible and affordable childcare and that the special rules currently applying to lone parents continue under UC.

The Assembly can also ensure that parents bringing up teenage children in areas of multiple disadvantage are allowed to give their children the care and supervision that parents living in better-off areas may not have to, or that better-off parents can buy through out-of-school activities.

Even where there is evidence that a parent could take paid employment but fails to, the evidence that children suffer even more deprivation as a result of overall household income falling indicates that the Assembly must ensure that children do not suffer as a result of such sanctions – while that means removing the sanction of benefit withdrawal from all claimants with dependent children, the amount that this breach with parity would cost would be relatively small as there is no evidence that there would be more than a handful of such cases.

### 3.0 **Report: An Examination of Parity Principles in Welfare and Wider Social Policy**

*Barry Fitzpatrick, Independent Consultant and Professor Noreen Burrows, School of Law, University of Glasgow*

#### **Purpose of report**

In Northern Ireland, while social security matters are devolved, the ability of the Northern Ireland Executive to determine its own approach to welfare provision is severely constrained by the 'parity principle'. This was explained by the Department for Social Development in its EQIA on the Welfare Reform (NI) Bill:

*'the long standing principle of parity dictates that an individual in Northern Ireland will receive the same benefits, under the same conditions, as an individual elsewhere in the United Kingdom.'*

Later the particular constraints were outlined, referring to computer systems and financial penalties, and the Department concluded that, as a result of these constraints,

*'any departure from parity needs to be given the most careful and detailed consideration.'*

The 'parity principle' has been alluded to quite a bit in discussions to date in relation to implementing Welfare Reform proposals, often without clarity on the degree to which flexibility can be applied. NICCY therefore commissioned Barry Fitzpatrick and Professor Noreen Burrows to produce a paper exploring the parity principle in welfare and wider social policy. This outlines the constitutional and practical context to parity, the factors that need to be considered when considering breaking parity and provides recommendations on how parity can be discussed in relation to Welfare Reform.

## Summary of Findings

This report explores the operation of the parity principle in Northern Ireland (NI), drawing on experiences of Scotland. The focus is on the Welfare Reform Bill (Northern Ireland) 2012 (WR Bill), including Universal Credit (UC) and Personal Independence Payments (PIPs), although other areas of policy are also examined.

The report identifies a range of factors which must be taken into account in considering NI policy variations from parity with GB (or Scotland, England and Wales, as the case may be). These are:-

1. Whether statutory provisions require parity;
2. Whether variations from parity are desirable due to policy considerations;
3. What the financial impact might be on the NI block grant and other expenditure; and
4. Whether practical considerations, for example, compatibility of IT systems, preclude or limit variations from the GB systems.

In relation to the WR Bill, the statutory parity principle in section 87 of the NI Act 1998 is examined. This legislation requires consultation, at the earliest opportunity, between the Department for Social Development (DSD) and the Department of Work and Pensions (DWP) on proposals for changes to social security law, so that the DSD can include its input and consider possible policy variations in NI.

In relation to policy considerations, a number of existing policy variations are identified, demonstrating that, where the particular circumstances of NI justify it, such policy variations should be examined in relation to existing welfare reforms which need to be incorporated into the WR Bill and reforms which will be introduced through the Bill. Two such policy variations could include the payment of housing benefit element of UC to landlords and the payment of the child benefit element of UC to the primary carer.

In relation to the financial impact, 'no-cost' or 'low-cost' policy variations are easier to negotiate than ones which have significant financial implications.

On practical considerations, the development of new IT systems for UC and PIPs provides an opportunity to build NI-specific policy variations into the new systems, if they are negotiated early enough for this to be achieved.

Other areas of policy within the Commissioner's remit are also explored, including employment law, employment and training policy, equality law, education law and policy and children's rights more generally. There are areas of policy where there are also devolved powers in Scotland (and now Wales). The report suggests that policy-makers in NI should be more willing to examine devolved solutions in the other devolved countries, what is referred to as devolution triangulation, as well as relying on developments in England (or England and Wales). In welfare policy, this could apply to passported benefits and the operation of Social Fund payments.

The report makes the following **recommendations**:-

1. Although the Welfare Reform Act is already on the statute book in GB, the NI Executive should be fully involved in policy development surrounding secondary legislation required to implement the Act. It should also enter into discussions with the UK Government on a formal system of consultation on, and participation in, development of welfare policy, including opportunities for the identification of potential policy variations at an early stage of policy development, both in relation to social security matters and the consequential impact on more fully devolved matters.

2. It is recommended that the Welfare Reform Bill should not be progressed through the NI Assembly by accelerated passage. Instead full scrutiny should be made of all aspects of the Bill and consequential secondary legislation, with a view to the identification of potential variations in welfare policy to meet the particular circumstances of NI.
3. Therefore there may be arguments for a delay in implementing GB welfare reforms in NI until the implications of the reforms in NI (and GB) are more fully understood. However, there could be significant financial implications of such a stance.
4. While it would not be practical to lobby for a significantly different social security system for NI compared to GB, there is ample scope to lobby for the retention of existing variations from the GB model and also further variations to meet the particular circumstances of NI.
5. The NI Executive and Assembly should carefully consider the extent to which existing reforms, and their implementation, can be varied in NI as part of the introduction of the Welfare Reform Act.
6. The NI Executive and Assembly should carefully consider the extent to which existing variations in welfare benefits can be preserved.
7. The NI Executive and Assembly should carefully consider the extent to which variations can be made to Universal Credits and Personal Independence Payments which could alleviate the potential negative impact of these reforms on children and young people in NI.
8. The NI Executive and Assembly should carefully consider the extent to which existing expenditure on passported benefit payments can be preserved, so as to provide a system which meets the needs of children and young people in NI. In particular, they should look closely at policy development on passported benefits in other devolved countries such as Scotland.
9. The NI Executive and Assembly should carefully consider the extent to which existing expenditure on Social Fund payments can be preserved, so as to provide a system which meets the needs of children and young people in NI. In particular, they should look closely at policy development on Social Fund expenditure in other devolved countries such as Scotland.

#### **4.0 Conclusions**

The Commissioner for Children and Young People commissioned both these reports in order to inform the debate on the forthcoming Northern Ireland Welfare Reform Bill. The first report was commissioned to investigate the likely impact of the proposals on children in Northern Ireland, as this had not been addressed in the Department's EQIA. The purpose of the second was to bring clarity to discussions of 'parity' or 'operational flexibilities' in relation to the Welfare Reform proposals through exploring its application more widely.

It is disappointing to note that the final version of the EQIA is little changed from the draft produced in September 2011, and that there has been no further consideration given to the impact of the proposals on children. This is despite the Minister's commitment to giving serious consideration to the findings of the two reports. The Commissioner has met with the Minister on 12 June to discuss the findings of the two reports and the implications for the implementation of his Welfare Reform proposals. The Minister has agreed to arrange further meetings between Departmental officials and NICCY to discuss this in relation to the Bill when it is released.

The Commissioner hopes that the two reports she has commissioned will assist the Committee in its consideration of the Northern Ireland Welfare Reform Bill. The Commissioner will also draw on the findings of the reports in her analysis of the Bill, which will be submitted to the Committee in due course.

# NICEM

Company Registration No: NI. 36868

Inland Revenue Charity No: XR 11970

Submission to the Committee for Social Development on the Welfare Reform Bill 2012

October 2012

## 1. Introduction

The Northern Ireland Council for Ethnic Minorities (NICEM) is an independent non-governmental organisation working to promote a society free from all forms of racism and discrimination and where equality and human rights are guaranteed. As an umbrella organisation<sup>1</sup> we represent the views and interests of black and minority ethnic (BME) communities.<sup>2</sup>

Our vision is of a society in which equality and diversity are respected, valued and embraced, that is free from all forms of racism, sectarianism, discrimination and social exclusion, and where human rights are guaranteed.

Our mission is to work to bring about social change through partnership and alliance building, and to achieve equality of outcome and full participation in society.

NICEM sits on a number of consultative fora and networks dealing with human rights and equality issues in general and welfare reform (ICTU Welfare Reform group) in particular and fully supports the work of other organisations.

As already mentioned NICEM represents a number of BME communities and we have also been involved in providing bi-lingual client services over the last number of years. This submission has been informed by the challenges and difficulties faced by those clients in accessing social welfare on a day-to-day basis. NICEM has seen first hand the effect that the misapplication of EU law can have on EU migrants who have entitlements under EU law. We have also experienced the restrictive nature of the social welfare system as it currently stands in terms of non-EEA nationals living in destitution which is a clear breach of international human rights obligations.

Therefore, this submission does not purport to conduct a comprehensive legal analysis of the Bill. In that regard we would like to take this opportunity to endorse the Law Centre (NI)'s submission. Instead, this submission will look at the impact of the proposed changes to the welfare system would have on BME communities, in particular the experiences of clients in contact with the Belfast Migrant Centre.

## 2. The right to social security and legal obligations

The right to social security is enshrined in a number of international human rights instruments to which the UK is a party and the obligation to implement this right is one of a legally binding nature. This right appears in a number of United Nations (UN), Council of Europe and EU law instruments.

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1 Currently we have 27 affiliated BME groups as full members. This composition is representative of the majority of BME communities in Northern Ireland. Many of these organisations operate on an entirely voluntary basis.

2 In this document "Black and Minority Ethnic Communities" or "Minority Ethnic Groups" or "Ethnic Minority" has an inclusive meaning to unite all minority communities. It refers to settled ethnic minorities (including Travellers, Roma and Gypsy), settled religious minorities, migrants (EU and non-EU), asylum seekers and refugees and people of other immigration status.

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Firstly, at the UN level, the right to social security is enshrined in Article 9 of the International Covenant on Economic, Social and Cultural Rights.<sup>3</sup> The Covenant also refers to the concept of progressive realisation, which prohibits States from taking retrogressive measures or retrograde steps to row back on socio-economic rights, even in times of recession. It is submitted that the spirit of the Welfare Reform Bill itself represents a retrogressive measures.

The right to social security is also enshrined in other instruments such as the UN Convention on the Elimination of Discrimination Against Women and the UN Convention on the Rights of the Child.

Secondly at the Council of Europe level, Article 1 of Protocol 1 of the European Convention on Human Rights (ECHR) (which has been incorporated into domestic law by the Human Rights Act 1998) recognises a right to property. At this juncture it is worth bearing in mind that Article 14 ECHR states that all rights of the Convention must be implemented without discrimination. Therefore, every individual's right to social security must be equally protected, irrespective of nationality for example. In addition, in accordance with case law it is arguable that the ECHR prohibits state-enforce destitution under Article 3 of the Convention.<sup>4</sup>

Thirdly, the right to social security is enshrined in the EU Charter of Fundamental Rights. While the Charter only has legal effect when implementing EU law, it is highly relevant for the EEA migrant workers represented by NICEM because they are exercising their right to free movement and therefore the Charter comes into effect.

### **3. Access to social welfare**

Migrants have increased difficulty in accessing social welfare in terms of lack of local knowledge and therefore, navigating the administrative system, sometimes without access to interpreters, lead to increased difficulties.

NICEM is deeply concerned by the Department of Work and Pensions indication that all applications for Universal Credit will now be processed online and claimants will need a bank account.<sup>5</sup> Currently, it is quite difficult for non-British/Irish citizens to open bank accounts upon arrival due to anti-terrorism legislation.

Therefore, any move to administer payments in this manner would lead to increased barriers for migrants and could potentially lead to migrants living in destitution.

### **4. Rights of EEA nationals and compliance of the Welfare Reform Bill 2012 with EU law**

Social security is coordinated by EU Member States on the basis of established principles of EU law such as the free movement of workers and equal treatment. Coordination is governed by Council Regulation (EC) No 1408/71 and Regulation (EC) No 884/2004.

While the Welfare Reform Bill is an enabling Bill and most of the details will be teased out in the regulations, we are concerned that Northern Ireland will adopt the same approach as that of Great Britain. There has been some indications by the Department of Work and Pensions which would lead to differential treatment of EU migrants or would potentially discriminate against EU migrants by paying EU migrants lower rates of pay or putting extra restrictions or requirements. If the same approach is adopted in Northern Ireland this would impact the following clauses in the Welfare Reform Bill:

- a. Clauses 8-10: calculation of awards

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3 For further comment on the content of this right see, UN Committee on Economic, Social and Cultural Rights, General Comment No. 19: the right to social security (Article 9), 2007, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/403/97/PDF/G0840397.pdf?OpenElement>.

4 Regina v. Secretary of State for the Home Department (Appellant) ex parte Limbuela (FC), [2005] UKHL 66.

5 DWP, Universal Credit - FAQ, available at: <http://www.dwp.gov.uk/docs/universal-credit-faqs.pdf>.

b. **Clause 22: work requirement**

In addition we are concerned that clauses 61-63 may have ramifications for migrants who may experience a change in immigration status as they no exclusion in relation to contributory benefits has been provided for.

Furthermore, the DWP has indicated that a new residence test will be introduced. Such a test has previously been held to be in breach of EU law and it is therefore recommended that the Committee seek to ensure that this will not be introduced.

In our experience, cases where there are entitlements under EU law are often refused due to the misapplication of EU law. Indeed, at the moment the European Commission is in the process of infringement proceedings against the UK in relation to the application of the right to reside test<sup>6</sup>. NICEM strongly urges the Committee to conduct a thorough review of the Bill to ensure that EU law will be fully complied with and that EEA nationals will be able to access their entitlements without discrimination since otherwise this would inevitably lead to maladministration of EU social security law, which would inevitably result in litigation before the courts.

4. **Clause 69 and potential impact of changes to Housing Benefit on BME communities**

Clause 69 and the proposed changes to Housing Benefit may lead to increased difficulties for migrants accessing housing. The case study below illustrates the problems currently faced by migrants:

## Case Study

2011

### **Nationality: Polish**

Mr. L is a sixty five year old man who has been in Northern Ireland since 2005. When he arrived he worked for a few years before becoming ill. He was in receipt of Employment Support Allowance and Housing Benefit. He had a severe back injury and was not able to work or gain any other income. He was dependent on his Housing Benefit to keep him from becoming homeless.

After a routine assessment his ESA was stopped as they decided that he was no longer ill. Because his ESA was stopped his Housing Benefit was also stopped. He was now at risk of homelessness.

We appealed the ESA on the basis that they had not taken his hearing problems into account and he was lip reading at the assessment, which prevented him from having a full understanding of what was being asked.

We supported him with our crisis fund to pay for rent until the appeal went through. Upon appeal his ESA was successfully reinstated. After this we spoke with Housing Benefit which was restarted.

5. **Clauses 76-94: Problems with current administration of DLA and potential impact of PIP on BME communities**

Clauses 76-94 and the proposed changes to DLA may lead to increased difficulties for migrants with disabilities who are liable to suffer multiple discrimination. The case study below illustrates the problems currently faced by migrants:

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6 European Commission, Press release, "Social security coordination: Commission requests United Kingdom to end discrimination of EU nationals residing in the UK regarding their rights to specific social benefits", [http://europa.eu/rapid/press-release\\_IP-11-1118\\_en.htm](http://europa.eu/rapid/press-release_IP-11-1118_en.htm).



## Case Study

September 2011 – December 2011

### **Nationality: Slovak**

Client came to the Clinic. She has low rate care DLA. She had applied for DLA in 2009 and received low care and low mobility. She asked for a supersession, which she was granted in January 2010. However in Feb/March 2010 they sent an examining medical doctor who determined that she wasn't in need of the mobility component. This doctor and the occupational therapist did not use an interpreter. The mobility was taken away.

The Tribunal supported the supersession. She now wants to appeal this decision, which has to go to the social security commissioner. We helped the client submit an appeal.

On appeal, the client has received a new DLA award and it has been increased to high rate mobility and middle rate care.

### **6. Further Information**

For further information in relation to this submission please contact:

#### **Karen McLaughlin**

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# NIFHA

## Response to Consultation

Date: 19 October 2012



### Consultation: Northern Ireland Welfare Reform Bill

#### Introduction

The Northern Ireland Federation of Housing Associations (NIFHA) represents registered and non-registered housing associations in Northern Ireland. Collectively, our members provide around 36,000 good quality, affordable homes for renting or equity sharing, as well as a wide range of community services. In 2010/11 registered housing associations developed a record number of social homes, with 2418 starts, and enabled almost 500 households to part-buy a home. Further information is available at [www.nifha.org](http://www.nifha.org)

NIFHA welcomes the opportunity to respond to the Welfare Reform Bill as introduced in Northern Ireland. We support the over-arching objectives of the legislation to simplify the benefits system and provide stronger incentives for people to move from welfare to work. However we also believe that many of the specific measures in the legislation are unfair and could cause major problems for vulnerable people and those on low incomes. Below we set out our concerns on specific clauses in the Bill, including those on housing costs, size criterion, discretionary payments and information sharing.

We recognise that much of the detail of the legislation is intended to be set out in the subsequent regulations. It is our understanding that there is no legal duty to consult on these, and there will be no provision for debate or amendment once the Bill is passed. We would therefore ask that the GB regulations be scrutinised as part of the Committee Stage and that amendments in regard to Housing Benefit changes be made in the body of the Bill.

#### Part 1 Entitlement and Awards

##### Clause 11 Housing Costs

###### **Clarity on extent of housing costs covered**

The clause outlines that housing costs covered could be in the form of rent, mortgage costs or other housing-related costs. Clarity is needed within this clause and the subsequent regulations with respect to the definition of rent and what may be included as part of housing costs. In particular the legislation needs to reflect the fact that service charges are a significant element of housing association tenants' overall housing costs.

###### **Extended payments**

The Welfare Reform Bill does not allow for housing costs run-ons, also known as extended payments, when claimants start work. Under the current system housing benefit (or support for mortgage interest) continues for four weeks after an individual has found employment which helps claimants to transition from benefits to wages. We already know that the Universal Credit regulations being drafted in Westminster plan to abolish extended payments. NIFHA believes that the decision to abolish the current system of extended payments contradicts the Government's objective of improving incentives for the long-term unemployed to take up work. Given the high levels of long-term unemployment in Northern Ireland the Assembly may wish to consider continuing extended payments upon the introduction of universal credit and write this provision into the Bill.

Clause 11 (5) should be amended to allow for regulations to provide for housing costs to continue for a period of four weeks after a claimant has found employment

### **Exempt Accommodation**

Supported housing is vitally important for many vulnerable people in Northern Ireland and changes to how housing benefit is administered and paid could have significant impacts on the accommodation and services that are available to them. NIFHA welcomes DWP's decision to remove the housing costs for supported housing from Universal Credit as it recognises the higher costs for this form of accommodation and the need for greater flexibility in providing support to tenants. However, this does still leave a number of issues to be worked out in relation to supported housing. For example, will removing these housing costs from Universal Credit mean that they are no longer demand-led and therefore mean a reduced pot of money if claimant numbers increase in the future?

We endorse the Housing Policy Forum's call for a working group of supported housing providers and representatives to be set up to work with officials in the Social Security Agency on how housing costs for exempted accommodation are to be managed within the new benefits context.

## **Part 3 Other Benefit Changes**

### **Clause 69 Housing Benefit Determination of Appropriate Maximum**

This clause indicates that the Department will bring forward regulations that will introduce size criteria into the amount of benefit allowed for housing costs. In many cases this will have significant impact on tenants' ability to pay their rent. Initial indications are that this will have an adverse impact on approximately 6500 housing association tenants who will have to pay an additional £9.00 per week if under occupying their home by one bedroom or £17.00 per week if under occupying by 2 or more bedrooms.

The reduction in benefit will bring financial hardship to many families who are already experiencing shortfalls elsewhere in their income. We have strong concerns that many tenants may be penalised by having their benefit reduced without being able to address this by moving to a smaller home because of the lack of suitable accommodation.

We would ask that consideration be given to:

- Exempt disabled people living in social housing properties specifically adapted for their needs; and
- Phase in this part of the Bill to enable social housing allocation policies and new provision to reflect the size of households being accommodated in social housing

### **Clause 70 Ending of Discretionary Payments**

We welcome the research undertaken to inform decisions with respect to a replacement scheme for future discretionary support services in Northern Ireland and we hope the suggestions made in our consultation response are reflected in the regulations.

The proposed increase in the discretionary housing payments budget to £3.4m is acknowledged, and we hope this will be of assistance to tenants in the social housing sector. However, the financial effects of the size restrictions in the social sector introduced by the Bill will result in benefit savings – and therefore lost income to tenants – of £15.51m during the same period. We therefore anticipate that there will be severe pressure on the comparatively small budget allocated to support these changes, and that this budget may need to be increased.

## Part 5 Social Security General

### Clause 116 Information Sharing in Relation to the Provision of Overnight Care

NIFHA welcomes that people with disabilities that require an overnight carer will be allowed the facility of an extra room (we assume bedroom) for use by a non resident carer or team of carers. However the wording suggests that NIHE housing benefit teams will receive information that will allow them to assess this. Does this mean that NIHE will retain all or part of the responsibility for the assessment of housing costs in cases of this type?

Housing associations should be added to this list as a 'relevant body' in sub-section (8).

This would enable full consideration to be given to the vulnerable tenant's welfare and benefits, allowing housing associations to provide appropriate support to these tenants.

### **Clause 117 Information Sharing in Relation to Welfare Services**

Housing providers are a vital source of support and advice to their tenants on these welfare reforms. They need accurate real-time benefit information to assess which tenants will be affected by the changes to provide appropriate help, as well mitigate the risks to their revenue.

Housing associations should be added to the list of 'qualifying persons' in subsection 7 of this clause to allow a more effective welfare, housing and benefits service to be provided to tenants.

The sharing of appropriate information between housing associations, Supporting People and housing benefit teams would enable a joined up approach to be applied to individual tenants' needs.

For further information please contact **Maire Kerr** T: 028 9089 7695 E:MKerr@nifha.org

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NIHE



**Briefing for Social Development Committee  
25 October 2012**

**Introduction**

The Housing Executive welcomes the invitation to make a submission to the Committee. This Bill represents an important piece of legislation for Northern Ireland which will significantly change the welfare reform system and have an impact on social housing in Northern Ireland.

We are aware that the Bill deals with the creation of Universal Credit, the replacement of Disability Living allowance with Personal Independence Payments, the reform of the Social Fund, Housing Benefit reforms, the benefit cap; and conditionality and sanction powers.

While this submission deals with the impact of the changes to Housing Benefit on social sector tenants in the main, we will also make reference to the impacts on other changes contained in the Bill.

The Housing Executive welcomes the concessions which Minister McCausland has secured for Northern Ireland. These operational flexibilities, particularly the continued direct payment of the housing costs element of Universal Credit to landlords will help to limit the impact on low income tenants, help to avoid rent arrears, with all the implications that can have for claimants and their families and help to prevent increases in homeless presentations.

## Department

The Minister has asked the Housing Executive in its role as regional housing authority and also as a landlord to assess the implications of the Welfare Reform Bill on housing services in Northern Ireland.

The Department for Social Development has convened a number of Working Groups which the Housing Executive attends. The Housing Executive has also completed a detailed analysis of the indicative impacts on its applicants, tenants and business activities and is working closely with colleagues in the Department and Housing Associations to review policies and services in the light of the forthcoming reforms. Any changes, for example in the Housing Selection Scheme, will need to be consulted on and agreed and or approved by DSD in due course.

## Key Issues

### 1. Regulations

The Welfare Reform Bill is enabling legislation and much of the detail will be in the regulations which we understand will be grouped into three packages depending on their operational date. NIHE would like to make a more detailed commentary on sight of the Northern Ireland regulations. Nevertheless it is possible to comment on some aspects of the Welfare Reform Bill itself with particular reference to how these may impact on NIHE.

### 2. Under occupation (Clause 69 Appropriate Maximum Housing Benefit AMHB)

Under-occupation level	Singles	Couples	Family	Totals
1 bedrooms	9,215	601	9,034	18,850
2 or more bedrooms	5,415	1,047	856	7,318
<b>Totals</b>	<b>14,630</b>	<b>1,648</b>	<b>9,890</b>	<b>26,168</b>

The table above shows that a substantial number of NIHE tenants (26,168) will be affected by the under-occupation rule. This represents around 60% of all NIHE tenants of Working Age claiming Housing Benefit. Of these, over



7,000 are under-occupying by more than one bedroom and would incur the higher restriction.

We are aware that the Minister is still discussing flexibilities in Northern Ireland with Lord Freud but the Housing Executive is also considering the ways in which we can mitigate under occupation for our tenants.

We are also aware that Discretionary Housing Payment is set to increase from £3.4 to £6.9million. The increase will be primarily used to help offset the impact of the under occupation rules.

### **3. Vulnerabilities**

Significant changes will arise as a result of the personal independence payments in Part 4 and Chapter 4 which will influence overall levels of personal/ family finance in relation to households with disabled people. While other disability related benefits are not intended to be used for housing costs any reduction in housing benefit will impact on the overall usage of family income. The additional costs of living with disability are well documented.

The administration and targeting of a range of services, including DFG grants where eligibility is determined by passport benefits will require new arrangements. It may prove challenging to identify specific benefit strands within the combined universal credit system.

While older people will be exempt from these changes, it is difficult to see how inequalities in housing services for disabled people might not arise as a result of the introduction of welfare reform legislation and in particular deductions in housing benefit resulting from under occupation. While the House of Lords debate of the 15<sup>th</sup> October 2012 makes reference to the use of discretionary payments, there is real concern regarding the adequacy and sustainability of such provision.

We are still awaiting details on the households affected by the Benefit Cap which will be implemented through a deduction from the award of Housing Benefit from April 2013. When the information is available we will be able to model the impact.

#### **Part 5: Sanctions**

The Bill introduces a new civil penalty for giving false information to be administered by the Housing Executive. There could be significant costs in administering such Civil Penalties. The word “negligently” is used in relation to making an incorrect statement or giving incorrect information. This is a very subjective term and could lead to inconsistent decision-making.

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**NILGA**

## Welfare Reform

This paper is presented in draft form to the Social Development Committee in response to its Call for Evidence in relation to the Welfare Reform Bill. The NILGA Executive Committee is meeting with DSD officials on 9th November, after which this paper will be finalised and any further comments forwarded to the Social Development Committee.

**Derek McCallan, Chief Executive**

**29th October 2012**

## Introduction

NILGA, the Northern Ireland Local Government Association, is the representative body for district councils in Northern Ireland, representing and promoting the interests of the 26 local authorities and supported by all of the main political parties in Northern Ireland.

We trust that our comments will be taken into account when developing the final proposals. This response has been developed further to a joint NILGA/DSDNI seminar held to consider the proposals contained within the Bill, held on 23rd October and attended by local government members and officers.

**For further details on this response, please contact Karen Smyth at the NILGA Offices. [k.smyth@nilga.org](mailto:k.smyth@nilga.org) (028) 90798972.**

## Context

Although councils are not directly responsible for implementation of social security or welfare policy, this is a critical issue for many of our more vulnerable and disadvantaged citizens, and will have major impact on their lives for the foreseeable future.

Although the Bill hopes to help more people into or back to work, there will also be aspects of this legislation that will impact on children, particularly from poorer families, older people, young people seeking social housing, and those who have become known as the 'working poor'.

Addressing and combating poverty is a key focus for many of our members, who are fully aware that Northern Ireland already has a greater than usual percentage of the population who are forced to choose between heating and eating. It is hoped that any changes to the welfare legislation will not exacerbate this situation.

Although this is a UK wide initiative, it is important that we encourage the Committee to reflect on the different life experience of people in Northern Ireland, and to examine how variations to the national position might be made possible to lessen the negative impact on our most vulnerable.

As a society, we in Northern Ireland must reflect on the impact of our recent past on levels of physical disability and mental health, we must consider the facts in relation to our lack of childcare provision, our limited housing stock and our high levels of young people not in employment education or training. We must look at the reasons for our high levels of economically inactive citizens, and begin as a region, to address the problems we have, in addition to providing a safety net. There is a pressing need to ensure an integrated approach across government to begin to deal with the impact of Welfare Reform.

NILGA is keen to work with colleagues in the Assembly and on the various committees, to develop the vision outlined in the Programme for Government of “a shared and better future for all”, and to outline how local government can contribute to this overarching ideal.

With the advent of council-led statutory community planning, area planning and regeneration, it is timely to explore how local civic leaders should influence the policy and legislation directly affecting the disadvantaged.

In the next few years, the role of councils and councillors will develop further as we take on new functions, and it is vitally important that we are prepared to take on new challenges, including the challenge of improving the economic and social well-being of our citizens.

It is within this context that NILGA and the Department for Social Development held a policy discussion event in the NILGA Offices on 23rd October 2012 to discuss the Welfare Reform Bill and to develop a local government view.

At this seminar, members availed of the opportunity to discuss their concerns with the Chief Executive of the Social Security Agency. It became evident from the outset, that there is a high level of disquiet within local government in relation to the changes this Bill is likely to bring about, and also a serious lack of clarity as to the potential for an exacerbated impact due to the conflation of the Work Capability Assessment, Universal Credit and the Personal Independence payment.

Members and officers present at the seminar voiced serious dissatisfaction in relation to the operation and efficiency of the WCA, which will be forwarded to the Committee in a separate letter. NILGA is aware that a Judicial Review of the WCA is currently underway in GB and would encourage the Committee to seek an urgent review of the system in place, to address continuing concerns.

**Specific concerns in relation to the Welfare Reform Bill are outlined below in sequential order:**

**Parity**

It is appreciated that it is difficult for the NI Assembly to break with parity on Welfare Reform, but it is vital that protection is ensured for the most vulnerable. NILGA would encourage the Committee to have regard to the recommendations made by the **NI Commissioner for Children and Young People**, in the report; *“An Examination of Parity Principles in Welfare and Wider Social Policy”*, published in April 2012. The Committee is reminded of the special circumstances of Northern Ireland, with our higher than average levels of physical disability and mental health issues related to our recent past.

# Part 1 - Universal Credit

## Chapter 1 “Entitlement and Awards”

### **Clauses 1 – 10:**

#### ***Introductory, Entitlement and Awards, Responsibility for Children and Young Persons***

The principle behind Universal Credit (UC) is difficult to argue with, in that there is value in making the benefits system more efficient, but it must be ensured that the poorest benefit the most from the system. There is no doubt that the necessary behavioural change at the heart of this Bill is going to be a massive challenge, and that the education process will be vital, including the provision of budgeting training and advice. It is therefore noted with some consternation that the advice services currently established in Northern Ireland are unlikely to obtain any additional support from government in the face of this systemic overhaul.

The proposal to taper payments, to design out the current ‘cliff-edges’ is broadly welcomed.

The Minister’s efforts to tailor the proposals to suit the Northern Ireland social context are welcomed and should be strongly encouraged to continue.

- The agreement that the housing element of UC can be paid direct to landlords rather than the customer is strongly welcomed.
- Although a change from a monthly to a fortnightly payment is some progress, it is likely that a fortnightly payment will still cause a financial struggle for some households. In addition, NILGA would note that many employees in Northern Ireland, e.g. many local government technical services employees, are paid weekly. The committee is therefore encouraged to propose that the facility is made for payments to be allocated on a weekly basis to facilitate those most in need of a more regular payment and also to ease transition back into the workplace on a ‘like’ basis to the majority of people on lower wages, who are paid weekly. If a change to the computer system is envisaged to enable a fortnightly payment, then it is likely that instead, making a change to a weekly payment, would involve a similar resource.
- The agreement to the Minister’s proposal that payment might be split between two parties in the household is welcomed, but the practical outworking of this will be critically important. It will be vital to ensure that payments are made in a manner which protects any children in a household, and therefore, that there is a robust mechanism in place to ensure that the split is agreed beforehand.

NILGA would encourage the Committee to have regard to the views of the **Women’s Resource and Development Agency** on those issues that particularly impact on women and children within households.

### **Clause 11: Housing Costs**

Further to the Minister obtaining agreement from DWP that benefits can be paid to the provider, the most pressing concerns in relation to the housing element of the UC proposals now centre on the ‘under-occupancy’ principles being introduced. This issue is dealt with in comments on Clause 69.

### **Clause 12: Other particular needs or circumstances**

NILGA members, whilst noting the aim of re-integrating people into the workplace, are **deeply** concerned by the standard of implementation of the Work Capability Assessment, linked to the objectives of this clause. NILGA will be writing to the Committee separately on this matter.

It is noted that this clause provides a mechanism to include a payment for working claimants to provide for formal childcare in respect of eligible children. NILGA would encourage the

Committee to consider this clause within the context of the significant shortfall of childcare provision available in Northern Ireland and to examine whether or not the proposed payment is likely to be adequate, enabling a return to work. The concerns of the Women's Resource and Development Agency are particularly noted here, and in particular their view that government policy in this areas is regressive, with a significant negative impact on women.

## Chapter 2 “Claimant responsibilities”

NILGA's main concern is in relation to the WCA process of assessing that a person is fit for work. The claimant responsibilities outlined on the Bill are noted, and the view has been expressed by NILGA members that attitudes to work are in all likelihood similar to those in GB.

### **Clauses 19, 20 and 21**

It is noted that:

- there will be no requirement to work places on the responsible carer for a child under the age of one;
- a claimant who is the responsible carer for a child aged at least one and is under a prescribed age (which may not be less than 3) will be subject to work-focused interview

NILGA is of the view that this prescribed age a child of whom the responsible carer is subject to work-focused interview should be raised to 'not less than 5'. The Bill proposes to reduce the point at which single parents will be required to seek work, to the date when their youngest child reaches their fifth birthday. NILGA is very concerned that compelling single parents to seek and take up any job as soon as their child starts school, will limit their long term prospects and ability to increase their income through work. The lack of childcare provision in Northern Ireland exacerbates this issue.

### **Clauses 26, 27 and 28**

NILGA is concerned in relation to the potential for sanctions to be imposed, for example on lone parents (leaving children vulnerable), and is of the view that the regulations enabled by Clause 28 will require detailed consideration, once drafted.

### **Clause 30: Delegating and contracting out**

NILGA has been monitoring with interest, the issues in relation to some of the private sector providers of Departmental services both in Northern Ireland and in GB. It is critically important that if a service is contracted out, appropriate monitoring arrangements, and review mechanisms are written in to the procurement process and contract. Relevant contracts should be of a short length particularly during the early days of the implementation of these changes, to enable flexibility and improved practice to be built into the system. If a contract is not being fulfilled satisfactorily, the department must reserve the right to revoke it.

## Chapter 3 “Supplementary and General”

No comment to make on this section.

## Part 2 – Working Age Benefits

### Chapter 1 “Jobseeker’s Allowance” and Chapter 2 “Employment and Support Allowance”

No comment to make on these sections.



## Chapter 3 “Income Support”

Clause 59: It is noted that a lone parent whose youngest child has reached the age of 5 will be required to move from receiving Income Support, to JSA or ESA (depending on their capability for work). NILGA would restate the views outlined in the response above, to Clauses 19-21.

## Chapter 4 “Entitlement to Work”

The Northern Ireland Strategic Migration Partnership has been notified of clauses 61-63 and may choose to respond to the Committee separately.

## Part 3 – Other Benefit Changes

### **Clause 69: Housing benefit – Determination of appropriate maximum.**

#### **Local Housing Allowances**

A potential cause of homelessness, raised by the **NI Housing Forum**, is related to rental and market values of properties. It will be necessary to review the position regarding rental values in social housing provided by Housing Associations (publically funded) to ensure they are in line with rental benefit rates. **Local Housing Allowance** rates must continue to be based on market rental values, as discrepancies could lead to homelessness or over-reliance on Discretionary Housing payments.

#### **‘Under-occupancy’**

Further to the Minister obtaining agreement from DWP that benefits can be paid to the provider, the most pressing concerns in relation to the housing element of the UC proposals now centre on the ‘under-occupancy’ principles being introduced. Greater flexibility is sought, for example to include families who care for foster children, or whose homes have been specially adapted to deal with a disability.

There is **serious** concern in relation to provision for parental overnight contact with children. Although it is appreciated that Discretionary Housing Payments are available in some circumstances, this will not provide for vulnerable children who require parent access or for children with complex disability related requirements.

NILGA would seek to retain the exception status for ‘supported housing’ properties. These are currently administered separately and are not under existing rent restriction.

In relation to current housing provision, it will be important for the Committee to cross-reference the Bill to existing housing policy. NILGA is deeply concerned by the potential change that will be required to the nature of rented housing provision across Northern Ireland. The current ethos for building social housing is to develop ‘lifetime homes’. The introduction of the Welfare Reform Bill will require a huge uplift in demand for houses in multiple occupation and single bedroom units, and has the potential to radically change the character of large areas of cities, towns and villages right across Northern Ireland. There is a strong likelihood that communities will be displaced. There is also potential for an increased incidence of homelessness as a result of a lack of ‘Welfare Reform Bill-compliant’ housing in some areas.

### **Clause 70: Ending of Discretionary Payments**

The discretionary social fund is to be abolished, as is the office of the social fund commissioner. Instead, budgeting loans for advance payments of benefit will be absorbed in UC as will ‘sure-start’ maternity grants and cold weather payments. It is of note that the Social Security Agency has commissioned a research study to inform decisions about a

replacement scheme for future discretionary support services in Northern Ireland. It seems somewhat premature that such proposals have been included in the Bill before a replacement mechanism has been agreed.

## Part 4 – Personal Independence Payment

### Clauses 76-94

The chief concern outlined by NILGA members at their recent seminar, centred on assessment, largely due to the experience of the introduction and implementation of the WCA assessment. There is concern in relation to the potential combined financial impact of WCA and PIP assessment on the disabled. It is also evident that there is a lack of clear information available on the new system and a great deal of confusion as to the proposed changes. The Committee is encouraged to consider Baroness Grey-Thompson's recent report *"Holes in the Safety Net: The impact of Universal Credit on disabled people and their families"* which contains accurate forecasting information in relation to the impact of the Welfare Reform changes on the disabled, with figures that take Northern Ireland into account.

It seems certain that fewer people will qualify for PIP than currently qualify for DLA, and that those who do may qualify for a shorter period of time.

### Assessment Concerns

The qualifying period for DLA is currently 3 months, and NILGA would strongly oppose the proposal to extend the qualifying period for PIP to 6 months. PIP is intended to assist people with disabilities to meet additional costs faced as a result of that disability. **There is no justification for doubling the current qualifying period.** This extension is likely to result in unnecessary financial strain being placed on people with disabilities, for a mere administrative reason.

It must be ensured that the persons carrying out the assessments are appropriately qualified and have attained a recognised level of expertise. This is particularly important when assessing cases in relation to mental health conditions such as depression. It is currently understood that some legal work is underway regarding nurse-led assessments and that the outcome is pending.

Local councillors have highlighted major issues with the current medical examination assessments and centre locations. Feedback received from the SSA and the Minister has state that their analysis is that all of the centres in Northern Ireland comply with the Disability Discrimination Act and that customer satisfaction from their perspective is above the 90% target. Local analysis (e.g. in Dungannon) would suggest that this is not the case, and members are reporting issues in relation to DDA compliance in addition to other issues with performance.

NILGA notes with some concern that the PIP assessment contract is on the verge of being awarded, and can only hope that the issues raised in relation to WCA assessments have been 'designed-out' of this latest contract.

It is vital that those being assessed experience good practice that upholds their rights, including:

- right to representation at examinations
- right to seek clarity on what is being recorded
- right to take notes (for own personal use)

**Provision of information**

NILGA would request that the Committee places concern for local people at the forefront of its consideration of this part of the Bill, and that it ensures adequate resourcing for provision of information in relation to the changes, to ensure a good level of public understanding of moving from three levels of benefit to two.

**Clause 92: Transition**

NILGA notes that provision is made for transitional arrangements in relation to PIP, and trusts that appropriate mechanisms will be introduced.

## Part 5 – Social Security: General

**Clause 95: Benefit Cap**

It is observed that the proposed ‘benefit cap’ is intended to ensure that a single person’s or household’s entitlement to welfare benefits for a defined period is no more than ‘estimated average earnings’ for the same period. The overwhelming impact will be on large families living in high rent areas, for which housing benefit changes will already make life significantly harder. It is worth noting that **less than 1000 people** in Northern Ireland will be impacted by the cap.

**Clauses 116-120: Information Sharing**

The proposals to enable information sharing between government agencies are noted. NILGA would query whether the computer systems of relevant agencies are currently compatible, and in addition, whether it will be ensured that the new system being designed to cope with welfare reform will be compatible with existing systems.

Data protection is a huge issue, and it must be ensured that sensitive personal information is not vulnerable to hackers and other ‘cybercriminals’, or otherwise vulnerable, particularly at the most exposed points of information exchange between agencies.

## Part 6 – Miscellaneous

**Clause 128: Dog Licenses**

NILGA notes the proposal in relation to reduced dog licence fees for those in receipt of income-related benefits. This is a continuation of current concessions.

## Part 7 – Final

No comment to make on this section

## Other

**Cash protection**

NILGA would welcome the transitional protections to be introduced, in that the government has stated that no-one will be worse off at the point of transition on to UC. It is unclear however, as to how long this transitional ‘cash protection’ will last. If protection will only apply until someone’s circumstances change, this could be a matter of weeks (for example if hours of work fluctuate), meaning that many of those affected by a so-called notional decrease, will soon be impacted by a real decrease within a short space of time after transferring to UC. In addition, the transitional protection will only commence from October 2013, by which time many of the other social security cuts will have taken place.

### **Practical Outworking: ‘Computer says no’**

Members and officers within local government are deeply concerned by the proposal to move almost completely to an online system in relation to benefits, and the potential loss of a person-centred approach as a result. If the ‘computer says no’ there must be an adequate system in place to enable the claimant to appeal the decision, and it would be preferable for customers to be able to seek assistance in a holistic way to address their issues.

There are a number of issues in relation to IT provision for Northern Ireland, the lack of broadband coverage in some areas and the lack of proper consideration to the infrastructure that will be needed, for example, closure of rural libraries may remove access to computers entirely for some rural dwellers. Other social inclusion and equality issues will need to be taken into account in provision of this system.

### **Employment Prospects and integration with Economic Policy**

NILGA would remind the Committee that we are in the midst of an economic downturn, in a period of rising inflation, cuts to benefits, budgets and public sector work. This Bill may set the scene for preparing people for work, but there may not be any work for them to go to, particularly in rural areas. For example, Northern Ireland is dependent on 10 companies for the majority of its exports. It is vital that the Northern Ireland Executive, and in particular, the three Ministers for Social Development, Enterprise Trade and Investment, and Employment and Learning are working close together to ensure we have a willing and suitably skilled employment base, and jobs for them to go to. Councils can, and will, assist in working in an integrated way at local level.

## **Conclusion**

Northern Ireland presents particular circumstances in relation to welfare reform and arrangements to move people into employment that must be addressed as creatively as possible, within the bounds of parity.

It is vital to communicate the proposed changes to the public and in particular those who need most support. Clarity of message is key to ensuring that a sound understanding of the new welfare landscape develops.

There is an urgent need to ensure that advice services are well-informed and resourced to meet with what is certain to be an influx of requests for assistance. **This should include a guidance pack, and training for elected members.** There is likely to be huge demand for assistance with budgeting, debt advice, housing advice etc, and this must be planned for, with in particular, SSA staff trained to give a holistic view of entitlements, not just the ‘bare bones’ of customer need.

A review/redress system must be built into the process, to improve policy as it develops, and to ensure contracts are well-managed and delivered satisfactorily.

### **Disclaimer**

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# NIPSA



## NIPSA Response to the Welfare Reform Bill

19th October 2012

## NIPSA Response to the Welfare Reform Bill

### 1. Introduction

- 1.1 NIPSA as the largest public sector trade union in Northern Ireland with over 46,000 members welcomes the opportunity to respond to the NI Welfare Reform Bill.
- 1.2 NIPSA is in the unique position of having a significant interest in the social policy aspects of the Bill which will impact on society and on many NIPSA members who are currently in receipt of a number of existing benefits such as Child Tax Credits, Working Tax Credits and Housing Benefit. In addition the proposed changes also affect those who are unable to find employment or who are unable to work for a wide range of reasons including disability, unavailability of appropriate affordable childcare and unavailability of work.
- 1.3 In addition NIPSA represents the staff in the Social Security Agency and the NI Housing Executive, who currently deliver the majority of the benefits impacted upon by the Welfare Reform Bill. The Outline Business Case which has been produced by the Department of Social Development and accepted by the Department of Finance & Personnel indicates that by 2017 there will be significant job losses brought about by the introduction of Universal Credit and other benefits impacted upon by the Welfare Reforms. It is estimated 1,630 jobs (35% of the current workforce) will be lost across the SSA, NIHE and HMRC. For this amongst other reasons NIPSA are opposed to these welfare cuts. At a time of high unemployment, with NI at 8.2%, being the highest of all 12 regions with the staggering figure of 23.4% youth unemployment being well above the UK average of 19.3%. The promise of further public sector job losses will have a further negative impact on the economy and is not acceptable. NIPSA is calling on the NI Assembly to address this important issue and ensure there are no job losses as a result of any change to the social welfare system in Northern Ireland. NIPSA believes that at the current time there are neither the jobs nor employment opportunities available to address the objectives of the proposals contained in the NI Welfare Reform Bill and we are seriously concerned that the safety net of the Welfare State will be removed at a time when it is needed more than ever. We are of the view that just to remove the drastic aspects of this Bill is not enough as the remainder will impact negatively on thousands of citizens in NI and that is not acceptable. We are not alone in our views on this and other major organisations among the Voluntary and Community Sector and the Churches share one voice in our opposition to a Bill that is predicated on cuts. We are therefore responding on the basis that we are opposed to this Bill and our comments are an attempt to lessen the impacts of these proposals by removing and/or amending clauses. We attempt to provide clarity and information on the negative ramifications in order to aid the Committee's scrutiny of the Bill using the experience and expertise of our Trade Union Sides in the impacted organisations. This is in order that when the Committee are aware of the huge damage that these welfare cuts will mean for our society in Northern Ireland that you will refuse to implement them.
- 1.4 NIPSA are aware that the Department of Social Development are using the Family and Resource Survey figures for 2009/10 which in our view does not reflect the current economic circumstances and therefore will give a flawed picture of who and how many families will be affected by the changes which will come about if the Bill is enacted. NIPSA would insist

that updated and relevant figures from the 2010/11 FRS data are used to test the negative impact, as this will best reflect the downward shift in the economy.

## 2. Consultation Arrangements

2.1 NIPSA is deeply concerned at the arrangements for consultation by the Social Development Committee whereby the draft Welfare Reform Bill was tabled in the NI Assembly on 1st October 2012 and the Social Development Committee are seeking comments on the draft Bill by 19th October 2012. Given the significance of elements of this Bill to NI society and the negative impact on the NI Economy, with approximately £500m being removed from the economy it is inappropriate for the Committee to give interested organisations and stakeholders less than 3 weeks to compile detailed and comprehensive responses. NIPSA would therefore formally request that the Committee extend the period by which evidence to the Committee can be submitted and heard.

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

## 3. Universal Credit – Part 1 [Clauses 1 – 44]

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

3.2 **Clause 2** - NIPSA has grave reservations regarding this clause. In the main the award of a payment to a "couple" will be paid to the male. There are significant issues with this proposal such as domestic violence, alcoholism, gambling etc. There is a significant body of evidence which shows that in the majority of cases the main responsibility for child care is predominantly carried out by the mother. Therefore if the claim is paid to the household, assuming that this is the male in the household, then it is of concern that both the mother and the children in the family may suffer. It is readily accepted that the mother generally takes responsibility currently for the payment of household bills and food. This clause is potentially discriminatory to women and children. NIPSA believes this clause should be subject to further scrutiny under Section 75 of the NI Act. NIPSA understands that this facility may be achieved through the IT systems.

3.3 NIPSA would wish to ensure that full consultation takes place on any Regulations in which a member of a couple may make a claim as a single person. The example in the explanatory memorandum which accompanied the Bill is very narrow eg *"where one member of a couple does not have a right to reside in Northern Ireland"*. This is not acceptable and there will need to be many other "circumstances" when this would be applicable. NIPSA would strongly advocate that the default should be a single claim with the option of a household claim.

3.4 **Clause 4** – NIPSA has concerns that to be eligible for Universal Credit an individual *"is at least 18 years old"*. NIPSA believes there are a range of circumstances where this threshold needs to be lower to ensure that a young person, who is not currently living in a family unit, has access to Universal Credit. This could be where a young person is coming out of the care system or is estranged from their parents for a variety of reasons.



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- 3.5 **Clause 4** – NIPSA also have reservations regarding the claimant commitment which is commented on later in this submission [See 4.2].
- 3.6 **Clause 5** – NIPSA welcomes the introduction of a proposed taper which means that an individual who finds employment is able to retain more of their earned income before their universal credit award begins to reduce. NIPSA however believes this should be set at the highest level possible and reserves our position on this matter pending the publication of the corresponding regulations.
- 3.7 **Clause 6** – NIPSA reserves its position in respect of this clause until the Regulations are available.
- 3.8 **Clause 7** – NIPSA is opposed to monthly payments of Universal Credit and believes that this should be the choice of the claimant. For those who have recently become unemployed and who had been used to monthly budgeting the payment of Universal Credit on a monthly basis may be appropriate. For others who have been used to weekly payment of wages or who have been in the benefit system for a period of time the transition to monthly payment is likely to cause serious financial hardship. NIPSA would therefore wish to ensure that there should be choice at the commencement of each period of new claim for an option to be exercised by each claimant for either fortnightly or monthly payment. In a recent survey 67% of those in employment are paid monthly; 4% paid fortnightly and 29% weekly. NIPSA would suggest that those in lower paid and potentially less secure employment are currently paid weekly and a move to monthly payment of benefits would cause financial hardship should they become unemployed. It is imperative therefore that the IT system is flexible enough to ensure that choice is given to those claiming and in receipt of Universal Credit. NIPSA would argue that choice is the default position. NIPSA understands that DWP have agreed to the amendments to the IT facility to allow for fortnightly payments.
- 3.9 **Clause 8** - NIPSA is concerned that a household will have a cap applied irrespective of the circumstances within the household ie the number of children within that household. Northern Ireland has a greater number of larger families than the rest of the UK and therefore as child benefit is to be incorporated into the cap along with a range of other benefits then the cap [which has been published elsewhere as £26,000] will disadvantage those with larger families. Therefore the impact on children of larger families in relation to educational outcomes, health and wellbeing etc will be diminished. NIPSA believes this element therefore needs to be subject to the rigors of equality legislation as it has the potential to be discriminatory towards children.
- 3.10 **Clause 9 – Standard Allowance** - See earlier comments at para 3.2 (Clause 2) regarding the treatment of joint claimants.
- 3.11 **Clause 10 – Responsibility for Children and Young Persons** – Research has highlighted that there is a higher cost of living for disabled persons and on that basis the text in clause 10 (2) states that regulations may make provision for the inclusion of an additional amount if such a child or qualifying young person is disabled. It is difficult to judge without the detail of the regulations if this means that the Benefit Cap would be extended to allow for additional elements for children and young persons and if that were the case we would welcome that, indeed the same applies for Para (4) that may provide for exceptions.
- 3.12 **Clause 11 – Housing Costs** – NIPSA has serious reservations about this clause. It appears that those families living in the social rented sector are to be seriously disadvantaged. Currently the housing waiting lists are 40,080 with 22,156 in housing stress. Therefore it is difficult to understand how families who will be impacted upon by the “under occupancy” proposals are to be dealt with. One example could be where a young person is away from the family home for a period of time and is likely to return. This could be because the young person(s) are attending university or away from home to obtain work. In those circumstances NIPSA believes parents, or those with parental responsibility, should not be disadvantaged by the “under-occupancy” proposals. This proposal specifies that social tenants who under
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occupy a home by 2 or more bedrooms are to face a reduction in Housing Benefit by 25%. Those who under occupy by 1 bedroom are to face a 14% reduction in Housing Benefit. Clearly this will have a significant impact on these households and may force tenants to seek to move to a home with a lesser number of bedrooms which are currently unavailable.

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

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

#### 4. Chapter 2

##### Conditionality and Sanctions [Clauses 13 – 30] Claimant Responsibilities

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

As the Committee will be aware with unemployment in NI rising (currently at 8.2%) which is different from the rest of the UK then we argue strongly that it is inappropriate to put in place higher level conditionality which individuals will not be able to meet because of either the lack of jobs or lack of affordable childcare. Unlike the rest of the UK, Northern Ireland has no childcare strategy and on that basis, along with high unemployment and low vacancies rates, we strongly believe that the punitive measures contained within these clauses cannot work and to implement them without available jobs is reckless and the clauses should be removed.

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

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

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

- 4.3 **Clause 15 – Work Focused Interview** – NIPSA reserves our position until we see the details of the regulations.
- 4.4 **Clause 16 – Work Preparation Requirement** - In the current economic climate it is unrealistic for individuals to be expected to obtain work at a higher rate of pay, additional hours etc. It is also of concern that the work preparation requirement may include taking part in a health-related assessment to be carried out by a health professional. It would appear this is aimed at those who are unable to work because they have a disability. This pigeon holes these individuals and focuses the individual on what they cannot do, not what they can do. This goes against all that those charged with responsibility for assisting disabled people have worked hard on. I.e. that the person focuses on the positive rather than negative.
- 4.5 **Clause 17 – Work Search Requirement** - NIPSA believes that while it is realistic to ask someone to look for work while they are unemployed it is unrealistic to ask them to spend all of their time in seeking a job when there are severely limited job opportunities. For those who are unemployed for a longer period of time they can only fill in application forms, register with employment agencies, seek references etc for as long as it reasonably takes. NIPSA believes that rather than stipulate that the person must look for work on a full time basis that it should stipulate they are expected to take all reasonable steps to find work.
- 4.6 **Clause 18 – Work-Availability Requirement** – Similarly NIPSA believes in the current economic climate the ability of individuals to take up paid work, increase the number of hours they work or get paid work is severely restricted and therefore would recommend that this clause is not implemented until the economic situation significantly improves.
- 4.7 **Clause 19 – Claimants subject to no work-related requirement** - Para (1) states that the Department may not impose any work related requirement on a claimant falling within this section i.e. a claimant with limited capability for work-related activity. More people failing the Work Capability Assessment means that more people with health conditions have to claim Job Seekers Allowance and so will be subjected to an inappropriate requirement of work-related activity if the Department did not decide to exempt them. Similarly for a claimant with responsibility for a child under the age of one, support for childcare costs must ensure that work pays for a parent on minimum wage with childcare costs. But this is not addressed and there is no childcare strategy. If the system cannot guarantee that it can make work pay in these circumstances then the associated conditionality regime cannot be applied. We reserve our position to further comment when the detail in the regulations is known.
- 4.8 **The above also refers to clauses 20 and 21.**
- 4.9 **Clause 22 – Claimants subject to all work – related requirements**
- As far as we can understand where a claimant is able to take up full time work at 36 hours then these numbers of hours are to be used to find a job? It is not clear from the Bill if this is the case but we have gleaned this information from Hansard records of evidence provided by the Department. If this is the case we find it unrealistic. Particularly in the current circumstances of high unemployment this work related requirements that cannot be met may attract an unreasonable sanction which we will deal with under paragraph 26.
- 4.10 **4.10 Clauses 23, 24 and 25 - Connected requirements, Imposition of requirements, Compliance with requirements**
- There are many barriers to participation in the workplace for different categories of society. People over the age of 50 could find it harder to find work due to discriminatory practices yet there is no recognition of barriers but rather requirements and compliance which is deeply worrying given that Universal Credit is predicated on conditionality and sanctions.

#### 4.11 **Clause 26 - Higher Level Sanctions**

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

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

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

### 5. **Part 2 – Working-Age Benefits – Chapter 1 – Jobseeker's Allowance – Claimant responsibilities for interim period**

- 5.1 **Clause 45 - Claimant commitment for jobseeker's allowance** - NIPSA is strongly opposed to the use of the phrase "*other person*" in line 11-14 of clause 45 where it states the commitment may be drawn up by "*or other person as may be designated by the Department*". NIPSA would contend that this is clearly a role for the Department of Social Development or the Department for Employment and Learning and is totally opposed to any other third party carrying out functions currently undertaken by members in the NICS departments.
- 5.2 **Clause 46 – Interviews** - NIPSA would ask for further clarification on what is meant by "*conducting interviews remotely*" as referred to on Section 220 of page 35 in the Explanatory and Financial Memorandum and page 25, line 4 of Clause 46 of the Bill where it states "*participate in an interview in such manner, time and place*" as the Department or Department for Employment and Learning see fit. NIPSA would require further clarification on the implications of this point and await the outcome of a proposed pilot by the Department for Employment and Learning currently being undertaken in the Employment Service.
- 5.3 **Clause 47 –Sanctions** - NIPSA would require more clarity on the detail of Higher Sanctions with regards to Misconduct as referred to in Clause 47, line 11, 2 (a) "*through misconduct loses employment as an employed earner;*" and in the Explanatory and Financial Memorandum section 230, page 37 "*a sanction will not be applied if the claimant can demonstrate good reason for the failure (except in cases where the claimant loses a place on a training scheme or employment programme through misconduct)*"- does this include disputed cases of dismissal

via misconduct and cases where the claimant was dismissed but has a tribunal or other legal measures pending with regards to their dismissal?

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

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

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

## **6. Part 2 - Chapter 2 - Employment And Support Allowance**

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

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

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

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

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

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

6.3 **Clause 53 - Further entitlement after time-limiting** - Allows for a customer whose contributory ESA has stopped to restart if their condition has deteriorated to such an extent that it is now considered or deemed severe. There is no scope within this for money or claims to be backdated. Any award under this clause lasts only as long as they are given by a Decision Maker (DM)/HCP before another assessment, after which another determination will be made. These periods even in cases of severe disablement can be for as little as 3 months.



- 6.4 **Clause 54 - Condition relating to youth** - ESA “Y”: Clause 54 removed ESA “Y” as a benefit for any new claimants and therefore disabled young people will no longer be able to qualify for ESA. Removal of Employment and Support Allowance for young people will disadvantage this vulnerable section of society in getting a helping hand to independence. This must be scrutinised under NI equality legislation.
- 6.5 **Clause 55 Claimant commitment for employment and support allowance** - has completely rewritten what obligations the Department will be placing on customers who have a Limited Capability for Work. These obligations can include a work placement which is essentially unpaid labour.
- This clause also makes it clear that the customer obligations can be altered at the whim of the Department and that the customer **must** fulfil the requirements of the most recent update to their “obligation”. There is no similar obligation on the Department to find suitable and/or accessible placements that take into account issues such as mobility and accessible transport.
- This clause also makes it clear that if the customer does not fulfil their obligation or provide enough evidence to the Department then sanctions can be placed on their benefit.
- 6.6 **Clause 55(4)** “Thinks Fit” is very open to interpretation and also the level of seniority of the person making this judgement is not defined.
- 6.7 **Clause 56 - Work experience etc** - Clause 56 allows for work placements to be included as part of the “Customer obligation”.
- 6.8 **Clause 57 - Hardship payments** – This clause allows for more stringent qualifying conditions to be placed on these people deeply in need and requiring a hardship payment. It also allows for the period for which anyone can qualify for a hardship payment to be reduced. There is no specific detail as to how this would be done. It is vital that clear and robust Regulations are framed to help this group.
- 6.9 **Clause 58. - Claimant responsibilities for employment and support allowance** Details requirements “obligations” that a customer will have to fulfil in order to continue receiving ESA. It states that the Claimant commitment “Customer Obligation” would include attendance at work focused interviews and it elucidates on the Work Preparation Requirement. The Work Preparation Requirement can include taking part in an employment programme and under taking work experience or work placement. Again there appears to be no matching obligation on the Department’s side to arrange suitable and/or accessible placements.
- It should be noted that the new regulations will compel a customer who has been assessed by a HCP as having a significant disablement or reduction in functions to undertake an unpaid work placement.
- It also states that a person on ESA who also has a child younger than 3 (but older than 1) will also have to take part in the work focussed interviews and further details when sanctions may be applied for “failure” to comply with these obligations. These sanctions can include suspension or a reduction in or a termination of benefit. The size and extent of any reduction is not detailed in this Bill.
- Clause 58 also details that sanctions can be applied if the customer fails to show good reason for failure to comply with the obligations but gives no indication of what such good reasons may be. Given that these sanctions could remove a person’s sole source of income for a period of up to 26 weeks it is essential that there are clear and robust regulations supporting such decisions and a similarly clear robust and independent appeals process against decisions made by the Department.



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

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

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

## 7. Chapter 3 - Income Support

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

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

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

## 7.3 Part 3 - Other Benefit Changes

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

## 7.4 Clauses 70-73 – Social Fund

### Ending of discretionary payments

### Purposes of discretionary payments

### Determination of amount or value of budgeting loan

### Community care grants

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

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

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

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

- 7.5 **Clause 74 - State pension credit: carers** - amends the State Pension Credit Act (NI) 2002 but instead of Invalid Care Allowance being the measure of entitlement it has changed to a definition of “regular and substantial caring responsibilities”. This has yet to be defined or prescribed.
- 7.6 **Clause 75 – State pension credit – capital limit:** “This capital does not exceed a prescribed amount” again this raises concerns as to whether this will be at the whim of the Department and with no further recourse to the legislature of Northern Ireland. Will these amounts be prescribed by DWP? Will a Minister of the NI Executive or Westminster legislature be involved in setting these limits? There may well be a case for a breach in parity given the different circumstances in Northern Ireland.

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

## 8. **Part 4 - Personal Independence Payment**

- 8.1 **Clause 76 - Personal independence payment** - It is NIPSA's opinion that the Habitual Resident Test is sufficient to provide the basis for ability to apply for Personal Independence Payment.
- 8.2 **Clause 78 Mobility component - Subsection (4)** Should be widened to include moving around indoors and the ability to use and cope with stairs.

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

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

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

- 8.4 **Subsection (5)** - Regulations will provide for the consequences of failure without good reason to comply with a requirement imposed under subsection 4. It is important within this

subsection that the person's condition especially in relation to mental health conditions is taken into account when 'good reason' is applied.

- 8.5 **Clause 80 – Required period condition – further provision** - This clause makes further provision about the making of regulations to determine whether a person meets the required period condition. The regulations need to state that during the previous 3 months and the subsequent 9 months the persons relevant ability had it been assessed at that time would have been limited or severely limited as the case may be. It is important that the **majority of the time** is included as this will ensure that persons with fluctuating conditions will not be denied Personal Independence Payment.
- 8.6 **Clause 81 (5) - Terminal illness** – Provides that where a claim is made on behalf of a terminally ill person, the terminally ill person is regarded as making the claim, notwithstanding that the claim is made without their knowledge or authority. A further amendment is required to ensure that when a claim is made by a person and subsequent investigations indicate that the person is terminally ill those cases can also be included under this clause.
- 8.7 **Clause 86 – Prisoners** - It is our determination that it is morally wrong to deny a person Personal Independence Payment if they are in detention and not been found guilty of any crime.
- 8.8 **Clause 88 - Report to the Assembly** - Given the concern from the public regarding the new assessments for Personal Independence payment it is important that the Department must lay before the Assembly an independent report on the operation of assessment under Section 79 **annually** and on a continual basis.
- 8.9 **Clause 91 - Power to make supplementary and consequential provision** -It is important under this heading that any changes made by the Department must be subject to the scrutiny of the Assembly and/or the Department for Social Development Assembly Committee.
- 8.10 **Clause 92 – Transitional** - As under the previous heading it is important that any provision the Department considers 'necessary or expedient' is subject to the scrutiny of the Assembly and/or the Department for Social Development Assembly Committee.
9. **Part 5 - Social Security: General**
- 9.1 **Clause 95 – Benefit Cap** – See comments under Clause 8 (para 3.9)
- 9.2 **Clause 101 - Power to require consideration of revision before appeal**
- APPEALS: Compulsory Reconsideration**
- 9.3 **Clause 101** will compel all customers to apply for a reconsideration of any decision before they will be allowed to appeal against the decision. It is already standard practice for an appeals officer to carry out a reconsideration of a decision before writing an appeal submission. This is simply an additional level of red tape which will slow down the appeals process even further and could impact on a customer getting their benefit re-instated even though that benefit will no longer remain in payment whilst the appeals process takes its course.
- 9.4 **Clauses 113 – 115 Benefit Offences:** NIPSA does not condone fraudulent activity and would highlight the very low level of fraud in Northern Ireland. NIPSA are concerned that the clauses in the Bill seek to move directly to higher level penalty for even minor offences ie the removal of the "formal caution". NIPSA reserves the right to comment further whenever the Regulations become available.
10. **Part 6 - Miscellaneous**
- 10.1 **10.1 General** - Public Services and Commercial Services (PCS) and NIPSA continue in their campaign to protect, maintain and improve their member's terms and conditions.

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

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

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

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

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

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

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

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

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

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

NIPSA would expect to see detailed analysis into the reasons why Maintenance Direct agreements have broken down in the past and what the contributory factors have been. This

information will, we contend, be essential in providing the advice and guidance aspect of proposals.

- 10.3 **Clause 122 - Collection of child support maintenance** - Repeals some wording from Article 7(2) of the 1991 order and in addition, inserts a new paragraph, (2A). The combined effect of these changes may be to inhibit the collection of maintenance in some circumstances. Previously the Agency would have taken steps to ensure collection but now it is proposed that this will happen only where the NRP agrees or where the department is satisfied that the NRP is unlikely to pay. The net result may be children not benefiting.

- 10.4 **Clause 123 Indicative maintenance calculations** - The information necessary to make an estimate as to how much should be paid in child maintenance has been available for some time to anyone with access to a computer. Many parents have availed of this facility to check what is deemed a fair amount to pay or receive. It is hard to see how this amendment will increase the number of cases currently when an adequate arrangement is in place.

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

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

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

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

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

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

- 10.7 **Clause 126 - Exclusion from individual voluntary arrangements (IVA)** - The NRP who owes arrears of child support maintenance will not be able to reduce his liability by means of an



IVA. Since any debt owed on a child support case is in fact owed to the children on that case, we are strongly in favour of this debt being protected and collected on their behalf.

## 10.7 Conclusions

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

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

Huge strides have been made in improving the collection and payment of child maintenance since 2006. In reforming child support, full and proper cognisance of the efforts of the staff, our members, needs to be made and their employment protected. The potential is there to deliver a top quality service which has the alleviation of child poverty as its principle aim. Too many of the proposals in this Bill are aimed at reducing the cost to the tax payer at the expense of the children it should be there serve. We hope the lessons of the past are learned and that Civil Servants, here in Belfast, are given the opportunity to deliver that alleviation of child poverty.

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

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

Performance Indicators	Actual 00/00	Actual 00/01	Sep-11	Oct-11	Percentage of Actual 00/01 Performance	Percentage of Actual 00/01 Performance	RS G+
Children Benefiting Statutory Scheme (000s)	846	868	876	876	890	875	← →
Maintenance Outcomes %	77.1	77.6	77.8	77.8	80	78	← →
Collections & arrangements (12 month rolling) £m	1,141	1,150	1,169	1,174	1,175	1,160	↑
Arrears collected (12 month rolling) £m	147	125	122	122	125		← →
Accuracy (% within £1 or 2 % – rolling last quarter) %	89	96	95	95	97		← →
Complaints Resolution Intake (rolling 12 months)	-	14,235	13,972	13,779			↓
Callbacks not made	n/a	n/a	12.4%	9.6%			↓



Figures taken from CMED website



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

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

## Appendices

### **Child Support Agency National Statistics, December 2010.**

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

### **Monthly Labour Market Report, September 2012.**

[www.statistics.detni.gov.uk](http://www.statistics.detni.gov.uk)

## **11. Summary**

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

# Northern Ireland Anti Poverty Network

## The Welfare Reform Bill

### Submission to; Committee for Social Development

Northern Ireland Assembly

From: The Northern Ireland Anti-Poverty Network

#### **The Northern Ireland Anti-Poverty Network would make the following comments relevant to the introduction of the Welfare Reform Bill 2012.**

##### **The Northern Ireland Anti-Poverty Network (NIAPN)**

The Northern Ireland Anti-Poverty Network( NIAPN) was established in 1990 as part of an EU-wide move to address poverty and social exclusion, and we were constituted in 1991. We are an umbrella organisation with a membership of 300 which includes individuals and organisations. The purpose of NIAPN is to relieve and improve the position of people who live in poverty and to advance education and conduct research into the effects and causes of poverty for the benefit of the community. In particular, we monitor the impact of the policies of the Westminster Government and the Northern Ireland Assembly on Northern Ireland and we work closely with other UK Anti-Poverty Networks to share experiences, knowledge and good working practices. NIAPN is a member of the European Anti-Poverty Network and monitors the effect the policies of the European Union has on the regions of the United Kingdom. NIAPN also develops and facilitates anti-poverty campaigns and lobbying activities at Northern Ireland, UK and EU levels, and we represent Northern Ireland in the general assembly of the European Anti-Poverty Network (EAPN).

##### **The Welfare Reform Act 2012**

NIAPN would agree that a less complicated Welfare Benefits system which would promote equality is not only desirable but essential. However the Northern Ireland Anti-poverty Network has serious reservations regarding the introduction of the Welfare Reform Act 2012 which has received its second reading at Stormont. The current recession is impacting upon all regions of the United Kingdom but Northern Ireland has particular circumstances which our organisation believes requires that policy variations are commensurate with the uniqueness of the Northern Ireland situation. Unfortunately there appears to have been no impact assessment carried out for the impact the Act will have upon the people of Northern Ireland. Other Regions, Scotland and Wales have carried out assessments prior to the launch of the Bill and have collated empirical evidence to support arguments relevant to how those regions will be affected. Unfortunately Northern Ireland does not have access to similar relevant collated and analysed data but however it is accepted that the introduction of this Welfare Reform Act, bringing the biggest change to the Welfare System for over sixty years, will impact more severely in Northern Ireland than in any other region of the United Kingdom. Reasons for this include:-

- The past conflict which has left a legacy of high levels of mental ill-health resulting in Northern Ireland having one of the highest rates PTDS in the world and therefore contributing to the high number of people receiving Disability Living Allowance payments.
- The type of housing stock, three and four bedroom dwellings, built over the decades by the Northern Ireland Housing Executive.
- The low level of wages paid to employees
- The high rate of unemployment.
- The high level of Child Poverty
- The high level of Fuel Poverty

**Housing Issue**

The Northern Ireland Housing Executive over the years concentrated on building three and four bedroom houses. This has contributed to the estimation that between 30 to 50,000 social housing homes are under-occupied. Potentially the tenants of these homes who may currently receive Housing Benefit will have this Benefit reduced or will be forced to seek alternative smaller accommodation. This at a time when there are already 23,000 on urgent waiting lists. Many will be forced into the private sector rental market which does not offer the same level of tenancy security and they may also be forced to live in areas where rental costs are lower but facilities and services are not adequate and they may be remote from family support relevant to child care. Not all receiving Housing Benefit are unemployed as there are currently 16,000 in employment who receive these Housing Benefit payments and many of these will also be affected by the proposed legislation. The impact of this Act upon communities will be severe as extended families which tend to live within close proximity providing the advantage of assistance with child care for those seeking or obtaining work will be forced to disperse owing to financial pressure. This will result in a break-up of family relationship and fragmentation of communities.

**Unemployment**

The unemployment level within Northern Ireland has now surpassed the United Kingdom average and there are 70,000 people out of work. An aim of the Welfare Reform Act 2012 is to "Make Work Pay" but the problem with this is that there are simply not enough jobs to reverse the current high unemployment rates. An added complication is child care as this is an important support mechanism for those seeking and or finding employment. There are not sufficient places for those requiring affordable child care and therefore many are simply prevented from actively seeking employment and those being forced to seek employment will not see any reward for entering employment owing to the cost of child care and travel.

Being in employment in Northern Ireland does not mean that working people cannot experience levels of poverty. In Northern Ireland it is estimated that half of the children living in relative poverty are in families where one parent is working. Northern Ireland has lower average, almost 11% lower, earning rates compared to the rest of the United Kingdom. Also many of the jobs being created in Northern Ireland are not full time but instead are part-time paying gross weekly wages of £150.

Nearly 24% of young people, aged 18 to 24 years in Northern Ireland are unemployed and although this is half the rate of some European Countries the figure in Northern Ireland is still rising.

**Child Poverty**

Last year in Northern Ireland 21% of children were living in relative poverty and this Region has a level of persistent child poverty twice that of the United Kingdom average. Furthermore, in Northern Ireland, approximately 12% of children live in severe poverty. Ministers have a statutory obligation to meet the targets set by the Child Poverty Act 2010 but the families and children experiencing poverty will be put under additional financial strain as a result of the proposed welfare reforms.

**Disability Living Allowance**

In Northern Ireland 100 out of every thousand receives Disability Living Allowance while in the United Kingdom this is 50 out of every thousand. This dramatic difference is believed to be related to the past conflict and the threat of renewed conflict as well as the stress of trying to make ends meet. Only Northern Ireland as Region of the UK is emerging from decades of conflict and NIAPN believes this makes Northern Ireland a special case when introducing economic policies which affects the benefit system. Already individuals are experiencing the assessment process for DLA which will become PIP (Personal Independence Payments) under the new Act. Medical evidence is not getting priority with the initial assessment involving

computer programmes which depersonalize the process. The DLA issue is important in that it is the gateway to other necessary and needed welfare benefits and therefore if DLA is denied then the individuals access to those other necessary payments is blocked. Many individuals are being turned down at the first DLA assessment but do get it reinstated on appeal but this takes valuable time. There does appear to be a high rate of reversal of decisions at appeal level.

### **What Needs to be Done**

NIAPN Government Departments need to work collectively and collaboratively on the issues which will arise as the debate continues and while there is time to alter processes.

Where Disability Living Allowance is concerned then Medical Evidence must take primacy to avoid delays.

Relevant to housing there needs to be more factual evidence gathered regarding the impact of reduced or denied housing benefits will have and if possible a hold put on implementing the actions to be taken, as a result of the implementation of the Welfare Reform Bill against households which are deemed under occupied.

Welfare to Work under this Bill will not succeed as there are simply not the jobs to reduce the level of unemployment. Effective and immediate strategies are required to ensure that there is investment in getting people into meaningful employment and not just shifting individuals from one category to another to give the impression that the rates of unemployment are being effectively addressed.

The Assembly must continue to address the child poverty level. This Bill must be examined with a view to understanding how it will adversely effect the incomes of the most vulnerable within our society.

Where monthly payments benefits under the new Bill are envisaged the Assembly must ensure that this does not proceed and that weekly or where fortnightly payments are made they must be sustained.

The use of computers by those applying for Universal Credits is not being realistic. It needs to be understood that not all have access to a computer or indeed are able to use a computer. In some rural areas broadband is not available! It is reported that Social Security offices will be able to help those unable to access a computer but it is also thought that staff numbers at social security offices will be reduced. This could impact upon those requiring assistance to apply for benefits. Also it is important for claimants to have all necessary information available when completing online so it is important that they are aware which documents they require.

Departments need to publish an information booklet to make all aware of the content of the Welfare Reform Bill.

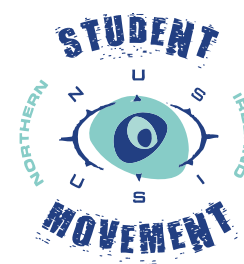
There should be a statutory right for each individual affected to have independent advice.

### **In Conclusion**

NIAPN is not alone in believing that the Welfare Reform Bill is more about cutting costs than creating equality and making the system less complex. Unfortunately the Bill will be implemented but this organisation asks all elected representatives to examine it clause by clause and understand the impact the legislation will have on the people of Northern Ireland. NIAPN asks the elected MLA'S to work in the interests of the most vulnerable within our society and to see Northern Ireland as the special case which it is and to work to reduce the negative impact this Bill will have.

Fiona McCausland (Development Co-Ordinator NIAPN)

# NUS-USI



## Written Submission from NUS-USI on Welfare Reform Bill to the Social Development Committee

(National Union of Students and the Union of Students in Ireland)

### Information on NUS-USI

NUS-USI student movement represents the interests of students in Northern Ireland and campaigns on their behalf in many different fields such as student hardship, health, prejudice and accommodation. We also provide an infrastructure that helps individual Students' Unions in the North of Ireland to develop their own work through our research, training and development functions.

### Introduction

It will be extremely important to consider the impact of any welfare reform changes on students. Whilst, in the absence of reliable statistics, it is virtually impossible to say with certainty how many students claim one or more of the benefits that would be subsumed into the Universal Credit, the consequences for those that do are likely to be far-reaching.

We would like to receive assurances from the Department that there is no policy intention to exclude any student groups able to access support at present, as we are concerned that such exclusion may arise due to unintended consequences of certain decisions.

Aside from the significant reservations we have in relation to the Welfare Reform Bill, NUS-USI would however like to take this opportunity welcome any changes which might be made by politicians here which could facilitate easier and better means of distribution of welfare measures than those originally set out in the reforms made by Westminster.

As the committee will be aware, full-time students were largely excluded from means-tested benefits in the late 1980s, but certain vulnerable groups – predominantly students with children and students with disabilities – still have some access to key benefits in certain circumstances and this can be vital income. Moreover, the increasing population undertaking part-time study or distance learning can be supported by benefits during study. For example, child tax credits play an important role in helping the students who are eligible to receive them.

Students who can claim do of course represent something of an anomaly in benefits policy: whilst they are usually of working age and have at least some capability to work, their study requirements, especially for full-time students, mean that they may not be available for work or able to undertake work-related activity.

Previous, more incremental, changes to benefits regulations have often resulted in a particular impact on students – for example, the withdrawal of income support entitlement for lone parents with older children, which saw some students who were lone parent lose benefit support as they could not claim JSA as a replacement.

### The impact of welfare reform on students

The complexities of the rules around student eligibility, and the treatment of student income – made more complex still by the regular changes to the student support structure and the devolution of such policy, makes it extremely difficult for student claimants to understand what they can receive, and can result in the wrong information being issued by benefits offices, or potentially the wrong decisions being taken.

It is our aim to extend benefit support to students, particularly around housing and reforms to create universal credit offers does not do this. The reforms offer opportunity to simplify rules relating to welfare and we would like to see steps being taken to make easier for all concerned to understand student entitlement, without reducing the limited support available in the current system for those students who can claim.

Education will improve the skills and employment prospects of our citizens, and though this is not the only reason a person should look to undertake further or higher education, we believe that this legislation must recognise and support people who are involved in education and should not diminish the support within the welfare system which is available to students at present.

A potential illustration of concerns over benefits and eligibility as regards the system is that 271 enquiries were made as regards benefits alone the Queen's University Students' Union Advice Centre as in the 2011/12 academic year. Viewing this as a representation of concerns about the present system, one could speculate that significantly more students will face difficulties with benefits in the future, if the reforms as outlined are implemented.

We wish to highlight the issues arising in relation to student eligibility for universal credit, then the treatment of student income, and finally some further comments on the broader changes being made.

## Eligibility

### **Definition of 'qualifying young person' (part 1 chapter 1, section 10)**

One of the areas where NUS-USI has massive concerns and where we would seek reassurances is in relation the need to maintaining eligibility on the same lines as current regulation as regards the definition a of 'qualifying young person'.

If similar measures are implemented here as are potentially being implemented by the Westminster government, eligibility amongst young people could be very negatively impacted upon.

It would seem self-evident that the more that can be done to allow a young person to complete a course, the more likely they are to be able to secure employment and therefore they are less likely to claim further benefit entitlement as an adult. We therefore strongly recommend that any definition of a qualifying young person allows people to complete courses and does not exclude any student who is currently entitled to receive benefits.

### **Meaning of receiving education (part 1, chapter 1, section 4)**

We would like to seek clarification as to whether the intention of these measures is to move away from set definitions of full and part-time courses, partly to reflect the flexibility of modern study patterns. We would support any moves to do so, although much would depend on the guidance provided in relation to this and how decision makers choose to interpret any legislation. There is an opportunity to allow for slightly more intensive evening courses, for example, that would not interfere with availability for work.

We would however not wish for this regulation to be used to exclude part-time students who can currently access benefits from doing so by allowing decision-makers to use courses of very few hours as reasons to refuse entitlement.

### **Limit to housing costs payments**

We have significant concerns in relation to the impact of changes to housing benefit for people under 35. NUS-USI believes that changes like those outlined in the Westminster reforms could result in extreme difficulty for many people and does not meet the need for equality of provision for all.



We would be keen to ensure that it is made clear that claimants who are students would not see a break in their housing costs payment after two years, as this would not be enough to support those students who can claim through many undergraduate courses.

**Students with disabilities**

NUS-USI has very significant concerns about the impact of the Welfare Reform Bill upon students with disabilities. According to statistics from HESA in 2010/11 3,025 people enrolling at HE institutions in Northern Ireland had disabilities, and that illustrates the scale of the impact that any changes might have.

**Child tax credit and support for children**

Students with children are some of the most vulnerable learners and this support is crucial to their income and their ability to provide for their families. We would therefore seek assurances as to how this support will transfer to the new universal credit system and that no parent will be worse off under the new arrangements than they would be under the current system. Figures from HESA show that in 2010/11, 4,340 people enrolling at HE institutions in Northern Ireland had young people or child dependents, and this emphasises the importance of maintaining the current levels of support available with regard to welfare.

**Treatment of student income**

As we have mentioned above, it is extremely important that clarity is provided as to the treatment of student income and we believe that it is essential that assurances are provided that this bill will not disadvantage students.

We would therefore be keen to ensure that the same general principles in the current legislation remain: that grants, loans and other funding for specific purposes (tuition fees, course costs, childcare etc) should be disregarded, along with a suitable proportion of any general payment intended to support students in lieu of books, equipment and travel.

**Students with self-employed partners**

We also have concerns that any assumption that self-employed workers will have an income equivalent to at least the National Minimum Wage (NMW) may penalise families where the partner of a full-time student claims.

**Other comments****Economic context**

The current economic situation is extremely bleak for many young people, with youth unemployment current at around 24%. We want politicians and the media to ensure that the utmost sensitivity and understanding is demonstrated on this issue, and that support and protection for those in need is provided through this process of welfare reform.

Universal credit must be a safety net for young people and other citizens, and it is neither fair nor helpful for anyone to infer young people are to blame if they are unable to get into the workplace in the current climate. NUS-USI urges the committee to recommend a positive and open attitude from the Department and also benefits offices to ensure the highest possible standard of assistance for everyone who depends on welfare.

A strong and positive social security system is the hallmark of civilized society and it should be enabling rather than draconian.

**Welfare for under-25s**

We are opposed to the lower rates of universal credit for under-25s, especially any assertion that those aged under 25 have lower costs and lower wage expectations. This would be an

incorrect and unfair generalisation. Support through universal credit should be based on need, rather than an arbitrary cut-off point that reinforces negative perceptions of young people and could push young people into unnecessary poverty.

#### **Cap on benefits and student parents**

We have very significant concerns about any proposals to cap benefit entitlements. Any cap on total benefit entitlement may impact on some of our members with larger families, who do not meet the criteria for any exclusion to such a measure.

If a cap is introduced, we would recommend that when the detail of student status in relation to welfare is developed, this counts as an exception to any cap on benefits.

#### **Printable documentation**

Finally, we would urge the committee to recommend that the department ensures all online documentation is printable, giving claimant details, the period of entitlement and the breakdown of the universal credit elements, because many students need such information in claims for student support.

#### **Conclusion**

Students are an important subset of benefits claimants and their needs should be met as far as is possible.

The lack of detail in regard to student claims in the bill is concerning and we are worried that students might end up as an after-thought in the process. We therefore are keen to receive clarification and further detail on student-related regulations.

#### **Contact Information:**

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# Office of the Social Fund Commissioner for NI



OFFICE OF THE SOCIAL FUND  
**COMMISSIONER**  
FOR NORTHERN IRELAND

## ANNUAL REPORT 2011-2012



## Contents

	<b>Page</b>
Foreword	2
Executive Summary	3
About the OSFC	4
Customer Experience	5
Delivering the Review	7
Standard of Administration and Social Fund Inspectors' Decisions	11
Building Relationships	15
Investing in Staff and Training	18
Resources	19
 Appendix 1 – Organisational Structure	 21
Appendix 2(a) – OSFC Decisions by Month	22
Appendix 2(b) – OSFC Decisions by District	22
Appendix 2(c) – OSFC Spread of Decision Types by District	23
Appendix 3 – OSFC Decision Completion Times by Month	24
Appendix 4 – Social Fund Self Instruction Packs	25
Appendix 5 – OSFC Customer Targets 2011/12	26
Appendix 6 – OSFC Quality Standards for the Review	28
Appendix 7 – Social Fund Commissioner's Meetings	29
Appendix 8 – The Statutory Framework	30
 <b>Charts</b>	
Chart 1 - Decisions by Application Type	7
Chart 2 - Outcome of Inspectors' Decisions - all application types	7
Chart 3 - Community Care Grant Decision Outcomes	8
Chart 4 - Crisis Loan Decision Outcomes	9
Chart 5 - Budgeting Loan Decision Outcomes	10
Chart 6 - Case Reading Results	12
 <b>Tables</b>	
Table 1 – Analysis of Awards 2011/12	7
Table 2 – Analysis of Community Care Grant activity 2011/12	8
Table 3 – Analysis of Crisis Loan activity 2011/12	9
Table 4 – Analysis of Budgeting Loan activity 2011/12	10
Table 5 – Requests for Reviews of Inspectors' decisions 2011/12	12
Table 6 – Inspectors' Decisions - % of decision types and targets	13
Table 7 – Provision of CCG and BL case papers	14
Table 8 – Overview Workshop Evaluation Responses	17
Table 9 – OSFC Expenditure in 2011/12	19

## Foreword



Dear Minister,

I am pleased to present my third Annual Report to you since my appointment as the Social Fund Commissioner for Northern Ireland. I report on the achievements of my staff during the year ending March 2012.

The calls on our service to provide an independent review have increased during the past year. We have continued to resolve cases quickly and effectively within challenging timescales; maintained high quality standards in our decisions; and as our customer survey demonstrates we have retained high levels of satisfaction on the part of customers and those acting for them. Whilst our primary responsibility is to ensure

that we deliver a high quality service to a poor and vulnerable section of the community we are conscious of our accountability to the taxpayer in terms of securing value for money. I am pleased to report that our unit cost per case during this past year was £174, a reduction from £263 during the previous year, which we achieved without any decline in the quality of our decision making or service to the public.

The Welfare Reform Bill due to be introduced to the Northern Ireland Assembly will abolish the discretionary Social Fund and my office thus bringing an end to the independent review process. However this also provides an opportunity to have a Northern Ireland approach in this policy area for the first time. I believe that the experience and insights gained from our casework, which span more than two decades, represent a valuable legacy from which key principles can be drawn to underpin any successor arrangements. An effective, independent grievance mechanism should be a necessary component. The transition to new provision in Northern Ireland needs to occur in as seamless a way as possible, because the types of need met by the discretionary Social Fund will not disappear.

I would like to express my appreciation to all staff in the office. Our achievements throughout the year represent a highly commendable performance by them, during what has been a continuing period of uncertainty. Throughout my time as Social Fund Commissioner, I have been encouraged by their constructive approach, positive attitude and hard work, in meeting challenges as they emerge. I am confident that we will continue to meet our commitments to customers and to taxpayers for our remaining time in operation.

Yours sincerely

**Karamjit Singh CBE**  
**Social Fund Commissioner for Northern Ireland**

## Executive Summary

### Work Activity 2011/12

- Social Fund Inspectors (“Inspectors” or “SFIs”) delivered 2,191 decisions.
- Overall Inspectors changed 31.7% of the decisions made by Reviewing Officers in the Social Security Agency (“the Agency” or “SSA”).
- Inspectors changed 35.2% of Community Care Grant (“Grant” or “CCG”) decisions and made 355 awards resulting in a spend of £145,417.64 from the CCG budget.
- Inspectors changed 27.6% of Crisis Loan (“CL”) decisions and made 222 awards resulting in a spend of £39,918.81 from the loans budget.
- Inspectors changed 9.8% of Budgeting Loan (“BL”) decisions and made 5 awards resulting in a spend of £1,275.89 from the loans budget.
- The Office of the Social Fund Commissioner (“OSFC”) delivered 6 workshops to 48 people.
- OSFC provided feedback to the Agency about the findings in each case an Inspector reviewed.
- OSFC provided quarterly Statistics Reports on decision making in each of the Agency’s Social Fund districts.
- I met with a range of stakeholder organisations with an interest in the Social Fund during the year, a list is provided at Appendix 7.

In 2011/12, 31.7% of the decisions reviewed by Inspectors were substituted, resulting in:

- 355 Community Care Grant awards at an average of £409.63 per award;
- 222 Crisis Loan awards at an average of £179.81 per award; and
- 5 Budgeting Loan awards at an average of £255.18 per award.

### The Standard of Social Fund Inspectors’ Decisions

- Case readers examined 82 cases (equivalent to 5.3% of the cases registered in 11/12). 95.1% of the decisions were found to be correct.
- 98 requests for further reviews of Inspectors’ decisions were received. Of these 44 cases were reopened and 32 were changed.

### The Standard of Administration

- Inspectors cleared 100% of routine cases within the 12 day target, 100% of complex cases within the 21 day target and 100% of express crisis loan cases within the 24 hour target.

In 2011/12, the average time taken by Inspectors to complete independent reviews was:

- less than 1 working day for an urgent crisis loan;
- 1.5 working days for a Budgeting Loan; and
- 8.4 working days for a Community Care Grant.

### Resources

OSFC spent £380,167 during the year giving a cost per decision of £173.51. The cost per decision figure does not reflect the important training and social fund policy work undertaken by the Commissioner and OSFC staff.



## About the OSFC

Our core business is to deliver independent reviews of discretionary Social Fund decisions made in the Agency. We also share information and expertise with those who have an interest in the discretionary Social Fund and the independent review. We participate in social policy research that contributes to the wider debate about the Social Fund and related issues.

### The Social Fund

The Social Fund was introduced in 1988 and comprises two distinct parts; one regulated and the other discretionary. The Social Fund Commissioner and Social Fund Inspectors are concerned solely with the discretionary part of the Social Fund. This is a scheme of payments, by grant or interest free loan.

### The Social Fund Commissioner

The Social Fund Commissioner is appointed by the Department for Social Development ("the Department"). The Commissioner has a duty to:

- appoint Social Fund Inspectors and other staff;
- monitor the quality of Inspectors' decisions and give advice, as he thinks fit, to improve the standard of their decisions;
- arrange appropriate training for Inspectors; and
- report annually, in writing, to the Department on the standard of Inspectors' reviews.

### Social Fund Inspectors

Inspectors can only review decisions that have already been reviewed in the Agency, providing that an appropriate application for review has been made. The Inspector has the authority to:

- confirm the decision under review;
- substitute the decision of the Reviewing Officer; or
- refer the case back to the Reviewing Officer to make a fresh decision.

Our organisational structure and functions are explained further in Appendix 1.

#### Our Vision

To deliver independent reviews of discretionary Social Fund decisions providing a high quality and accessible service to all.

#### Our Values

- Be open and accessible to our customers.
- Treat all with respect and courtesy.
- Work for continuous improvement in our standards and the service we provide.
- Promote easy access to the Fund.
- Provide value for money.

## Customer Experience

### Customer Survey

During the period 2011/12 OSFC surveyed 239 applicants and received 56 responses (23%). As in previous years, half of the surveys issued were sent to those who have received an extra award following the independent review, and half were sent to customers who received no additional award at that stage. The survey helps us to monitor the satisfaction levels with our service and to identify areas where we could make improvements. This year's survey indicated:

- 93% found it easy to apply for an independent review;
- 95% indicated that their call to OSFC was answered promptly and efficiently;
- 88% found the questions asked by the Inspector easy to follow;
- 80% found the reasons for the Inspector's decision easy to follow; and
- 87% would use the OSFC again.

Over the previous 3 surveys, 70-74% of respondents had received an extra award due to the Inspector's decision. This figure dropped to only 53% of respondents for this year's customer survey. Despite this, the report for 2011-12 shows continuing high satisfaction rates with the service provided by OSFC. However, there remains room for improvement in each category and the management team and those delivering the service to customers at every level will be working to improve these results in 2012-13.

### Stakeholder Survey

During the period 2011/12 OSFC surveyed 283 organisations it views as key stakeholders in the discretionary Social Fund. 37 responses (13%) were received. The survey helped us to understand how the independent review service we provide is viewed by these organisations, their level of involvement in supporting Social Fund customers so that we may better target our training workshops and to help improve the service we deliver, particularly when liaising with organisations which are acting as representatives of Social Fund customers during their application and review.

The responses received to this survey showed:

- 89% assisted at least 1 Social Fund customer per month (on average);
- 78% were aware of the OSFC;
- 76% were aware that the OSFC was independent from DSD/SSA;
- 97% of those aware of OSFC would recommend their clients apply for an independent review if they are unhappy with the SSA's decision on their case;

#### Case study 1

Ms A was in receipt of a qualifying benefit. She was estranged from her parents and had some physical and mental health problems.

Ms A had been living in a furnished, privately rented property, but had to leave as she was unable to meet a rent increase imposed by the landlord. She took up a new, unfurnished tenancy and applied for a grant for items including a bed, fridge freezer and seating.

- 59% had previously assisted someone in applying for an independent review by OSFC;
- 86% were satisfied with the time it took to complete the Inspector's review; and
- 81% of the organisations would be interested in receiving a free OSFC training workshop on the discretionary social fund.

The Stakeholder Survey also invited a response to a list of suggested reasons as to why their clients decide not to apply for an independent review of the Agency's decision by a Social Fund Inspector. The reasons and the degree to which they were supported by respondents are as follows:

- Client/representative believes the SSA decision is unlikely to change – 20 respondents agreed.
- Client has met their need having been given item(s), e.g. by a friend, relative, charity, etc. - 12 respondents agreed.
- Client/representative is put off by further time needed to carry out the independent review – 11 respondents agreed.
- Client made a fresh Social Fund application instead, rather than apply for an independent review of their earlier application - 11 respondents agreed.
- Client has instead borrowed money from a source other than the Social Fund to meet their needs - 11 respondents agreed.
- Client perceives OSFC is not independent from the Agency - 11 respondents agreed.
- Client/representative feels the independent review is too difficult to negotiate - 9 respondents agreed.
- Client has met their need by borrowing item(s) - 9 respondents agreed.
- Client/representative is unaware of Social Fund Inspector's independent review option – 8 respondents agreed.

### **Experiences of Social Fund Customers in Northern Ireland Report**

In 2011, OSFC published an examination of 225 cases it had handled in a report entitled "Experiences of Social Fund Customers in Northern Ireland". It followed an equivalent report published in GB by the Independent Review Service. The report provides insights into the issues which some customers of the Social Fund in Northern Ireland face and enables comparisons to be made with the situation in Great Britain. The report presents information across a number of different criteria including health problems; debt; housing status; addiction issues and the items applied for and is available on the OSFC website.

### **Complaints**

During 2011/12 OSFC received 5 complaints about our customer service, this does not include requests to have an Inspector's decision looked at again – statistics on such cases are shown on page 11. The Office Manager responded to each of these complaints within the OSFC customer service target (see Appendix 5), offering further explanations on decisions taken by Inspectors and arranging for further independent reviews to be carried out by a different Inspector, if appropriate.

## Delivering the Review

Inspectors made 2,191 decisions during 2011/12. The overall number of decisions made by OSFC this year increased by 20.3%, compared to 2010/11. Chart 1 illustrates the demand for independent Social Fund reviews over the last 3 years.

**Chart 1 – Decisions by Application Type**

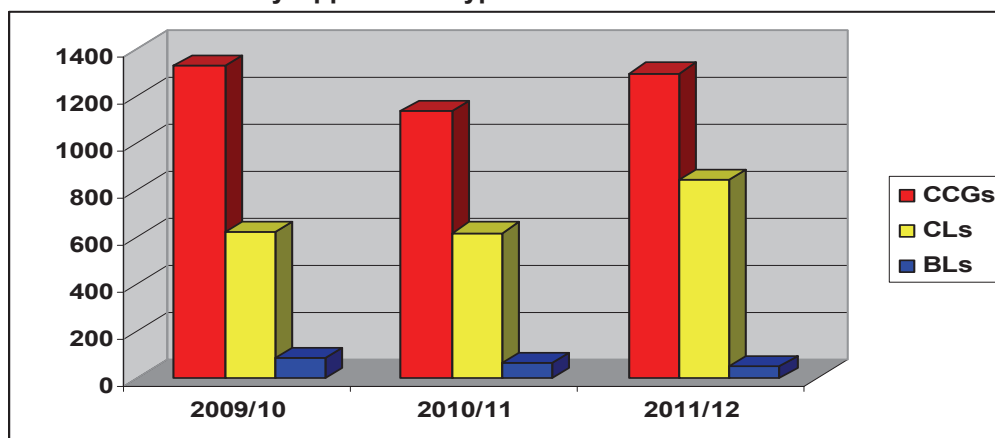
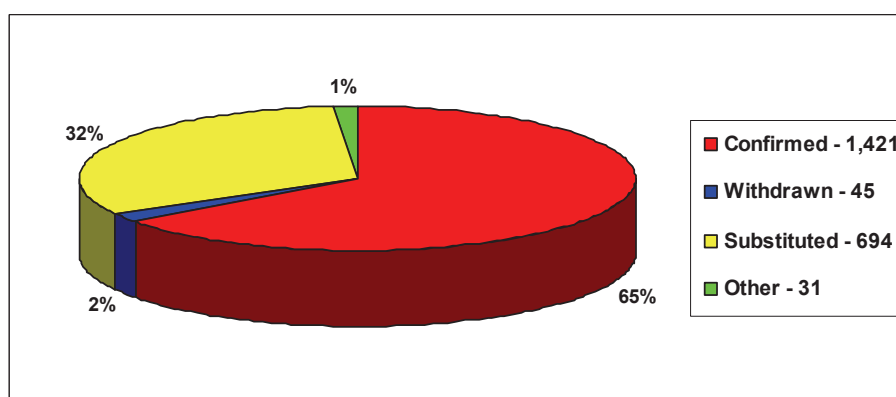


Table 1 shows the number of awards made by Inspectors this year and the average amount of awards.

Application Type	Total Scheme Expenditure	Number of awards by Inspectors	Total amount awarded by Inspectors	Average amount awarded by Inspectors
CCG	£13.54m	355	£145,417.64	£409.63
CL	£15.28m	222	£39,918.81	£179.81
BL	£48.49m	5	£1,275.89	£255.18

Chart 2 shows the outcome of Inspectors' decisions across all types of applications.



Overall, Inspectors found important errors in 23.9% of the Agency decisions they reviewed. The error rate for substituted decisions was 48.1% and the error rate for confirmed decisions was 12.1%. Appendix 2 shows a breakdown of the spread of decisions by month, District and type.

## Community Care Grants

Community care grants again accounted for the largest proportion of our work (59.2%). Inspectors delivered 1,296 decisions of this type. Table 2 below shows the number of requests for review of grant decisions made by the Agency during 2011/12.

**Table 2: Analysis of Community Care Grant activity 2011/12**

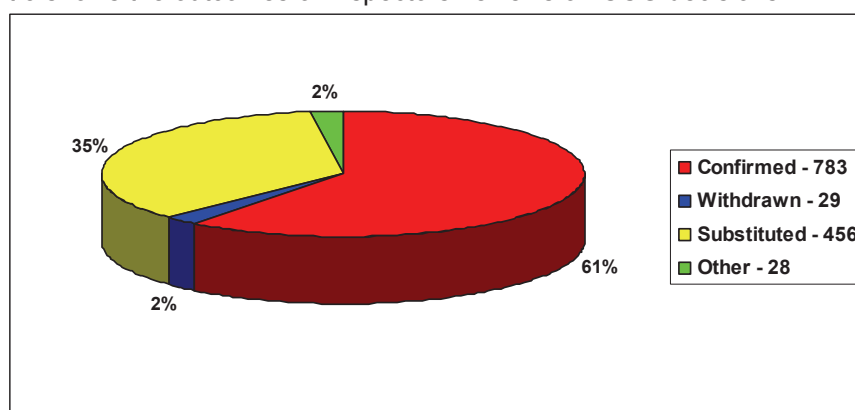
1. Initial Applications to the Agency	47,066
2. Initial Refusals by the Agency	23,802
3. Applications for Reviewing Officer review	8,612
4. Applications unchanged on review	4,812
5. Applications changed on review but not wholly in the applicant's favour	3,687
6. OSFC Reviews	1,296
7. Number of grant awards made by Inspectors	355
8. Average amount of grant award	£409.63

Only 1,296 reviews of grant decisions made in the Agency were made in OSFC. This represents only 15.2% of the 8,499 cases which could have been independently reviewed, that is those which were either unchanged or not wholly changed in the applicant's favour by the Reviewing Officer.

This emphasises the importance of making applicants aware of the role of the OSFC and also of making our service accessible. This is underlined by the fact that 35% of the Agency's grant decisions reviewed by Inspectors were substituted (Chart 3 below refers).

## Decision Outcomes

Chart 3 shows the outcomes of Inspectors' reviews on CCG decisions.



## Crisis Loans

Crisis loans accounted for 38.5% of our workload this year. Table 3 below shows the number of requests for review of Crisis Loan decisions made by the Agency during 2011/12.

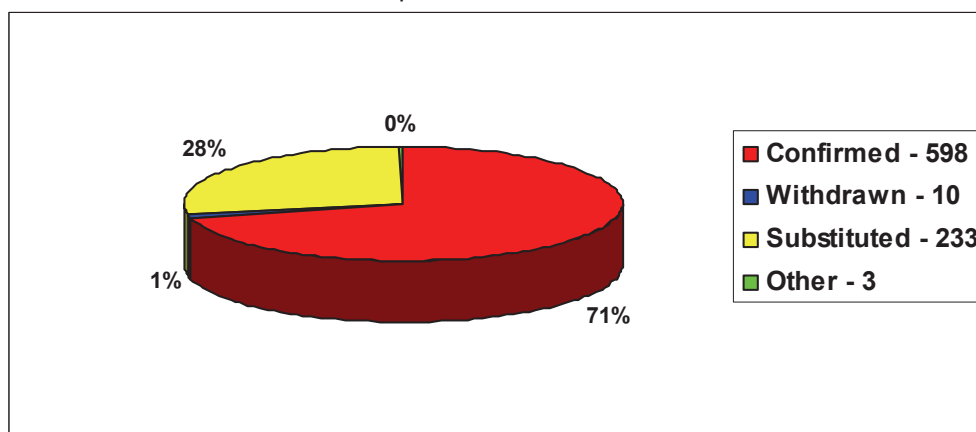
**Table 3: Analysis of Crisis Loan activity 2011/12**

1. Initial Applications to the Agency	152,464
2. Initial Refusals by the Agency	35,593
3. Applications for Reviewing Officer review	3,137
4. Applications unchanged on review	2,479
5. Applications changed on review but not wholly in the applicant's favour	454
6. OSFC Reviews	844
7. Number of crisis loan awards made by Inspectors	222
8. Average amount of crisis loan award	£179.81

Only 844 reviews of Crisis Loan decisions made in the Agency were made in OSFC. This represents 28.8% of the 2,933 cases which could have been independently reviewed, that is those which were either unchanged or not wholly changed in the applicant's favour by the Reviewing Officer.

## Decision Outcomes

Chart 4 shows the outcome of Inspectors' crisis loan decisions.





## Budgeting Loans

### Reviews

Budgeting loans accounted for 2.3% of our workload this year. Inspectors delivered 51 reviews of this type. Table 4 below shows the number of requests for review of Budgeting Loan decisions made by the Agency during 2011/12.

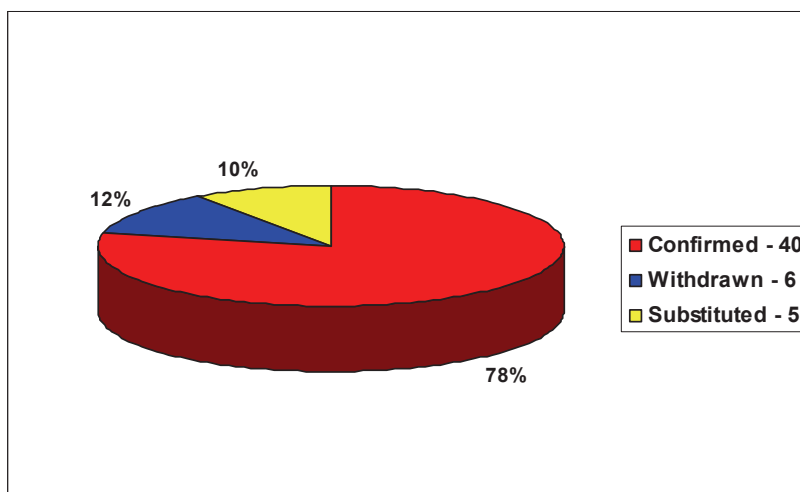
**Table 4: Analysis of Budgeting Loan activity 2011/12**

1. Initial Applications to the Agency	156,687
2. Initial Refusals by the Agency	35,110
3. Applications for Reviewing Officer review	949
4. Applications unchanged on review	785
5. Applications changed on review but not wholly in the applicant's favour	133
6. OSFC Reviews	51
7. Number of budgeting loan awards made by Inspectors	5
8. Average amount of budgeting loan award	£255.18

Only 51 reviews of BL decisions made in the Agency were made in OSFC. This represents only 5.6% of the 918 cases which could have been independently reviewed, that is those which were either unchanged or not wholly changed in the applicant's favour by the Reviewing Officer.

### Decision Outcomes

Chart 5 shows the outcome of Inspectors' Budgeting Loan decisions.



## Standard of Administration and Social Fund Inspectors' Decisions

Article 37(5) of the Social Security (Northern Ireland) Order 1998.

The Commissioner has a statutory duty to monitor the quality of Inspectors' decisions and to give them advice and assistance to improve the standard of their reviews.

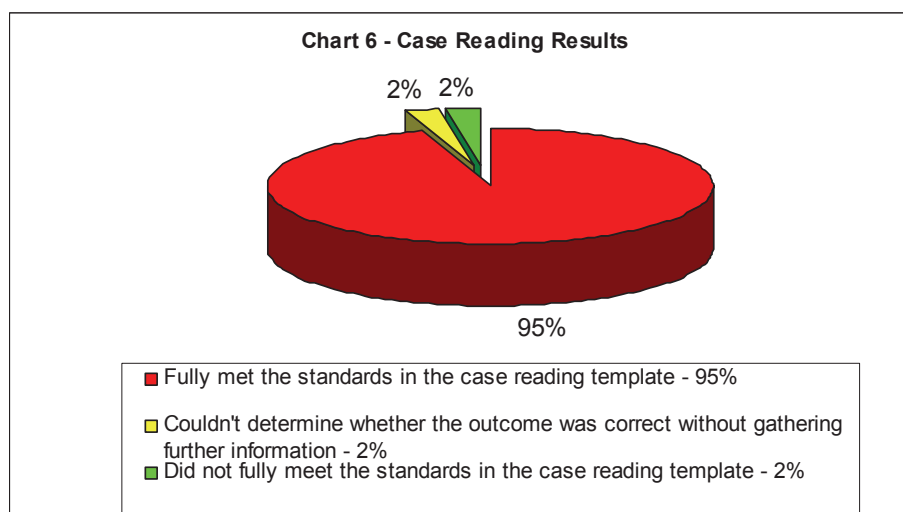
### Case Reading

Case reading is the primary means by which I assess the standards of Inspectors' decisions.

Although the provision to seek judicial review through the High Court exists, in practice, the Inspector's review provides the final resolution for applicants to the Social Fund. It is vital, therefore, that Inspectors deliver high standards and our monitoring processes are robust. The overall quality standards required are set out in detail in Appendix 6.

As well as Social Fund law, Inspectors' decisions must comply with general legal principles, such as burdens and standards of proof, and natural justice. The people who use our service have a right to know the reasons for the Inspector's decision and in order to ensure this, they must be presented in plain language. Our case readers, therefore, also assess the clarity of explanation to ensure it respects the applicant's level of understanding and avoids jargon.

Our aim for 2011/12 was to read 5% of our total workload, selected at random. Our total case reading for the year was 82 cases (5.3% of cases registered in 2011/12). Chart 6 shows the results. 95.1% of cases were correct, in 2.4% the case reader could not tell from the papers whether the outcome was right or wrong and 2.4% were found to be incorrect.



## Reviews of Inspectors' Decisions

*"A social fund inspector may review a determination under paragraph (3) made by himself or some other social fund inspector".*  
Article 38(5) of the Social Security (Northern Ireland) Order 1998.

When a request for a review of an Inspector's decision is received it is examined thoroughly before being passed to a different Inspector for reconsideration.

During 2011/12 we received 91 requests for reviews of Inspector's decisions from customers or their representatives. As in previous years, most requests were about the amount of, or refusal of,

an award. In the majority of these cases the Inspector's decision had been reached properly and was legally sound. 1 case was identified by the SSA and a further 6 cases were identified through our internal case reading.

Table 5 – Requests for Reviews of Inspectors' decisions 2011/12			
Source	Number received	Number reopened	Number changed
Customer	82	32	20
Representative	9	5	5
SSA	1	1	1
Internal Checks	6	6	6
<b>Total</b>	<b>98</b>	<b>44</b>	<b>32</b>

In 2011/12 Inspectors aimed to clear reviews of Inspectors' decisions within 12 working days, and within 21 days in more complex cases. Of these 98 cases, 91 (92.9%) were cleared in 12 days and 5 (5.1%) in 13 to 21 days. 2 cases (2.0%) exceeded the 21 day target.

## Completion Times

We recognise the need to complete reviews as quickly as possible since the people who use our service are generally in urgent need and have already had two decisions on their application made by the Agency. Nevertheless the Inspector has a duty to ensure natural justice is served. In order to do this, before he makes a decision he normally telephones the applicant or sends out a copy of the key papers, sets out the facts and issues to be decided, invites the applicant to comment on these, and asks any relevant questions.

We issued letters and made telephone inquiries seeking further information in 1,271 cases before proceeding with a decision, to which there were 1,087 responses (85.5%). This part of the process is included in the overall clearance times.

51.0% of these customers responded using our Freephone service. This reduces the time taken to reach a decision and enables the customer (or their representative) to provide greater detail when responding to the Inspector's questions.

Table 6 illustrates the number of decisions of each type and the proportion of our workload this represents, together with our time targets and achievements for each decision type. Appendix 3 shows the breakdown of our decision completion times by month.

### Case Study 2

Ms B had mental health problems causing her to spend much of her time indoors. Her family gave her significant day to day help.

Ms B applied for a grant for sofa and mattress which needed replaced due to her incontinence.

Time taken for Inspector's review: 4 days

<b>Table 6 – Inspectors' Decisions – % of decision types and targets</b>				
<b>Decision type/Timescale</b>	<b>No. of decisions</b>	<b>% of decision workload</b>	<b>Target %</b>	<b>Achieved %</b>
Community Care Grants: No enquiries/straightforward enquiries (to be completed within 12 days of receipt)	1,174	53.6%	95	100%
Community Care Grants: Further investigation /complex enquiries (to be completed within 21 days of receipt)	122	5.7%	100	100%
Budgeting Loans: No enquiries/straightforward enquiries (to be completed within 12 days of receipt)	51	2.3%	95	100%
Crisis Loan cases for items only (to be completed within 12 days of receipt)	660	30.1%	95	100%
Crisis Loan cases incorporating a request for living expenses (to be completed within 24 hours)	184	8.4%	95	100%

The Agency have a target for providing case papers within 4 working days of a request from OSFC. Their performance over the last 3 years is illustrated in Table 7 below.

<b>Table 7 – Provision of CCG and BL case papers</b>			
<b>District</b>	<b>% of CCG and BL case papers received within 4 working days</b>		
	<b>2009/10</b>	<b>2010/11</b>	<b>2011/12</b>
Belfast North and East Antrim	74%	79%	69%
Belfast West and Lisburn	81%	93%	96%
East Down	78%	75%	85%
North	89%	78%	90%
South	94%	95%	96%
West	93%	92%	88%
<b>Total</b>	<b>86%</b>	<b>87%</b>	<b>87%</b>

## Building Relationships

### Feeding Back on Standards and Policy

The OSFC works with the Department to improve the standard of first line decision making, by providing feedback on each case we review. We also provide regular feedback via quarterly statistics reports which give detailed information for each of the Agency's Social Fund districts and Northern Ireland as a whole about performance and operational issues drawn from all the cases that Inspectors reviewed.

During 2011/12 the most common problems identified in these reports included:

- misinterpreting the law, applying the wrong test or reaching a decision that was not a reasonable one on the evidence available; and
- failing to ask crucial questions where more information was needed.

I have had a number of meetings with the Department, the Agency and various welfare rights organisations during the year. A full list of these meetings is held at Appendix 7.

### Improving Knowledge

One of our key objectives is to use our expertise and experience to provide advice to applicants, and their advisers and the Agency's staff about the Social Fund and the role of OSFC. We mainly do this by delivering training and information about the Social Fund. Social Fund information packs (detailed in Appendix 4) and leaflets can be accessed and downloaded via the OSFC website.

#### Examples of leaflets and information packs include:

- "The Social Fund – A Basic Overview"
- "Evidence in the Social Fund Context"
- "The Social Fund for JBO/SSO staff"

The OSFC has undertaken various activities to help improve the standards of decision making, improve the knowledge of advisers and raise awareness amongst those at whom the Social Fund is aimed. During 2011/12, we:

- Delivered 6 workshops to 48 people from 9 different stakeholder organisations;
- met a range of people with an interest in the Social Fund and wider social policy issues; and
- held 3 Best Practice Forums with Agency staff to discuss case issues and disseminate any learning points on cases to Social Fund staff in the Agency.

### External Focus



OSFC publications are made available on our website at [www.osfcni.org.uk](http://www.osfcni.org.uk).

**osfc** Office of the Social Fund Commissioner

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We also offer practical and informative advice about the Social Fund procedures and the independent review process for applicants, their representatives and the Agency. We have a dedicated team of Inspectors who deliver training workshops.

If you are interested in a particular Social Fund subject, we can normally tailor a presentation to meet your needs. We use practical examples and discussion to enable advisors to help their clients effectively. Feedback on workshops has been very positive and it underlines the importance of this area of work.

The training is:

- free of charge;
- delivered at a venue of your choice;
- designed for a minimum of 6 people;
- participative; and
- designed to meet a range of needs.

*"Hope to fill out forms more fully now and will appeal much more confidently now."* **Armagh CAB/St Vincent De Paul Workshop, March 2012**

*"Fantastic insight provided" and "Very concise and clear"* **East Belfast Advice Centre, January 2012**

*"It was all incredibly informative and useful for me."* **Larne CAB and Carrick CAB Workshop, January 2012**

OSFC delivered 6 training workshops to a total of 48 people in 2011/12.

Feedback questionnaires were completed at each workshop and a breakdown of responses is shown in Table 7 below.

**Table 8 – Overview Workshop Evaluation Responses**

Evaluation Question	Not Very Useful	Quite Useful	Useful	Very Useful
<i>How useful did you find the workshop as a whole in providing you with an understanding of the discretionary Social Fund?</i>	1	2	3	38
<b>What did you think of the:</b>	<b>Poor/ok</b>	<b>Good</b>	<b>V Good</b>	<b>Excellent</b>
<i>Presentation</i>	0	1	15	28
<i>Slides</i>	0	1	10	13
<i>Written materials/handouts</i>	0	2	17	25
<i>Case Studies/Discussion</i>	0	3	7	14
		<b>Too short</b>	<b>Just Right</b>	<b>Too Long</b>
<i>Length of workshop</i>		0	41	3

Organisations which received OSFC training in 2011/12 were:

- Ardoyne Association;
- Armagh and District CAB & St. Vincent de Paul;
- Causeway Women's Aid;
- East Belfast Advice Centre;
- Larne CAB and one person from Carrick CAB; and
- STEP (Dungannon) and 1 person from Sinn Fein.

*"The workshop was handled in a very efficient yet informal and friendly manner."* **Armagh CAB/St Vincent De Paul Workshop, March 2012**

*"Very useful and informative – will be helpful in day to day work with service users."* **Causeway Women's Aid, Feb 2012**

*"Very knowing lecturers, pleasure to attend the training."* **STEP (Dungannon) and Sinn Fein Workshop, September 2011**

## Investing in Staff and Training

### Advice to Inspectors

Social Fund Commissioner's Advice and Support Notes are made available to assist Inspector's with the interpretation and application of the law. These documents are reviewed and updated in response to changes made to the Social Fund scheme or to address issues which arise in casework. All the Commissioner's advice to Inspectors is accessible via the OSFC website.

### Training

In addition, OSFC staff also attended various training courses to assist them with their other roles in the office.

- Go to [www.osfcni.org.uk](http://www.osfcni.org.uk)
- Click on "About OSFC"
- Click on "Useful Links"
- Click on "Commissioner's Advice to Inspectors" (site will open as a separate window)
- Click on the topic required from the list provided

We continued with the provision of awareness sessions from outside organisations as an aspect of improving the knowledge of Inspectors. These are designed to provide an awareness of the wider issues facing some applicants to the Social Fund. These sessions were delivered by staff from the following organisations:

- Northern Ireland Chest, Heart and Stroke; and
- An Munia Tober.

OSFC had 10 staff in post on 31 March 2012, including the Social Fund Commissioner. In line with the OSFC commitment to deliver high standards to applicants £5,525 (1.5%) of our total spend in 2011/12 was on the training and development of staff. This includes the direct costs of providing the training (excluding training provided centrally through HR Connect) and the cost of staff time. Approximately 35 mandays were spent on training and development activities.

The in-house training consisted of courses related to the handling of case evidence, when to proceed straight to decision and Direction 4(a)(ii) qualification issues.

### Investor in People

OSFC has been recognised as an Investor in People since November 1998. On 29<sup>th</sup> November 2010 we achieved liP re-accreditation for a further 3 years. We continue to develop staff through regular and relevant training, provided both internally and externally.

## Resources

<b>Table 9 – OSFC Expenditure in 2011/2012</b>	
<b>Business Operating Costs</b>	£63,000
<b>Salaries</b>	£317,167
<b>Total<sup>2</sup></b>	£380,167
<b>Cost per decision</b>	£173.51

<sup>2</sup>The total excludes a separate budget of £30,000 for the Social Fund Commissioner's travel and subsistence costs and remuneration of c. £28,975 per annum for 4 days per month spent on Northern Ireland Social Fund issues.

Inspectors completed 2,191 decisions, giving a unit cost of £173.51 per decision. The cost per decision figure does not take account of the important other work carried out by OSFC staff, such as the provision of training workshops, providing information relevant to the reform of the discretionary Social Fund in Northern Ireland and various meetings with the Social Fund Commissioner.

### Sick Absence

The sick absence rate in OSFC for the period 2011/12 was 3.9%.

### Risk Assessment

OSFC continues its commitment to improving its risk management. Central to this commitment is a detailed Risk Register and Business Continuity Plan. These are reviewed regularly and discussed at team meetings. Quarterly reports and stewardship statements are made to DSD's Departmental Management Board. A series of internal controls are also in place, to these we have also added weekly checks of the OSFC website.

### Security

OSFC took steps to minimize the amount of sensitive customer information it holds by safely disposing of sensitive data which was no longer required for business purposes, in line with our Document Retention and Destruction Schedule. We continue to seek improvements to our Certificate of Assurance processes to help ensure we keep retained customer and staff information secure. One such improvement in the period has been an increased effort to contact customers by telephone to reduce the risk of losing personal data being sent by post with the added benefit of reducing the time taken to carry out the review.

## Section 75 Statutory Equality Duty

The OSFC's Equality Scheme was drawn up in accordance with Section 75 of the Northern Ireland Act 1998 which deals with the promotion of equality of opportunity and good relations. The Scheme can be viewed on the OSFC website.

We provide some information in other languages, including:

- Arabic
- Chinese
- Latvian
- Lithuanian
- Polish
- Spanish
- Portuguese

## Disability Action Plan

Correspondence from OSFC includes a Minicom number for the hard of hearing and leaflets can be provided in different formats such as Braille.

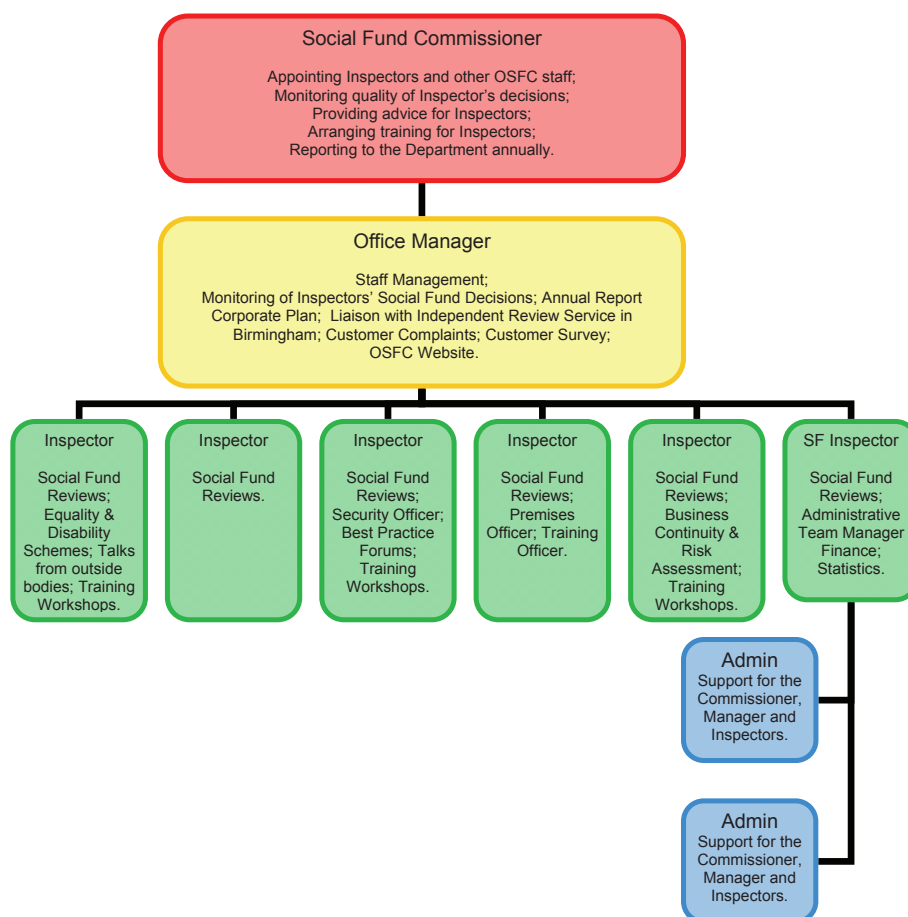
I am also committed to complying with the duties imposed by the Disability Discrimination Act 1995. In accordance with this the OSFC has drawn up a Disability Action Plan that details how we will fulfil our duties up to 2012.

## Appendix 1 - Organisational Structure

There are two distinct strands to our work.

- The first relates to delivery of the independent review.
- The second draws on OSFC expertise and data to:
  - feed back to the Agency on operational and policy matters;
  - to provide training and advice to those actively involved in the Social Fund; and
  - to provide general information to the public.

Our organisational structure is designed around these strands and the following organisational chart demonstrates some of the work that we do.





### Appendix 2(a) – OSFC Decisions by Month

Month	Community Care Grants	Crisis Loans	Budgeting Loans	Total Workload
April	90	53	2	145
May	105	52	5	162
June	107	67	4	178
July	123	76	4	203
August	100	61	4	165
September	96	71	1	168
October	115	67	4	186
November	132	102	7	241
December	91	54	8	153
January	90	73	5	168
February	127	87	3	217
March	120	81	4	205
<b>Total</b>	<b>1,296</b>	<b>844</b>	<b>51</b>	<b>2,191</b>

### Appendix 2(b) – OSFC Decisions by District

District	Community Care Grants	Crisis Loans	Budgeting Loans	Total Workload
Belfast North and East Antrim	235	153	7	395
Belfast West and Lisburn	169	188	8	365
East Down	225	133	11	369
North	189	84	9	282
South	284	178	6	468
West	194	108	10	312
<b>Total</b>	<b>1,296</b>	<b>844</b>	<b>51</b>	<b>2,191</b>

<sup>1</sup> Workload comprises decisions on applications for an Inspector's review; applications for community care grants also considered for crisis loans and vice versa; but excludes reviews of Inspectors' decisions under Article 38(5) of the Social Security (NI) Order 1998 and withdrawn cases.

### Appendix 2(c) – OSFC Spread of Decision Types by District

Location	Community Care Grants - %			Crisis Loans - %			Budgeting Loans - %		
	Confirmed	Substituted	Other <sup>2</sup>	Confirmed	Substituted	Other <sup>2</sup>	Confirmed	Substituted	Other <sup>2</sup>
<b>Belfast North and East Antrim</b>	59.6%	31.9%	8.5%	69.9%	28.8%	1.3%	85.7%	14.3%	0.0%
<b>Belfast West and Lisburn</b>	57.4%	39.6%	3.0%	77.1%	21.3%	1.6%	75.0%	12.5%	12.5%
<b>East Down</b>	54.7%	42.2%	3.1%	69.2%	27.1%	3.8%	72.7%	18.2%	9.1%
<b>North</b>	69.3%	25.9%	4.8%	73.8%	25.0%	1.2%	66.7%	0.0%	33.3%
<b>South</b>	63.0%	33.5%	3.5%	68.0%	31.5%	0.6%	100.0%	0.0%	0.0%
<b>West</b>	58.2%	38.7%	3.1%	65.7%	33.3%	0.9%	80.0%	10.0%	10.0%
<b>Total</b>	60.4%	35.2%	4.4%	70.9%	27.6%	1.5%	78.4%	9.8%	11.8%

<sup>2</sup> Other includes review applications that were not made in the correct time, form or manner; withdrawn review requests; applications which were outside the jurisdiction of OSFC; and cases which were referred back to the Social Security Agency for further action.

### Appendix 3 – OSFC Decision Completion Times by Month

Month	Community Care Grants		Crisis Loans		Budgeting Loans	
	% completed within		% completed within		% completed within	
	12 days <sup>20</sup>	21 days <sup>21</sup>	24 Hours <sup>22</sup> Living expenses	12 days <sup>20</sup> Items	12 days <sup>20</sup>	21 days <sup>21</sup>
April	100%	100%	100%	100%	100%	100%
May	100%	100%	100%	100%	100%	100%
June	100%	100%	100%	100%	100%	100%
July	100%	100%	100%	100%	100%	100%
August	100%	100%	100%	100%	100%	100%
September	100%	100%	100%	100%	100%	100%
October	100%	100%	100%	100%	100%	100%
November	100%	100%	100%	100%	100%	100%
December	100%	100%	100%	100%	100%	100%
January	100%	100%	100%	100%	100%	100%
February	100%	100%	100%	100%	100%	100%
March	100%	100%	100%	100%	100%	100%
<b>Average</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

<sup>20</sup> Of those cases, which required no enquiries or straightforward enquiries, we aimed to complete 95% in 12 days.

<sup>21</sup> For those cases requiring further investigation or complex enquiries, we aimed to complete 90% within 21 days.

<sup>22</sup> We aim to complete 95% of express cases within 24 hours.

## **Appendix 4 – Social Fund Self Instruction Packs**

The documents listed below can be accessed via the OSFC website at [www.osfcni.org.uk](http://www.osfcni.org.uk).

### **The Social Fund 'A Basic Overview'**

A general guide to the Social Fund, covering the key features of the scheme.

### **Community Care Grants**

A technical pack providing a thorough working guide to community care grants. Specifically designed for staff with responsibility for the Social Fund and organisations that advise or assist applicants.

### **Budgeting Loans**

A brief summary of the changes to the budgeting loan scheme from 3 April 2006.

### **Evidence in the Social Fund Context**

This is intended to provide the user with a thorough, but not overly technical, guide to competent handling of evidence in the context of Social Fund applications.

### **The Social Fund for JBO/SSO staff**

This pack is designed for SSA staff in local offices who may be required to advise and assist customers, but who are not involved in Social Fund decision-making. It gives an overview of the conditions for payments and advice about the information customers should give to support their applications.

### **The Social Fund for Pension Service staff**

Designed for staff in The Pension Service who may be required to advise and assist customers. It gives an overview of the conditions for payments and advice about the information customers should give to support their applications.

### **Decision Making and Reviews**

This is a 'how-to' guide to making and reviewing decisions. It focuses on the processes by which decisions are made rather than the technical aspects of the various types of Social Fund payments. Primarily aimed at Decision Makers and Reviewing Officers, it may also be useful to advisers.

### **IRS Self Instruction Pack - Decision Making: The Inquisitorial Role**

This pack is designed to help decision makers understand their role in gathering evidence, with pointers about when additional information is necessary and how best to go about collecting it.

## **Appendix 5 - OSFC Customer Targets 2011/12**

We aim to deliver a high quality decision at the earliest opportunity. Our staff will deliver the following customer service standards:

### Overall Customer Service Standards

#### **Standard cases**

- We will make a decision on 95% of standard cases within 12 working days. Standard cases are all applications to the OSFC, excluding express and complex cases. They form the majority of the work of OSFC.

#### **Express cases**

- We will make a decision on 95% of express cases within 24 hours of receipt of the papers. Express cases are applications for living expenses or other needs where a very urgent decision is required.

#### **Complex cases**

- We will make a decision on 90% of complex cases within 21 days. Complex cases are those that warrant extensive enquiry or investigation or where the nature of the case is exceptionally complex.

### Administration

In order to deliver the overall standards the following internal targets will guide our work:

- Papers for direct applications will be requested on the day they are received.
- We will work towards obtaining 95% of direct application papers within 4 days.
- Applicants will be informed when their papers remain outstanding from the SSA for more than 10 days.
- Cases will be fully registered on the day they are received.
- Cases will be allocated and passed to the relevant Inspector by the morning of day 2.
- Written responses to papers or to requests for further information will be recorded and passed to a decision maker on the day they are received.

### Decision Making

- Any necessary enquiries of the applicant, whether in writing by issuing a full statement or a letter, or by telephone, will be made within 3 working days of receipt of the papers.
- Where no further enquiries are necessary in order to reach a sound decision, it will be issued within 3 working days of receipt of the papers.
- No more than 10% of cases will fall into the Complex Case category.

### Enquiries and complaints

- A full response or update as appropriate will be sent to the applicant within 12 working days of the receipt of an enquiry or complaint.
- Where a response has not been made by day 12, it should be sent on all cases within 21 working days.
- A response will be made on express cases within 24 hours. Express cases are applications for living expenses or other needs where a very urgent decision is required.

### Telephone Service

- A telephone service will be provided for customers, at a free phone call rate, between 9.00 am and 4.30 pm, Monday to Friday. An answering service will be available at all other times.



## **Appendix 6 - OSFC Quality Standards for the Review**

We will deliver Inspectors' reviews that are independent, impartial, fair and legally sound. In each case we will work to increase the applicant's ability to understand and participate fully and effectively in their review.

To achieve this, the review will meet the following quality standards.

Before the decision is made the Inspector will:

- Examine thoroughly all the evidence presented to decide the key issues, establish the relevant facts and identify all necessary enquiries.
- Ask the right questions, in the right way, to enable all the relevant facts to be established.
- Deliver the information to the applicant in such a way that clarifies the key issues the Inspector has to decide, the facts he already knows about those issues and the information he still needs.

In making the decision the Inspector will:

- Take full account of the relevant information provided in the case and reflect that in the decision.
- Correctly interpret and apply the law, including the Department's directions.
- Ensure the rules of natural justice are met: that the applicant knows the case he must answer and has been given a fair opportunity to put his own case; and that there has been no bias.
- Reach an outcome that is reasonable and is right in all the circumstances of the case.
- Tailor each letter and decision to the case ensuring, in particular, that the applicant's level of understanding is respected.
- Explain the law clearly, in a way the applicant can understand, avoiding legal terminology wherever possible.
- Apply the relevant Commissioner's Advice to Inspectors.

In doing this we will deliver the review:

- Promptly and within published Customer Service Standards.

## **Appendix 7 – Social Fund Commissioner’s Meetings**

Mr Will Haire, Permanent Secretary, DSD

Mr Tommy O'Reilly, Chief Executive SSA

DSD Social Fund Reform Oversight Board, Social Fund Reform Project Team  
Staff and Ecorys Consultants

Social Fund Managers and Staff in East Down District

Social Fund Managers and Staff in West District

South Tyrone Empowerment Programme (“STEP”) Organisation, Dungannon

Living Independently Through Empowerment (“LITE”) Organisation, Dungannon

Contact A Family Northern Ireland

Women’s Aid, Coleraine

Simon Community, Coleraine

Citizens Advice Bureau, Armagh

De Paul Ireland, Castlehill Project, Dungannon

Citizens Advice Bureau, Bangor

Seamus McAleavey, Chief Executive, Northern Ireland Council for Voluntary  
Action

WAVE Trauma Centre, Belfast

Derek Alcorn, Chief Executive, Citizens Advice Bureau Northern Ireland

Peter McBride, Chief Executive, Northern Ireland Association for Mental Health

Citizens Advice Bureau, Newtownabbey

Belfast Unemployed Resource Centre

## Appendix 8 - The Statutory Framework

### The Social Fund

The Social Fund was introduced in 1988 and comprises two distinct parts; one regulated and the other discretionary. The Social Fund Commissioner and Social Fund Inspectors are concerned solely with the discretionary part of the Fund. This is a scheme of payments, by grant or interest free loan, to meet the needs, other than those covered by the regulated Fund, of the poorest and most vulnerable in society. The Commissioner and Inspectors have no involvement in the regulated part of the Fund, which allows for payments for funeral and maternity expenses, periods of cold weather and winter fuel.

The Social Security (Northern Ireland) Order 1998  
The Social Security Contributions and Benefits (Northern Ireland) Act 1992  
The Social Security Administration (Northern Ireland) Act 1992

### The Social Fund Commissioner

The Social Fund Commissioner is appointed by the Department. The Commissioner has a duty to:

Article 37 of the Social Security (Northern Ireland) Order 1998

- appoint Social Fund Inspectors and other staff;
- monitor the quality of Inspectors' decisions and give advice, as he thinks fit, to improve the standard of their decisions;
- arrange appropriate training for Inspectors; and
- report annually, in writing, to the Department on the standard of Inspectors' reviews.

### Social Fund Inspectors

Social Fund Inspectors provide the independent grievance process, by means of a review, for applicants who are dissatisfied with the Agency's decisions on their applications to the discretionary Social Fund.

### Jurisdiction

Inspectors can only review decisions that have already been reviewed by the Agency, providing that an application for review has been made in the time, form and manner prescribed in regulations. Applications for an Inspector's review must be made directly to the OSFC within 28 days of the date of issue of the Agency's review decision.

The Social Fund (Application for Review) Regulations (Northern Ireland) 1988

Article 38(3), Social Security (Northern Ireland) Order 1998

## Nature of the Review

The review is conducted in two stages in accordance with directions issued by the Department. At the first stage, the Inspector considers whether the Reviewing Officer has:

- interpreted and applied the law correctly, which includes taking into account all relevant considerations and not taking account of irrelevant considerations;
- acted fairly and exercised his discretion reasonably; and
- observed the principles of natural justice.

The Department's Directions 1, 2, 3, 4, 5 and 6 to Inspectors.

If the decision has been reached correctly, applying the tests of the first stage of the review, the Inspector conducts a second stage which:

- considers the merits of the case;
- decides whether the decision was a right one in the circumstances; and
- takes account of relevant changes in circumstances and new evidence.

Depending on the outcome of the second stage, the Inspector exercises the appropriate power on review – see below.

Where the decision has not been reached correctly, applying the tests of the first stage, the second stage does not take place. Instead, the Inspector exercises the appropriate power on review.

## Powers on Review

On review, the Inspector has the power to:

- confirm the Reviewing Officer's decision;
- refer the case back to the Reviewing Officer to make a fresh decision; or
- make any decision the Reviewing Officer could have made (these are referred to as substituted decisions).

Article 38(4) of the Social Security (Northern Ireland) Order 1998.

## Reviews of Inspectors' Decisions

Article 38(5) of the Social Security (Northern Ireland) Order 1998.

The Inspector has a discretionary power to review his own or another Inspector's decision. Inspectors generally use this power to correct a decision that was wrong in law or fact, or where new relevant evidence has come to light.

There is no statutory right to this type of review. This is a matter for the discretion of the Inspector, who must decide whether to conduct a review of the earlier decision. Where the Inspector conducts such a review, the outcome may or may not change. The only recourse from an Inspector's decision is to the High Court on judicial review.

# **Experiences of Social Fund Customers in Northern Ireland**

***Social Fund Commissioner's findings from  
a desk-based analysis of applications to  
the discretionary Social Fund  
in Northern Ireland***

**Karamjit Singh CBE  
4 August 2011**

## Contents

	Page
Foreword .....	2
Executive summary .....	3
Background context .....	5
Summary of key statistical findings .....	6
Detailed findings .....	7



## Foreword

This is the first time that a systematic examination of the Office of the Social Fund Commissioner's ("OSFC") case work has been undertaken in several years. The methodology of this report and its content broadly follows that of the "*Experiences of Social Fund Customers*" report which I published in Great Britain in July 2010. The material provides insights into the lives of some of our poorest and most vulnerable citizens based on an analysis of 200 Community Care Grant and 25 Crisis Loan cases which were received for review in the OSFC between January and June 2011.

The report presents information on a range of criteria, including health problems; debt; housing status; addiction issues and the items applied for. It is recognised that the circumstances which lead to applications to the Social Fund will not be identical given the circumstances in differing areas. To illustrate this and enable a greater understanding of the particular pressures and issues affecting Social Fund customers in Northern Ireland the equivalent percentages from the GB report have been shown where possible to give additional context and enable broad comparisons between the two jurisdictions to be made. Some figures, such as those showing the levels of Social Fund debt, are markedly different to the GB position. This and other areas of divergence between the two jurisdictions may require particular consideration when future policy initiatives in Northern Ireland are developed.

My hope is that this report is timely given the context of anticipated changes to the discretionary Social Fund scheme in Northern Ireland from April 2013 onwards. This illustration of some of the factors experienced by customers in Northern Ireland is intended to be a helpful contribution to the wider debate on options for reform of the Social Fund.

**Karamjit Singh CBE**  
**Social Fund Commissioner for Northern Ireland**

## Executive summary

Adopting a similar approach used in preparing the GB report, we have extracted the personal data presented in support of the Social Fund applications; and our findings are based on what was said explicitly by those customers. The Social Fund application process captures data on a wide range of personal issues including: family composition, health, housing status, caring responsibilities, income and financial commitments.

The ratio of Community Care Grant to Crisis Loan cases found in the GB report was replicated in this report. However, the equivalent GB report was based on cases reviewed in the Independent Review Service (“IRS”) in June 2010 as opposed to cases reviewed in OSFC during January – June 2011 in this report. The main consequence of this is the impact of the severe winter weather conditions being reflected solely in the Northern Ireland cases used for this report.

The Government’s “*State of the Nation Report*” highlights poor health, personal indebtedness, gender, age and family breakdown as some of the social disadvantages which are presenting barriers to independence or social mobility<sup>1</sup>. We note that while each case examined at the OSFC is defined by the customer’s personal and very individual circumstances, the findings of this research project highlight some of the underlying social and economic problems facing many of those who approach the Fund for assistance. It is also clear that a significant proportion of our customers face multiple disadvantages, as defined in the State of the Nation Report.

There is no such thing as a ‘typical’ Social Fund customer; but what we do know from our wealth of experience, and from this case examination, is that certain experiences are often prevalent. This study and the one in GB highlight the high incidence of health problems evident in Social Fund cases, with 92.0% of the NI cases containing evidence of a health condition. However, the comparisons made in this report suggest that the situation in Northern Ireland is particularly acute for both physical and mental health problems. This is further supported by the higher instance of health related benefits in payment to customers and the level of care and support they and members of their households receive from medical professionals (GPs, consultants, Community Psychiatric Nurses, etc.). Over a third of the instances of health problems recorded were mental health related, with depression the most commonly reported condition, affecting someone in almost half of all cases in this study.

The frequency with which the Social Fund in Northern Ireland is being accessed and the support its customers seek is another area of interest. The average age of applicants in this report (38 years) and in the GB report (39 years) is very similar. However, in the cases analysed, the average application number in Northern Ireland is 43 compared to 24 in GB. In addition, 81.3% of the cases examined were requests for help with multiple household items, the comparative figure in GB was 42.6%. This indicates a much greater demand for assistance from the Social Fund in Northern Ireland.

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<sup>1</sup> State of the nation report: poverty, worklessness and welfare dependency in the UK, HM Government, May 2010

This trend follows through to the situation regarding customer's debt. The average amount of Social Fund debt (derived from Crisis Loan and Budgeting Loan awards) in the cases studied is £890.52, more than double the equivalent amount in the GB report. The median amount of non-Social Fund debt in these cases was also higher in NI than in GB.

Taking all the criteria covered by this report into account, it is clear that customers of the Social Fund in Northern Ireland are often living day-to-day with multiple social disadvantages. The State of the Nation Report highlighted that these groups can be particularly vulnerable. With the high level of reliance on the Social Fund here in Northern Ireland to help customers meet intermittent and unforeseen expenses for high priority items and services, any changes to the current Scheme should try to ensure that support is still available to help those most in need.

## **Background context**

The Office of the Social Fund Commissioner (“OSFC”) is an independent statutory body. We are funded by the Department for Social Development (“DSD”).

The organisation is headed by the Social Fund Commissioner, Karamjit Singh CBE, who was appointed by DSD. The Commissioner is statutorily independent and is under a duty to produce an annual report to the Department, which must be laid before the Northern Ireland Assembly and published.

The Social Fund scheme is administered in the Social Security Agency (“SSA”). The core business of the OSFC is to provide an independent tier of review for customers dissatisfied with decisions made in the SSA on their applications to the discretionary part of the Social Fund. This part of the Social Fund is a scheme of grant and interest free loan payments designed to help people on low income with costs that are difficult to meet. Payments from the Social Fund are targeted at some of the poorest and most vulnerable citizens in our society.

The 225 cases examined for this report were applications made for either a community care grant or crisis loan. During 2010/11, the OSFC considered 1,363 cases as part of the review process.

Grant payments are intended to help meet a need for community care. The prime objectives of grants are to:

- help people to establish themselves in the community;
- help people remain in the community;
- help with the care of a prisoner or young offender on release or temporary licence;
- ease exceptional pressures on families;
- help people setting up home as a part of a planned resettlement programme; and
- assist with certain travel costs.

Crisis loans are intended to help meet an immediate short term need either in an emergency or as the consequence of a disaster, whereby the provision of that help is the only means of avoiding serious damage or serious risk to health or safety.

## Summary of key statistical findings

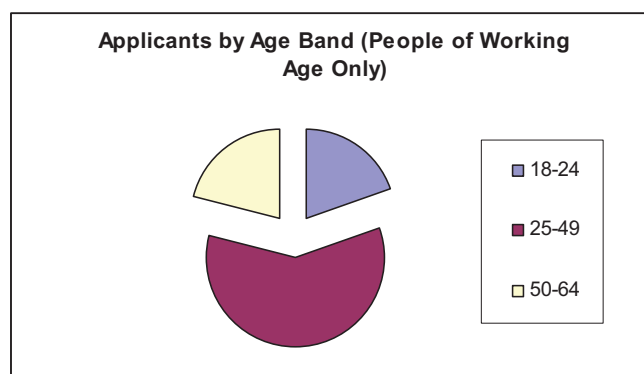
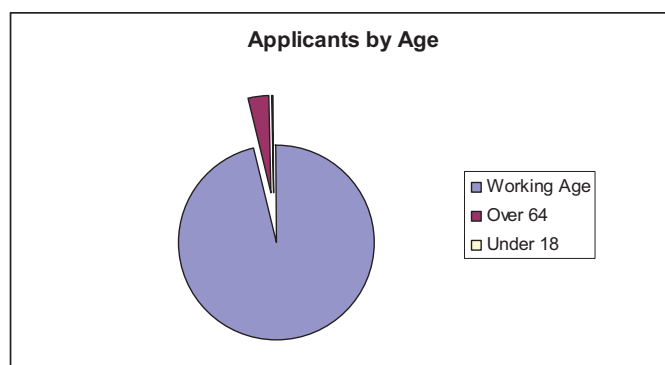
Of the 225 cases examined at the OSFC:

- 56.9% of applications (54.6% in GB) were made by people of middle working age (aged between 25 and 49).
- 39.1% of applications (27% in GB) involved an adult with both mental and physical health problems.
- Of cases that involved children, 6.5% (4.9% in GB) involved children with both physical and mental health problems.
- 82.2% (86.2% in GB) of families in the study either had an adult or child with a physical or mental health problem.
- 23.4% (21.4% in GB) of families in the study had both an adult and child with physical or mental health problems.
- 67.6% (46.4% in GB) of the cases examined involved working age people experiencing multiple disadvantages as defined in the State of the Nation Report.
- 35.1% of the cases examined (14.8% in GB) involved people with two or more of the following social disadvantages: learning difficulties; physical or mental health problems; homelessness; drug or alcohol problems; ex-offenders; children leaving care, or where there are ongoing custody issues.
- 49.3% of the cases examined (14.6% in GB) had a Social Fund debt of more than £1,000. In 16.2% of these cases the Social Fund debt was in addition to other debts to third parties.
- 49.6% (32.9% in GB) of customers in the study with an income may be spending more than 10% of their weekly income on debt repayments. However, it should be noted that Child Benefit and Child Tax Credit income information was frequently not available in the customers' Social Fund case papers, so the actual figure will be lower than 49.6%.
- 6.2% (11.8% in GB) involved a customer leaving some sort of institutional or residential care or some sort of resettlement centre.
- 20.9% (19.8% in GB) involved somebody who had experienced a period of homelessness.
- 31.1% of cases (40% in GB) involved a customer asking for items to set up home from scratch.
- 81.3% of cases (42.6% in GB) involved an application for multiple household items.
- 51.1% of cases (44% in GB) involved requests for replacement items. These are situations where the customer is already living in the property but wants help to replace items due to wear and tear or other damage.
- 18.2% of cases involved customers who had applied for the same item within the previous 12 months.
- The average amount requested by customers was £1,512.22 (£1,596.55 in GB). This covered a range from £30 up to £8,880 (£34.60 up to £15,080 in GB). The median figure of this range was £1,220 (£1,289.50 in GB).
- In 15.1% of cases (18.6% in GB) the customer was represented, e.g. by a family member; or by a third party such as a Citizen's Advice Bureau, solicitor, MLA or MP.

## Detailed findings

### Age of those applying to the Fund

- Of the 225 applications, 217 or 96.4% (93.4% in GB) were made by people of working age, i.e. by people aged between 18 and 64.
- Of the 217 applications made by people of working age, 19.8% (20.6% in GB) were made by people of younger working age (people aged between 18 and 24).
- 59.0% of the 217 applications (58.5% in GB) were made by people of middle working age (aged between 25 and 49).
- The remaining 21.2% of the 217 applications (20% in GB) were made by people of older working age (aged between 50 and 64).
- 0.4% of applications (2% in GB) were made by people aged under 18.
- 3.1% of applications (4.6% in GB) were made by people either at the retirement age of 65, or older.



### Disability

Poor health has been highlighted as a major source of disadvantage in the Government's State of the Nation report. Grant and crisis loan application forms ask whether the customer has any health problems and how they are affected by this. The health problems reported by customers are varied in nature and extent, and can range from acute disability with formal diagnosis, to more general statements of feeling down, depressed or having generic back or leg pain, for example. These may not



necessarily be diagnosed, medicated or recognised by the type of benefit in payment to them, but the following data encompasses all those cases where the customer offered detailed evidence of an underlying health problem:

Out of the 225 cases examined:

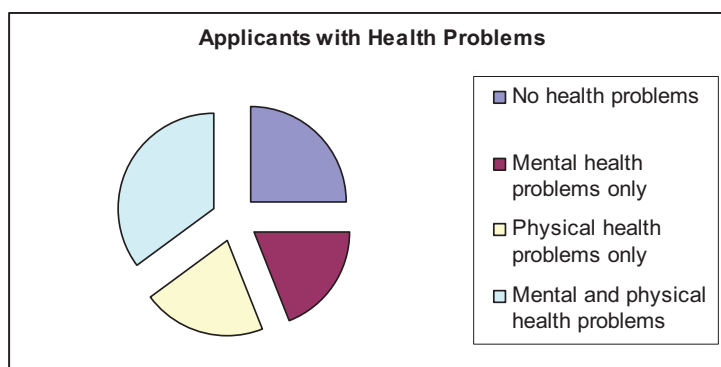
- 56.9% (45.6% in GB) involved an adult with a mental health problem (this can include, for example, depression, schizophrenia, panic attacks).
- 60.9% (51.2% in GB) involved an adult with a physical health problem (for example arthritis, back pain, asthma).
- 39.1% (27.2% in GB) involved an adult with both mental and physical health problems.
- 47.6% of the cases recorded depression as affecting at least one person.

Of cases that involved children:

- 9.3% (12.1% in GB) involved children with mental health problems (such as behavioural problems, ADHD).
- 29.9% (23.6% in GB) involved children with physical health problems (such as asthma, eczema, mobility issues).
- 6.5% (4.9% in GB) involved children with both physical and mental health problems.

#### Applicants with Health Problems

- No health problems 24.9% (31% in GB)
- Mental health problems only 19.1% (18% in GB)
- Physical health problems only 20.9% (24% in GB)
- Mental and physical health problems 35.1% (27% in GB)



Some adults' health problems affected their ability to do basic day-to-day household tasks and/or their ability to leave the home. Of the cases examined:

- 32.9% (30.0% in GB) involved an adult with a health problem that restricted their movement in their day-to-day life.
- 12.0% (19.0% in GB) involved an adult who, due to mental health issues, were isolated and experienced problems going out on their own.
- 3.1% (7.6% in GB) involved adults with both mobility problems and problems going out alone.
- Of the cases examined, 1.3% (1.2% in GB) of children had their mobility restricted because of a physical health problem.

### Families and disability

Out of the 225 cases examined, 47.6% (36.4% in GB) described themselves as families. For the benefit of this examination this is defined as children living in the household or children living with extended family or another adult. Of families in the study:

- 82.2% (86.2% in GB) either had an adult or child with a physical or mental health problem.
- 74.8% (76.9% in GB) had at least 1 adult with a mental or physical health problem.
- 30.8% (30.8% in GB) had at least 1 child with a mental or physical health problem.
- 23.4% (21.4% in GB) had both an adult and child with physical or mental health problems.
- 1.9% (8.2% in GB) had both an adult and a child with a mental health problem.

### Health conditions

92.0% of the cases contained evidence of someone with a health condition. In total, 737 instances of health conditions affecting a person mentioned in the application were recorded in the 225 cases: Of the recorded health conditions:

- 79.1% were experienced by the applicant;
- 9.9% were experienced by another adult; and
- 11.0% were experienced by a child.

There were 140 different health conditions recorded in the 225 cases. Of the recorded health conditions:

- 35.4% were mental health related;
- 19.7% of were mobility/bone/joint/pain related;
- 8.5% were lung related;
- 6.6% were bowel/bladder related;
- 6.5% were brain related;
- 4.5% were heart/liver/kidney/pancreas related;
- 2.3% were addiction related; and
- 16.5% were various other health conditions.

The most commonly reported health conditions in the cases examined were:

- Depression – 15.3% of reported conditions
- Asthma – 6.5% of reported conditions
- Anxiety – 6.1% of reported conditions
- Back pain – 5.3% of reported conditions
- Arthritis/osteoarthritis – 4.5% of reported conditions
- Stress – 3.4% of reported conditions
- Unspecified mobility issues – 3.4% of reported conditions
- Panic Attacks – 3.1% of reported conditions
- Incontinence – 2.8% of reported conditions

### Disability benefits

- 52.9% of the cases examined (36.4% in GB) involved a customer who received a health related benefit; this could include Disability Living

Allowance (DLA) Care or Mobility components, Employment and Support Allowance (ESA), and/or Disability Premiums paid as part of weekly benefit income

- 30.7% of customers (18.4% in GB) received a DLA Care Component:
  - 14 (35 in GB) customers at the highest rate
  - 43 (29 in GB) customers at the middle rate
  - 12 (28 in GB) customers at the lowest rate
- 26.7% of customers (18.4% in GB) received a DLA Mobility Component:
  - 31 (39 in GB) customers at the higher rate
  - 29 (53 in GB) customers at the lower rate

#### Help from healthcare professionals

The application form for a community care grant asks whether or not the customer or a member of their family regularly sees a doctor or healthcare professional. It should be noted that the crisis loan application form does not ask for this information and so some of those customers may see their doctor or healthcare professional regularly, but we would not be aware of this from the case examination. However, given that the vast majority of cases examined were requests for grants, and that in some of the loan applications customers still volunteered this information, we can be satisfied that the data gleaned is sufficiently valid. Of the cases examined:

- 58.2% (27.2% in GB) regularly saw their GP.
- 19.6% (9.8% in GB) regularly attended appointments at hospital.
- 4.0% (5.0% in GB) regularly saw their CPN.
- 9.8% (11.4% in GB) regularly saw a counsellor.

The following two case studies from the examination illustrate the type and range of issues facing some Social Fund customers:

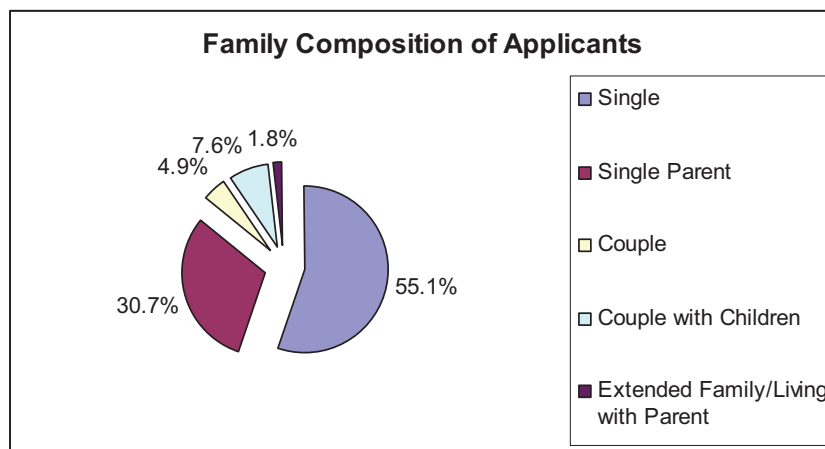
#### **Case example 1**

Ms A lives with 3 of her children and has her 2 other children to stay at weekends. Her Social Fund debt is over £1,300. Ms A has depression and one of her children is an insulin dependent diabetic and is receiving counselling to help deal with the condition. Some of Ms A's children had been abused at their previous address and the family had subsequently been rehoused by the Housing Executive. They were also now receiving support from a Social Worker. Ms A applied for items as a consequence of the family's move.

#### **Case example 2**

Mr B had been mugged by two men who took his jacket, which contained his benefit money. He reported the incident to the police and applied for a crisis loan to replace the money. Due to the incident Mr B was having to rely on a friend and a relative for food and shelter. He already owed more than £1,300 in Social Fund debt which was being repaid at a rate of 19.4% of his £65.45 weekly income.

## Children & families



In 36.0% of the cases examined (36.4% in GB), the customer indicated that they had one or more children living at home. Of these:

- 79.0% (66.5% in GB) indicated that they were a single parent.
- 0% (24.2% in GB) indicated that they were living with a partner.
- 21% (9.3% in GB) indicated that they and their child or children were living with their parents or extended family.

In 13.3% of the cases examined (13.8% in GB) the customer indicated that they had children who were not living with them (excluding customers with grown-up/non-dependent children no longer in the family home). Of these:

- 53.3% (82.6% in GB) indicated that they were currently living alone.
- 20.0% indicated that they had other children living with them.
- 16.7% (7.2% in GB) indicated that they were living with their parents or extended family.
- 6.7% (8.7% in GB) indicated that they were living with a partner.
- 3.3% (0% in GB) indicated that they were homeless.
- 0% (1.5% in GB) indicated that they were living with someone who was neither their partner nor a member of their family.

In 52.4% of cases examined (53.8% in GB) the customer indicated that they had no children (excluding those customers with grown-up/nondependent children no longer in the family home). Of these:

- 89.8% (81.8% in GB) indicated that they were currently living alone.
- 10.2% (18.2% in GB) indicated that they were currently living with at least one other person.

In 47.6% of cases (46.2% in GB) the customer had children who were living with them, living elsewhere or both. Of these, 57.9% (48.9% in GB) at least one of their children was under the age of five.

In 3.6% of cases (3.6% in GB) either the customer or their partner was pregnant.

In 8.9% of cases (10% in GB) the breakdown of a relationship was at least part of the catalyst for the application being made. Of these relationship breakdowns:

- 65.0% (40.0% in GB) involved the customer leaving their parents' home.
- 35% (54.0% in GB) involved the customer leaving their partner.
- 0% (6.0% in GB) involved the breakdown of some other kind of relationship, for example a parent leaving the home of one of their offspring.
- in 30% (20.0% in GB) the customer had at least one child that they looked after.

In 4.0% of cases (5.6% in GB) the customer indicated that family reconciliation (where the customer was trying to get some level of custody of their children) was at least part of the catalyst for the application being made. Of these cases:

- in 44.4% (53.6% in GB) the children involved were currently in the care of the other parent.
- in 44.4% (35.7% in GB) the children involved were currently in the care of another member of the customer's family (for example, a grandparent).
- in 11.1% the children involved recently came out of care.

The next case studies are offered to help illustrate the types of difficulties facing some customers and members of their family:

#### **Case example 3**

Ms C is a young single parent with a 7 month old child and a Social Fund debt in excess of £1,400. She is pregnant with her second child and both her and her daughter have physical health problems. They are registered as homeless having had to leave the family home due to overcrowding, they are now living in a hostel. Ms C has recently been offered a tenancy of a Housing Executive property and has applied for items to enable her to take up the offer and move in.

#### **Case example 4**

Ms D is a single parent with 2 young children and shared custody of her teenage son who stays at weekends. She has a history of alcohol addiction and had a breakdown following bereavement in her family and had ended up homeless as a result. Ms D takes medication for significant mental health problems and is also receiving support from a Community Psychiatric Nurse, a counsellor, a social worker and a Family Support Unit. Her application was for items to help her provide for her young children.

## **Multiple disadvantage**

### Families with children

In the State of the Nation report it was found that families are more at risk of multiple disadvantage if they are: single parents; have 3 or more children; are younger mothers under 25; or when one or both adults in the household have health problems. Of the 225 cases examined:

- 30.7% (24.2% in GB) applications were made by lone parents.
- 7.1% (8.6% in GB) customers were in families with 3 or more children.
- 7.1% (7.4% in GB) customers were young mothers (under 25).
- 79.6% (28.0% in GB) applications were from households where one or both adults had mental or physical health problems.

### Young people aged 16-24

The State of the Nation report found that those most likely to be at risk of multiple disadvantage in key life stages also include 16-24 years old who are female and live with children; and this is again borne out by the results from the OSFC case sample:

- 13.3% (14.4% in GB) of the cases examined were made by women aged between 16 and 24.
- 7.1% (7.4% in GB) of these customers were young mothers, with a high proportion of these cases also containing evidence of one or more family members with health problems, often coupled with high levels of debt.

### People of working age without children

Another client group identified in The State of the Nation report as being at risk of multiple disadvantage included working-age people without children with some or all of the following characteristics: female; of older working age (over 50); sick or disabled; and those living in a single person household. Of the cases examined by the OSFC:

- 85.7% (72.8% in GB) of customers of working age (64 or under) had the family composition as single (meaning some had dependent children living with them, but no other adults).
- 54.7% customers (48.8% in GB) were in a single person household (meaning that they had no children living with them).
- 16.9% (16.2% in GB) were single females of working age with no children.
- 20.4% (19.6% in GB) were older working age people (50-64); 39.1% (42.9% in GB) of these were female and 60.9% (57.1% in GB) male.
- 76.4% of customers (65.2% in GB) of working age had either a mental or physical health problem.
- 67.6% of cases (46.4% in GB) examined involved working age people that fitted into two of the above categories. 23.1% (17.0% in GB) were affected by 3 of the disadvantages listed and 3.1% (3.6% in GB) applicants were affected by each disadvantage listed.

### People aged 60 or over

7.1% (4.6% in GB) of the cases examined were made by applicants who are over 60. Of these:

- 6.3% (13.0% in GB) were made by applicants over 80.
- 62.5% (69.6% in GB) lived alone.

### Social disadvantages

The State of the Nation Report highlighted that there are also a number of groups who are not generally represented in household surveys but who are significantly more likely to experience multiple disadvantage. The Report concluded that these groups can be particularly vulnerable, and may also lead chaotic lifestyles; and went on to highlight that groups who may be more at risk of experiencing multiple disadvantages are likely to include those with one or more of the following social disadvantages: learning difficulties; physical and mental health problems; homelessness; drug or alcohol problems; ex-offenders; children leaving care; or where there are ongoing issues with the custody of children.



Of the 225 cases examined by the OSFC:

- 47.1% (39.8% in GB) had evidence of a combination of both mental and physical health problems (this may be, for example, a single person with both mental and physical health problems; or a parent with physical health problems looking after a child with mental health problems). Of these cases, 44.3% (21.8% in GB) were applications made by a person living alone with no children.
- 20.9% (19.8% in GB) involved somebody who presented themselves as 'homeless' (that is, living in a hostel, on the streets, "sofa surfing", sleeping in a homeless shelter, or a combination of these; from the sample, the median time spent homeless was 3 months (12 months in GB)).
- 10.2% (7.4% in GB) involved an ongoing problem with alcohol and 4.4% (6.4% in GB) had ongoing problems with drugs. 2.7% (2.0% in GB) involved someone experiencing ongoing problems with both drugs and alcohol.
- 4.9% (7.6% in GB) involved a customer leaving prison. Of these customers 90.9% (71.1% in GB) who told us how long their sentences were, the median prison sentence was 3 months (9 months in GB).
- 5.8% (5.8% in GB) applied for help to provide the facilities to get access to their children or to have their children back to live with them.
- 35.1% (14.8% in GB) involved more than two of the above disadvantages.
- 5.3% (2.0% in GB) involved three or more of the above disadvantages.

## Personal indebtedness and financial difficulty

### Number of Social Fund applications

The average age of applicants in the study was 38 (39 in GB), the average Social Fund application number in the study was 43 (24 in GB).

A high number of Social Fund applications may be indicative of someone who struggles to manage their money effectively. For the purposes of this case examination, we divided customers into six separate age bands (under 25, 25-34, 35-44, 45-54, 55-64, 65+). The median number of applications for individuals within each band was taken (any with an application number of "zero", indicating a clerical i.e. non-computerised application, were not counted).

Counting the number of customers with anything over double the median number of applications for their age band may provide a crude measure of the number of people who are struggling to manage their money effectively.

On this measure, 26.9% (33.06% in GB) of applications out of the 223 counted (2 clerical applications excluded) were made by a customer who would appear to be struggling to manage their money. This approach does have some limitations. Firstly, if someone makes a grant application but is actually awarded a crisis loan (or vice-versa) the award is entered by the SSA under a new application number, artificially inflating the "application number" of any later applications. Secondly, while a relatively high number of applications might indicate someone struggling to manage their money, it might equally indicate someone who is experiencing a range of health or other social issues leading to greater than normal intermittent expenses (for example, a single mother with children who have learning difficulties and display challenging and destructive behaviour).

### Social Fund Debt

Our findings show that many of the customers and families experiencing those issues most closely associated with multiple disadvantage also have high levels of personal indebtedness and may experience ongoing financial pressures:

- In 75.6% (40% in GB) of cases the customer (and their partner, if applicable) had a Social Fund debt of more than £500.
- 49.3% (14.6% in GB) had a Social Fund debt of more than £1000.
- 38.2% (8% in GB) had a Social Fund debt of more than £1250.
- 20.0% (3% in GB) had a Social Fund debt within £100 of the £1500 maximum allowed by law.

### Non-Social Fund Debt

- 15.1% (13% in GB) indicated that they owed money to a person or organisation outside of the Social Fund (however, this data is with the caveat that when applying for a grant the person is not obliged to reveal their level of indebtedness and so it may be that the true figure is actually much higher).
- Of those customers whose case papers indicated an amount of non-Social Fund debt, the median figure in Northern Ireland (from the 8.4% of cases which included a figure) is £950, and in GB (from the 7.6% of cases which included a figure) it is £850.

### Level of total debt

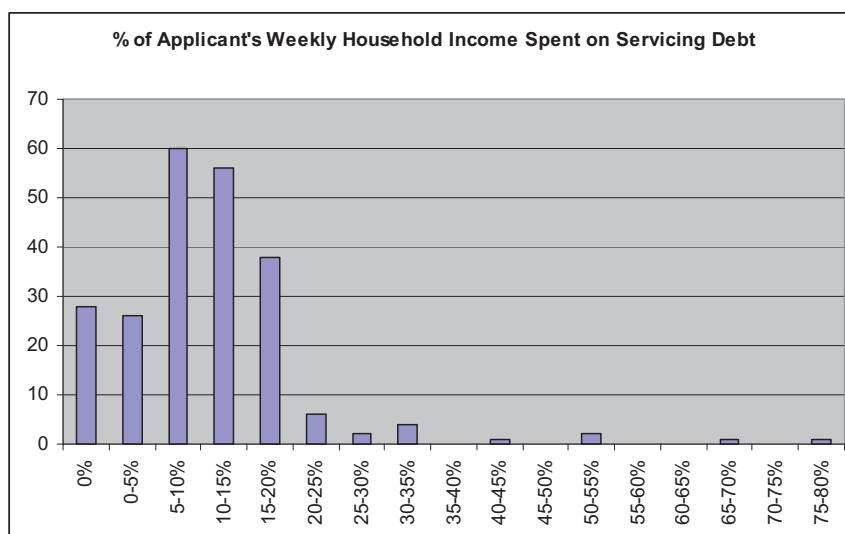
Assessing the customer's total level of debt (both Social Fund debt and non-Social Fund debt) offers alternative means for assessing levels of financial difficulty. The median level of debt indicated by the customer and the SSA for the 225 cases examined was £1,097.81 (£388.70 in GB). In 4% of cases the customer's level of debt was more than double this amount.

### Weekly repayments

In 0.4% of cases examined, the customer had no weekly income at the time of their review. Of the remaining 99.6% of customers:

- 49.6% (32.9% in GB) appeared to be spending more than 10% of their weekly income on debt repayments.
- 24.6% (2.2% in GB) appeared to be spending more than 15% of their weekly income on debt repayments.
- 7.6% (5.5% in GB) appeared to be spending more than 20% of their weekly income on debt repayments (including Social Fund repayments).

It should be noted that some information on a household's income could not be ascertained from the case papers. In particular, information on Child Tax Credit and Child Benefit income was often not available, so some customer's household income will be higher than the amounts recorded in this case examination.



The limitations already highlighted with regard to our knowledge of non-Social Fund debt for community care grant customers also holds true with regards to the data we have for weekly repayments. It is also important to bear in mind that a customer's rate of repayment to the Fund may vary week to week as they finish paying off one award and begin repaying another which has been set a different rate of repayment. Many of these customers already face problems managing their weekly income, and having to repay loans at variable rates can only exacerbate these difficulties.

The following case illustrates a customer repaying a large Social Fund debt where Social Fund repayment rates vary for different loans:

#### **Case example 5**

Ms E lives with her teenage daughter and has applied for items following a serious accident. She has depression for which she takes medication. Ms E was in receipt of Employment and Support Allowance, Child Tax Credits and Child Benefit and her Social Fund debt was over £1,400. Ms E's social fund debt was made up of 20 separate Crisis Loan awards whose agreed repayment rates when awarded varied significantly from c. £7.09 up to £18.71 a week.

### **What are people applying for and why?**

From the 225 cases examined:

- 31.1% (40% in GB) involved a customer requesting items sufficient to set up home from scratch.
- 4.9% (6% in GB) involved an application for a single household item.
- 81.3% (42.6% in GB) involved an application for multiple household items.
- 28.0% (18% in GB) involved a customer asking for clothing.
- 0.9% (1.2% in GB) involved a request for 'specialist' equipment (items such as mobility scooters, other aids to mobility and disability aids).
- 4.4% (3.2% in GB) involved travel expenses (expenses such as visiting a sick relative or to provide support to family members following bereavement).
- 12.4% (11% in GB) applied for items that Social Fund law says can never be paid.

- 22.2% (3% in GB) applied for decorating expenses (such as paint, wallpaper or decorating equipment). Unlike in GB, the cases selected for this exercise covered the period during and shortly after the extreme winter weather conditions. This in turn led to increased numbers of applications prompted by damage caused by flooding from burst pipes. Ignoring the application where this was a relevant factor this figure drops to 16.0%.
- 14.2% (12.2% in GB) involved items not covered by the above categories (for example crisis loans for rent in advance).

Some customers apply for a range of needs which each fall into separate categories (such as household furniture & equipment; clothing & footwear; 'specialist' equipment; decorating costs; travel expenses):

- 39.6% (30.8% in GB) involved customers applying for items or needs in two or more of the above categories.
- 9.8% (5.8% in GB) involved customers applying for items or needs in three or more of the above categories.
- 0% (0.8% in GB) involved customers applying for items or needs in four of the above categories.

### Moving home

43.6% of cases (33.2% in GB) involved moving home. Of these:

- 7.1% (5.2% in GB) wanted to move because of issues related to crime or harassment.
- 6.2% wanted to move due to family breakdown.
- 6.2% were required to move home (i.e. due to eviction, tenancy not renewed, vesting/repossession/sale of their home).
- 5.3% wanted to move due to a deterioration in the condition of their home (including due to a fire or flood) or to move to a more suitable or affordable home.
- 5.3% wanted to move to be closer to a relative or improve access to their children.
- 3.6% (5.6% in GB) lived in overcrowded conditions.
- 3.1% (11.8% in GB) applied as they were in temporary accommodation.
- 2.2% were moving to set up their own home for the first time.
- 1.8% (5.6% in GB) wanted to move because of a health related issue.
- 2.7% were moving for other reasons (including: as part of bail conditions, inherited a property, leaving prison).

Some customers gave very little information in their case so it was not always possible to categorise the request accurately.

### 'Traumatic event'

For the purposes of this case examination and analysis, we use the term 'traumatic event' to refer to an unexpected trauma leading to major upheaval in the customer's life. This could include events such as escaping domestic violence, a partner or close family member dying, the home being burgled, or damage caused by a natural disaster such as a fire or flood.

19.1% of cases examined (10.6% of the overall sample in GB) were made because the customer had suffered some form of 'traumatic event'. Of these:

- 2.3% (3.6% in GB) were escaping domestic violence.
- 11.6% (2% in GB) involved either the customer or a family member being a victim of crime.
- 30.2% (9.6% of the complete sample in GB) indicated that crime (including domestic violence) or harassment of some kind was at least part of the catalyst for their application to help them move home.
- 53.5% (2.8% in GB) involved a flood or fire. This figure is significantly higher than that for GB in part due to the cases selected for the exercise covering the period of extreme winter weather conditions in Northern Ireland, which was not the case in the GB exercise.
- 4.7% (2.2% in GB) involved some other kind of traumatic event.

The following case examples illustrate situations where the customer is already very vulnerable, and needs intervention because they have been the victim of some sort of abuse:

#### **Case example 6**

Mr and Mrs F live with their 4 children. Mr F has mental health problems for which he sees a Community Psychiatric Nurse and attends counselling, his wife is his carer. Their household income includes Income Support with disability and carer premiums, Disability Living Allowance (Care and Mobility) and Child Benefit. The family have been intimidated out of their home and entered temporary housing before securing a new tenancy. Following the intimidation their young son is having difficulty coping. He is bed wetting and is now receiving help to deal with the trauma.

#### **Case example 7**

Ms G is receiving Income Support with disability premiums and middle rate care Disability Living Allowance. Her Social Fund debt is over £1,000 and is being repaid over a 2 year period. Ms G has an eating disorder (for which she is attending hospital), depression, osteoporosis, has attempted suicide and is in recovery from alcohol addiction. Ms G is getting support from a key worker, a counsellor and an addiction clinic and has moved into her own tenancy from a family home where she had been the subject of abuse. Her application was for items to help her cope with her health problems and help her set up her new home.

#### Replacement items

- 51.1% (44% in GB) involved requests for replacement items. These are situations where the customer is already living in the property but wants help to replace items due to wear and tear or other damage.
- 18.2% of cases involved customers who had applied for the same item within the previous 12 months.

#### Relationship breakdown

- 8.9% of cases (10% in GB) involved some form of relationship breakdown. This could involve, for example, the customer leaving their family home (though not necessarily for the first time) or leaving their partner.
- 3.1% of cases (5.4% in GB) involved a partner leaving a relationship.
- 5.8% of cases (4% in GB) involved leaving the family home.

- 0% of cases (0.6% in GB) involved a parent living in a home owned or rented by their adult child, but where the relationship had broken down.

#### Leaving care or resettlement centres

- 6.2% of cases (11.8% in GB) involved a customer leaving some sort of institutional or residential care or some sort of resettlement centre.
- 4.9% of cases (7.6% in GB) involved leaving prison. The median sentence for these customers was 4 months (9 months in GB).
- 0% of cases (1% in GB) involved the customer leaving hospital.
- 0% of cases (1.6% in GB) involved the customer coming out of rehab and/or centre offering a high level of support to vulnerable people.
- 1.3% of cases (1.2% in GB) involved the customer leaving accommodation such as a Women's Refuge.
- 0% of cases (0.4% in GB) suggested that the customer was leaving care, but did not specify what type of care they were leaving.

#### Homelessness

20.9% of cases (19.8% in GB) involved somebody who had been made homeless. Of these:

- 19.1% (5.8% in GB) involved someone who lived in a hostel.
- 0% (2.2% in GB) involved a customer who was living on the streets without a fixed address.
- 46.8% (5% in GB) involved "sofa surfing" i.e. moving between and sleeping in the homes of different family members or friends.
- 8.5% involved the customer living in temporary housing or emergency accommodation.
- 12.8% (5.2% in GB) involved the customer living in some combination of the above.
- in 12.8% (1.6% in GB) the customer told us they were homeless but did not tell us how exactly how they were living.

The median time spent homeless for these customers was 3 months (12 months in GB).

#### Refugees

0% of the cases examined (2.4% in GB) involved a customer who had entered the UK with refugee status (these were now customers who had recently been granted 'Leave to Remain' in the UK, and who were in the process of trying to set up home).

#### Deterioration in health or housing

- In 3.1% of the cases examined (9.2% in GB) either the customer or a member of their family made the application to help address a deteriorating situation because of a deterioration in health.
- 3.1% of cases (7.4% in GB) either involved the customer or another family member with health problems.
- 0.4% of cases (0.8% in GB) involved children with health problems.
- 0.9% of cases (0.4% in GB) involved more than one individual in the household with health problems.



- 0% of cases (0.6% in GB) involved the deterioration of a family member or ex-partner who lives outside the applicant's household.

In 16.4% of cases (5.2% in GB) the primary reason for the application was deterioration in the condition of the customer's housing (including instances of damp, or damage caused by a flood or infestation). As mentioned previously, the cases used in this report cover the period during and shortly after the severe winter weather conditions experienced in Northern Ireland. Ignoring the cases where flooding caused by burst pipes due to the extreme cold causing the deteriorating housing conditions, this figure falls to 6.2%.

#### Family reconciliation

In 5.3% of cases (5.6% in GB) the reason for the application was either to gain access to the children, or to place them out of foster care, back with the applicant.

- 4.4% (3.2% in GB) of cases involved children living with the other parent.
- 0.4% (2% in GB) of cases involved children living with another family member.
- 0.4% (0.2% in GB) of cases involved a child currently in the care of social services.

#### Other organisations

In 2 (0.9%) of cases (1.2% in GB), the Inspector felt that another person or organisation may have a duty to provide at least one of the items being applied for, in one case (1% in GB) the Inspector concluded that the Occupational Therapy department of Social Services may have a duty to meet the customer's needs. The other case involved an application for travel expenses to hospital which the Inspector decided the NHS may have a duty to pay for.

#### Excluded items/services

In 12.4% of cases (11% in GB), the customer applied for an item or expense excluded by Social Fund law:

- 5% of community care grant applications included requests for oil, which can only be considered as a crisis loan.
- 2.0% of community care grant applications (1% in GB) included requests for daily living expenses, which can only be considered as a crisis loan.
- 1.8% of cases included requests for security items (other than minor locks, etc).
- 1.3% of cases (4.4% in GB) involved the customer applying for a deposit with which to secure a new privately-rented tenancy.
- 1.3% of cases (2.8% in GB) were community care grant applications for rent in advance, but these can only be considered for a crisis loan.
- 1.3% of cases (1.2% in GB) were for repairs or improvements to the home, and the repair or improvement was not 'minor'.
- 0.9% of cases (0.8% in GB) asked for items for the immediate needs of a newborn baby, and so were classed as maternity expenses. These cannot be met from the discretionary part of the scheme, so neither a community care grant nor a crisis loan could be considered.
- 0.4% of cases (0.6% in GB) involved the cost of travelling outside the UK.
- 0.4% of cases (1.2% in GB) involved a request for work-related expenses.

## **Representatives**

In 15.1% of cases (18.6% in GB) the customer was represented by either a family member; or by a third party such as a Citizen's Advice Bureau, solicitors, MLAs or MPs, etc. In 84.9% of cases (81.4% in GB) the customer was not represented.

## **Help from other organisations**

As part of the case examination we looked at the type of help customers are already receiving from elsewhere in a bid to improve their situation. On the community care grant application form it asks the customer if they get help from any organisations. This information can also come to light later on in the application process. 69.3% of cases (28.4% in GB) provided details of third party support, as follows:

- 64.9% (11.4% in GB) gave details of using a counselling service and/or attending regular support from someone medically qualified – for example a psychiatrist.
- 0.9% (2.2% in GB) had regular interaction with their probation officer.
- 1.8% (3.2% in GB) had regular contact with a rehabilitation worker.
- 12.0% (7.6% in GB) gave details of regular interactions with other organisations. This included groups such as community groups, women's groups or the Citizen's Advice Bureau.

## **Amount requested by customers**

In this study the average amount requested by customers was £1,512.22 (£1,596.55 in GB). This covered a range from £30 to £8,880 (£34.60 up to £15,080 in GB). The median figure of this range was £1,220 (£1,289.50 in GB). Of the 225 cases examined:

- 89.8% (90.2% in GB) applied for an amount under £3,000
- 58.7% (57.8% in GB) applied for an amount under £1,500
- 39.1% (38% in GB) applied for an amount under £1,000

## PCS Union



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9 October 2012

Dear Dr. Pelan

### **Parliamentary Passage of the Welfare Reform Bill**

I am writing to you on behalf of the Public and Commercial Services Union (PCS) about the timetable for the Parliamentary passage of the Welfare Reform Bill.

PCS has 270,000 members working across UK departments, with around 100,000 delivering welfare provision. PCS has taken a leading role within the trade union movement in voicing concerns about welfare policy and in campaigning to defend and strengthen the welfare state. PCs members take pride in the welfare state and they want a welfare state that provides a decent standard of living for the retired, the unemployed and for those unable to work. Over the past 30 years the concept of welfare has been under attack as successive governments have stopped pursuing policies of full employment and sought to blame the unemployed or the individual.

PCS firmly believes that the UK governments £18 billion (with the potential for another £10 billion announced yesterday at the Conservative Party conference) welfare cuts will damage the welfare state and we have no wish to return to the welfare state of the 1940's which reflected the social attitudes of its time especially towards women and the disabled. As a consequence PCS has published "Welfare – an alternative Vision" and have had public meetings in Northern Ireland and distributed this material.

We understand that the Welfare Reform Bill will be referred to the Committee for its consideration stage from 10th October until 27th November, where scrutiny will take place two and a half days a week. Standing Orders allow 30 days for a Committee to consider a Bill, however, extensions can be sought.

We are seeking confirmation from the Committee that the commitment given to Congress for full line by line scrutiny will be honoured.

We are also seeking reassurance that the committee will request an extension to 90 days to allow for a full debate to occur on the practical consequences of any proposals within the Bill and to discuss potential options to mitigate impacts. It is vital that a real appraisal of the

effect of these proposals locally is achieved. The welfare reform changes are likely to last a generation and any attempt to hasten the timetable will prove counter-productive.

Like our Congress colleagues PCS believes it is appropriate to tailor a Northern Ireland approach to issues presented by the Welfare Reform Bill. Given the wide range of reforms, the implementation of the changes will impact upon a significant percentage of the working age population in Northern Ireland. Different arrangements could be made and we argue that, in previous circumstances, different arrangements have been made that reflect the very different challenges that face society in Northern Ireland.

Furthermore, despite the legislation being passed in Great Britain, there remains a high level of uncertainty around the finer detail of Universal Credit. It is clear from the regulations that a number of important issues have yet to be decided, for example the level of the assumed minimum income floor which will be set of the self employed and the question of whether to pay monthly or fortnightly.

The challenge posed by these proposed reforms provides the NI Assembly with a unique opportunity to demonstrate the positive value of a devolved government and to impact on the formation of social security policy here for the next generation. We hope that this opportunity is seized and maximized and we look forward to working with the Committee on this important task.

We look forward to hearing from you.

Yours sincerely

**Lynn Henderson**

PCS National Officer for Northern Ireland

# RNIB

## **Welfare Reform Bill NI – RNIB NI’S response**

“To be blind is not miserable, not to be able to bear blindness, that is miserable”. Those words were written by John Milton, author of *Paradise Lost*, and it is our belief that if the Welfare Reform Bill is enacted into law in Northern Ireland in its current incarnation, its effect will be to cause hundreds of thousands of our citizens to be unable to bear blindness. That will have huge social and economic implications at a time when our society and economy can least afford it.

As committee members are aware, the Welfare Reform Bill proposes phasing out Disability Living Allowance (DLA) and replacing it with Personal Independence Payments (PIP).

In January 2012, the then minister for the disabled Maria Miller said PIPs would introduce face-to-face assessments and regular reviews. She said: “Under PIP, support will be focused on those who need it most, with a greater proportion getting the higher rates compared to DLA.” However, if that statement is contrasted with both the Bill itself and also the stated aims of the Westminster Government, it is shown up to be a fallacy.

In April 2011, the Westminster Government stated that their aim was to reduce spending on DLA by 20%, and in the process save in excess of £2 billion. We at the RNIB understand that the budget deficit must be reduced, but if the starting point of the debate on welfare reform is to reduce spending on disability benefit by 20%, how can that honestly be said to equate with Ms Miller’s statement that “support will be focused on those who need it most”? Inevitably, with an aim of reducing spending by 20%, some of those who need help the most in society will be deemed to “fall outside the net”, and thereby getting no support whatsoever under the proposed plans.

Looking specifically at the proposals, and in respect of blind and partially sighted people, we have the following comments:

There are a number of areas where we feel that the Department of Work and Pensions (DWP) has not properly recognised the impact of sight loss with regards to the introduction of the new disability benefit, PIP.

The DWP says it wants the assessment for PIP to consider social participation and other barriers to independent living, but across a wide range of activities it envisages blind and partially sighted people scoring zero points. Sight loss is a serious disability but in key areas the PIP assessment fails to recognise this at present.

In order to be eligible for the standard (lower) rate of PIP, a person must score 8 points. To be eligible for the enhanced (higher) rate, they need to score 12 points. In the areas discussed below, it demonstrates that blind or partially sighted people will struggle to get either rate of PIP, especially if they are motivated to maintain their independence which is what the benefit was initially designed to support.

Taking specific examples from the proposed legislation, let’s consider the case of a person who is completely blind, but has lived a relatively independent life, lives alone, uses a cane to assist in getting around and has adapted their home to allow the person in question to live as “normal” a life as possible. Let’s now cross reference that person with the criteria as laid down by the proposed legislation.

There are 9 activities within the proposed legislation which make up the daily living component on the new PIP benefit, with 2 activities comprising the mobility component. The first activity is entitled “preparing food and drink”. Using a strict interpretation on the proposed legislation, the highest score that our example individual could receive would be 2 points – “needs to use an aid or appliance to either prepare or cook a simple meal”.

Undoubtedly, this would include talking scales, liquid level indicators etc. However, we would argue that all blind and partially sighted people should automatically be entitled to 4 points as everyone requires some 'supervision' or 'assistance' to prepare or cook a simple meal. Under the interpretation in the schedule, "assistance" means physical intervention by another person. This may not be at the actual time they prepare/cook a meal but for example, they may have to ask supermarket staff to confirm the dates on food, read the instructions on how to cook it or they may have to spend more to buy pre-chopped vegetables and meat.

The second activity is entitled "taking nutrition". It is difficult to see how the person in our example would score any points under the proposed scoring system. Many blind and partially sighted people encounter extreme difficulties in partaking of nutrition, and these difficulties are not reflected in the legislation as it currently stands. We would encourage an award of points being given to any individual who has to make adaptations to their cooking facilities to enable them to cook a meal and ultimately 'take nutrition'. These adaptations could be, for example, having tactile oven temperature markers, or "speaking" measuring devices which allow an individual to know when an object is approaching its maximum capacity.

The third activity is entitled "managing therapy or monitoring a health condition". Again, it is difficult to see how someone whose "only" disability is blindness would attract any points under this head of criteria. Most people with any visual impairment would have some difficulty managing therapy. For example, not all medicine packets have their name and contents displayed in Braille, and indeed, even when that is the case, not all partially sighted people can read Braille.

Therefore many partially sighted people "fall between 2 stools" in this regard in that the identifying features on the medication are not visible or accessible to them, and, as they cannot read Braille, they have no way of ascertaining what medication they are taking. The Assembly can address this by taking a number of measures. These are 1) ensuring all medication in Northern Ireland has corresponding Braille identifiers, and 2) ensuring all medication in Northern Ireland has the capacity to come with descriptions and accompanying advice in large print where required. It would also be of great assistance to blind and partially sighted people if these factors were considered when deciding what points to award under this assessment criteria.

The fourth activity is entitled "bathing and grooming". At best, blind and partially sighted people would be able to obtain just 1 point under this aspect of the scoring system. As with cooking, many blind and partially sighted people have modified and adapted their shower or bathrooms in order to best meet their needs. This could be by way of a "speaking" temperature gauge, or having a wet room. Again, such modifications could be incorporated into the points system to make the process more accessible to blind and partially sighted people.

The fifth activity is entitled "managing toilet needs or incontinence". In our view, this aspect of the assessment criteria has been unduly simplified. Take our example of the blind person. Using a harsh and strict interpretation of these proposed rules, in the comfort and familiarity of their own home the blind person may be considered to be able to "manage toilet needs unaided".

Even if the white cane is considered "an aid", and even if the assessor deems that such assistance of a white cane is required to access the toilet, the blind person in our example would only receive the 2 points on offer for needing to "use an aid or appliance to manage toilet needs". Yet, if the same blind person is in an unfamiliar place, he or she would probably need to be escorted to the bathroom area, without being reduced to relying on assistance to actually get on to the toilet. In this scenario, depending on how the assessor viewed the situation, the maximum score the blind person could receive would be 4 points, which fails to take into account the difficulties encountered by blind and partially sighted people in these situations. We would request that the criteria and points awarded there for are amended so as to reflect these difficulties.



Activity 6 is entitled “dressing and undressing”. Again, if the “only” disability is blindness, or indeed partially sightedness, almost all such people would be able to dress and undress themselves, albeit it would take longer than it would for their fully sighted counterparts. As a result, under the proposed scoring system, they would be considered able to “dress and undress unaided” and again score 0 points. This does not take into account that most blind and partially sighted people require some form of assistance (“physical intervention by another person”) to dress. This could be help from someone to arrange their wardrobe, paying someone to iron their clothes or someone making them aware that their top is inside out or that there is a stain on their clothes. Once again, we suggest modifying the scoring criteria to take account of this reality.

Activity 7 is entitled “communicating”. The highest award a blind or partially sighted person is likely to receive under this aspect of the scoring criteria is 4 points by virtue of their needing assistance to “access written information”. The highest award in this category is 12 points. We feel that to award a maximum of only 4 points for blind and partially sighted people fails to adequately reflect the difficulties encountered by blind and partially sighted people in attempting to access, understand, assimilate and ultimately communicate and disseminate information.

Activity 8 is entitled “engaging socially”. This head of the criteria is at the heart of our concerns and we feel the requirements of, and facts of, not doing this have not been fully appreciated by the Assembly. How does one engage socially? One “gets out there” and meets people. How do blind and partially sighted people meet other people? In most cases, those said people cannot drive. So, how do they meet people? They use public transport, or, in most cases, they use taxis. How do they pay for taxis? They use the money they receive through DLA benefit. What will they most likely do if that DLA benefit is no longer available? Stay indoors on their own.

This has obviously potentially adverse consequences for wider society and the wider economy. Staying in means the people in question are not spending money in the wider economy. Staying in means they are more likely to have or develop mental health issues, which of course will need to be treated which will of course in turn cost money.

Further, such regression could in turn lead to the people in question being unable to “engage socially due to such engagement causing overwhelming psychological distress to the claimant”. As this is the very criteria used to determine receipt of the higher award under this head of assessment, it is puzzling that the effects of erroneously grouping or assessing blind or partially sighted people in this category could have the effect of making them more dependant and less able to appreciate their own sense of self esteem. We therefore urge the Assembly to change these scoring points to reflect the needs of blind and partially sighted people in a more adequate and satisfactory manner.

Activity 9 is entitled “making financial decisions”. Once again, these criteria, as they currently stand, make no consideration of the difficulties encountered by blind and partially sighted people. Essentially, if one can make any financial decision, and does not require “prompting” to do so (which appears to be a mental health issue) then 0 points will be awarded under this category. This totally excludes blind and partially sighted people who encounter frequent daily difficulties with making “simple financial decisions”.

To score 4 points in this activity, a person must “need[s] prompting to make simple financial decisions.” Under the regulations, “prompt” means remind or encourage and references to prompting are to prompting by another person. A blind or partially sighted may not require prompting to carry out “simple financial activities” i.e. (i) calculating the cost of goods; and (ii) calculating change required after a purchase;) but they most certainly require assistance to do so. Can the Assembly ensure that this activity is extended to include blind and partially sighted people as it is clearly not limited to persons with mental illness?

Moving onto the mobility activities and descriptors, activity 1 is entitled “planning and following a journey”. Once again, it is difficult to see how the blind or partially sighted person, who utilises a white cane instead of a guide dog, will attract many, if any points under this head. Band c) of activity one states that the claimant will be awarded 8 points if he or she “needs either (i) supervision, prompting or a support dog to follow a journey to an unfamiliar destination; or (ii) a journey to an unfamiliar destination to have been entirely planned by another person”

Band e) states that a claimant will be awarded 15 points if he or she “needs either (i) supervision, prompting or a support dog to follow a journey to a familiar destination; or (ii) a journey to a familiar destination to have been planned entirely by another person”

We are sure that the effect of this is not to reduce independence, but as currently drafted in our view, these descriptors exclude users of a white cane. We would therefore request that the Assembly changes these criteria to reflect this and therefore correct this anomaly by allowing white cane users the same rights as their counterparts who use the services of a guide dog.

We are also concerned with the phrase “planned entirely by another person” used in these assessment criteria. Say the blind person in our example above lives nearby a friend or relative, and knows exactly how to get to that person’s house relatively comfortably and without any assistance being required.

Having made it to that person’s house, our blind person wishes to go somewhere unfamiliar, and the friend or relative assists that blind person to get to their ultimate destination, be it by planning the journey or lending some other form of assistance. Does the fact that the blind person can get to the friend or relative’s house mean that the whole of the journey is not “planned entirely by another person”?

A (very) strict interpretation of the wording as it currently stands again could (unintentionally of course) have the effect of reducing independence and self esteem within the blind and partially sighted community. We therefore suggest consideration is given to changing the wording of these assessment criteria in order to best suit the needs of the blind and partially sighted people within our community.

Finally, activity 2 of the mobility activities and descriptors is entitled “moving around”. Band a) of this criteria states that no points will be awarded where the claimant “can move at least 200 metres either (i) unaided; or (ii) using an aid or appliance, other than a wheelchair or a motorised device” Therefore, it is unlikely that blind and partially sighted people will qualify for any points under this head of assessment. We would therefore urge the Assembly to change these scoring criteria to adequately reflect the requirements of and difficulties encountered by blind and partially sighted people in our society when striving to be mobile.

A particular concern for people who are blind or partially sighted is that due to their high use of and reliance upon taxis, once the DLA benefit is withdrawn, they will be unable to afford taxis, leaving them isolated and unable to leave their homes. This actually makes it more likely they will become dependent on state assistance, due to factors such as being unable to access work, which will increase welfare spending, but also potentially cause an increase in healthcare spending as they are treated for mental health issues.

Another potential issue is the method and identity of the assessors for the new PIP benefit. ATOS, the company tasked with making the PIP assessments, have also been contracted to carry out the assessment process to determine eligibility for Employment and Support Allowance (ESA) entitlement. They have widely been seen as interpreting the rules erroneously, and applying too draconian an interpretation of those rules when it comes to their methods of assessing people.

These concerns are evidenced by the fact that approximately 50% of appeals have been successful in respect of the initial ESA assessments. Indeed, our direct experience has

been that some ATOS Healthcare Professionals do not understand the particular needs of blind and partially sighted people, as evidenced by the number of complaints made by our constituents.

This is both costly for the Government, and unnecessarily stressful for the claimant. It would therefore be preferable if a different company was involved in Northern Ireland, but if this is not possible, then that ATOS in Northern Ireland be made expressly aware of the specific requirements of the needs of our society, and training be given accordingly.

Also, at a time of recession, with the withdrawal of DLA, a lot of money will be removed from the Northern Ireland economy (a lot of independent analysts have approximated that this figure could be £500 million) That could precipitate shops closing down, which would have a huge effect on employment and wider society in Northern Ireland, especially in rural areas.

### **Ways the Assembly can help**

In an ideal world, we would like to see the Welfare Reform Bill defeated, or at least substantially amended. However, we appreciate there are budgetary constraints which may make this impossible. Therefore, and in addition to the suggestions made above, there are a number of measures we would encourage the Assembly to introduce, which would not break the concept of parity, but would make a real and significant benefit to blind and partially sighted people living in our society.

Firstly, we could adopt the Taxicard scheme which is in existence in London, Edinburgh and Greater Manchester. This scheme operates for people with disabilities, including people who are visually impaired. The idea behind the scheme is that eligible people are allowed to make 100 subsidised journeys per year. The eligible person pays a flat fare of £1.50 per trip. Most Taxicard trips are subsidised up to £10.30 for trips during the day, £11.30 for trips at weekends, and £12.80 for trips at night.

Also, we could change the Translink Smartpass system to allow free travel on public transport to both blind and partially sighted people. At present, this is only available to those people registered as being blind. It would not cost significantly more to extend this scheme to partially sighted people, whose need is the same in this regard as that of their counterparts who are registered as being blind. It would also be helpful if training was available to Translink employees so they fully understand the requirements of blind and partially sighted people when accessing and using public transport.

One particular measure that could be adopted quickly, easily and inexpensively would be if the destinations which appear on the front of buses could be changed to make them easier to read for partially sighted people. These measures could involve the buses returning to a format where the destination is displayed in white lettering on a black background, making it easier to read. Another measure which could be adopted easily would be making the sign at the front of the bus, identifying its destination, "larger" in terms of font size at the front of the bus.

The existing 'Door to Door' transport scheme is laudable in principle, but its delivery is poor in practice. We feel the Assembly would be improving the lives of blind and partially sighted people significantly by enhancing this scheme.

The RNIB has a benefits advisor who provides an excellent service to those who require it. Unfortunately, this post is not paid for by Government or other funding. As these reforms come into effect, there will be many questions raised by blind and partially sighted people that, with the best will in the world, DSS or CAB advisors will be unable to provide accurate, specific bespoke advice for blind and partially sighted people in order to adequately meet their requirements. The RNIB's benefits officer can do this, and should that position be funded by Government it would free up valuable resources to fight sight loss within our society.

And finally we would ask the Assembly to ensure that when the changes are being communicated to our constituents that their preferred format of communication is taken into account. Blind and partially sighted people cannot see or read the information and forms that will be sent to them. RNIB are in a position to advise on how best changes to their entitlements can be communicated to individuals.

In conclusion, on 25 June 2012, in a speech at Bluewater in Kent, the Prime Minister David Cameron said *“crucially, we’re introducing proper, objective assessments, so that money goes to people who truly need it, with more for the severely disabled”* Most people in society would consider that to be blind or partially sighted is to be severely disabled, but this fact is not reflected in the proposed legislation. As MLAs, you have the power to change this for the good for the people of Northern Ireland, and to ensure that people in Northern Ireland can be unique in the United Kingdom in that for them, they will be able to bear blindness and not live in abject misery and poverty once the new legislation comes into force.

**Patrick Malone**

RNIB Campaigns Team



## Welfare Reform and Child Poverty

### Save the Children briefing - Welfare Reform Bill

October 2012

#### Introduction

In keeping with Save the Children's focus on ending child poverty in Northern Ireland this paper sets out our serious concerns about the impact of the welfare reform proposals on low income families and their children, who are experiencing increasing hardship and income inequality.

We acknowledge the budgetary constraints due to parity arrangements but we urge the need to identify policy variations commensurate with the particular circumstances of Northern Ireland. We suggest that these include the on-going paramilitary violence, high levels of mental ill-health, low wages, inadequate housing and childcare provision and high rates of unemployment and child poverty.

It should also be acknowledged that the proposals represent the biggest change to the welfare system for over sixty years. However, a Northern Ireland welfare reform bill is an opportunity to mitigate the most damaging GB proposals, retain the current exemptions and influence the Department of Work and Pension's design of an IT system fit for purpose. We offer the following comments in the hope that they will influence the shape of the legislation and forthcoming regulations.

#### Background: Scale of the Challenge

Save the Children's recent findings in the 'It Shouldn't Happen Here' report that 14 % children in poverty say they go without a winter coat and 13 % have stopped asking their parents for anything at all.<sup>1</sup> These findings help convey the reality of children's experiences of poverty in a way numbers do not. However the underlying truth is that low income and inequality matter.

In considering the impact of the proposals it is important to reiterate the extent of the problem:

#### Child Poverty Levels

Different numbers are used to express how many children are living in poverty but government and the child poverty sector tend to highlight the relative income measure, which is the number of children living in households where household income is below 60% of median income. This is known as the headline measure of child poverty. The figures are derived from the government survey – the Households Below Average Income (HBAI) dataset of the Family Resources Survey. The latest figures show that 21% of children in Northern Ireland were living in relative poverty in 2010/11.<sup>2</sup>

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1 Whitham, G., It shouldn't happen here, Save the Children, September 2012, available at: [http://www.savethechildren.org.uk/sites/default/files/documents/child\\_poverty\\_2012.pdf](http://www.savethechildren.org.uk/sites/default/files/documents/child_poverty_2012.pdf)

2 NISRA, 'Poverty in Northern Ireland: 2010/11', available at: [http://www.dsdni.gov.uk/ni\\_poverty\\_bulletin\\_2010-11\\_\\_release\\_document\\_.pdf](http://www.dsdni.gov.uk/ni_poverty_bulletin_2010-11__release_document_.pdf)

In Northern Ireland, 21% of children live in persistent child poverty, which is more than double the GB rate.<sup>3</sup> More than 12%, or approximately 50,000 children, live in severe poverty.<sup>4</sup>

### **In-Work Poverty**

Approximately half of children living in relative poverty are in families where one parent is working.

It is well known that Northern Ireland is a low wage economy with median earnings for all employees standing at £18,720 – some 10.9% lower than the UK's £21,008, according to the 2011 Annual Survey of Hours and Earnings. There has been an increase in part-time jobs at the expense of full-time work with the median gross weekly part-time earnings £151.6.<sup>5</sup>

### **Unemployment**

The unemployment rate for the period May – July 2012 was estimated at 8.2% or 71,000, up 10,000 over the quarter. Unadjusted figures show that 45.5% of the unemployed have been unemployed for 1 year or more. The figures represent a rise of almost 20,000 since 2009, with the Northern Ireland jobless level moving above the UK average.

They also estimate the unemployment rate for 18-24 year olds at 23.5% – up 5.2 percentage points over the year.<sup>6</sup>

### **Rising Cost of Living**

These cuts are happening at the same as higher living costs, with utility bills in Northern Ireland up by £800 and the average cost of a shopping basket up by 18% since 2008. It is calculated that an average household in Northern Ireland will need to spend an extra £3,500 just to pay the bills compared to four years ago, thus threatening to push more children into poverty.<sup>7</sup>

### **Rising Income Inequality**

Income inequality is predicted to increase by 2020 across the UK. According to the recent Resolution Foundation report, living standards for working age households in 2020 are likely to be substantially lower for those in the bottom distribution, with modelling suggesting a decline in real terms income of around 19% for households reliant on benefits.<sup>8</sup> Only higher income households see income growth for the decade ahead. It is to be noted that these forecasts are based on modest growth and assume no further cuts to welfare spending.

The report suggests that several factors account for the stark figures, including a loss of middle level jobs and the planned indexation of benefits to the Consumer Price Index rather than the Retail Prices Index measure of inflation, which will result in a lower standard of living for many households, especially those with children.

Predictions suggest child poverty levels could soar to 34% unless there is progressive intervention.

3 Monteith, M., Lloyd, K., McKee, P. Persistent Child Poverty in Northern Ireland. Save the Children, ARK and ESCR, 2008

4 Delivering Change for Children, Save the Children, June 2012

5 NISRA, Monthly Labour Market Report, Department of Finance and Personnel, September 2012, available at: [http://www.detini.gov.uk/labour\\_market\\_report\\_-\\_september\\_2012\\_\\_final\\_.pdf](http://www.detini.gov.uk/labour_market_report_-_september_2012__final_.pdf)

6 NISRA, Monthly Labour Market Report, Department of Finance and Personnel, September 2012, available at: [http://www.detini.gov.uk/labour\\_market\\_report\\_-\\_september\\_2012\\_\\_final\\_.pdf](http://www.detini.gov.uk/labour_market_report_-_september_2012__final_.pdf)

7 McNeilly, C., 'Revealed: how weekly grocery bills have soared in four years', Belfast Telegraph, 22 August 2012, available at: [www.belfasttelegraph.co.uk/news/local-national/northern-ireland/revealed-how-weekly-grocery-bills-have-soared-in-four-years-16200579.html](http://www.belfasttelegraph.co.uk/news/local-national/northern-ireland/revealed-how-weekly-grocery-bills-have-soared-in-four-years-16200579.html)

8 Resolution Foundation, Who Gains from Growth? Living standards in 2020, September 2012



### **Budget and Welfare Cuts**

The 2010 emergency June budget and the October Comprehensive Spending Review (CSR) made a number of changes to welfare benefit, adding to those already announced by the previous government. By 2014-15, it is estimated that spending on benefits across the UK will be £18b less than it is now (in cash terms). The loss to Northern Ireland's benefit recipients will be more than £600m per year by 2014-15.<sup>9</sup>

Moreover, the June 2010 budget and October CSR reduced the block grant to NI by almost £4b, with anticipated heavy job losses in the public sector. Significantly more women in Northern Ireland are employed in low-paid public sector jobs. As such, women will bear the brunt of these public spending cuts, with subsequent devastating impact on the life chances of their children.

The Institute of Fiscal Studies (IFS) established that after London, Northern Ireland will be hardest hit by the impact of tax and benefits changes planned up to 2014-2015. In a report commissioned by the Law Centre NI, the IFS attributed this to two reasons: the high numbers of those in receipt of DLA, especially for mental health disorders, and the high number of families with children who will be adversely affected by cuts to social security.<sup>10</sup>

It is proposed that Universal Credit will be paid monthly as a single payment to one household member designated as 'main applicant', with findings that this will be the man in most families. As well as setting back women's economic independence by generations, the proposal is likely to lead to less money being spent on children. Evidence shows that more money is spent on children via the 'purse' compared to money spent from the 'wallet', particularly in low income households.<sup>11</sup>

### **Government Obligations**

The scale of the challenge would suggest that urgent action is required by the Executive, which has a number of obligations to protect the welfare and best interests of children.

Ministers have a statutory obligation to meet the targets set by the Child Poverty Act 2010, which are reiterated in the Programme for Government 2011-15. The Executive has also agreed the need for an outcomes-based child poverty action plan and an overarching Delivering Social Change framework across all departments. Further, the right to an adequate standard of living is enshrined in the UNCRC.

### **Save the Children's Concerns and Recommendations:**

We know that families are feeling the strain of financial hardship and that children are worried about these pressures. We recommend the following as opportunities to mitigate this hardship for the most vulnerable children in our society and to fulfil the obligations under the UNCRC and the Child Poverty Act. We argue that the operational flexibilities suggested below can only happen if DWP and HMRC are pressed to design a multi layered IT system.

### **Making Work Pay?**

It is time to challenge the argument that these reforms will make work pay and that people will always be better off in work.

Modelling work carried out on behalf of Save the Children shows that Universal Credit could have negative impacts on work incentives for many low-income families, especially lone

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9 Tomlinson, M. and Kelly, G. Response to Northern Ireland's draft budget, Poverty and Social Exclusion in the UK Project, 2011

10 Browne, J. The Impact of tax and benefit reforms to be introduced between 2010-11 and 2014-15 in Northern Ireland, IFS Briefing Note 114, December 2010

11 McKay, A., Thomson, E., and Ross, S. Child Poverty and Mothers' Employment Patterns, Women in Scotland's Economy Research Centre and Save the Children Scotland, September 2012

parents working over 16 hours and second earners.<sup>12</sup> The UK government's own impact assessment concludes that 2 million households (including 1.1million with children) will have lower entitlements.<sup>13</sup>

Save the Children research found that most single parents working 16 hours or more a week will be worse off. A single parent with two children, working full-time on or around the minimum wage, could be as much as £2,500 a year worse off under the new system.<sup>14</sup>

The UK government acknowledged that under Universal Credit couple households will have one shared earnings disregard, resulting in second earners' universal credit payments reducing as soon as they start working. This will weaken work incentives for many second earners and lead to fewer women moving into work. This has potential negative consequences for child poverty because the risk of poverty is reduced by both parents being in work.

The other side of the equation is the importance of work that pays in the first place. It is known that approximately half of all children in poverty live in families where one parent is working, due to the low wage economy and rising income inequality.

We would highlight the strong correlation between child poverty levels and women's employment and income; as a result of recession and austerity measures, women's position in the labour market and their income are decreasing.

We recommend that the Executive:

- Identify the number of Northern Ireland children who will be affected by the lower entitlements
- Press the UK Government for a reduced taper rate and sufficient earnings disregards for second earners so that more working mothers and lone parents see the material benefit of work.
- Incorporate learning from Ofmdfm's mini-job child poverty reduction initiative about the earnings disregard, childcare and other barriers to employment.
- Encourage better pay for low income earners and do considerably more to reduce the barriers to making work pay, especially for mothers.

## Childcare

Access to affordable, good quality childcare is a key element in a parent's decision to take up and remain in work. The success of Universal Credit in Northern Ireland in meeting the stated aim to make work pay will depend on the provision of adequate, affordable and quality childcare – which should therefore be considered an economic priority.

At the moment, Families in Northern Ireland are paying 45% of their income for childcare for one child, which is the highest amount in Europe.<sup>15</sup> Until recently, low –income working parents could claim support for up to 80% of childcare costs through the childcare element of working tax credit. This was cut to 70% from April 2011, resulting in some families losing as much as £1500 a year. Save the Children research shows that many low income mothers are considering leaving work because they can't afford childcare.<sup>16</sup>

12 Whitham G., Ending Child Poverty: Ensuring Universal Credit supports working mums, Save the Children, 2012

13 Department for Work and Pensions, Welfare Reform Bill Universal Credit: Equality impact assessment, November 2011, available at: <http://dwp.gov.uk/docs/eia-universal-credit-wr2011.pdf>

14 Whitham G., Ending Child Poverty: Ensuring Universal Credit supports working mums, Save the Children, 2012

15 Employers for Childcare, Northern Ireland Childcare Survey 2011, <http://www.employersforchildcare.org/report/archive/2011>

16 Whitham, G. 'Ending Child Poverty, Ensuring Universal Credit supports working mums', Save the Children 2012

We therefore ask two things:

- for a progress report on the childcare strategy;
- for consideration of support with childcare costs.

For example, the Executive could cost the option of restoring the 10% cut to childcare tax credit within Northern Ireland and budget to meet this shortfall to cover a minimum 80% of childcare costs for all low-income mothers. Perhaps the Social Protection Fund could support this cost.

### **Lone Parents**

The current GB welfare provisions impose greater conditionality on lone parents, with the possibility of punitive sanctions, including the withdrawal of benefits from 3 months to 3 years. Previous welfare reforms applied in GB were not transferred to Northern Ireland because an adequate childcare infrastructure does not exist. For example, compared to every fortnight in GB, lone parents in Northern Ireland currently sign on for work-focused interviews every 13 weeks.

Given the lack of progress in childcare provision since these exemptions were made, we ask:

- The Executive should not transfer additional conditionality and sanctions to lone parents in Northern Ireland without ensuring childcare provision and support is available.

### **Housing**

Northern Ireland's history of direct payment of housing benefit to landlords assists tenants to remain current in payments, even during periods of financial strain. This system supports families and their children as well as the landlords who receive consistent payment. We would also point to the apparent contradiction between two competing priorities – between the need for housing associations to build more social housing and the control of housing benefit levels which will reduce the amount of investment.

A £30m allocation for discretionary housing payments to foster carers and families with a disabled child was recently announced by the Coalition Government. Clarity is required about whether and how similar discretionary housing payments could be developed in Northern Ireland.

### **Save the Children recommends:**

Retention of the facility of direct payments of the housing benefit element of universal credit to landlords.

Social housing deemed to be under-occupied, but has children living there, should be exempt from a reduction in housing benefit.

Households with children should be exempt from moving to cheaper housing until it is clear that suitable properties are available in the thirtieth percentile of rents. Northern Ireland Housing Executive Stock contains a large proportion of homes which are three bedrooms or more and remain significantly single identity estates.

### **Discretionary Support Policy**

Save the Children research shows that due to lack of access to affordable credit, low income families pay more for their basic goods and services than better-off families, with the calculation that this annual 'poverty premium' amounted to more than £1280 in 2010.

In light of added pressures since 2010 due to job losses, rising costs and the transition to universal credit, Save the Children shares the concerns of others in the sector that the funding will be inadequate to meet the level of need.

Under the proposed Discretionary Support Policy, the Social Fund's crisis loans and community care grants will no longer be treated as 'social security' and their reform will result in the development of a new fund, representing a transfer from Annually Managed Expenditure to the block grant. The proposed policy will also include the Discretionary Housing Payments (DHPs) that are currently delivered through the housing benefit system.

These funds have provided a much needed source of help for families with no access to other loans or credit. DSD research shows the extent of demand – 2010/11 saw 48,000 applications for Community Care Grants totalling £13.75m and 159,000 applications for Crisis Loans totalling £16.41m. More than half of the awards of Community Care Grants are to lone parents. Discretionary housing payment amounts to approximately £3m a year.

We therefore recommend clarity about:

- the budget allocation from the Coalition Government given the need for additional funding for set-up and administration costs.
- the role of the Social Protection Fund.
- ring-fencing the new fund's budget allocation and the separation of the housing element.
- an appropriate appeals process.

We recommend further that:

- DSD take the opportunity to link the replacement scheme to the financial inclusion strategy and reform of credit unions to ensure a more holistic approach to advice services, benefit uptake and access to financial services.
- DSD make the link between the early warning signs provided by applications to emergency payments and the continuum of support available from other agencies including the Children and Young People's Strategic Partnership and the Social Investment steering groups.

### **Disability**

There is a higher incidence of disability in NI than anywhere else in the UK, with 21% of adults and 6% of children having a disability here.<sup>17</sup> Given this higher number, it is accepted that these changes to the welfare system will affect disabled people here disproportionately.

Research shows that disabled children and children with disabled parents are more likely to be severely poor and more at risk of persistent poverty.<sup>18</sup> Furthermore, child poverty rates are underestimated by up to 3% due to the lack of recognition of the cost of disability in the current HBAI survey methodology. The cost of bringing up a disabled child is estimated as being at least three times as much as bringing up a non-disabled child.

The NI Commissioner for Children and Young People (NICCY) has recommended the establishment of an expert group to examine the work capability and Personal Independence Payment (PIP) assessments in order to take into account the particular issues of a region emerging from conflict where the high levels of mental ill health are severely exacerbated by PTSD.<sup>19</sup>

Under the current system, families who are on a low income or out of work and who have a child in receipt of Disability Living Allowance (DLA) are entitled to a 'disability addition' worth £53.62 per week. Families with a child in receipt of the high rate care component of DLA also receive a 'top up addition' worth an additional £21 per week. Under the new system, most families will receive an addition worth less than 50% the current rate, although some severely

17 DHSSPS, Physical and Sensory Disability Strategy and Action Plan 2012 – 2015, DHSSPS, 2012

18 Monteith, M., Casement, E., Lloyd, K., McKee, P. Taking a closer look; child poverty and disability. ARK, Family Fund and Save the Children, 2009

19 Horgan, G., Monteith, M. Welfare Reform Making Children Visible, NICCY, 2012

disabled children will avoid this cut. The changes are likely to cost families up to £1366 a year.

Save the Children recommends:

- The NI Executive should take every step to explore opportunities to introduce protective measures that will mitigate the impacts of welfare reform on disabled children.

### **Best Interests of the Child in Universal Credit**

We suggest that the best interest of the child principle should be the organising principle for assessing policy variations and on this basis we suggest the following:

- Designate the person with main caring responsibilities as the main applicant for universal credit.
- Provide choice of payment method rather than enforced monthly payment. While we welcome the recent statement by the Secretary of State that fortnightly benefit payments will continue for some claimants, we would argue that this should be a matter of choice for all.
- Retain existing exemptions that protect lone parents' children from the obligation on their parents to undertake employment or work-related tasks that are not in the best interests of the child.

### **Establish an Expert Working Group**

We have recommended exceptions in payment frequency, exemptions for lone parents and for certain groups in housing provision. We share the concern of many in the sector that the transition to on-line applications represents a fundamental problem with the design of universal credit - due to lack of broadband in many rural areas and the limited access of low income families to the internet across Northern Ireland. In light of the NICCY suggestion to establish an expert group to examine the PIP assessments in order to take into account the particular circumstances of a country emerging from conflict where the high level of mental ill health are exacerbated by PTSD, we suggest that this group should be expanded to examine the additional recommendations above.

### **Demonstrate how the proposals contribute to ending child poverty**

As a first step the draft legislation and forthcoming regulations should be assessed against the obligations under the UNCRC and Child Poverty Act, including how departmental decisions will contribute to improving outcomes for children and ending child poverty by 2020. These decisions incorporate funding allocations and spending and we would argue that they must include the Social Investment and Social Protection Funds, as well as the Discretionary Support Policy and forthcoming decisions on passported benefits and rates rebates.

### **Communication strategy**

Given the significance and depth of change to the circumstances of the most vulnerable in our society, we call on the Executive to develop and initiate a robust communication strategy for the public. DSD should begin to communicate accurate details about the proposals in order to provide meaningful information and prepare claimants for the biggest change to the welfare state in 60 years.

### **Conclusion**

We call for government to retain its commitment to the best interests of the child, as established in the UN Convention on the Rights of the Child, to the Child Poverty Act 2010 targets, to encourage employers to pay the living wage, to let parents keep more money before benefits are withdrawn and to provide help with childcare and living costs for low-earners. Despite the sheer scale of the challenge, we argue that it can be done – 89

constituencies in UK have already met the headline target for 2020 by having child poverty rates of 10% or lower.<sup>20</sup>

The economic meltdown was not caused by the poorest families and their children – growing consensus agrees that it was caused by the huge increase in income inequality. It is a scandal that they are being asked to bear the brunt of austerity cuts and the recession. There is further consensus that the financial shock has led to private, corporate and public deleveraging with a resulting lack of demand which is holding back economic recovery. This points to the ‘business case’ for providing low income families with additional financial support which they are more inclined to spend locally. This in turn will help kickstart the economy and create the foundations of a more equal and cohesive society.

All the research shows that unequal societies are likely to lead to more social distress, social unrest, ill health and economic decline. It took a lot of effort to end the most recent Troubles – the Assembly must make the effort commensurate with the challenge to ensure they never happen again. We suggest priority must be given to boosting benefits and low wages, improving skills and raising women’s employment.

**For further information:**

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Save the Children



## Welfare Reform Bill

### **Save the Children Submission to the Committee for Social Development**

October 2012

#### **Introduction**

The purpose of this paper is to suggest amendments to the Welfare Reform Bill from a child poverty perspective. We recommend that they be read in conjunction with the Welfare Reform Group's paper to which we have contributed and also with Save the Children's briefing paper for the 2nd reading of the bill. Please find enclosed.

#### **Save the Children's summary positions on the Welfare Reform Bill**

The time may have passed for consideration of the principles of the bill but we would urge that certain principles are key during its passage through the committee stage:

Meeting the UNCRC obligations and commitments to end child poverty by 2020 entails access to adequate resources and services – otherwise child poverty levels are predicted to rise to 34% by 2020.

In any decisions about social protection, the best interests of the child need to be a primary consideration.

The economic crisis was not caused by the poorest and most vulnerable in our society, and they must be protected from benefit reductions. Existing benefits are set below the poverty threshold.

The stated aim of universal credit - that it will make work pay for all claimants - should be challenged. Many working women in couples, lone parents, part-time workers and disabled people will be worse off.

Rising income inequality was a major cause of the economic crisis which is being sustained by loss of confidence and demand. This points to the 'business case' for providing low income families with additional financial support, which they are more inclined to spend locally, thereby stimulating economic revival.

With about half of low income children living in families where one parent is working, there must be a focus on decent jobs that pay in the first place. We would highlight the strong correlation between child poverty levels and women's employment and income.

The success of universal credit in meeting the aim of making work pay will depend on the provision of adequate childcare - which should therefore be considered an economic priority.

In view of the lack of adequate childcare and emerging contradictory regulations, we suggest a pilot in Northern Ireland. This would also provide time to trial the IT system, consider the regulations in more detail, assess the human rights and equality implications, undertake a communications strategy and consider other important concerns, including the future of free school meals which do not feature in the proposals.

The committee must be allowed to play its full role in scrutinising the Executive. We urge it to ask for a timetable for publishing the regulations, to seek extension of the confirmatory procedure to more regulations and the ability to use the affirmative resolution procedure.

## Suggested amendments for the committee's consideration

### **Equality and human rights compatibility**

This legislation represents the greatest change to the welfare state in more than 60 years, with major negative impacts on the poorest members of society. As such, we urge the committee to seek an equality and human rights assessment of the proposed legislation, either by the NIHRC or by committee in a manner similar to the role performed by the JCHR at Westminster.

### **Clauses 1-4 - Universal Credit**

To advance children's best interest, an amendment should specify that the main applicant should be the individual with primary caring responsibility.

### **Clause 5 – Financial conditions**

The extension of the savings rule will impact negatively on saving for a pension or mortgage deposit and will have a negative impact on the working poor and work incentives. We ask the committee to challenge this change.

### **Clause 7 – Basis of awards**

An amendment should specify that regulations will provide for choice of payment frequency.

### **Clause 11 - Housing Costs**

We seek an amendment to provide retention of the direct payment of the housing benefit element of universal credit to landlords.

Social housing deemed to be under-occupied, but with children living there, should be exempt from a reduction in housing benefit. This exemption would help protect families with foster children and disabled children who have adapted properties and need the extra space.

Households with children should be exempt from moving to cheaper housing until adequate provision of suitable properties.

### **Clause 12 - Other particular needs or circumstances**

We suggest that this clause should include 'the fact that a claimant has responsibility for children'.

### **Clauses 15-27 - Work-related requirements and sanctions**

Please find below our concerns about emerging contradictions:

At the moment claimants in part-time work on tax credits are not expected to seek additional work. But according to GB regulations, it would appear that benefits will be cut from those in work if they do not meet an earnings threshold equal to minimum wage rates for a 35 hour week. They will be expected to earn more from working extra hours, getting better pay or an additional job.

This runs counter to last year's extension of childcare support to those working in 'short hours jobs' when the Coalition government announced that universal credit will provide childcare funding for parents who are currently eligible for the childcare element of working tax credit and those working less than 16 hours a week.

On the other hand, modelling work carried out on behalf of Save the Children shows that universal credit could have negative impacts on work incentives for many low-income families, especially lone parents working more than 16 hours per week and second earners.<sup>1</sup>

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Whitham G., Ending Child Poverty: Ensuring Universal Credit supports working mums, Save the Children, 2012

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The research found that most single parents working 16 hours or more a week will be worse off. A single parent with two children, working full-time on or around the minimum wage, could be as much as £2,500 a year worse off under the new system.<sup>2</sup>

Lone parents are currently exempt from certain previous welfare reforms applied in GB. For example, compared to every fortnight in GB, lone parents in Northern Ireland currently sign on for work-focused interviews every 13 weeks. The Jobseeker's Allowance (Lone Parents) (Availability for Work) Regulations (Northern Ireland) 2010 provide a guarantee that lone parents with a youngest child of 12 or under who receive a jobseeker's allowance will have the right to restrict their availability for work to their children's school hours. They augment other flexibilities which 'hope to strike a balance between the requirements on parents to undertake work or work-related activities and the need for children to be raised in a secure environment with an involved parent or parents.'<sup>3</sup>

The other flexibilities include the ability of lone parents to limit their availability for work to a minimum of 16 hours a week, to refuse a job or leave employment if childcare is not available and the requirement on personal advisers to take the well-being of any child into account when drawing up a jobseeker's agreement.

We recommend that given the lack of progress in childcare provision and the lack of employment opportunities, these exemptions should be retained and the new conditionality regime should not be applied to Northern Ireland.

Sanctions include suspension of benefit payments for up to three years. A regulation must provide for exemption where the claimant does not have access to adequate childcare.

#### **Clause 42 - Pilot schemes**

In light of the scale of the cuts and the extent of confusion, we recommend that the committee presses for a pilot in Northern Ireland. It would also represent an opportunity to trial the IT system and provide time for a proper impact assessment and communications strategy.

#### **Clause 44 - Assembly Control**

This clause details the regulation-making procedures including negative and confirmatory resolution. The bill is essentially enabling legislation with the major opportunity for policy variation available in the regulation-making phase – however confirmatory procedure means that scrutiny will only be available after the regulations are laid.

We recommend that amendments seek a departmental timetable for publishing the regulations, the power of affirmative resolution to enhance scrutiny and extension of the list of regulations to be subject to confirmatory resolution.

#### **Clause 69 - Housing benefit – determination of appropriate maximum**

As above at clause 11, we recommend an amendment to ensure the following:

Social housing deemed to be under-occupied, but with children living there, should be exempt from a reduction in housing benefit. This exemption would help protect families with foster children and disabled children who have adapted properties and need the extra space.

Households with children should be exempt from moving to cheaper housing until adequate provision of suitable properties.

<sup>2</sup> Whitham G., Ending Child Poverty: Ensuring Universal Credit supports working mums, Save the Children, 2012

<sup>3</sup> Executive Committee Business, That the Jobseeker's Allowance (Lone Parents) (Availability for Work) Regulations (Northern Ireland) 2010 be approved. <http://archive.niassembly.gov.uk/record/reports2010/100913.htm#a13>

### **Clause 70 - Social Fund**

Under the proposed Discretionary Support Policy, the Social Fund's crisis loans and community care grants will no longer be treated as 'social security' and their reform will result in the development of a new fund, representing a transfer from Annually Managed Expenditure to the block grant. The proposed policy will also include the Discretionary Housing Payments (DHPs) that are currently delivered through the housing benefit system.

These funds have provided a much needed source of help for families with no access to other loans or credit. DSD research shows the extent of demand – 2010/11 saw 48,000 applications for Community Care Grants totalling £13.75m and 159,000 applications for Crisis Loans totalling £16.41m. More than half of the awards of Community Care Grants are to lone parents. Discretionary housing payment amounts to approximately £3m a year.

We suggest amendments which specify forthcoming regulations about the payment amount, eligibility criteria and an appropriate appeals process should be subject to confirmatory or affirmative resolution.

### **Clause 76 - Personal independence payment**

In light of the increased risk of severe and persistent poverty for disabled children and children with disabled parents, it is vital that regulations provide adequate protection.

As at clause 11, social housing deemed to be under-occupied, but with children living there, should be exempt from a reduction in housing benefit. This exemption would help protect families with disabled children who have adapted properties and need the extra space.

Regulations should also provide for adequate independent advice and appeals as well as monitoring and evaluation.

### **Clause 95 - Benefit Cap**

A cap will be introduced on the total amount of benefit working age claimants can receive. Save the Children is opposed in principle to the cap which takes no account of variations in rent levels, or household size, and is likely to increase both homelessness and child poverty.

Therefore we suggest amendments:

to specify that child benefit and the child tax credit/child element of universal credit should be removed from the cap.

to provide for an exemption from the application of the benefit cap for individuals or a couple who have been accepted as homeless and in priority need or who would be threatened with homelessness and in priority need by the Housing Executive, as a result of the benefit cap.

### **Clause 99 - Payments**

Please see Clause 1-4 amendment which recommends that the main applicant should be the individual with primary caring responsibility.

### **Clause 101 - Power to require consideration of revision before appeal**

Clause 101 (3A) states that regulations may provide for right of appeal only if the department has considered whether to revise the decision. We recommend an amendment to ensure an effective appeals system that would provide fast reconsideration by a different decision-maker and adequate appeals hearings, with the right to independent advice and support.

**Clause 113 - Benefit Offences: period of sanction**

Due regard must be given to the impact of sanctions on dependent children – especially the most extreme proposal to suspend benefit payments for up to 3 years. Government is obliged by Article 3 of the UN Convention on the Rights of the Child to ensure the best interests of children are a primary consideration in all matters affecting children.

**Clause 121 - Child Support Maintenance**

Given the disproportionately high rates of child poverty in Northern Ireland, it is important that no family living on or below the poverty threshold has to sacrifice a single penny of child maintenance to pay for administrative charges. We seek an amendment to prevent introduction of this charge.

**Clause 130 - Rate relief schemes: application of housing benefit law**

We recommend an amendment to ensure any regulation provides protection for low income families with children.

**Conclusion**

We urge the need for a pilot to gauge the impact of the proposed changes on low income households, especially families with children. This should be followed by a commitment to ensure proper monitoring and evaluation. We suggest an annual report to the Assembly with the opportunity for debate in the plenary and committee.

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# ENDING CHILD POVERTY

Ensuring Universal Credit  
supports working mums



**Save the Children**



Save the Children works in more than 120 countries.  
We save children's lives. We fight for their rights.  
We help them fulfil their potential.

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Published by  
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First published 2012

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Cover photo: Sean, aged two, and Ayisha, aged one, live near Glasgow with their mum, Ashleigh. Ashleigh longs to get a job and has been doing a course to improve her prospects, but childcare costs are a big barrier. "I find it difficult to buy things for the children on my benefit. That makes me feel gutted," she says. (Photo: Laura Pannack/ Save the Children)

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# INTRODUCTION

The design of Universal Credit should result in improved work incentives and boosts in income for many working families but lack of funding threatens to weaken its impact on child poverty and supporting women into work. New research compiled for Save the Children shows that single parents working longer hours (16 hours or more) on low pay and some second earners will be substantially worse off under the new system. This has serious consequences for children in these families. The impact on single parents alone could push 250,000 children deeper into poverty.<sup>1</sup> We are calling for extra funding for Universal Credit to help all parents maximise their income through work, so that they can lift themselves and their children out of poverty.

The government's own impact assessment concludes that 2.8 million households will have higher entitlements under Universal Credit, the new welfare system due to replace tax credits and most benefits from 2013. There will be no change for 2 million households, and 2 million households (including 1.1 million with children) will have lower entitlements.<sup>2</sup> We estimate that the proposals could push 150,000 working single parents already living below the poverty line deeper into poverty, affecting 250,000 children. A single parent with two children, working full-time on or around the minimum wage, could be as much as £2,500 a year worse off under the new system. Moreover, Universal Credit favours single-earner couples at the expense of couples where both parents work part-time on a low-income.<sup>3</sup> A typical low-income couple with three children, where one parent works 24 hours a week and the other works a few hours, could lose as much as £1,800 a year (£35 a week). Some mothers wanting to move into work, from families where the father is the main breadwinner, will find their incentive to work reduced under the new system.

These changes come at a time when working mothers are already struggling. In April 2011, the amount of support low-income working parents could claim for

childcare costs fell from 80% to 70%, making half a million families worse off by more than £500 a year on average.<sup>4</sup> Employment rates for women have fallen considerably since the recession began in 2008. Across the country, more than 1 million women are now unemployed, up from 700,000 in September 2008,<sup>5</sup> with a further 1.3 million women classed as economically inactive (as opposed to counted as being unemployed) but wanting a job.<sup>6</sup>

Save the Children believes the welfare system should help all parents to work their way out of poverty. In developed nations, there are clear links between higher rates of women's employment and lower rates of child poverty. For example, in Sweden, the maternal employment rates are among the highest in the EU, and child poverty rates are among the lowest. The UK has much lower rates of maternal employment and a much higher rate of child poverty.<sup>7</sup> With rising levels of child poverty, it is crucial that mothers are able to maximise their income through work. Universal Credit has the potential to ensure that work becomes a route out of poverty for more families, but only if mothers are given more help to find work and stay in work. We are calling on the government to:

- provide sufficient earnings disregards (this is the amount someone can earn before they start having their benefits or tax credits withdrawn) for working mothers so that second earners and single parents keep more of their earnings
- cover a minimum of 80% of childcare costs for all low-income working parents up to proposed monthly maximums
- commit to introducing a more generous taper rate (the rate at which the benefit is reduced as earnings increase: the current proposal is set at 65%). The taper rate should be reviewed, and if possible reduced annually to reach 55% within a clear timescale.

Failure to introduce these reforms will result in a major missed opportunity for government to boost the incomes of working families, drive down child poverty, and boost the employment prospects of hundreds of thousands of mothers who want to work.

# ABOUT UNIVERSAL CREDIT

## PROS AND CONS OF UNIVERSAL CREDIT

The impact of Universal Credit on family incomes will be complex and will vary by family type and size, and by housing and childcare costs. Many low-income working families will benefit from increased incomes and better work incentives, and we welcome this much-needed extra support. However, under this topline picture, there are worrying exceptions, with some hard-working parents – especially mothers – being hit hard by the proposals.

Universal Credit will combine the current benefits and tax credit systems into one system.<sup>8</sup> The distinction between being in and out of work (and the Working Tax Credit hours rule) will be removed. People will start to move on to Universal Credit in 2013, but it will be a number of years (2017) before everyone is moved on to the new system. It is expected that Universal Credit will significantly increase take-up of benefits because it will be less complex and will automatically respond to changes in household income. This should require less reporting of changed circumstances by claimants and less administration, resulting in fewer errors.

## WORK INCENTIVES UNDER UNIVERSAL CREDIT

Under the present system, as people earn more, their benefit and tax credit payments are reduced (sometimes at very high rates). Under Universal Credit, this reduction in support will be smoother. In that sense, it should be easier for people to understand the amount they are entitled to if they move into work or increase the number of hours they work, and it means they are less likely to experience sharp and sudden drops in benefit payments. However, under the current proposals for Universal Credit, for some people working 16 hours a week or more, it will be less generous than the current system.

## CASH PROTECTION

The government has said it will ensure that no one is worse off under the new system in cash terms (this is not inflation linked, so the amount received by families will reduce in real terms) by making extra payments to those whose entitlement under Universal Credit is lower than under the current system (it is assumed this includes help with childcare costs). However, this protection will only be provided to current claimants and for a time-limited period. Details of cash protection have yet to be fully set out. If claimants' circumstances change (and the government is yet to define what this means), then they may lose this protection. New claimants will not be entitled to cash protection.

## IMPACT ON CHILD POVERTY

The government claims that Universal Credit will lift around 350,000 children out of poverty.<sup>9</sup> This is largely because of expected increases in benefit take-up. Universal Credit is designed to be simpler to understand and require less reporting of information by claimants. It is therefore reasonable to expect increased levels of benefit take-up. However, this positive impact is more than outweighed by the negative impact of other government welfare reforms (in particular, the change in the way benefits are uprated, ie, increased from the previous year's rates). As a result, it has been forecast that by 2020/21, a further 800,000 children will be living in poverty, despite the positive impact of Universal Credit.<sup>10</sup> The government argues that Universal Credit will result in "behavioural change" and that, because it incentivises households to move into work and increase their earnings through work, it will actually lift many more than the estimated 350,000 children out of poverty. However, modelling work carried out on behalf of Save the Children shows that Universal Credit could have negative as well as positive impacts on work incentives for low-income families.

# WHY SOME WORKING MOTHERS BELOW THE POVERTY LINE ARE LIKELY TO LOSE OUT

Lack of adequate funding for Universal Credit risks undermining the positive impact it could have on supporting parents into work and reducing child poverty. We have identified three key issues that need to be addressed if Universal Credit is to deliver on protecting incomes and boosting work incentives for parents, particularly mothers. Below, we describe these three issues and suggest possible solutions.

## 1. INSUFFICIENT EARNINGS DISREGARDS FOR WORKING MOTHERS

An earnings disregard is the amount someone can earn before they have their benefits withdrawn. One of the main criticisms of the current system is that people begin to lose benefits very quickly when they reach this point. Universal Credit offers more generous earnings disregards than the current system. However, the proposals as they stand will disadvantage single parents working 16 hours or more a week and second earners in low-income couple families.

### a) Single parents working longer hours

Although Universal Credit should boost the incomes of single parents working less than 16 hours a week, many single parents working 16 hours or more a week will be worse off. This is largely the result of the higher earnings disregards in Working Tax Credit and Housing Benefit. For example, single parents working 30 hours a week or more currently have a higher personal allowance in the Working Tax Credit (£92.07) compared with Universal Credit (£74.16).

In some instances, single-parent families will be pushed into poverty by the new system. Single-parent families already in poverty will be pushed deeper into poverty. There are around 150,000 single parents working 16 hours or more a week who are already living in poverty.

### What is the solution?

Increasing the earnings disregard for single parents by at least 20% could help ensure that full-time work remains an option for many. Raising the earnings disregard for single parents would specifically target working single-parent families and also boost work incentives for single parents who are out of work or working fewer hours. There are more than 1 million working single parents in the UK, many of whom would benefit directly from this reform. This includes an estimated 150,000 single parents working 16 hours or more a week who are already in poverty.

### b) Second earners in low-income couple families

Under Universal Credit, couple households will have one shared earnings disregard. This will, in effect, be used up by the main earner, meaning that second earners will find their Universal Credit payments are reduced as soon as they start earning. This may act as a disincentive to second earners – usually women – moving into employment (particularly into part-time work), as shown in example 3. In some cases, it will mean those second earners already in work are worse off, as example 4 shows.

Research into Universal Credit has found that it is likely to weaken work incentives for some second earners in couples.<sup>11</sup> If it results in fewer women moving into work, then this has potential negative consequences for child poverty. Both parents being in work also reduces the risk of the family falling

**EXAMPLE 1: FULL-TIME WORKING MUM EARNING MINIMUM WAGE<sup>12</sup>**

Janine is a single parent with three children. She works full-time on the minimum wage. She has average housing costs. Under the current system, Janine and her family are well above the poverty line. Although full-time work doesn't suit all single parents, it works for Janine.

Under the current system, full-time work represents a genuine route out of poverty for Janine, but this won't be the case under Universal Credit. Her income will drop by £67 a week (£3,484 a year) once cash protection runs out, pushing her and her children into poverty. Janine will be worse off largely because the earnings disregard (the amount someone can earn before benefits start to be withdrawn) is more generous under the current Working Tax Credit than under the proposed Universal Credit.

into poverty if one parent loses their job or in the instance of family breakdown. Ensuring that women in low-income households have independent spending power increases the likelihood that money will be spent on their children.<sup>13</sup>

The government's approach to this issue appears to be largely driven by funding constraints. It has decided to reduce the number of workless households at the expense of giving parents a choice about who works what hours, for what income, and how they can balance this with childcare. This is explicitly recognised by the Department for Work and Pensions (DWP) in its *Welfare Reform Bill Universal Credit: Equality impact assessment* (2011):

"As the focus of Universal Credit is to help reduce workless households there is a risk of decreased work incentives for second earners in couples (primarily women)." (para 68, p 23)

Prioritising support for single earners to work full-time rather than part-time does not seem right, particularly at a time when there are a record 1.35 million people having to take part-time work because there are not enough full-time work opportunities available.<sup>14</sup>

**EXAMPLE 2: SINGLE PARENT IN PART-TIME WORK AND ON LOW PAY**

Emily is a working single parent with two children. She has childcare costs of more than £200 a week. She works 25 hours a week on the minimum wage, earning £160 a week. After housing costs, her current net weekly income is £307. Under Universal Credit, she will be £52 a week worse off once cash protection comes to an end (£2,704 a year), pushing her and her children below the poverty line.<sup>15</sup>

As with Janine, Emily will be worse off largely because the earnings disregard is more generous under Working Tax Credit than under Universal Credit. According to modelling work carried out on behalf of Save the Children, single parents in Emily's situation will be worse off under Universal Credit unless they earn £421 a week (equivalent of being paid more than £12 an hour on full-time hours) or more.

Boosting the earnings disregard for single parents could help overcome this problem. Increasing the earnings disregard for single parents by just 20% would boost Emily's income by £416 a year and lift her and her children back above the poverty line.

**What is the solution?**

Parents need to be able to choose how they divide work between them. Just having one main earner is not necessarily the best choice for all families. Ensuring that second earners can work has long-term implications for their careers and future earnings potential. To ensure strong work incentives for second earners, the government should introduce a separate earnings disregard for second earners. A second earner disregard of £2,000 would cost £600 million. Given current funding constraints the government may consider bringing in a smaller, more affordable disregard initially. A second earner disregard of £500 would cost the government £130m, a disregard of £1,000 would cost £280m, and a disregard of £1,500 would cost £430m.<sup>16</sup> Example 4 shows the positive impact this reform could have on a typical low-income working family – in some cases, making the difference between living in poverty or not.

**EXAMPLE 3: COUPLE FAMILY WITH ONE PARENT IN PART-TIME WORK<sup>17</sup>**

Gareth and Pauline have three children. They are a low-income family living below the poverty line. Gareth works 24 hours a week on low pay. He'd like to increase the number of hours he works, but his company has recently made a lot of redundancies and he knows there isn't much extra work available.

Pauline has been offered a job paying just over £100 a week. This extra income would lift the family above the poverty line. Pauline knows that she will lose some of her income through reductions in benefit support, but the extra money will make a real difference to the family. She will lose 41p of every extra £1 earned if she takes the job. Under Universal Credit, the family would keep even less of Pauline's wages. In fact, according to our modelling, Pauline would lose 65p of every extra £1 earned. If she took the job now, the family would have a combined income of £390 a week. Under Universal Credit, they would only have £354 a week – making them £36 a week (£1,872 a year) worse off.

Many mothers in Pauline's situation, looking to move into work, will also have much less incentive to do so under Universal Credit.

**EXAMPLE 4: COUPLE FAMILY WITH TWO PARENTS IN PART-TIME WORK<sup>20</sup>**

Julie and Tim have two children. Tim is the main earner, working 24 hours a week, and Julie works six hours a week to boost the family income. After housing costs, they are just below the poverty line. Under Universal Credit, their income will fall by £1,144 a year (£22 a week) once cash protection comes to an end. This will push the family deeper into poverty and significantly reduce Julie's incentive to work. Julie's Marginal Deduction Rate (the amount she loses in benefit withdrawal for every extra £1 earned) under Universal Credit will be 65%, rather than 41% under the current system.

Julie wants to continue working as she knows that not working will reduce her ability to build a decent career in the future. A separate earnings disregard (of £51.92 in this example, so that it matches the first earner disregard) would help boost the family's income by £32 a week and lift them above the poverty line. For families in this situation, where the main earner's wages aren't enough to lift the family out of poverty, ensuring that the second earner can continue to work makes the difference between living in poverty or not.

Implementing this measure would benefit families where both parents are in low-paid work. This would include at least 342,000 children living in poverty<sup>18</sup> where at least one parent works full-time and the other works (full-time or part-time), as well as families where a second earner moves into work as a direct result of this policy.

**2. LACK OF SUPPORT FOR CHILDCARE COSTS**

The ability of parents to find affordable childcare has a significant bearing on their ability to work, and the number of hours they are able to work. Until recently, low-income working parents could claim support for up to 80% of childcare costs through the childcare element of Working Tax Credit. This was cut to 70% from April 2011. This reduction in support for

childcare costs resulted in half a million families being more than £500 a year worse off (on average), with some losing as much as £1,500 a year.<sup>19</sup>

A survey of parents by Save the Children and Daycare Trust in 2011 found that this reduction in support would have a negative impact on their ability to work, particularly those on the lowest incomes (41% of parents in severe poverty said they would consider giving up work and 25% said they would consider reducing the number of hours they work).<sup>21</sup> This cut in support has had a very real impact on families. Evidence from HM Revenue & Customs (HMRC) shows that the cut to childcare support through Working Tax Credit has resulted in 44,000 fewer families getting the childcare element compared with April 2011 – a fall of 10%. In December 2011, families were getting £59 a week on average through the childcare element – the lowest level since 2005, representing a fall of 15% in just one year.<sup>22</sup>



Under Universal Credit, funding for childcare will be available to those parents who are currently eligible for the childcare element of Working Tax Credit and those working in 'short hours' jobs (less than 16 hours a week). Families will be able to recover childcare costs at 70% – up to £760 for one child or £1,300 for two or more children a month. While we welcome this support for families working in short hours jobs as well as those working longer hours, the difficulties created for families affected by the reduction in support from 80% to 70% still need to be addressed.

#### What is the solution?

Covering childcare costs for low-income working families at up to 80% would cost £300m.<sup>23</sup> Over half a million families would benefit directly from this change (see example 5 for the difference it could make).<sup>24</sup> Additionally, families moving into work in need of support with childcare costs would also benefit.

#### EXAMPLE 5: HOW EXTRA SUPPORT FOR CHILDCARE COSTS WILL LIFT FAMILIES OUT OF POVERTY SOONER<sup>25</sup>

Jane is a single mother of three looking to move into work. She is concerned about balancing work and childcare commitments. If she does move into work, she can use informal childcare for some of the time, but knows she'll face childcare costs of £291 a week.

Under current Universal Credit proposals, someone in Jane's position would need to earn £268 a week (earnings of £7.66 an hour based on a 35-hour week) to escape poverty. Extra financial support for Jane so that 80% of her childcare costs are covered would mean that she would be above the poverty line once her earnings reach £147 a week.

With extra support for childcare costs, Jane would be able to work 24 hours a week on or above the minimum wage. She and her children would be free from poverty and she would have greater choice about the number of hours she needs to work to provide a decent family life. Extra support for childcare costs makes work a much more realistic route out of poverty for parents in Jane's situation.

### 3. UNIVERSAL CREDIT PAYMENTS WILL BE WITHDRAWN TOO QUICKLY

Universal Credit is based on proposals developed by the Centre for Social Justice in its report *Dynamic Benefits: Towards welfare that works*. This report recommended a 55% taper as providing the best balance between affordability and ensuring improved work incentives for all.<sup>26</sup> However, the government has said Universal Credit will have one taper rate<sup>27</sup> of 65% for all earnings.

For some benefit recipients (particularly those in receipt of Council Tax Benefit and Housing Benefit), this is likely to lead to an improvement to the Marginal Deduction Rate (the rate of deductions through reduced benefit payments and increased Income Tax and National Insurance for every extra £1 earned) they face under the current system. However, some low- to middle-income working families will find that they face a Marginal Deduction Rate of 76% as opposed to 73% (70% prior to April 2011) under the current system (largely because the taper rate for Working Tax Credit is 41%).

#### What is the solution?

A reduction in the taper rate to 55% would benefit all working households in receipt of Universal Credit. This would include around 342,000 children living in poverty in working single-parent households and 1,824,000 children living in poverty in working couple families.<sup>28</sup> It would ensure that around 1,350,000 households who currently face a Marginal Deduction Rate of 73% (70% prior to April 2011) would not be worse off under Universal Credit.<sup>29</sup>

Lowering the taper rate would boost the income of low-income working families and improve work incentives. For example, our modelling shows that a low-income couple family with two children and earnings of £149 a week would be £520 a year better off if the taper rate was reduced to 55%. The same family would face a Marginal Deduction Rate of 60% rather than 69% if the taper was reduced to 55%.

While it would cost the government £2.8bn to move to a 55% taper, it would cost significantly less to reduce it incrementally (around £280m for each percentage point drop).<sup>30</sup> Additionally, the government would not face the full costs of a move to a 55% taper rate (or other reduction) until all claimants had been moved from the current system on to Universal Credit, which is not due to happen until 2017.

# CHILD POVERTY AND HOUSEHOLD WORK STATUS<sup>31</sup>

Most children living in poverty are in households where at least one parent works. Far too many jobs offer low wages and short hours, which means that work is not always the route out of poverty that it should be. However, the ability of parents to bring in two wages – or for a single parent to work full-time – significantly reduces the risk of poverty, as the following figures show.

## COUPLE FAMILIES

Among couple families, only 5% of children in families where both parents work full-time and 8% of children where one parent works full-time and one parent works part-time are in poverty, compared with 29% of children in households where one parent works full-time and the other parent does not work. Despite this, the government is prioritising support for main earners at the expense of second earners.

It is fair to say that supporting one parent into work where that parent is part of a couple reduces the risk of poverty, but not by nearly as much as where both parents are in paid employment. Clearly, it suits some families to have only one earner; but the government should not promote this option at the expense of couples who both need to bring in a wage. By prioritising support for single-earner couples, the government risks increasing child poverty.

## SINGLE-PARENT FAMILIES

There are 1.95 million single parents in the UK (around 90% of single parents are women).<sup>32</sup> Around 1.1 million (57%) of single parents are working, up from 51% a decade ago. A further 23% are not working but want to.<sup>33</sup> It is clear, therefore, that the vast majority of single parents are either in work or want to work. For other single parents, working may not be an option because of illness or the age of their children.

The risk of poverty is twice as high among single-parent families as couple families. Of the 3 million children living in single-parent families, 46% (1.38 million) are living in poverty. This compares with 24% of all children in couple families. Children in single-parent households make up 37% of all children living in poverty. When single parents are able to work full-time, the risk of poverty is significantly reduced. However, Universal Credit reforms appear to be restricting the choices available to single parents in terms of the numbers of hours they are able to work. While we recognise that many single parents prefer to work fewer hours so they can balance work and child caring responsibilities, we believe that all parents deserve a choice.

# CONCLUSION

The government's intention is to incentivise work and reduce poverty through the introduction of Universal Credit. However, this briefing shows that although many low-income working families will benefit from the new system, some will have less incentive to work, and some working poor households will be significantly worse off.

It is crucial that Universal Credit provides sufficient incentives to parents to move into decent work that offers a sustainable route out of poverty. As the economy recovers, mothers must not be further disadvantaged in the labour market through the introduction of Universal Credit. Instead, it should offer them a means of re-establishing themselves in the labour market following a period of increasing female unemployment. The ability of mothers to

work – whether they are single parents or part of a couple – has a significant bearing on whether a family is poor or not.<sup>34</sup> As the figures in this report suggest, the ability of second earners (often mothers) in couple families to bring in a second wage, or the ability of single parents to secure full-time employment, can significantly reduce the risk of poverty.

We believe that Universal Credit, if funded and designed properly, could have a much more positive impact on child poverty and women's employment prospects. The policy recommendations set out in this report, if implemented, would enable government to overcome a number of significant challenges presented by the Universal Credit proposals as they currently stand.

# NOTES

<sup>1</sup> Save the Children calculation.

<sup>2</sup> Department for Work and Pensions, *Welfare Reform Bill Universal Credit: Equality impact assessment, November 2011*, available at [dwp.gov.uk/docs/eia-universal-credit-wr2011.pdf](http://dwp.gov.uk/docs/eia-universal-credit-wr2011.pdf) (accessed 28 February 2012).

<sup>3</sup> The modelling in this briefing was carried out by IPPR Trading Ltd on behalf of Save the Children between December 2011 and February 2012.

<sup>4</sup> Daycare Trust briefing, *The Impact of the Spending Review on Childcare*, October 2010.

<sup>5</sup> Based on Office for National Statistics (ONS) data sourced by Save the Children on 16 February 2012.

<sup>6</sup> People who lack but want paid work divide into two broad groups of roughly equal size, namely those who are officially unemployed and those who are considered to be economically inactive but nevertheless want paid work.

<sup>7</sup> J Bradshaw, *A Review of the Comparative Evidence on Child Poverty*, Joseph Rowntree Foundation, 2006.

<sup>8</sup> It will replace Income Support, income-based Jobseeker's Allowance, income-related Employment Support Allowance, Housing Benefit, Child Tax Credit and Working Tax Credit.

<sup>9</sup> Department for Work and Pensions, *Universal Credit: Welfare that works*, DWP, 2010, p 5.

<sup>10</sup> M Brewer, J Browne, R Joyce, *Child and Working-Age Poverty from 2010 to 2020*, IFS Commentary C121, Institute for Fiscal Studies, 2011.

<sup>11</sup> M Brewer, J Browne, W Jin, *Universal Credit: A preliminary analysis*, Institute for Fiscal Studies (IFS) Briefing Note 116, January 2011; D Hirsch and J Beckhelling, *Tackling the Adequacy Trap: Earnings, incomes and work incentives under the Universal Credit*, Resolution Foundation, February 2011.

<sup>12</sup> The equivalised poverty line after housing costs for this family type is £308.

<sup>13</sup> J Strelitz and R Lister (eds), *Why Money Matters: Family income, poverty and children's lives*, Save the Children, 2008.

<sup>14</sup> ONS data sourced on 16 February 2012.

<sup>15</sup> The equivalised poverty line after housing costs for this family type is £259.

<sup>16</sup> House of Commons Written Answers, 28 February 2011.

<sup>17</sup> The equivalised poverty line after housing costs for this family type is £388.

<sup>18</sup> After housing costs.

<sup>19</sup> See note 4.

<sup>20</sup> The equivalised poverty line after housing costs for this family type is £339.

<sup>21</sup> Save the Children and Daycare Trust, *Making Work Pay – The childcare trap*, Save the Children and Daycare Trust, September 2011.

<sup>22</sup> HMRC, *Child and Working Tax Credit Statistics*, December 2011.

<sup>23</sup> Based on Save the Children calculations.

<sup>24</sup> Based on 449,000 families who currently receive the childcare element of Working Tax Credit (HMRC, *Child and Working Tax Credit statistics*, December 2011) and the estimated 80,000 households who would benefit from the extension of support with childcare costs to families working less than 16 hours a week.

<sup>25</sup> The equivalised poverty line after housing costs for this family type is £308.

<sup>26</sup> Centre for Social Justice, *Dynamic Benefits: Towards welfare that works*, Report by the Centre for Social Justice Economic Dependency Working Group, 2009.

<sup>27</sup> This is the rate at which the benefit is reduced as earnings increase. For example, a taper rate of 65% would mean losing 65p of benefit for every £1 earned.

<sup>28</sup> Department for Work and Pensions, *Households Below Average Income: An analysis of the income distribution 1994/95 – 2009/10*, May 2011, Table 4.3db, page 86, available at: [http://research.dwp.gov.uk/asd/hbai/hbai2010/pdf\\_files/full\\_hbai11.pdf](http://research.dwp.gov.uk/asd/hbai/hbai2010/pdf_files/full_hbai11.pdf) (accessed 28 February 2012).

<sup>29</sup> Based on figures reported by Family Action, *Welfare that Works Better: 10 recommendations for improving the Universal Credit*. This group of households is made up of those receiving tax credits above the family element.

<sup>30</sup> Based on House of Commons Written Answers, 28 February 2011.

<sup>31</sup> The figures in this section are taken from the Department for Work and Pensions *Households Below Average Income* full report (see note 30), principally from tables 4.3db (page 86) and 4.5db (page 88) unless otherwise stated.

<sup>32</sup> Sourced from ONS on 17 February 2012.

<sup>33</sup> Sourced from The Poverty Site, 'Work and lone parents', [poverty.org.uk/46/index.shtml?3](http://poverty.org.uk/46/index.shtml?3) (accessed 28 February 2012).

<sup>34</sup> Women's Budget Group, *Women's and Children's Poverty: Making the links*, Women's Budget Group, 2005.

# ENDING CHILD POVERTY

## Ensuring Universal Credit supports working mums

Save the Children's UK programme believes that no child should be born without a chance. We want to see the UK free of child poverty by 2020, and to see the link between low attainment and deprivation broken once and for all. Through our campaigns, and our programme work on the ground, we bring robust, evidence-based solutions to the challenges the UK's poorest children and families face.

Our Mums United campaign is part of our ongoing call on the government to fulfil their pledge to make work a genuine route out of poverty for the UK's poorest families. It's crucial that the government's flagship new welfare system – Universal Credit – makes work pay for all families, and delivers for mums who want and need to work.

That's why we're calling on mums to show their solidarity with the poorest mums, to call on the government to do more to help them work their way out of poverty.

Together we can make sure the poorest families have the help they need to give their children the best chance of fulfilling their potential.

[savethechildren.org.uk](http://savethechildren.org.uk)



**Save the Children**

# SIPTU

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Dr. Kevin Pelan  
Committee Clerk  
Social Development Committee  
Room 412,  
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BT4 3XX

8<sup>th</sup> October 2012

Dear Dr. Pelan:

### **Re: Parliamentary Passage of the Welfare Reform Bill**

We are writing to you, concerning the timetable of the parliamentary passage of the Welfare Reform Bill.

SIPTU supports an equality and human rights-based approach to the provision of social security which demonstrates an understanding of and focus on the needs and choices of all in receipt of benefits.

We understand that the Welfare Reform Bill will be referred to the Committee for its consideration stage from 10<sup>th</sup> October until 27<sup>th</sup> November, where scrutiny will take place two and a half days a week. Standing Orders allow 30 days for a Committee to consider a Bill, however, extensions can be sought.

We are seeking confirmation from the Committee that the commitment given to the Northern Ireland Committee of the Irish Congress of Trade Unions for full line by line scrutiny will be honoured.

We are seeking reassurance the committee will request an extension to 90 days to allow for a full debate to occur on the practical consequences of any proposals within the Bill and to discuss potential options to mitigate impacts. It is vital that a real appraisal of the effect of

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these proposals locally is achieved. The welfare reform changes are likely to last a generation and any attempt to hasten the timetable will prove counter-productive.

SIPTU believes it is appropriate to tailor a Northern Ireland approach to issues presented by the Welfare Reform Bill. Given the wide range of reforms, the implementation of the changes will impact upon a significant percentage of the working age population in Northern Ireland. Different arrangements could be made and we argue that, in previous circumstances, different arrangements have been made that reflect the very different challenges that face society in Northern Ireland.

Furthermore, despite the legislation being passed in Britain, there remains a high level of uncertainty around the finer detail of Universal Credit. It is clear from the regulations that a number of important issues have yet to be decided, for example the level of the assumed minimum income floor which will be set of the self employed and the question of whether to pay monthly or fortnightly.

The challenge posed by these proposed reforms provides the NI Assembly with a unique opportunity to demonstrate the positive value of a devolved government and to impact on the formation of social security policy here for the next generation. We hope that this opportunity is seized and maximized and we look forward to working with the Committee on this important task.

We look forward to hearing from you.

Yours sincerely



Martin O'Rourke  
Lead Organiser

## STEP

### Consultation Response in respect of the Clauses contained in the Welfare Reform [NI] Bill 2012

1. The South Tyrone Empowerment Programme (S.T.E.P) is a not for profit community development organisation, which was established in 1997. It is based in Dungannon, Northern Ireland. Our range of services has continually diversified in response to changing community needs and gaps in service provision. We have grown to provide both local and regional services to the community. We aim to contribute to building a rights – based, participative, peaceful and prosperous society which provides equality of access and opportunity, embraces diversity and respects difference. Our objectives are to enable those most vulnerable to marginalisation, disadvantage and exclusion, to develop the confidence and skills to be heard; to identify their own strengths and needs; to access the support and expertise to help them in finding solutions and advocating social change.
2. S.T.E.P welcomes the opportunity to respond to this consultation which looks at the clauses contained in the Welfare Reform (NI) Bill 2012.
3. S.T.E.P is responding to this consultation for two key reasons:
  - (a) We are mindful that the legislative process in respect of the Welfare Reform (NI) Bill has already commenced and we are keen to assist in the mitigation of the effects of this new legislation. Notwithstanding the recommendations we have made herein, we wish to explicitly outline our wholehearted opposition to the Welfare Reform (NI) Bill 2012 in its entirety. We oppose this legislation as it will have the practical impact to marginalize and impoverish the most vulnerable and needy in Northern Ireland. It will also, in our view, expressly lead to greater poverty and social depravation.
  - (b) We are an NGO which provides extensive legal advice and assistance to local and migrant communities. In this way, we can provide support services to the most vulnerable, impoverished and in need of welfare.
  - (c) Community-based support networks are vital in assisting exploited individuals. The availability of advice and information allows the claimant to be better informed when making welfare benefit applications and maintains quality by ensuring that legislation is correctly applied.

#### **Scope of this Consulation Response**

4. To consider the clauses contained in the Welfare Reform (NI) Bill 2012 (“The Bill”). To provide an informed analysis of the clauses themselves and the impact and effect they are likely to have. In addition we will make recommendations for improving the clauses as they are currently drafted.
5. We do not propose to respond to every clause as contained in the Bill, and intend our submissions to be cross transferrable where similar arguments can be made in other clauses.

#### **Background to the Welfare Reform (NI) Bill 2012**

6. The issue of social security In Northern Ireland is a devolved matter requiring a separate legislative process to bring about reform to the welfare benefit system. Welfare benefit payments come directly from Westminster, thereby avoiding money being taken from the Northern Ireland block grant. Figures released by the Department for Social Development highlighted that in 2009, £4,176,435,887 was claimed in welfare benefits (including State Pension), all of which was sourced directly from Westminster. In funding welfare in this way the NI Assembly are under considerable pressure to maintain a system of parity which largely operates in the UK.

7. The issue of parity is a contentious one. We recognise the merits in a congruent benefit system with the same principles as the rest of the UK; but are gravely concerned as to the impact these will have upon a separate jurisdiction. Northern Ireland has higher rates of joblessness, disabled claimants claiming sickness benefits (such as Incapacity Benefit and DLA) than in other parts of the UK, and we are largely a divided community emerging from conflict.
8. S.T.E.P believe that the Bill provides the Assembly with an excellent opportunity to best insulate and protect the most vulnerable in our local communities from the hard reality of austerity measures through the UK. We are aware that this legislation (in some form) will be passed and will become binding law. We strongly encourage the Assembly to ensure that every effort is made to explore the possibility of making substantive changes to welfare reform legislation to take account of Northern Ireland-specific circumstances, thereby mitigating its effects.
9. There should be a sharp focus on operational flexibility within the Departments and in the delivery and impact of these reforms. The Assembly have an excellent opportunity to shape the future of our nation and we recommend that every effort is made to protect the most marginalised and vulnerable.

## The Welfare Reform Bill 2012 – Clauses

### **Proposed Clause 4:**

10. Clause 4 identifies five basic criteria for eligibility. Clause 4(1)(e) identifies that the claimant must have “accepted a claimant agreement”. This makes no reference to personal circumstances nor qualifies the non-acceptance of such an agreement. It is conceivable that Carers of both children and adults are the most likely to have difficulties committing to a claimant agreement and are likely to fail to adhere to such agreements due to their caring duties.
11. In these circumstances the claimant agreement should have an element of reasonableness attached to it and the acceptance of such based upon the reasonableness principle. The agreement should then be tailored to best suit his/her needs.
12. We are of the view that greater protection and clarity should be added to Clause 4(1)(e), in identifying that the clients personal circumstances have been considered.
13. STEP recommend that s.4(1)(e) is amended to add “..., which has been tailored with regard to his personal circumstances.”

### **Proposed Clause 14:**

14. Further to our submission in respect of changes to clause 4, we are of the view that the proposed clause 14 must also be reconsidered in the same light. This Clause fails to lay down any criteria for the creation or development of claimant contracts. Instead it provides a carte blanche for the department to make potentially restrictive agreements. In this regard 14(2) goes too far in that it allows the claimant commitment to be “prepared by the Department and may be reviewed and updated as the Department thinks fit.”
15. Clause 14 should be specifically amended to afford protection to the client on the grounds of fairness and reasonableness. Claimants should have the specific right to contribute to the agreement and only reasonable contracts be imposed. Where contracts are disputed on the grounds of reasonableness; these should be subject to challenge and/or appeal. One possibility would also allow for this to be challenged in the way such agreements are presently challenged under the present Job Seekers Allowance regime. In either event the right to dispute should be codified in a new sub-Clause in s.14.

16. Clause 14(4)(b)&(c) provide for the department to use: “any prescribed information’ (Clause 14(4)(b)) and “any other information the Department considers appropriate” (Clause 14(4)(c)). Clause should in our view be clarified and should be amended to read “...insofar as this other material is relevant and reasonable to be considered.”

**Proposed Clauses 15 & 16:**

17. We submit that the proposed s.15 (Work Focused Interview Requirement) & s.16 (work preparation Requirement) both be amended to specifically indicate that Department decisions are subject to reasonableness and proportionality, subjective to the claimants circumstances.
18. We further submit that for the same reasons as set out in our paragraph 9 above, that Clauses 15&16 are also subject to a challenge/appeal procedure.

**Proposed Clause 19:**

19. Clause 19(2)(c) makes provision where “the claimant is the responsible carer for a child under the age of one.” They will not be subject to work-related requirements. S.T.E.P are of the view that parity with this aspect of the Welfare Reform Bill should not be maintained. This rules only seeks to adversely advantage those with childcare needs.
20. Traditionally the Income Support rules recognised the fact that childcare was a key issue. In fact, so much so, that recent reforms to the Income Support rules recognised this with regard to work-related activities. Recent reforms imposed the requirement that work-related requirements were possible and should be undertaken where the child is of school age (age 5 and over.) Clause 19(2) is very much at odds with this recent rationale.
21. We are of the view that imposing work-related activities where the responsible parent where a child is over one (and under school age) will create a childcare crisis for many individuals. On the one hand they are required to engage in work-related activities yet are struggling to do so due to the availability or indeed affordability of childcare, which would otherwise allow them to engage in such activities.
22. Clause 19(2) will only seek to cause unnecessary hardship, anxiety and pressure on young families. We are of the view that 19(2) to should be amended to read “...under the age of 5.” To fail to do so would be in direct conflict with the governments principles underpinning the Welfare Reform (NI) Bill, namely ‘to get people back into work’ and ‘to make work pay.’

**Proposed Clause 24:**

23. S.T.E.P welcome the inclusion of special provisions for victims of domestic violence under Clause 27(7), which affords a 13 week reprieve. Whilst we welcome these provisions; we are concerned that the provisions do not go far enough and that the 13 week time-frame is too short in terms of timescale.
24. We are aware that the terms ‘domestic violence’ and ‘victim of domestic violence’ are yet to be determined by Regulation, but we feel that there is a key opportunity for the NI Assembly to widen the scope of traditional domestic violence situations where relationship and physical abuse is the focus.
25. The use of the term ‘violence’ is also unduly narrowing the issue as it suggests a physical threat or outcome. STEP prefer the term ‘abuse’ rather than violence; as domestic abuse can take the form of emotional, psychological and financial abuse, all of which are equally damaging within a domestic setting.
26. We are of the view that the legislation could better make reference to ‘victim of abuse within a domestic setting.’ This is our view better reflects the broad spectrum of damaging abuse. It would also cover the increase in human trafficking, forced labour and servitude within Northern Ireland. We are of the view that human trafficking, forced labour and servitude are as damaging as domestic abuse/violence and are in need of similar protection.

27. We are of the view that 13 weeks may not be a long enough time-period to overcome barriers to work-related activities and recommend this is substantially extended.

#### **Proposed Clauses 26 & 27**

28. Clauses 26 & 27 provide for more rigorous sanctions than currently exist in the present benefits system. We are concerned by the use of the phrase 'for no good reason.' No clarification as to the meaning of this or what may constitute such has been provided in the Bill. Our concern revolves around the instance that it may be left for the decision-maker to be persuaded by the reason, and provides for too much discretion in doing so.
29. We are further concerned that those with mental health, learning difficulties and those with communication difficulties may be unduly deemed as not having a 'good reason' when in fact their disability is their reason. Our concern remains the same for those who do have a good reason but cannot communicate this well enough to overcome the decision-makers discretion.
30. We recommend that safeguards are provided for and that claimants are afforded the full opportunity to explain the reasons and to provide additional information.
31. We are also of the view that these safeguards would ensure that sanctions are not used as a means of forcing claimants into work.

#### **Proposed Clause 28**

32. Clause 28(1)(f) allows for Regulations to set down circumstances where hardship payments are not recoverable. Whilst we welcome this provision, we feel this clause should go further. We recommend that greater discretion is provided to not seek recovery of hardship payments at all, where exceptional circumstances arise.
33. We recommend that a new sub-clause added to provide a specific discretion not to recover hardship payments. This discretion should mirror current Department policy, not to recover where this will cause hardship. In all circumstances this should be based on subjective personal circumstances.

#### **Proposed Clause 52**

34. Clause 52(1) seeks to impose the condition that Contributory ESA may only be claimed for up to 365 days, with this being the "relevant maximum number of days." We are of the view that this is an arbitrary time-limit which will only lead to financial hardship for families who are on a low income but do not meet a Universal Credit entitlement.
35. The time-limit of 365 days is an arbitrary time-limit. The National Insurance Contribution ("NIC") eligibility rules refer to the claimant having enough NICs in the last 2 tax years, as is the current eligibility criteria. The logical approach would be to exhaust all NICs over 2 tax years. Where the individual has paid NICs to the appropriate level, they should be allowed to fully avail of these. To impose a 365 day limit (one) year on a claimant who has 2 fully years NICs is to effect ignore the fact that s/he has paid to this level. We recommend this is removed completely or extended to 2 years as suggested.
36. Clause 52(1) (New (1A)(4)(f) ) allows for the imposition of the 365day rule to apply to existing awards. S.T.E.P feel that this is merely retrospective law making designed to save money and is unfair and unjust. Where the client is entitled to an award based on the criteria at that time, the principle of natural justice dictates that s/he fulfills the entitlement to that benefit on the basis of rules that were in place at that time.
37. S.T.E.P advocate deletion of clause 52(1) (New (1A)(4)(f)) in its entirety. Awards that are currently in place should be allowed to run their natural course and only then should the new rules apply.

38. Clause 52(1) (New (1A)(1)(6)) allows for the further rules in relation to calculation of entitlement to Contribution-Based ESA. In assessing the 365 day rule it allows for days prior to the coming into effect of the new rules to be considered. In our view that is a further example of retrospective law-making designed to save money. It is unfair and unjust. Where a new rule comes into force it should only be from the “in-force” date and accordingly any time-limiting eligibility factors should not start running until that date.

39. S.T.E.P recommends the deletion of this clause on the grounds of fairness and natural justice.

#### **Proposed Clause 59**

40. Clause 59(2) imposes work related activities on lone parents with children aged under 5. It is STEP’s view that such conditions place an undue burden upon them in terms of obtaining and paying for childcare and thereafter taking up employment. Lone parents are affected by these the most.
41. For the reasons set out in paras 19-22 of this response we are of the view that imposing job related activities on lone parent families (with children under 5) should not be followed in Northern Ireland.

#### **Proposed Clause 78**

42. Clause 78(7) provides that:

*“Regulations may provide that a person is not entitled to the mobility component for a period (even though the requirements in sub-Clause (1) or (2) are met) in prescribed circumstances where the person’s condition is such that during all or most of the period the person is unlikely to benefit from enhanced mobility.”*

This Clause seeks to limit the availability of the mobility component yet fails to clarify what is meant by ‘unlikely to benefit from enhanced mobility,’ nor is any direction given to the scope of what the Regulations may contain.

43. The concept of a claimant being ‘unlikely to benefit’ needs clarification. It is too wide ranging in scope. To fail to do this in the Bill would potentially lead to circumstances where non-entitlement results in cases which were envisaged would normally be entitled under the spirit of the reforms.
44. The purpose behind the enhanced mobility component of PIP is to assist those most in need to lead independent lives. Where an individual is in constant severe pain whilst walking or mobilising (subject to the entitlement criteria) may be entitled to PIP Enhanced Mobility component (this would yield a DLA High Rate Mobility Component award today). In this example, Clause 78(7) in its current form could arguably be used to justify non-entitlement on the basis that the claimant could be said to not benefit from enhanced mobility as the pain is constant and severe [i.e. the pain level is still the same and thus no benefit accrues].
45. STEP recommend that clause 78(7) is clarified and the scope of any potential Regulations to further define this, codified within this Clause.

#### **Proposed Clause 80**

46. Clause 80(1)(b) imposes a 9 month projection on the duration of the condition (thereby limiting the ability of the claimant). This represents an extension of the current DLA criteria for the condition to be likely to last 6 months. In our view this clause only seeks to limit entitlement as a cost cutting measure. Such limitations are against the spirit of PIP which is to help disabled people lead independent lives. This in our view restricts disabled people to assistance only where they are likely to have the condition for a year (3months under clause 80(1)(a) and 9mths projected under clause 80(1)(b)).



47. S.T.E.P recommend that the current provisions of a 6month projection on an illness is more than adequate and clause 80(1)(b) should be limited to 6 months as is currently the case in DLA (the predecessor to PIP)

### **Proposed Clause 83**

48. Clause 83 identifies that sickness benefits are not payable where the UK is not the competent state. Clause 83(2)(a)&(b) refer to the relevant EU Regulations governing this principle. We are of the view that this Clause fails to clarify the issue of competent state.
49. S.T.E.P has experience of assisting clients who are refused benefit entitlement under competent state arguments. In our experience the EU Regulations are not sufficiently clear. The EU Regulation 883/2004 appears to suggest that a claimant will be eligible where they are a family member of a worker in the UK, despite circumstances which would otherwise rule them as not entitled. We are of the view that the legislation can best address this matter by providing clarification of the rule.
50. We recommend a full and detailed clause, fully explaining the entitlement and non-entitlement under competent state arguments.

### **Proposed Clause 84**

51. Clause 84(3) defined the term "Care Home" as meaning an "establishment that provides accommodation together with nursing or personal care." We are of the view that this is an imprecise and vague definition. We are also concerned as to how this definition may be interpreted.
52. The use of 'personal care' needs specific clarification. If this refers to medical care or a form of assisted living arising from this (such a care worker providing washing and dressing services) then this must be specifically identified in the Bill.
53. We have concerns that providing accommodation and some other personal care would lead to claimants losing their benefits despite being entitled to PIP. This would apply to Shelters, Hostels and Refuges where a form of other support is provided over and above the accommodation.
54. Without clarification of Clause 84(3) we can arguably see clients losing benefit in circumstances where this was not envisaged under the Bill. The example of a Hostel resident who is in receipt of other support services (such as key worker or floating support services as current exist in NI), such as assistance to manage financial affairs could arguably be at risk under clause 84(3). Managing finances is an eligibility criteria for assessing the new PIP benefit and could thus be argued as personal care also.

### **Proposed Clause 95**

55. S.T.E.P are concerned that the imposition of a benefit cap will only further limit the entitlement of claimants, who are otherwise eligible for benefits. We have further concerns that the proposals in reality seek to doubly assess and cap claimants.
56. Where the claimant meets the normal rules of entitlement they should be eligible for that benefit free of a benefit cap. To impose a benefit cap is to effectively assess clients twice; first for eligibility and secondly for income. This has the effect of denying a benefit (or full amount) which the client is otherwise eligible for.
57. Changes to the Local Housing Allowance amounts and the extension to the shared room rate to cover persons up to age 35, have already imposed de facto benefit caps. To then impose an overall benefits cap in addition, is to cap the claimant's eligibility for benefit twice.

58. We are further concerned that a benefits cap will only lead claimants to the conclusion that they are 'better off' living and claiming separately, thereby potentially breaking-up households. This has a greater unforeseen impact on children.
59. Clause 95(5)&(6) amount to the relevant amount which is calculated by reference to the "estimated average earnings." We recommend that if parity is to be maintained in this regard, then this amount should be in line with the average earnings in the whole of the UK.
60. We further recommend that average earnings are calculated with regard to potential welfare benefits assistance under Universal Credit that those working would also be entitled. A consideration of this in relation to the current tax credit system highlights the issue. It is not correct to say a family's income is 'X' because they earn 'X' in their employment when in fact they are also entitled to in the region of £4000p/a in tax credits over and above those wages.
61. Clause 95(4)(c) provides Regulations to make "exceptions to the benefits cap". This is ambiguous in our view. It is not clear whether this refers to exceptions to the cap completely (i.e. not applied at all) or whether it provides for a disregard of certain benefits when considering the cap (such a Disability Benefits.) This must be sufficiently clarified. Our recommendation is that provision for both should be made sufficiently clear in clause 95(4).

#### **Further Issues which Should be Considered in the Bill**

62. S.T.E.P are of the view that the Welfare Reform Bill has presented an excellent opportunity to commence the legislation process for protection of victims of human trafficking, forced labour and domestic servitude.
63. Northern Ireland is currently the pioneering legislation against human trafficking, within the UK. The recent private member's bill [xxx] and subsequent awareness of human trafficking matters, has made legislating to protect victims all the more prevalent. The Welfare Reform [NI] Bill represents a real opportunity for our Assembly to address these issues and provide special recognition and protection for these vulnerable individuals within the welfare system.
64. S.T.E.P strongly recommends that a clause is added to protect victims of human trafficking and to provide for their access to welfare benefits.

#### **Final Remarks**

65. STEP strongly urges the Assembly to undergo a rigorous consideration of the Bill in its current form and to fully consider the impact of the implementation upon vulnerable individuals.
66. Full protection and appeal rights should be provided in respect of the claimant. There should always be a right to request a reconsideration or review in respect of their claim and to properly challenge decisions where discretion is granted.
67. Funding for the voluntary sector should be guaranteed and ring fenced in order to advise and assist those most in need as a result of these legislative changes.
68. Finally, it is imperative that further Regulations (not yet decided) are limited to their initial purpose of complementing the Bill rather than a means by which new savings and austerity measures can be introduced.

#### **Adrian Glackin**

Solicitor  
S.T.E.P

October 2012

**South Tyrone Empowerment Programme**

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# Supporting Communities NI



Our Ref: MW/ES

Committee Clerk,  
Room 412 Parliament Buildings,  
Ballymiscaw,  
Stormont,  
BELFAST.  
BT4 3XX

18th October, 2012

Dear Sir/Madam,

## **RE: Welfare Reform Bill**

I refer to the above and am pleased to offer some comments and observations on the proposed Policy proposals presented by the Department following the presentation of the Welfare Reform Bill and its passage through the Northern Ireland Assembly; the comments have been prepared following discussions within the Supporting Communities NI staff team, the Housing Community Network and also with our partners in community organisations across N.I.

Supporting Communities NI (S.C.N.I.) is an independent charitable organisation which champions community participation by developing groups, supporting active citizenship and building cohesive communities. At the same time, and in partnership with the NI Housing Executive, S.C.N.I. supports and facilitates the Housing Community Network which was formed in response to the need for housing and related policies to be developed with and on behalf of local communities. S.C.N.I. works with the Housing Executive, Housing Associations and other organisations in the monitor and scrutiny of the delivery of housing and related services.

S.C.N.I. and members of the tenants and community representatives have considered the principal proposals of the Welfare Reform Bill at Housing Community Network Area and District meetings and the comments attached reflect many of the concerns expressed by community representatives during those considerations.

The attached comments have been prepared and are presented in line with the proposals in the published Bill and have been restricted to those areas which S.C.N.I. and the Housing Community Network has a specific and direct concern.

In general, the governments welfare reform agenda finds little or no support from community representatives involved in the Housing Community Network; whilst there may be some support for any attempt to make the system of income maintenance less complicated and more accessible for claimants, the general feeling is that the proposals in the Bill reflect only a desire to impose significant cuts in the overall welfare budget. The general feeling is that these proposals will have a negative impact on low and fixed income households and the most vulnerable members of our community, particularly given the emphasis on an overall cap on a claimants entitlement; some representatives have gone further and expressed the view that these proposals rather than better tackle poverty will actually be damaging to family and community life.

That said, we have attached more specific comments and observations on sections of the Welfare Reform Bill as presented.

I hope the committee finds these observations and comments helpful.

Yours Faithfully,

For SUPPORTING COMMUNITIES NI

**Murray Watt,**

Policy and Information Officer

Enc.

## Universal Credit

### General

Whilst it is recognised that the explicit central theme of the Bill is to simplify the current system of income maintenance, it is believed that the proposals go too far and as an oversimplification will present difficulties for those accessing existing benefits and new and subsequent claimants. Community representatives have also expressed grave concerns around the transition period between the existing and current framework and the introduction of Universal Credit. It is apparent that many people are as yet not fully aware of the changes to their entitlements but also to the method, means and schedule of payments.

There is particular concern around the introduction of a system which carries the presumption of a predominantly online self-service claims process and for a system of payment of entitlements that is dependent on claimants having bank accounts. It is believed that the administration of the system renders it more complicated and less accessible to those most in need. Access to the internet and to online banking is still restricted and still largely excludes many low-income, disadvantaged and vulnerable households. There is a pressing and urgent need for greater assistance to be made available to those households and in particular to those more vulnerable claimants to fully explain the changes and to ensure no source of income or support is lost in transition.

Concern has also been expressed at the proposed scheduling of payments and that many low and fixed-income households have particular budgeting needs and requirements it is believed that in the rush to simplify the system, the needs of such households have not been considered or have been disregarded. We would urge the Committee to be mindful of these needs in their consideration of the impact of these proposals.

### Capping of Entitlements

Concern has also been expressed at the inclusion of all benefits, and particularly the housing allowance element, in a single capped payment. Housing Community Network members are concerned about the introduction of an overall benefits cap (covering all tenures) mainly because the majority of households affected by this policy will have children. Indeed, members expressed concern that larger families with several children who require larger accommodation (and consequently higher Housing Benefit) will be affected the most. It is estimated that the rates for a couple/family will be capped at £500 per week. It has been noted that it is estimated that the cap will affect less than 1% of benefits claimants locally; however the impact on those affected is likely to be significant. In Britain, it is estimated that 50,000 claimants will be affected with an average loss of £93.00 per week. Those most affected will have four or more children. We fear that the loss of income could drive Northern Ireland children, whose parents are in receipt of benefits, deeper into poverty and potentially into homelessness. We are also concerned that the potential differential impact of these changes has not been fully considered within the context of Section 75 of the Northern Ireland Act.

### Housing Benefit Cap- Public and Social Rented Sectors

Community and tenants representatives have expressed the gravest concern at the proposals to reduce the entitlement of housing benefit based on the premise of 'under-occupancy'. It is believed that this measure will put in place undue hardship on individuals and households, either in terms of hardship or by placing undue impetus on the household to leave their home and seek alternative and smaller accommodation, which may not be available either of a nature or in an area of the claimants choosing.

There may be some sympathy with the desire to better match accommodation size to households needs; it is the view of community representatives that this is not the appropriate mechanism with which to provide that impetus. Indeed it has been postulated that a claimant in their fifties who may or may not have had adaptations to their home as a result of their



own circumstances will receive significantly reduced housing benefit or will have to seek other alternative and potentially less suitable accommodation. It is believed that quite apart from being arbitrary and draconian this measure has not been fully considered in terms of its differential impact across Section 75 groups.

There are a number of other key impacts which have not been fully considered and some of these can be illustrated;

Claimants who are the non-primary carer, e.g. a father who has separated or divorced from their partner or spouse will be unable to exercise their right of access to their family as a result of having to move to single room accommodation as they cannot accommodate their children overnight; neither is it appropriate that a person in such circumstances should be forced to pay additional sums as a result of housing allowance capping, just to have access to family life. Community and tenants representatives believe it is quite wrong to impose such a cap in such circumstances.

Similarly a person with disabilities who does not necessarily require continual personal support will be unable to access overnight support when required as the requisite room would not be available.

It is widely held that tenants in the public and social rented sectors occupy accommodation to which they are entitled having been allocated that property through the housing selection scheme; the subsequent imposition of a cap on housing benefit on the basis of a 'supposed' under-occupancy is unduly harsh and unfair. The committee should also be mindful of the fact that peoples housing choices are frequently limited by availability and the area of choice, the need to be close to family and others to receive or provide support or care and the limitations imposed by a segregated housing market.

In any case, it is difficult to envisage how the public and social rented sectors could, if required, facilitate and expedite the allocation and transfer of tenants from 'under-occupancy' which will follow the capping of housing benefit.

The Committee should also consider the differential impact of this proposal between those of a working age and those of pensionable age and a potential conflict with the legal duties and obligations on the Department under Section 75 and its own equality Scheme.

### **Direct Payments**

Community and tenants representatives also echo the concerns which have been expressed around the ending of direct payment of housing benefit to landlords. Direct payments to landlords has provided an opportunity for households in fixed and low incomes to safeguard rent payments in the context of demandingly tight household budgets. It is not believed that government has fully considered the impact on such households by ending such direct payments and including housing allowances in Universal Credit.

The combination of the welfare reform proposals and the economic downturn, along with increasing household costs for fuel and food, will have a serious impact on those households already vulnerable in the labour market. The ability to provide a tight leash on household expenditure in such circumstances will not be assisted by the ending of direct payments to landlords. The committee should consider how government can provide greater support and assistance, not increase the burdens and challenges on vulnerable and disadvantaged households.

## WAVE

Mr Alex Maskey MLA  
Sinn Féin  
178 Ormeau Road  
Malone Lower  
Belfast  
Co Antrim BT7 2ED

8 October 2012

Dear Minister

### **RE: Welfare Reform Act & Victims/Survivors of the NI Troubles**

I very much welcomed your contribution at the NICVA Conference on Welfare Reform earlier this year, and Sinn Féin's continued concern about the effects of Welfare Reform. As the Welfare Advice Worker for WAVE Trauma Centre, a cross community charity which helps and supports victims/survivors of the 'NI Troubles,' I am particularly concerned about the impact of the Welfare Reform Act on many of our members. To date I have seen for myself the stress and anxiety caused among our membership due to Incapacity Benefit Migration to ESA. I am aware that the Welfare Reform Bill is coming before the NI Assembly soon so I felt compelled to write to you and raise some issues on behalf of members of WAVE.

Many of those injured in the NI conflict lost limbs and sustained serious injuries as a result of bomb explosions or random shootings. Many sustained not only physical injury, but also psychological trauma, depression and anxiety as a result of the violent loss of loved ones or physical injury. Most of our clients claim disability and/or means tested benefits. Unfortunately due to sustained anti-claimant media campaigns many people and some politicians are not aware just how severe Welfare Reform will be on those who have serious ill health and disability. This is because every aspect of welfare support is changing within a relatively short period of time during one of the worst recessions in recent decades.

Statements such as **"those who really need the help will continue to get support,"** will and already has proved untrue for many and even GP's know that this is the case (see below). This is why the issue of welfare reform is so important. A policy of **"Work Pays"** and **"getting people back to work"** will only be a reality if (1) people really are fit for work, (2) if there is work and a need of labour particularly in areas of high deprivation, and (3) if potential employees are attractive to employers. In regard to the first point, thousands of individuals are disallowed benefit under the new ESA

system causing stress and anxiety to genuinely sick and disabled people and as many as 40% are reported to be winning their case on appeal. The cost to the taxpayer of the tribunal system alone is £50m in the UK, around a half of the £100m a year being spent on reassessment. On the second point, 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.***

This prediction brings us to the third point. A saturated labor market means that employers can pick and choose their workers. Those recently made redundant with up to date skills and good health will be far more attractive than those with long term disabilities or fluctuating

health problems, who have been out of the labor force for many years. Most of those injured in the conflict are now in their 50's and early 60's and statistically this age group has little or no academic qualifications. They will also be competing for jobs with many young lone parents who will also have to search for work due to welfare reform and unemployed graduates. Who from the above list will be least attractive to potential employers? How will the long term sick in their 50's and 60's make "work pay" while their benefits are removed? This is exactly why the government's Welfare Reform Act is problematic – they place everyone on an equal playing field when the reality is they are not "equal."

A prime example of this is contained in the current more stringent test for Employment Support Allowance introduced last year. A registered blind person will not automatically pass the test for ESA – yet do they have equal chances of getting a job compared with able bodied workers? It is therefore of no surprise that in March 2012, the BMA reported that GP's at their Annual Scottish Conference unanimously voted to end the Work Capacity Assessment, calling for **"a more vigorous and safe system that does not cause avoidable harm to some of the weakest and most vulnerable in society."** At the British Medical Association's Local Medical Committee Conference 2012 held in Liverpool, **GPs voted unanimously for the work capability assessment to end 'with immediate effect.'** Dr Dean Marshall,

Chairman of the British Medical Association's Scottish General Practitioners Committee, said, **"Evidence appears to suggest that people with serious health conditions are sometimes being declared fit for work."**

Another serious concern of welfare reform is the assumption that because someone has an aid, white stick; wheelchair, prosthesis etc. to do things they should be treated like everyone else, and this policy is reflected in the new criteria for PIP and ESA. But this is a distortion of what disability policy in our society should be about. The disabled and long-term sick should be supported for their efforts to be independent not penalized as they struggle on a day to day basis to do things able bodied people take for granted.

I have outlined many important points regarding the Welfare Reform Act in the attached document, and as the policy may affect thousands of your constituents I trust that you will consider them. Although we welcome encouragement to those who can work to do so, in reality the actual details of welfare reform could have devastating effects on many disabled people and those who are chronically sick across our province. It is all the more hard hitting as it will affect not only one benefit but practically all benefits over a short period of time including housing costs. This means claimants will feel the financial impact not just once or twice but many times over.

We feel that politicians at the NI Assembly have a moral duty to ensure that those who bore the brunt of suffering over 40 years of violence in Northern Ireland are taken care of and we need to ensure that they are not forgotten nor their burden made more acute by poverty and the stress of frequent medical examinations and stress and uncertainty about their benefits. Northern Ireland has been applauded across the world for the peace process and on-going progress in our political situation. It is imperative that we also demonstrate our care and real support for those who have paid the highest price for our new society. We need to take a realistic view of the lives of disabled and chronically sick individuals, the very people who did not benefit from the years of prosperity since the signing of the Good Friday Agreement. Northern Ireland Politicians must have the courage and creative thinking to ensure that those who do need help and assistance due to their disabilities will receive it.

We welcome your assurances that the Welfare Reform Bill will receive full scrutiny from the NI Assembly.

Yours sincerely

**Annette Creelman**

Welfare Advice Worker, Encs

## 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 piecemeal, 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 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 8th 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 adaptation's. 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 repossession 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 endure 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.

Report compiled by

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# Welfare Reform Group

## Northern Ireland Welfare Reform Group

Social Development Committee: Welfare Reform Bill (Northern Ireland) 2012

October 2012

### About the Welfare Reform Group

The Welfare Reform Group is an umbrella grouping of organisations that campaign for positive and progressive changes to policy, service provision and legislation for those in receipt of social security while also providing advice and support to other advice giving organisations and disadvantaged persons in their capacity as individual members of the Group.

The Group supports an equality and human rights-based approach to the provision of social security which demonstrates an understanding of and focus on the needs and choices of all in receipt of benefits. In this paper we outline the significant equality issues likely to be presented by implementation of the draft Bill in Northern Ireland.

This response has been prepared by the following organisations:

- |                            |   |
|----------------------------|---|
| ■ Advice NI                | ■ Law Centre NI                               |
| ■ Age NI                   | ■ Macmillian Cancer                           |
| ■ Barnardos                | ■ Mencap                                      |
| ■ Children's Law Centre    | ■ Multiple Sclerosis Society Northern Ireland |
| ■ Citizens Advice Bureau   | ■ Niamh                                       |
| ■ Council for the Homeless | ■ NICVA                                       |
| ■ Disability Action        | ■ Office of the Commissioner for Older People |
| ■ Employers for Childcare  | ■ WRDA  |
| ■ Include Youth            | ■ Save the Children                           |
| ■ ICTU                     |   |

The NI Welfare Reform Group welcomes the opportunity to comment on the publication of the Welfare Reform (Northern Ireland) Bill 2012. The NI Welfare Reform Group looks forward to continuing to work with the Social Development Committee during the parliamentary passage of this important legislation.

### 1. The Northern Ireland Context

Northern Ireland presents particular circumstances with regards to welfare reform and arrangements to move people into employment. There is considerable evidence of multiple disadvantage in Northern Ireland including lower average wages, higher fuel costs, lack of childcare provision, greater incidence of mental health and higher trends of economic inactivity. In addition, economic forecasts from a variety of sources all suggest that Northern Ireland will take longer to emerge from the recession than Britain.

While benefit rates are universal across the UK there are significant differences in social security provision which recognise the particular circumstances applying in Northern Ireland. While the Department of Social Development is unlikely to move away from the major welfare reform proposals, it is possible that a different approach may be taken to the operational arrangements of Universal Credit, conditionality and sanctions, and a number of the other initiatives contained in the Welfare Reform Bill. Moreover, the Northern Ireland Executive has

set aside £20 million a year as a Social Protection Fund. This provides scope to tailor the welfare reform agenda to specific needs locally. In practice, we are not seeking an alternative social security system for Northern Ireland. In effect, we seek an approach that will work taking account of Northern Ireland's particular circumstances and context.

## **2. Introduction**

The Welfare Reform Group supports a number of the principles behind the Government's package for reform, namely, to simplify the social security system and to make work pay. At present, we remain unconvinced that the proposals will actually deliver these principles. We also have considerable concerns regarding the outworking of some of the proposals in the Bill for example, the introduction of Universal Credit and Personal Independence Payment and outline these and other recommendations below, many of which relate to proposed regulations which will be drafted following the Bill. Our response is aimed at improving the proposals designed for Britain taking into account the specific circumstances and needs of Northern Ireland. We aim to flag up issues which we think require scrutiny by the Committee and require further clarification from the Department.

The Welfare Reform Group welcomed the Minister for Social Development's announcement that changes had been secured in relation to the way Universal Credit is paid. We are cautious that while these flexibilities have been achieved, the Committee needs to closely examine what other steps can be taken to protect households affected by the changes. The Committee needs to carefully scrutinize, for example, the under-occupation penalty in public rented housing, the level of conditionality and sanctions proposed under the Welfare Reform Bill and the lack of childcare provision across Northern Ireland.

## **3. Regulation Making Procedures of the Welfare Reform Bill**

We are concerned that many of the regulations governing critical parts of the Welfare Reform Bill will proceed through the confirmatory process with scrutiny only happening after the regulations have been laid. Given that the Welfare Reform Bill is significantly enabling legislation with detail left to regulations, this is a retrograde step.

DWP in Great Britain have yet to publish the final version of the Universal Credit regulations which will not be laid until after the pre-budget report on 5th December. Particular areas of concern to address are the crucial details governing entitlement to housing credit within Universal Credit, confirmation of the rates of personal allowances, and other additions, childcare costs, earnings disregards and the details of what will be required of people in all the work related requirements. In addition, the details of daily living activities and daily mobility activities which will govern entitlement to Personal Independence Payment are left to the regulations. These will clearly be central issues relating to work incentives and the level of support for people in and out of work and people with disabilities.

The flexibility to do things differently in a Northern Ireland context lies very much within the detail of the regulations. As a result the scrutiny process must find a way of addressing where the scope for specific flexibilities exists. It is unlikely that following 'the bedding in period' of the confirmatory procedure, that there will be much scope to amend the legislation in the future.

We recommend that the Committee asks the Department to provide a draft plan to include a timetable for publishing the regulations due to be made under the Bill.

## **4. Universal Credit - Part 1**

Part 1 of the Bill contains provisions and confers regulation making powers for the new integrated benefit Universal Credit. Claims will be made on the basis of households rather than individuals.



**Clause 1 - 4**

The introduction of Universal Credit will change the way that couples are treated where one is a pensioner and the other is of working age, described here as 'mixed age couples'. Currently as long as one partner in a couple has reached Pension Credit age they are treated as a pensioner couple for the purpose of means-tested benefits. Those already receiving Pension Credit will continue to be entitled but in the future mixed age couples will be assessed under Universal Credit. This could result in one member of a couple being well above pensionable age and still subject to work related requirements and claimants commitment conditions required of their younger partner. For example, a woman aged 60 with a male partner aged 70 who has already retired claiming a means tested benefit for the first time in April 2014 will move to Universal Credit rather than Pension Credit. Not only could this impact on the actual income of the couple, (mixed age couples where neither work could receive £100 less per week under Universal Credit compared to the current Pension Credit system – Age UK 2012 Universal Credit Briefing) but the older person who would currently be in receipt of Guaranteed Element of Pension Credit would lose out on passport benefits such as free dental and optical care and full rate rebate. We would welcome further exploration of these types of cases with the Department.

The Welfare Reform Group welcomed the Minister's announcement that split payments may happen as a positive development to ensure that the main carer receives some of the Universal Credit payment. We would, however, welcome further clarification as to the delivery of this mechanism. Will it apply universally or to specific claimant groups only?

In order to claim Universal Credit, an individual must be 18 years old unless in prescribed circumstances as set out in subsection 3 e.g. lone parents less than 18 years old or young people estranged from their family. The Welfare Reform Group would welcome the inclusion to the list of specified groups of 16 and 17 year olds who are registered with the Work Programme, but without an immediate placement.

Furthermore, young people leaving care will continue to receive support outside the social security system. Under the current rules, payment can be made on a discretionary basis where severe hardship occurs. We would welcome the retention of this provision.

**Clause 5**

This clause introduces a savings rule for Universal Credit which we understand will mirror the current capital limit for IS, JSA and ESA i.e. £16,000 with a tariff income for savings between £6,000 and £16,000. This will represent a significant change as currently tax credits and pension credit have no upper capital limit.

This measure is likely to impact disproportionately on older claimants who have spent time saving towards retirement. Two issues need to be considered. First, will tax credit claimants transferred to Universal Credit be able to remain entitled under transitional arrangements? We would welcome such safeguards. Secondly, would the capital threshold be appropriate for people on Universal Credit where the claimant or one member of the couple has reached state pension age?

**Clause 11**

Almost all of the detail about the payment of housing credit is left to the regulations. These payments essentially are rent, mortgage interest and service charges. The Welfare Reform Group recommends that the Committee seeks confirmation of what will be included within housing costs, for example further clarification is needed in relation to service charges.

In particular, we are concerned that the DWP has signaled that an owner occupier on Universal Credit will lose help with housing costs should they do any paid work. For example, a lone parent who takes up a mini job on a temporary basis could lose all help with mortgage interest. This will act as a financial disincentive for many owner occupiers with mortgage

arrears and runs against the aim of encouraging people into employment. The Committee should, therefore, request the Department to set out its intentions and the ramifications of such an approach for claimants in Northern Ireland.

Although we welcomed the recent confirmation that SMI will continue to be made directly to lenders, the Department has yet to confirm the waiting period for assistance with Support for Mortgage Interest. It is considering extending the waiting period from 13 to 39 weeks. Early clarity of this waiting period is important. We recommend that the Committee seeks clarification regarding the DWP's policy intentions in this area.

### **Working Age Benefits - Part 2**

Part 2 of the Bill makes provision for changes to the responsibilities of claimants of Jobseeker's Allowance and Employment and Support Allowance and subsequently Universal Credit and the contributory Employment and Support Allowance and Jobseekers Allowance.

#### **Clause 13**

In respect of the work related requirements and imposition of sanctions clauses the NI Welfare Reform Group would welcome the insertion of a clause requiring the Department to have regard to the prevailing economic conditions perhaps at Clause 13 or in the subsequent regulations:

*When considering the requirements with which claimants must comply in this Part the Department must have regard for the prevailing economic conditions and how they may impact on the claimants ability to meet those requirements.*

#### **Clause 14**

In order to receive Universal Credit, both members of a joint couple will have to sign a claimant commitment. We would welcome assurance from the Department that there will be an alternative procedure, recognizing relationship breakdown and situations where one partner will not sign the commitment, to enable payment to the member that does sign. The alternative process could, for example, allow the partner committing to receive the single rate of Universal Credit plus appropriate additions e.g. child allowances and housing costs.

#### **Clauses 15 - 24**

These clauses outline the four types of work requirements that will be imposed on claimants and introduce significantly increased sanctions for claimants who fail to meet the conditionality requirements under Universal Credit.

Clause 16 (4) introduces a work focused health related assessment. This was originally a requirement for claiming ESA but was later suspended. There does not appear to be a need to reintroduce this additional assessment. The Committee may wish to seek whether it should be reintroduced and on what basis.

#### **Clause 22 presents a number of issues that warrant scrutiny by the Committee:**

- i) DWP has signalled that most claimants will be expected to spend 35 hours a week looking for or preparing for employment. In practical terms this will be impossible to maintain on an ongoing basis, for example, where the claimant is waiting on a response from a prospective employer. This is an area where proportionate operational arrangements should be put in place.
- ii) DWP has stated that EU workers or jobseekers will always be placed in the 'all work related requirement group' (provided for in Schedule 1, paragraph 7 of the Bill). This is clearly discriminatory and is likely to be unlawful, with little purpose. The Committee should ensure that no such prejudicial arrangements are introduced in Northern Ireland.

- iii) This clause also outlines that all work requirements can be imposed on claimants in work who earn below a specific threshold. Currently claimants in part time work on tax credits are not expected to seek work on top of their part time commitments. It is unclear how this will work in practice. The Committee should determine what approach should be taken in Northern Ireland.

There are also a number of issues for the Committee to consider in relation to the sanctions presented within this clause:

- i) Is the level of sanctions appropriate given its impact on the rest of the household including children? Due regard must be given to the impact on dependent children of sanctions applied to parents – especially the most extreme proposal to suspend benefit payments for up to three years. The Department is obliged by Article 3 of the UN Convention on the Rights of the Child to ensure the best interests of children are a primary consideration in all matters affecting children. We believe that the increase is disproportionate and the periods of sanction of 13 weeks, 26 weeks and 3 years are too long. Moreover, this will further contribute to severe child poverty and works against the grain of the Northern Ireland Executive's child poverty strategy and target to reduce severe child poverty.
- ii) The regulations proposed in Britain only allow five days for a claimant to show good reason before a sanction is applied. There may be myriad reasons why a person misses an appointment and it takes more than five days to explain why (e.g. a family emergency). This will result in some particularly harsh cases, for example if a family member is rushed to hospital in an emergency and is seriously ill resulting in the claimant taking a week to explain why an appointment is missed then a sanction will still be applied. In our view, as the penalty for non compliance will rise, so too should the time to provide details of good reason. We therefore recommend an increase to at least 15 days.
- iii) The DWP has introduced the claimant commitment and some of the increased sanctions for JSA and ESA in advance to broadly align with UC. This appears unnecessary given that many of the apparent advantages of Universal Credit are not available to claimants in the interim. We would support the delay of its implementation in Northern Ireland until the introduction of Universal Credit.

Sanctions are an area that could be subject to operational flexibilities and we would recommend that the Committee urges the Department to take a different path from Britain. These could include specific safeguards for people with mental health and learning disabilities, those people whose first language is not English and people with literacy problems. Research has shown that people in these groups are disproportionately prone to being sanctioned.<sup>1</sup>

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.

Furthermore, it is vital that Personal Advisers working with people with disabilities and mental health issues have a good understanding of the particular difficulties they may face and the impact this may have on their health in returning to work. In addition, personal advisers should receive clear guidance aimed at ensuring that sanctions are used as a very last resort. We also recommend that certain groups are visited before a sanction is applied to ensure they are aware of the effect of the sanction

We understand that DWP is considering carrying out home visits to those with mental health and learning disability issues and we would urge the Department to do similar.

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1 Sanctions in the benefit system: Evidence review of JSA, IS and IB sanctions SSAC occasional paper No1 (2006)

### **Clause 26-27**

Clause 26 and 27 provide for a reduction of the amount of a claimant's award in the event of certain failures. We recommend the insertion of the following clause after these two clauses:

*'The Minister may not impose a sanction under section 26 or 27 on a claimant falling under section 22 where the claimant does not have guaranteed and predictable access to childcare meeting the needs of any child for which the claimant is the responsible carer.'*

This clause also helps to further confirm the importance of the availability of affordable childcare to a number of the proposals within the Bill. We foresee a number of difficulties in introducing legislative powers for this purpose in Northern Ireland when the childcare infrastructure in Northern Ireland required to underpin these proposals is not in place. It is not appropriate to simply transfer these provisions from the Westminster Act to Northern Ireland as the infrastructure to implement the proposals is not available in Northern Ireland. Arguments of parity must take into account the lack of parity of provision of affordable childcare. If the infrastructure to support the introduction of many of the clauses within the Bill is not in place, we would urge the Assembly to work on developing and implementing an effective childcare strategy to enable lone parents and others to take up work. Further, with high unemployment the current economic climate will make it difficult for lone parents to secure jobs that allow them to combine their work and family life. Finally, there is a potentially adverse impact on child poverty if lone parents are exposed to the risk of benefit sanctions.

Furthermore, given the difficulties accessing affordable childcare in Northern Ireland we would urge the Committee to examine the costs of allowing lone parents to remain exempt from work related requirements until the child they are responsible for reaches the age of five which would require a change to Clause 19 (2)( c ) from the age of one to the age of five.

### **Clause 28**

This clause provides a power for regulations to provide hardship payments for a claimant who has been sanctioned.

A concerning new feature of the hardship payments is that they will be recoverable rendering them loans in effect. The DWP has signalled that the hardship rate will be 60% of the daily amount. The Welfare Reform Group does not support hardship payments becoming recoverable.

## **6. Chapter 3 - Supplementary and General**

### **Clause 42**

This clause provides for pilot schemes to be introduced for specific purposes as part of the implementation of Universal Credit. We are concerned that the pathfinders for Universal Credit will be running in England only and the evaluation of these pilots will be based on a totally different infrastructure to that in Northern Ireland.

We would therefore welcome the insertion of a clause that insists that the Department should take on board any learning experiences from the pathfinders and initial introduction of Universal Credit in Great Britain before implementation in Northern Ireland in April 2014. The Department for Social Development should provide a report on the findings and outcomes of the pathfinders highlighting specific ramifications for Northern Ireland and action that can be taken to mitigate disproportionate impact locally.

### **Clause 44**

This clause sets out the statutory rules procedures for regulations. As outlined earlier in our response, the Committee should seek a plan with a timeframe for the regulations from the Department as they remain a critical part of the scrutiny process.

**Clause 52**

ESA is a benefit for people who are out of work because of illness or disability. Following a 13 week assessment stage – during which the claimant undergoes the Work Capability Assessment - if assessed for ESA, they are either placed in the Support Group or the Work Related Activity Group. There is currently no time limit to the amount of time a person can remain in either the ESA Support Group or the WRAG.

This clause limits the amount of time someone in the WRAG is eligible to receive ESA on a contributory basis to twelve months. Thereafter a means test will apply. The proposed changes will be very rapid – time limiting will start once the Bill is implemented and will be applied retrospectively. We strongly recommend that the Committee should consider either not implementing this clause or amending it to tie the provision to the age of a claimant e.g. those under 50 or 55 years of age.

**Clause 54**

This clause provides that no new claims for contributory ESA may be made on the grounds of youth after the coming into force of the Bill. It also abolishes youth ESA and time limits existing claimants to 12 months.

The Committee should consider not implementing this clause. Alternatively, an amendment could be included which preserves ESA in youth cases for those in further education. The current cost of the benefit is estimated at £390,000 a year. It is still unclear whether this is net of the displacement costs of moving claimants to other benefits, e.g. JSA. Furthermore, data is not currently held by the DSD in respect of youth cases and the information provided in the EQIA was assessed on the basis of 'IS' youth cases.<sup>2</sup> According to these figures 2990 individuals are currently claiming Incapacity Youth. The Committee should press the Department on this matter.

**Clause 59**

Clause 59 amends the regulations to provide for IS to be available where a lone parent has a child under 5.

We are very concerned by the proposals to require lone parents with children aged under seven years of age to actively seek work as a condition of JSA. While we support a policy of positively encouraging lone parents into paid work at an appropriate time, efforts to move lone parents back to work should be through measures tailored to support and encourage lone parents rather than through sanctions.

**Other Benefit Changes – Part 3**

The Welfare Reform Group does not support the move to up-rate Local Housing Allowance by CPI rather than local rents, whichever is the lower. This approach breaks the long established principle of linking HB payments with actual or representative housing costs in the private rented sector. The Committee should seek to have the impact of CPI reviewed with a commitment to re-linking LHA to at least the 30th percentile if necessary.

The amendments made by Clause 69 will ensure the Department has the power to bring forward regulations to introduce size criteria into the calculation of housing benefit for working age tenants in the social rented sector. In GB, it was advised that £30 million annually would be added to the discretionary housing payments specifically for those under occupying disabled people living in significantly adapted accommodation and foster carers who keep a spare bedroom between foster placements. We believe that mitigation for these groups should be through specific amendments to the Bill and in subsequent regulations rather than by discretionary support.

We agree that genuine under-occupancy should be sensitively tackled and that there is best use made of existing stock through proportionate and targeted measures. We are concerned that the under-occupancy tax is not the most appropriate and sensitive means of doing so given the makeup of Northern Ireland social housing stock. According to NIHE approximately 32,000 households will be affected (26,000 NIHE and 6,000 Housing Association) by this measure.

We propose that the Committee should seek to withdraw this clause from the Bill completely. Alternatively, we propose that the definition of under-occupancy should be amended to allow claimants to have one spare bedroom where the spare bedroom serves a legitimate person such as a family member returning home, or serves a purpose such as required for treatment e.g. dialyses and/or storage of large items of equipment - for example hoists, showering equipment. It should also allow for circumstances where there is no alternative accommodation available to move to. In addition, the Department should exempt households with disabled children from the measure, as well as foster families, prisoners who intend to return to the family home and where one person is of pension age. We would also urge the Committee to examine provision within this clause for non-resident parents who have children stay as part of contact arrangements. We believe this amendment has the potential to mitigate the Bill's policy of tackling under occupation.

### **Clause 70**

Clause 70 repeals the payments of crisis loans, community care grants and budgeting loans from the discretionary social fund. It also abolishes the office of the Social Fund Commissioner. We understand that the Department is considering the retention of the Social Fund beyond April 2013 as its replacement scheme will have to be consulted on and may require additional legislation which will be time consuming. We, therefore, do not envisage this clause being introduced immediately. We would advise the Committee to seek clarification from the Department about its intention and timetable for replacing the Social Fund.

## **8. Personal Independence Payment – Part 4**

This part of the Bill introduces the new framework for Personal Independence Payment that will replace Disability Living Allowance. In Northern Ireland, the projected savings of this change are £22.19 million from 2013/2014 and £65.94 million from 2014/2015.

The new assessment will measure the ability of an individual to perform specific tasks, which will be provided by a contractor outside of DSD. The Committee may wish to press the Department on the terms of any new contract taking into account the problems associated with the delivery of the ESA Work Capability Assessment by Atos Healthcare. We recommend that the contract with the medical assessment provider in Northern Ireland should contain the following aspects: (i) annual reviews of performance; (ii) penalties for under-performance (including complaints, number / percentage of decisions based on the medical report that are subsequently overturned at appeal). This approach will ensure that the assessment provider is aware that service delivery is about process and outcome. We note the recent Audit report in Britain which suggested that the Department for Work and Pensions was not effectively applying penalty clauses to the ESA assessment contract with Atos Healthcare.

The NI Welfare Reform Group agrees with the Work and Pensions Committee report, *Government support towards the additional living costs of working-age disabled people*, that reassessment of existing DLA claimants should only proceed once [the Department] is confident that the assessment process produces accurate results and is working properly for new claimants.

We would therefore welcome the insertion at Clause 76 of the following:

- (a) a trial period before any assessment process is implemented fully for new applicants and those transferring from DLA;



The NI Welfare Reform Group would like to see an amendment to Clause 87 which takes account of circumstances where a person is held on remand and there is no sentence of imprisonment or detention, or charges are dropped or they have their sentence quashed. We believe that in these circumstances a claim for PIP should be backdated for the entire period of custody as long as the individual continued to meet the qualifying disability conditions for PIP. Under PIP, unlike DLA, no arrears will be paid. The arrangements for PIP are unfair to people wrongly held on remand. The Committee should seek to restore the position that applies to DLA.

## **9. Social Security General – Part 5**

Clauses 95 and 96 allow for a cap on the total amount of benefit received. Regulations will set out the cap, how the cap will be calculated, the benefits that will be taken into account and power to provide for exceptions from the cap. The intention is to use this power to exempt households where a member of the household is working above a certain level, has a disability and is entitled to disability living allowance, PIP or constant attendance allowance, or is a war widow or widower.

The estimated savings of this measure are £7.26 million in 2013/2014 and £8.58 million in 2014/2015. We believe that the Committee should seek detailed figures from the Department as to the number of claimants likely to be affected by the introduction of the Benefit Cap. This exercise was recently conducted by DWP in Britain.

We believe that regulations under this section should also provide for an exemption from the application of the benefit cap for individuals or couple who are:

- in receipt of Carers allowance
- in receipt of Bereavement Benefits
- as a result of the benefit cap, considered by NIHE to be threatened with
- homelessness and in priority need ; or
- accepted by the NIHE as homeless and in priority need.

### **Impact monitoring**

It is vitally important that the impact of significant benefit changes on vulnerable claimants is monitored from the outset. It is our experience that key outcomes have not always been measured under previous benefit reforms. For example, the number of sickness benefit claimants finding employment after being found fit for work under Employment and Support Allowance (ESA) was not initially monitored, despite this being the key aim of the welfare change. A number of outputs were recorded, including the results of the assessments, but not the final outcome for the claimant. It is essential that outcomes rather than just outputs are monitored.

We suggest the following outcomes, based on the points raised in our response, should be monitored and subject to statutory scrutiny by the Committee for Social Development under the Welfare Reform Bill.

- The impact of increased sanctions on jobseekers, including whether this had a positive effect on employability and whether sanctions lead to increased demand for charitable support.
- The impact of Universal Credit on claimants with disabilities or illness who are fit for work. Analysis of the regulations suggest that these claimants will be worse off under Universal Credit although it is difficult to estimate the scale of this loss of support.
- The impact of Universal Credit on child poverty levels given the commitment in the Child Poverty Act to end child poverty by 2020

- The direct and indirect consequences of the implementation of welfare reform, in recognition of the significant impact on the working age population and the knock on impact within other sectors creating increased 'displaced expenditure'.
- The performance of the medical given its central role in the implementation of PIP and the knock on consequences of below par performance.

Furthermore, we would welcome the introduction of a statutory right to independent advice for those negatively impacted by welfare, recognising the key role advice service play in addressing the negative impact of welfare reform.

### **Conclusion**

The Welfare Reform Group believes it is appropriate to tailor a Northern Ireland approach to issues raised in the Bill. As enabling legislation, much of the opportunity for flexibility lies within the regulations and it is therefore vital that they are subject to comprehensive scrutiny by the Committee. We support the recommendations of the recent Children's Society, Citizens Advice and Disability Rights UK report, *Holes in the Safety Net*, which highlighted specific groups of disabled people who will lose out under Universal Credit. 3

The Welfare Reform Group welcomes the opportunity to respond to this consultation. We trust you will find our comments helpful. If there is any further way in which we could contribute to this process we would welcome the opportunity to do so.

For further information about this response contact:

### **NI Welfare Reform Group**

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3 Please see [http://www.childrenssociety.org.uk/sites/default/files/tcs/holes\\_in\\_the\\_safety\\_net\\_disability\\_and\\_universal\\_credit\\_full\\_report.pdf](http://www.childrenssociety.org.uk/sites/default/files/tcs/holes_in_the_safety_net_disability_and_universal_credit_full_report.pdf)

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# NI Welfare Reform Group

## Briefing for Social Development Committee

### October 2012

#### 1. The Northern Ireland Context

The NI Welfare Reform Group welcomed the Minister for Social Development's announcement that changes had been secured in relation to the way Universal Credit is paid. We are cautious that while these flexibilities have been achieved, the Committee needs to closely examine what other steps can be taken to protect households affected by the changes and to tailor the welfare reform agenda to Northern Ireland specific circumstances. It is vital that the changes work in practice for Northern Ireland. Moving people into employment can only be achieved if there are jobs available and access to good quality and affordable childcare. Neither of these ingredients applies locally.

The Committee needs to carefully scrutinize, for example, the under-occupation penalty in public rented housing, the level of conditionality and sanctions proposed under the Welfare Reform Bill and the lack of childcare provision. The Northern Ireland Executive has set aside £20 million a year as a Social Protection Fund which could be utilized to widen the scope for exemptions to some of the more punitive arrangements in Universal Credit.

#### 2. Regulation Making Procedures of the Welfare Reform Bill

We are concerned that many of the regulations governing critical parts of the Welfare Reform Bill will proceed through the confirmatory process with scrutiny only happening after the regulations have been laid. Given that the Welfare Reform Bill is significantly enabling legislation with detail left to regulations, this is a retrograde step.

DWP in Great Britain have yet to publish the final version of the Universal Credit regulations. Particular areas of concern to address are the crucial details governing entitlement to housing credit within Universal Credit, confirmation of the rates of personal allowances, and other additions, childcare costs, earnings disregards and the details of what will be required of people in all the work related requirements. These will clearly be central issues relating to work incentives.

The flexibility to do things differently in a Northern Ireland context lies very much within the detail of the regulations. As a result the scrutiny process must find a way of addressing where the scope for specific flexibilities exists. We recommend that the Committee asks the Department to provide a draft plan to include a timetable for publishing the regulations due to be made under the Bill.

#### 3. Conditionality and Sanctions

Increased conditionality, reform of the sanctions system and changes to hardship payments are the main changes to conditionality and sanctions within the Bill.

Sanctions arrangements are an area where operational flexibilities could be put in place and the Department should be pressed hard on this issue with specific undertakings given. There are a number of issues for the Committee to consider in relation to sanctions. They are as follows:

- (i) is the increased level of sanctions proportionate given its impact on the rest of the household including children? We would suggest the increase is disproportionate and sanctions of 13 weeks, 26 weeks and 3 years is too long.
- (ii) regulations in Britain only provide five working days for a claimant to establish good reason before a sanction is applied. The penalty for non-compliance will be increased sharply to should a longer period to provide details of a good reason also be provided. We would support an increase to at least 15 working days to show reasonable cause.

- (iii) the DWP has introduced some of the increased sanctions arrangements for JSA and ESA in advance to broadly align with UC. This seems unnecessary given that the apparent advantages of Universal Credit are not available to claimants in the interim.

Claimants who are sanctioned may apply for and receive hardship payments of income based JSA if they can demonstrate that they or their dependants would suffer hardship in the absence of such a payment. The Welfare Reform Bill seeks to make hardship payments recoverable. The NI Welfare Reform Group does not support this measure.

#### **4. Impact on Particular Groups**

##### **Lone parents**

If the NI Welfare Reform Bill replicates the GB proposals, more punitive sanctions will be introduced and greater conditionality placed on lone parents, as well as introducing further conditionality on some people who are already in work.

The NI Welfare Reform Group believes existing variations to the administration of social security in NI for lone parents should be retained. Previous reforms applied in GB were not introduced here, mainly due to NI's poor childcare infrastructure. As a result, lone parents in NI currently sign on for work focused interviews every 13 weeks as opposed to fortnightly in Great Britain. Given that NI already has these operational differences, and the requisite investment in childcare has still not occurred, the NI Executive should retain the existing exemptions that protect lone parents' children from the obligation on their parents to undertake employment or work-related tasks that are not in the best interests of the child.

##### **Mixed Aged Couples & Universal Credit**

Couples can currently claim Pension Credit as long as one partner has reached the qualifying age. The Welfare Reform Bill changes the age criteria so that in future, couples will only be able to claim Pension Credit when they have both reached the qualifying age. The arrangements for seeking work etc. in these types of cases should be explored further with the Department.

The Bill introduces a savings rule for Universal Credit which we understand will mirror the current capital limit for IS, JSA and ESA i.e. £16,000 with a tariff income for savings between £6,000 and £16,000. This will represent a significant change as currently tax credits and pension credit have no upper capital limit.

This measure is likely to impact disproportionately on older claimants who have spent time saving towards retirement. Two issues need to be considered. First, will tax credit claimants transferred to Universal Credit be able to remain entitled under transitional arrangements? We would welcome such safeguards. Secondly, will the capital threshold be appropriate for people on Universal Credit where the claimant or one member of the couple has reached state pension age?

ENDS

# Womens Ad-hoc Policy Group

## 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.<sup>1</sup> 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.

**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."

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1 DSD Evidence to DSD Committee 10th October 2012



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.<sup>2</sup> 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.**

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.**

# Womens Support Network submission

Dr Kevin Pelan  
Clerk, Committee for Social Development  
Room 412  
Parliament Buildings  
Belfast  
BT4 3XX

16th February 2012

Dear Dr Pelan

## **Pensions Bill**

Thank you for the opportunity to make a submission relating to the introduction of the Pensions Bill. Our submission will be based solely on PART 1 point 1. Equalisation of and increase in pensionable age for men and women.

Whilst we realise the retirement age between women and men equalisation is inevitable, we believe the timescale is unrealistic and detrimental to women. In fact, the Turner Commission recommended a lead-in time of fifteen years. Equalisation two years earlier than promised will have a disproportionate impact upon women aged 56 and 57 when their pensions will be held back for another year and in some cases two years. This is an unsatisfactory situation for women who do not have the funds or savings to fill any gap.

We strongly believe that this double increase for women should not go ahead at this time and Government should start introducing policies and safeguards focusing on how to help women extend their working lives thus reducing the many prejudices women face. Women are more likely to experience interruptions to their careers to take on caring responsibilities and this has a negative impact on their future career and earnings.<sup>1</sup> This can also have an impact on their pensions.

Women are indeed at higher poverty risk in old age than men. Women continue to predominate in the category of part-time workers,<sup>2</sup> and therefore part-time workers are in a particularly vulnerable position in old age, because often they have no, or only restricted, access to a pension system. Even when granted access to a pension scheme, part-time workers are especially vulnerable to its regulations and provisions. Fewer working hours and lower monthly incomes over a long period of part-time work produce limited pension entitlements which may be just above the poverty line.

A report by Age NI<sup>3</sup> concluded there were significant numbers of pensioners unaware or unable to claim pension credit. The number of pensioners failing to claim was at least one-third and possibly as many as half of those entitled to State Pension Credit were thought not to claim. We would like to see the Department for Social Development continuing to fund benefit up-take programmes. Making Pension Credit an automatic payment would ensure women who are entitled to Pension Credit receive it without the necessary form filling which often makes the process more difficult for older people.

By introducing this equalisation earlier will mean that women will have few options to find new jobs or will have sufficient time to prepare for retirement. A report by the Women's Resource & Development Agency<sup>4</sup> highlighted that some women may already have taken early retirement and are unaware of the pension shortfall they face.

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1 Northern Ireland Assembly (2011) The Gender Pay Gap, OFMDFM  
2 Northern Ireland Assembly (2011) The Gender Pay Gap, OFMDFM  
3 Spotlight on Older People in Northern Ireland, Help the Aged, Northern Ireland, 2008  
4 Hinds, B. (2011) The Northern Ireland Economy: Women on the Edge?, WRDA, 2011

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We believe the only option to ensure women are not disadvantaged is to slow down the acceleration plan to allow women more time to prepare for retirement. The Bill in its current state contains elements within the system which actually amplify gender inequalities in old age.

WSN has welcomed the opportunity to make a submission on this Bill. If you have any queries please get in touch.

Yours sincerely

**Ellen Finlay**

Policy & Research Co-ordinator







Northern Ireland  
Assembly

#### Appendix 4

# Departmental Submissions



# Departmental Briefing on general principles of Bill before 2nd stage on 9 October

**From: Director**  
**Social Security Policy & Legislation Directorate**

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Dr Kevin Pelan  
Clerk to the Social Development Committee  
Room 412  
Parliament Buildings  
Stormont      Your ref:  
Belfast  
BT4 3XX

Date: 28th September 2012

Dear Kevin

## Welfare Reform Bill – High Level Briefing Paper

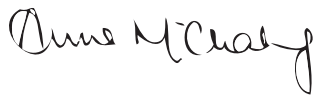
Further to the email from Stewart Kennedy which requested a briefing paper on the principles of the Welfare Reform Bill (NI) 2012, please find a paper enclosed.

The paper, attached at Appendix 1, provides the Committee with a high level overview of the principles of the Welfare Reform Bill. As requested, we will be attending the Committee on Thursday 4th October to discuss this paper and answer any questions arising from members.

I will be accompanied by Michael Pollock; Martina Campbell and Colm McLaughlin.

I hope this information is helpful.

Yours sincerely



**Anne McCleary**  
**Ext 37984**

# Appendix 1

## Briefing for Social Development Committee on the general principles of the Welfare Reform Bill

### Universal Credit

#### Background

- The overall policy intent of Universal Credit is to address poverty through tackling worklessness and benefit dependency. The underlying principle is that work should always pay and that people should be better off in work.
- Universal Credit will replace a complex system of working-age benefits and credits with a single set of rules

Current system	Universal Credit
The welfare system has more than 30 benefits each with their own rules and criteria	Universal Credit is a new single means-tested support for working-age people who are in or out of work
Work incentives can be very low, benefits are reduced to take account of earnings, but different benefits have different rules	Universal Credit will ensure that work pays. Financial support will be reduced at a consistent and predictable rate and people will generally keep a higher proportion of their earnings
Conditionality – some benefit claimants are capable of working but have no obligations to look for work	Universal Credit will personalise conditions according to people's capability and circumstances
Payments are paid to different adults in a household and for various periods	Universal Credit is a single monthly payment to each household - the Department will retain the ability to pay more frequently or to split payment in exceptional circumstances

#### What is Universal Credit?

- Universal Credit is a working age benefit which will replace Income Support, income-based Jobseeker's Allowance, income related Employment and Support Allowance, Housing Benefit, Child Tax Credits and Working Tax Credits.
- The upper age limit for Universal Credit will be the age at which the claimant becomes eligible for state pension.
- First new claims for Universal Credit will start in October 2013 with all existing claimants moved to the new system by 2017.

#### Entitlement and awards

- Claims will be made on the basis of households rather than individuals and both members of a couple will be required to claim Universal Credit.
- Universal Credit will be paid on a monthly basis as a monthly payment cycle will fit well with the usual cycle of earnings for people in work. For those out of work, Universal Credit will mimic a salary for paid employment, to help smooth the transition into work.
- To ensure households are able to manage the transition to monthly payments a package of support to include appropriate budgeting advice will be developed.
- Entitlement will be calculated based on information already held or provided by the claimant including information about any income they have, other than earnings. For those

who are not working and who satisfy all the conditions of entitlement, this is the amount they will be paid.

- Claimants who have earnings from employment will have those earnings automatically taken into account. This will involve using HM Revenue and Customs proposed real-time information system to identify earnings and to calculate the net Universal Credit payment due by applying the appropriate taper to the gross payment.
- A single taper rate and a simple system of disregards will allow people in work to see clearly how much support they can get while making sure that people considering a job will understand the advantages of working.
- Real time information means that Universal Credit payments can be gradually reduced as earnings increase.
- The taper rate is expected to be set at 65 per cent. This would mean that 35 pence in every pound earned would be kept; meaning that claimants would be £35 better off for every extra £100 of net earnings. Significantly this means that many people in work would receive substantially more support than under the current benefits system.
- The standard allowance is the core cash component of any Universal Credit claim intended to help with ordinary living expenses. It is onto this basic amount that additional amounts are added to provide for individual needs such as children, childcare costs, disability and housing.
- An amount will be included for claimants who are responsible for children or qualifying young people. An additional amount will be paid if the dependant child or qualifying young person is disabled consistent with the objectives of Universal Credit of simplicity and affordability. This will replace Child Tax Credit and take over its role as the main source of extra support for children in low income families in and out of work. As now Child Benefit will remain separate.
- Support with the costs of childcare will be available to all lone parents and couples, where both members are in work, regardless of the number of hours they work. Families will be able to recover childcare costs as follows – 70% of up to £760 for one child or £1,300 for two or more children per month. This mirrors the current arrangements under the Tax Credit system.
- It is intended that support for housing costs will cover similar types of payment liabilities as are covered by the current Housing Benefit and Support for Mortgage Interest schemes.
- Tenants in the social-rented sector who under occupy their properties will have their Housing Benefit payments limited. The size criteria will replicate that which applies to claimants in the private rented sector.
- People remain registered with the system for two years after their claim has ended. This ensures that they do not have to wait for vital support if they lose their job or cannot work for a period owing to ill health.

#### **Benefit cap**

- There will be a cap on the total amount of benefit that working-age claimants can receive so that households on out of work benefits no longer receive more in benefit than the average weekly wage, after tax and national insurance. The total level of entitlement to welfare benefits is to be limited to £500 a week for a couple and lone parent households and £350 a week for single households. These amounts correspond to the level in Great Britain even though earnings are lower in Northern Ireland.
- Exemption for the cap will apply to war widows and households with a member in receipt of Disability Living Allowance, Personal Independence Payment, Attendance Allowance, Industrial Injuries Benefits, the support component of Employment and Support Allowance and the limited capability for work and work related activity element of Universal Credit.

### **Transitional protection**

- The broader impacts of introducing Universal Credit suggest that 64% of households will have the same or higher benefit entitlement. A package of transitional protection is being developed to ensure that there are no losers as a direct result of the move to Universal Credit where circumstances remain the same.

### **Conditionality groups**

- There will be four conditionality groups –
  - (i) full conditionality – this will be the default option for claimants including lone parents and couples with older children. Claimants in this group will be required to be available to immediately take up, (or attend an interview for) work/more work/better paid work. Advisers will allow claimants to place limitations on the work they must search for in certain circumstances, for example those with a good work history and those with a health condition. There will be exceptions for immediate availability, for example, those who need to make childcare arrangements;
  - (ii) work preparation – claimants in this group are disabled or have a health condition which means that they have limited capability for work at the current time. They are expected to take reasonable steps to prepare for work;
  - (iii) keeping in touch with the labour market – claimants in this group are lone parents or lead carers in a couple with a child over one but under five. They will be expected to attend periodic interviews to discuss their plans for returning to the labour market; and
  - (iv) no conditionality – claimants in this group are disabled or have a serious health condition which prevents them working and preparing for work, and/or a lone parent or lead carer in a couple with a child under one, and/or have intensive and regular caring responsibilities, and/or have earnings above the relevant threshold.

### **Sanctions**

- Strengthened conditionality will be supported by a new system of financial sanctions. The new sanctions will provide greater incentives for people to meet their responsibilities. Under the existing Jobseeker's Allowance sanctions regime the consequences of failing to comply with requirements are not always clear, for example, if a claimant refuses a reasonable job offer he might get a sanction of between 1 and 26 weeks.
- Prior to the introduction of Universal Credit the Jobseeker's Allowance and Employment and Support Allowance sanctions regime are being revised to broadly align with the Universal Credit sanctions model.
- The Universal Credit sanctions approach will feature four levels of sanction, high, medium, low and lowest level. No one will be sanctioned if there is no work available. The sanctions will only apply if a job is available, the claimant has been offered it and has not taken.
- The level of sanction a particular claimant will receive will depend on the conditionality group they fall into.



Sanction	Applicable to:	Duration		
		1 <sup>st</sup> failure	2 <sup>nd</sup> failure	3 <sup>rd</sup> or subsequent failure
<b>Higher Level</b>  e.g. failure to take up an offer of paid work	Claimants subject to all work-related requirements	91 days	182 days	1095 days
<b>Medium Level</b>  e.g. failure to undertake all reasonable action to obtain work	Claimants subject to all work-related requirements	28 days	91 days	
<b>Lower Level</b>  e.g. failure to undertake particular, specified work preparation action	Claimants subject to all work-related requirements Claimants subject to work preparation and work-focused interview requirements	Open ended until re-engagement plus		
		7 days	14 days	28 days
<b>Lowest Level</b>  Failure to participate in a work-focused interview	Claimants subject to work-focused interview requirements only	Open ended until re-engagement		

### Employment and Support Allowance

- A one year time limit will apply to people claiming contributory Employment and Support Allowance and placed in the Work Related Activity Group. The most severely ill or disabled people in the Support Group for whom work is not a viable option are not affected by this measure.

### Fraud and error

- Claimants who fail to report or are negligent with their benefit claim will now face a financial penalty as well as recovery of the overpaid benefit.
- The current administrative penalty and cautions will be replaced by a new minimum administrative financial penalty and cautions will be replaced by a new minimum administrative financial penalty for benefit fraud or 50 per cent of the amount overpaid whichever is greater up to a maximum of £2000. They will also have a loss of benefit for 4 weeks.

### Personal independence payment

#### Introduction

- Part 4 of the Bill contains provisions related to the introduction of personal independence payment which, beginning from June 2013, will replace disability living allowance for people aged between 16 and 64.

#### Rationale for change

- DLA has not been fundamentally reviewed since introduction in 1992.
- It has become hard to understand and complex to administer.
- There is no systematic process for checking that awards remain correct.
- Need to target support at those who most need help.
- In 2010/11 spending on DLA was £754m.

#### Summary of proposals

- Personal Independence Payment is a new benefit. It will be payable to people who meet conditions which will be set out in regulations. The conditions include:

- Being resident and present in Northern Ireland;
  - Having a physical or mental condition that limits or severely limits their ability to carry out daily living or mobility activities;
  - Having had a disability for a qualifying period of 3 months with the prospect of remaining disabled for the next 9 months (“prospective test”);
  - Claimants being assessed on their ability to perform nine daily living and two mobility activities;
- A claimant who has a terminal illness may be entitled to benefit without having to satisfy either the qualifying period or prospective test.
  - There will be two components – a daily living component and a mobility component.
  - Each component will be payable at either a standard or enhanced rate which will be set out in regulations.
  - The majority of awards will be for a fixed term and there will be a process to regularly review awards to ensure they remain correct.
  - The Social Security Agency will retain responsibility for decision making. Decisions will carry a right of appeal.
  - A key part of the reform is that decisions will be based on an assessment.
  - There will be a new shorter two part claim form.

#### **Personal Independence Payment Assessment**

- Will consider the impact a person's disability has on their ability to perform a range of everyday tasks.
- Assessments will be carried out by a third-party provider.
- Criteria are still being developed and have been consulted on. They will take account of physical, sensory, mental, intellectual and cognitive impairments.
- Will consider an individual's ability to carry out the activities over a period of time and those which apply for the majority of the time, for example, in cases where a person's condition fluctuates.
- Key part of the assessment process for claimants will be a face to face consultation with a trained health professional – this will apply to the majority of claimants.
- Separate consultations on the assessment criteria and the detailed design of personal independence payment have been undertaken in conjunction with DWP. The formal response to those consultations will be published in due course.

#### **Timetable**

- June 2013 – new claims
- October 2013 – Natural reassessment (ie, where there has been a change in circumstances or a claim has come to an end)
- January 2014 – Managed reassessment – 1000 cases per week to be reassessed by March 2016

# Universal Credit Powerpoint Template

## Universal Credit Assessment

**Example : Lone Parent over 25yrs**  
**Net earnings £1,127 per month**  
**1 child**  
**No Housing Costs**  
**Earnings Disregard £8,600 PA**  
**(716.66 per month)**  
**Capital less than £6,000**

Earnings Calculation	
£1127	less £716.66 disregard =
£410.34	
£410.34 x 65%	= £266.72

Monthly Assessment	
Standard Allowance	£309.00
Child Element	£270.00
<b>Maximum UC</b>	<b>£579.00</b>
Less Earnings after disregard & taper Applied	£266.72
<b>Adjusted UC Payable</b>	<b>£312.28</b>

Total Income per month	
Universal Credit	£312.28
Earnings	£1127.00
Child Benefit (4 weekly)	£81.20
<b>Total Monthly</b>	<b>£1520.48</b>

## Universal Credit Assessment

**Example :Single Person over 25yrs**  
**Net earnings £273.00 per month**  
**No children**  
**Housing Costs = £300 per month**  
**Earnings Disregard £1,600 PA**  
**(£133.33 per month)**  
**Capital less than £6,000**

Earnings Calculation	
£273.00	less £133.33 disregard =
£139.67	
£139.67 x 65%	= £90.79

Monthly Assessment	
Standard Allowance	£309.00
Housing Element	£300.00
<b>Maximum UC</b>	<b>£609.00</b>
Less Earnings after disregard & taper Applied	£90.79
<b>Adjusted UC Payable</b>	<b>£518.21</b>

Total Income per month	
Universal Credit	£518.21
Earnings	£273.00
<b>Total Monthly</b>	<b>£791.21</b>

## Universal Credit Assessment

**Example : Lone Parent over 25yrs**  
**Net earnings £1,127 per month**  
**Earnings Disregard £3,250 PA**  
**(£270.83 per month)**  
**1 child**  
**Rent £280 per month**  
**Capital £10,000 (1<sup>st</sup> £6,000 disregarded)**

### Monthly Assessment

Standard Allowance	£309.00
Child Element	£270.00
Housing Element	£280.00
<b>Maximum UC</b>	<b>£859.00</b>
Less Tariff Income	£16.00
Less Earnings after disregard & taper Applied	£556.51
<b>Adjusted UC Payable</b>	<b>£286.49</b>

### Earnings Calculation

£1127 less £270.83 disregard  
 =£856.17

£856.17 x 65% = £556.51

**Tariff income is £1 a week for  
 each complete £250, or part of  
 £250, over £6,000**

### Total Income per month

Universal Credit	£286.49
Earnings	£1,127.00
Child Benefit (4 weekly)	£81.20
<b>Total Monthly</b>	<b>£1494.69</b>



Department for  
**Social  
 Development**  
[www.dsdni.gov.uk](http://www.dsdni.gov.uk)

# Social Development Committee - Schedule of Responses to Questions from Briefing paper dated 1st October 2012

## SOCIAL DEVELOPMENT COMMITTEE QUESTIONS IN DALO LETTER OF 1 OCTOBER

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<b>General</b>  <b>1. Promoting financial capability and budgeting skills</b> – there are concerns that many UC claimants may not have the budgeting skills to manage monthly payment of UC. Will there be a financial inclusion strategy for Northern Ireland to support the roll-out of UC? If so, what resources are available for such a strategy and what will be the timetable for its roll-out? If there is no financial inclusion strategy, can the Department outline how it intends to promote financial capability and budgeting skills for claimants of UC?	<p>DSD Officials working within the Universal Credit Programme are currently developing a Customer Preparation &amp; Budgetary Support Strategy. This is considering the types of budgeting advice customers may require, the development of suitable banking products (transactional banking products) and the types of alternative payment arrangements that may be required for those customers who will have difficulty budgeting from a single household monthly payment. The Customer Preparation &amp; Budgetary Support Strategy will be available in advance of the launch of Universal Credit but it is too early to specify the level of financial resource that will be assigned to these activities.</p>	<p>Legislation already allows for payments to be made more frequently. Paragraph 4 of Schedule 2 to the Welfare Reform Bill amends the Social Security Administration (NI) Act 1992 to allow the Department to carry forward the existing arrangements that apply to other benefits in respect of claims and payments of Universal Credit i.e. allow payments more frequently.</p> <p>This will be further specified within the Claims and Payments Regulations. (Regulation 41(1) refers).</p> <p>Minister announced on 22 October that Lord Freud has agreed to payment flexibilities including split payments and payment frequency.</p>
<b>2. Benefit recipients are often excluded from accessing mainstream financial services, there are also concerns that UC claimants may not have access to appropriate bank accounts (e.g. post office accounts do not current have a facility for direct debits). Can the Department outline what discussions it has had with the Northern Ireland banking institutions to ensure that appropriate financial products are available to UC claimants?</b>	<p>Banks operating in Northern Ireland are members of the BBA (British Banking Association1). The DWP Universal Credit Programme has engaged with the BBA and the Northern Ireland UC Programme has been involved in this process.</p> <p>Following this engagement, a UK-wide procurement exercise to select banking products suitable for Universal Credit customers has been launched by Lord Freud, Minister for Welfare Reform. Northern Ireland is within scope of this procurement exercise.</p>	<p>As above</p>

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>3. Is there <b>flexibility within the system</b> to enable UC to be paid on a more regular basis (e.g. fortnightly) if the <i>claimant</i> so chooses?</p>	<p>Although there is currently no provision within the Welfare Reform Bill to allow claimants to choose to have their Universal Credit paid on a fortnightly basis; Under the proposed Claims and Payments Regulations (Regulation 41(1)) the Department will have the power to make a decision on alternative payment arrangements such as making more frequent than monthly payments.</p> <p>The decision on alternative payment arrangements will be taken based on the claimant's financial circumstances and any vulnerability factors e.g. following discussion with the claimant. The Decision Maker will consider any relevant health issues.</p> <p>The circumstances in which alternative payment arrangements will be appropriate will be set out in guidance. This approach will enable cases to be assessed on their individual merits.</p> <p>It is planned to offer support to customers to transition to monthly payments but it is also recognised that for some this may not be achievable.</p>	<p>Given the need to put in place more flexible payment arrangements for some customers Minister has discussed with GB Ministers the need for Northern Ireland to have operational flexibilities available for customer payments. DSD officials are currently engaged with DWP to determine the required changes to the IT systems to deliver more frequent payments to customers and the timescales and costs of delivery of such flexibility.</p> <p>Minister announced on 22 October that Lord Freud has agreed to payment flexibilities including split payments and payment frequency.</p>



Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>4. Is there flexibility within the system to enable UC claimants to <b>split their payment of UC</b> between partners if they choose to do so?</p>	<p><b>Clause 99</b> of the proposed Welfare Reform Bill amends the Social Security Administration Act 1992 to allow for regulations to specify that couples may nominate which partner should receive the payment of benefit.</p> <p>It further gives the Department the power to make an intervention and determine to which member of the couple the payment may be made, irrespective of whom the couple has nominated.</p> <p>Further, this clause also allows the Department to split payments of Universal Credit between partners.</p> <p>Under the proposed <b>Claims and Payments Regulations</b> (Regulation 41(5)) the Department will make a decision on alternative payment arrangements such as splitting the payment within the household.</p> <p>The decision on alternative payment arrangements will be taken following discussion with the claimant. The Decision Maker will consider the claimant's financial circumstances and any vulnerability factors e.g. any relevant health issues.</p> <p>The circumstances in which alternative payment arrangements will be appropriate will be set out in guidance. This approach will enable cases to be assessed on their individual merits and build in safeguards to protect vulnerable claimants.</p>	<p>Minister has discussed with GB Ministers the need for Northern Ireland to have operational flexibilities available for customer payments including split payments.</p> <p>DSD officials are currently engaged with DWP to determine the required changes to the IT systems to enable customers to split their Universal Credit payment between partners if they choose to do so and the timescales and costs of delivery of such flexibility.</p> <p>Minister announced on 22 October that Lord Freud has agreed to payment flexibilities including split payments and payment frequency.</p> <p>In his statement on 22 October, Minister confirmed that he has asked officials to develop and consult with public and voluntary sector representatives on a set of guidelines for determining the circumstances when the UC payment should be split or made twice monthly.</p>

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>5. What <b>special arrangements</b> will be put in place to ensure survivors of domestic abuse and their children receive adequate support under UC? What special arrangements will be put in place to <b>ensure the financial and other details</b> (e.g. address) of survivors of domestic abuse are kept confidential if that partner leaves the abusive partner?</p>	<p><b>Clause 24</b> of the Bill is about circumstances when requirements or specific actions must not be imposed on claimants. There is specific provision at subsection (7) to allow for claimants who have been victims of, or threatened with domestic violence to be given a 13 week exemption from any work-related requirements.</p> <p>This exemption will be carried forward into the proposed Universal Credit Regulations.</p> <p>Also under the proposed Universal Credit Regulations (Schedule 3, paragraph 6(2)) there is provision to treat the claimant as occupying two accommodations where the liabilities have arisen because of fear of violence in the accommodation normally occupied as the home and the claimant intends to return to the home accommodation. In these cases both liabilities can be met for up to 12 months (Schedule 3, paragraph 6(3), time limit of 12 months has been inserted in a later draft).</p> <p>Under the proposed Claims and Payments Regulations (Regulation 41(5)) the Department will be able to make alternative payment arrangements such as splitting the payment within the household for claimants who have been victims of domestic violence.</p> <p>Further measures will be taken to support victims of domestic abuse including exempting them from work search and availability requirements for a period of up to three months. There will also be the facility to provide additional assistance with housing costs including provision to consider the costs for both the normal and temporary residences, but only if the claimant intends to return when both liabilities can be met for up to 12 months.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	<p>In circumstances where there is a break up in a household the parties will be required to make separate claims for Universal Credit. This will ensure that there are no circumstances where a customer will have access to personal information about their former partner.</p> <p>There is a system in place which provides additional protection for certain claimants including those who are in serious harm through domestic violence. This means that normal viewing of these customer's details is <b>locked out</b> to prevent accidental disclosure.</p> <p>In addition, information relating to a 2nd home liability in cases of people fleeing domestic violence would not be available online. The 2nd home data gather is done via an inbound call from the claimant. The data gather, assessment and verification in relation to this is an entirely manual process so there will be no details stored on UC; in fact, neither claimant will be able to see them.</p> <p>The Department currently supports people in these circumstances and will continue to do so under Universal Credit.</p> <p>Where a claimant is a victim of domestic violence and is within 6 months of the incident being reported for a period of 3 months they will not be expected to comply with the work search and work availability requirements.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>6. Can the Department outline what discussions it has had with Housing Associations and the Housing Executive to <b>devise suitable financial options</b> for UC claimants, e.g. budget training, banks accounts etc.?</p>	<p>The Northern Ireland Housing Executive is represented on the Universal Credit Programme Board and Steering Groups. Arrangements for alternative payment arrangements and for financial / budgeting advice are still being devised as part of the Customer Preparation and Budgetary Support Strategy.</p> <p>In conjunction with the NIHE, Department officials are also considering the need for additional funding for housing advice and support for those individuals impacted by the welfare reform changes. The intention is to consider and where appropriate to employ multiple interventions such as information and advice, house swaps and moves, taking in lodgers, and money advice.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>7. Can the Department outline what discussions it has had with Housing Associations and the Housing Executive in terms of <b>identifying 'vulnerable' claimants</b>?</p>	<p>The Northern Ireland Housing Executive is represented on the Universal Credit Programme Board and Steering Groups. It is acknowledged that there will be vulnerable customers who will require alternative payment arrangements other than the single household monthly payment. Development of the guidance determining those customers who will require an alternative payment arrangement is ongoing as a part of the Customer Preparation &amp; Budgetary Support Strategy which is currently being designed by the Northern Ireland Universal Credit Programme.</p> <p>The Department is also working to bring forward legislation for an information sharing protocol which will enable NIHE to share Housing Benefit information with landlords to enable them to identify all those tenants likely to be impacted by the welfare reform changes.</p> <p>Department officials have had ongoing discussions with NIHE, NIFHA and Housing Associations to identify specific tenants who are likely to be impacted. Once identified the above organisations will contact each tenant to provide them with advice on how they will be affected. The Housing Executive and Housing Associations will need to put plans in place for how they will deal with those tenants who fall into arrears as a result of the under-occupation restrictions.</p>	<p>Minister announced on 22 October that Lord Freud has agreed to payment flexibilities including direct payment to landlords, split payments and payment frequency.</p> <p>In his statement on 22 October, Minister confirmed that he has asked officials to develop and consult with public and voluntary sector representatives on a set of guidelines for determining the circumstances when the UC payment should be split or made twice monthly.</p>

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p><b>Clause 4 (Basic conditions &amp; Clauses 13-24 (conditionality))</b></p> <p>8. There may be situations <b>whereby one partner in a couple refuses to sign the claimant commitment</b> - could the Department comment upon how the partner in the relationship who does sign the commitment will be financially protected?</p>	<p>One of the basic conditions under clause 4 of the Welfare Reform Bill is that for joint claims to Universal Credit each claimant will need to accept a claimant commitment.</p> <p>This isn't entirely new. Currently both claimants within JSA must accept some conditionality although this will be strengthened by Clause 45 of this Bill.</p> <p>The proposed Claims and Payments Regulations (Regulation 10) provide that if one member of a couple fails to sign a claimant commitment, then neither will be eligible if they continue to apply as a couple. A short cooling off period will be allowed for claimants to re-consider the impact on the household claim and to sign their claimant commitment before any decision is taken to disallow.</p> <p>If a claimant refuses to accept their Claimant Commitment then they will not be entitled to Universal Credit. As Universal Credit is a household benefit, if either eligible adult in a couple refuses to accept their Claimant Commitment then the claim for the other eligible adult will also end.</p>	
<p><b>General – IT Issues</b></p> <p>9. What <b>contingency plans</b> will be put in place if the new IT system experiences technical difficulties/a systems failure?</p>	<p>The Universal Credit IT Systems will be covered by the same Service Management arrangements as the current range of IT systems which support payment of welfare benefits to customers.</p> <p>Full contingency arrangements for the Universal Credit systems are being developed in conjunction with the Department for Work and Pensions to ensure that they will be available and that if any technical difficulties were to arise, they will be resolved quickly.</p>	



Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>10. How does the Department intend to <b>promote IT skills amongst claimants</b> of UC and how much resources are available for this? Will there be an IT strategy? How does the Department intend to promote and support internet usage amongst vulnerable groups (e.g. older people, people with disabilities, people for whom English is a second language etc.)?</p>	<p>In order to understand the challenges faced by customers and their propensity to use an online service, the Agency has commissioned independent research by IPSOS Mori.</p> <p>This information is being used to inform the development of the Universal Credit Integrated Channel Management Strategy and Channel Shift Strategy.</p> <p>In addition, the Agency is working with the Digital Inclusion Unit (DFP) to take forward a number of pilots to assist customers to improve their IT skills in advance of the introduction of Universal Credit and is putting in a place a delivery model which will assist those customers needing help to get on line and use the online Universal Credit services.</p> <p>Appropriate resources will be available to support customers needing help to use the online services within local offices.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>11. How does the Department intend to make available sufficient public access computers to enable claimants to apply and manage their claims online? How will claimant's details be protected on public access computers? Could the Department comment on the staffing arrangements to support claimants to make and manage their claim online?</p>	<p>The principal route for customers to apply and manage their claims online will be via their home computer.</p> <p>Latest research indicates that 75% of Northern Ireland households now have a broadband connection and many of these people use the internet regularly for complex transactions.</p> <p>However, the Department recognises that many customers will not have a computer at home and to deal with these circumstances is currently putting in place additional public access computers in all of its Jobs &amp; Benefits/ Social Security offices for use by customers.</p> <p>Information captured on one of these computers will be handled in such a way that persons subsequently using a computer will have no access to information put there by the previous customer.</p> <p>The Department will ensure that sufficient staffs are in place to support customers who telephone for help or call into a Jobs &amp; Benefits/ Social Security office for help in making their claim on line.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>12. Can the Department provide details as to whether it will <b>test the new online system</b> with a sample of claimants, including vulnerable groups, before UC is rolled out in NI.</p>	<p>The system will be fully tested before go-live although the precise details of the Northern Ireland Test Strategy are still subject to discussion with officials from the Department for Work and Pensions.</p> <p>There is no provision in the Welfare Reform Bill to test the online system in Northern Ireland before it is rolled out in April 2014. The Department generally does not carry out piloting/testing of systems where this is carried out by DWP.</p> <p>The GB UC Pathfinder will start in April 2013, 6 months before the national roll out in October 2013. This will involve DWP, HMRC and Local Authorities within certain areas of North-West England. This will help to ensure UC is ready to go live across the rest of the UK later in 2013.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p><b>Clause 11</b></p> <p><b>13. Direct payment of the housing element of UC to landlords</b> – how does the Department intend to protect providers of housing (both social and private rented) from potential rent arrears that may arise from direct payments to tenants?</p>	<p>Work is ongoing on the housing element but it is intended that there will be a trigger which switches the housing payment direct to landlords if tenants start to get behind with their rent. This will be there to protect landlords from persistent failure to pay by providing a safety net so income streams remain secure and to protect the tenant from being evicted.</p> <p>Under the <b>current</b> Housing Benefit (NI) Regulations 2006 payment of rent allowance or rent rebate can be paid direct to a landlord where a claimant has accrued arrears of 6 weeks or more. In GB payments go direct to the landlord if arrears of 8 weeks or more have been accrued.</p> <p>In addition, as is the position under current arrangements, the proposed <b>Claims and Payments Regulations</b> (Schedule 5, paragraph 5) will allow deductions to be made from claimants' Universal Credit payments for arrears of housing costs.</p> <p>Direct payments to tenants will not undermine the position of housing providers. The Department will provide tenants with financial advice to enable them to manage their new financial responsibility to safeguard their rent payments and other important expenses.</p>	<p>In order to protect the interests of both claimants and landlords, Minister has discussed with Lord Freud the need for Northern Ireland to be able to pay the housing cost element of Universal Credit direct to landlords in Northern Ireland by default when Universal Credit is introduced here.</p> <p>Minister announced on 22 October that Lord Freud has agreed to payment flexibilities including direct payment to landlords, split payments and payment frequency.</p>

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>14. Is there flexibility within UC to permit payments to landlords where the claimant wishes to <b>choose this option</b>? Will there be a <b>mechanism</b> within UC whereby non-payment of rent to the landlord (e.g. two months' rent arrears) will be diverted back to the landlord?</p>	<p>There is no legislative provision within the Welfare Reform Bill to allow claimants to choose to arrange for the housing element of UC to be paid direct to landlords.</p> <p>However, under the proposed <b>Claims and Payments Regulations</b> (Regulation 52) the Department will make a decision on alternative payment arrangements such as making payments direct to landlords.</p> <p>The decision on alternative payment arrangements will be taken following</p> <p>discussion with the claimant. The Decision Maker will consider the claimant's financial circumstances and any vulnerability factors e.g. any relevant health issues.</p> <p>The circumstances in which alternative payment arrangements will be appropriate will be set out in guidance. This approach will enable cases to be assessed on their individual merits.</p> <p>It is intended that there will be a trigger which switches the housing payment direct to landlords if tenants start to get behind with their rent. The landlord may also apply to the Department for the housing cost element of the customer's Universal Credit to be paid directly to the landlord.</p> <p>Currently under the Housing Benefit (Northern Ireland) Regulations 2006 payment of rent allowance or rate rebate can be paid to a landlord where a person has accrued arrears of 6 weeks or more. (In GB payments go direct to the landlord if arrears of 8 weeks or more have been accrued).</p> <p>Also, under the current system there is provision to allow deductions to be made from benefit entitlement for rent arrears – it is likely that these provisions will be carried forward to UC regulations.</p>	<p>Minister announced on 22 October that Lord Freud has agreed to payment flexibilities including direct payment to landlords, split payments and payment frequency.</p>

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>15. Can the Department comment upon the impact of the housing element of UC on <b>providers of temporary accommodation</b>. Can the Department provide assurances that UC will not have a negative impact on the providers of temporary accommodation?</p>	<p>There is currently no provision within Universal Credit for those in supported 'exempt' accommodation.</p> <p>DWP announced on 17 September 2012, that housing costs for those in supported accommodation will be provided outside of Universal Credit.</p> <p>It is our understanding that any changes impacting on sheltered/supported housing will be dealt with outside welfare reform.</p> <p>DSD Minister has not yet made any decision on the position here.</p>	
<p>16. Will the Department put in place a <b>robust advice and information strategy</b> to support claimants of UC? What additional funding will be available to provide advice and support? Is there funding available to support the voluntary and community advice services whose workload may increase as a result of UC (assistance with claims, increase in appeals etc.)? What support will be available to <b>social housing providers</b> to support the advice and information needs of their tenants?</p>	<p>DSD Officials working within the Universal Credit Programme are currently developing a Customer Preparation &amp; Budgetary Support Strategy and there will be comprehensive support and advice available to customers claiming Universal Credit.</p> <p>Over the period October 2012 to March 2015, the Department will provide funding in the region of £3.5million to help support Voluntary Advice Services at a regional level, across Northern Ireland. In particular, this funding is geared to ensure that those organisations involved in the day to day delivery of voluntary advice services across Northern Ireland, have access to the specialist training and other regional support they need.</p> <p>In addition, the Department provides funding in the region of £1.5m annually to local advice services through the Community Support Programme. This is administered through the 26 local Councils.</p>	



Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p><b>Clause 5 &amp; 8</b></p> <p>17. Will specialist advice and support be available to <b>self-employed claimants</b> as the application and maintenance process for this group is likely to be particularly complex?</p> <p>Under the Universal Credit Regulations (Regulation 56) claimants with self employed income will be required to report it to the Department on a monthly basis. (The time frame of monthly will be in guidance).</p> <p>This income will be reported on a simplified cash income basis via an online tool which will ask them for the total from receipts into the business and details of payments out of the business under defined categories in the assessment period. Reporting on a monthly basis will ensure that the award is reactive to fluctuating income.</p> <p>These requirements have been designed to make it possible for claimants to report monthly without employing an accountant.</p> <p>Comprehensive advice and guidance will be available both for self-employed customers and Decision Makers.</p>	<p>Under the <b>Universal Credit Regulations</b> (Regulation 56) claimants with self employed income will be required to report it to the Department on a monthly basis. (The time frame of monthly will be in guidance).</p> <p>This income will be reported on a simplified cash income basis via an online tool which will ask them for the total from receipts into the business and details of payments out of the business under defined categories in the assessment period. Reporting on a monthly basis will ensure that the award is reactive to fluctuating income.</p> <p>These requirements have been designed to make it possible for claimants to report monthly without employing an accountant.</p> <p>Comprehensive advice and guidance will be available both for self-employed customers and Decision Makers.</p>	
<p><b>General</b></p> <p>18. Can the Department give assurance that any <b>face-to-face and telephone services</b> for UC will be adequately resourced?</p>	<p>Yes – the Universal Credit Programme is currently working with DSD statisticians and SSA Staff Resource Unit to develop the complementing model that will be used to determine the resources necessary to deliver the various aspects of the Service Delivery Model for Universal Credit. This model will be regularly reviewed and updated to reflect the latest information.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p><b>IT systems</b></p> <p>19. With regards to the IT system for UC – can the Department provide the Committee with information on the <b>Identify Assurance process</b> – what information will claimants have to provide to verify their identity?</p>	<p>An Integrated Risk and Intelligence IT system, known as IRIS, is being designed with colleagues in the Department of Work and Pensions to protect the gateway to the Universal Credit system. The detail of the specific information required at the point of claim is being developed and will be tailored according to the risks associated with the new benefit. It is intended to establish the method of check first pay later with the validation of identity via a range of automated data checks as part of that process. These will include checks via third party providers, for example banks and building societies, and will either allow for or prevent a claim being made. In cases where a doubt around identity verification is established, customers may be required to attend in person to verify their identity.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p><b>General</b></p> <p>20. How will the Department ensure that <b>fraud and error</b> will be minimised under the new UC arrangements?</p>	<p>The Agency has commenced implementation of a refreshed Counter Fraud and Error Strategy which introduces a range of new and enhanced initiatives as well as making preparations to minimise and tackle new risks within Universal Credit. The strategy broadly replicates work that is being carried out in Great Britain on a joint Department for Work and Pensions and Her Majesty's Revenue and Customs strategy "Tackling fraud and error in the benefit and tax credit systems" .</p> <p>Planned changes will include a more integrated approach by bringing together the investigation of all benefit offences and customer error within a single organisation. Better risk intelligence, via a new Integrated Risk Intelligence Service, also aims to use improved matching techniques to risk score and target fraud and error cases with greater precision. This approach will ensure that the Agency continues to get maximum value for its fraud and error investment.</p> <p>In addition, tougher measures will be used in response to fraudulent behaviour. These may include increased fraud penalties and further loss of benefit. Debts will be recovered more quickly by increasing deductions for fraud overpayments, as well as making provision for deductions directly from earnings.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>21. How will the Department ensure that claimants who make <b>unintentional mistakes or errors</b> in the application and maintenance of their claim are not unfairly sanctioned?</p>	<p><b>Clause 112 of the Welfare Reform Bill</b> allows the Department to impose a new civil penalty on claimants who negligently make incorrect statements, or who fail, without reasonable excuse, to disclose information about their claim or tell the Department of relevant changes of circumstances, both of which resulting in an overpayment of benefit.</p> <p>The civil penalty will be a fixed amount with the rate set in regulations and is intended to be £50.</p> <p>The Department expects claimants to tell us about changes that may affect their benefit entitlement straightaway. This means as soon as reasonably practicable after the change occurs. This is dealt with in the current Claims and Payments Regulations and will also be in the proposed Universal Credit Claims and Payments Regulations (Regulation 34(4)).</p> <p>Clearly where a claimant was not negligent in their actions, or has a <b>reasonable excuse</b> for not responding to a request for information or reporting a change of circumstances, even though there may have been a benefit overpayment, the penalty would not be imposed.</p> <p>The Department recognises and appreciates that there are different reasons why a claimant might make a mistake in giving information to them about a claim. There will be some circumstances where the customer is able to demonstrate that there were good reasons why they made the mistake. In these cases a penalty will not be imposed.</p> <p>It is proposed that there will be a £50 civil penalty for claimants who are negligent in maintaining their benefit claim to encourage personal responsibility. The aim is to reduce the financial loss from claimant error and achieve greater compliance. It is the claimant's responsibility to make sure that the information held by the Department is correct and up to date at all times.</p> <p>In addition the system will be streamlined to reduce error.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
22. Are the Department satisfied that the <b>new employment programme</b> for NI will be in place to coincide with the introduction of UC?	Employment Programmes are the responsibility of DEL. DEL has confirmed to the Department that it will have provision in place to assist jobseekers find work when Universal Credit is introduced.	
23. Does the Department anticipate that there will be an <b>increase in the number of appeals</b> due to the new sanctions regime? What arrangements will the Department put in place to deal with any increase in appeals (e.g. in terms of staffing etc.)?	The Department is currently considering the impact of Universal Credit on the Appeal Service and the arrangements and resources that need to be put in place to ensure that Appeals are dealt with efficiently.	
24. Does the Department anticipate that the new conditionality and sanctions regime will place <b>additional pressures on frontline staffing</b> ?	<p>The key objective of the proposed changes is to strengthen and set out clearly the link between the receipt of welfare benefits and the individual's responsibility to look, or prepare, for work.</p> <p>The rationale for the changes to sanctions is supported by DWP research which suggests that over 40% of customers say they are more likely to look for work due to the threat of a sanction. This research also shows that of those who are sanctioned, around 75% are only sanctioned once, and most say that they would not repeat the behaviour that led to them being sanctioned – clearly a strong sanctions regime acts as a deterrent.</p> <p>The Department will monitor the impact of the conditionality and sanctions regime to ensure that appropriate resources are in place.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>25. Can the Department provide an update on the <b>nature of discussions</b> between Housing Association and the Housing Executive in relation to the introduction of UC?</p>	<p>The Department is fully engaged with the Northern Ireland Housing Executive in relation to the introduction of Universal Credit and the NIHE is represented on the Universal Credit Programme Board and Steering Groups. Discussions are also taking place at official level to ensure that the impacts of the introduction of Universal Credit are fully understood.</p> <p>Departmental officials have also established a working group consisting of representatives from both NIHE and Housing Associations to assist us to develop new housing policy initiatives in response to the Welfare Reform changes.</p>	<p>The loss of direct payments potentially jeopardises the steady income for landlords which is obtained via Housing Benefit as this would present significant budgeting difficulties in terms of financing schemes and additional maintenance/ administrative costs of running the organisation. Making direct payment to landlords as the default, with the choice for the claimant to opt-out, is the preferred default payment option and Minister is seeking to enable direct payment of the housing element of Universal Credit to landlords.</p> <p>Minister announced on 22 October that Lord Freud has agreed to payment flexibilities including direct payment to landlords, split payments and payment frequency.</p>
<p>26. Can the Department provide information as to how the roll-out of UC will affect <b>staffing levels within the Housing Executive</b>? How will the Department ensure that the skills and expertise of staff who administer housing benefit is not lost as a result of the roll-out of UC?</p>	<p>Work is currently undergoing to determine the impact of the introduction of Universal Credit on staffing levels within the Northern Ireland Housing Executive. Legal advice is also being sought on the application of Transfer of Undertaking (Protection of Employment) 2006 Regulations and the Cabinet Office Statement of Practice for Staff Transfers to those staff impacted by the changes.</p>	
<p>27. What will be the impact on <b>existing IT contracts</b> as a result of the introduction of UC?</p>	<p>Existing IT systems will continue to be required until the full migration of customers to Universal Credit has been completed. The transition period for the full implementation of Universal Credit is over a 4 year period up to October 2017. Therefore the impact on existing IT contracts will be minimal in the short to medium term. The precise changes to IT contracts and the timing of these changes will be subject to ongoing work with the Department for Work and Pensions and other Northern Ireland stakeholders.</p>	



Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>28. Has the Department had discussions with the Department of Education in relation to the impact of UC on <b>free school meals</b>?</p>	<p>Yes. DSD officials have met regularly with Department of Education officials both in bilateral meetings and in the DSD-led Universal Credit Consultative Forum to assist Department of Education officials in relation to the development of new eligibility criteria for free school meals following the introduction of Universal Credit.</p> <p>Clause 117 of the Welfare Reform Bill allows for data sharing between this Department and the Department of Education for the purposes of provision of welfare services. This clause is defined widely enough to cover the provision of school meals.</p>	
	<p>Passported benefits, including the provision of free school meals, have been discussed at Executive sub Committee on Welfare Reform meetings. DE officials have identified a wide range of possible options for free school meals provision in Northern Ireland with DSD statisticians assisting with this analysis. Work is currently ongoing to prepare options for consideration by Minister O'Dowd. DE officials are awaiting revised data from DWP and further modelling is likely to be required.</p>	
<p>29. Does the Department have, or does the Department intend to implement, a <b>monitoring/evaluation strategy</b> to ascertain the impact of UC? What aspects of UC do the Department intend to monitor/evaluate?</p>	<p>Yes, the Department will be developing a monitoring/evaluation strategy and DSD Officials, including its Analytical Services Unit, are currently considering the detail of such a strategy and the collection of baseline statistics/information.</p> <p>No detailed plans are yet available.</p>	

**(Footnotes)**

1 Including post offices and credit unions

Social Development Committee - Schedule of responses to questions to questions from Briefing paper dated 8 October 2012

SOCIAL DEVELOPMENT COMMITTEE QUESTIONS IN DALO LETTER OF 8 OCTOBER

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<b>General</b> 1. Clarification on the differences between the GB Bill and the Northern Ireland Bill	The Welfare Reform Bill for Northern Ireland does not include an equivalent to a total of 18 sections of the Great Britain Welfare Reform Act 2012. Details of these sections are attached at <b>Annex A</b> .	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>2. Clarification on the differences between direct payments here and in GB</p>	<p>In Great Britain, the Welfare Reform Act 2012 allows for the housing element of Universal Credit payable to the customer.</p> <p>In GB, approximately 20% of claimants have their rent paid direct to landlord.</p> <p>Currently 99% of tenants here in receipt of Housing Benefit in the social housing sector have payments made direct to landlords with 100% of Housing Benefit payments rebated directly to the Housing Executive rent account.</p> <p>DWP are currently running 6 demonstration projects whereby claimants in the social rented sector are directly receiving monthly housing benefit payments and paying rent to landlords themselves for the first time.</p> <p>The demonstration projects will test how claimants can manage housing benefit monthly payments ahead of the introduction of Universal Credit from October 2013.</p> <p>The projects will also look at the appropriate level of safeguards needed to help secure landlord income streams if tenants fall behind on their rent.</p> <p>The projects will inform how best to communicate the changes to claimants, provide assistance with budgeting to successfully pay their rent, and support claimants and landlords experiencing financial difficulties.</p>	<p>Minister announced on 22 October that Lord Freud has agreed to payment flexibilities including direct payments, split payments and payment frequency.</p>

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	<p><b>Response from DSD</b></p> <p>Under the proposed <b>Claims and Payments Regulations</b> the Department will make a decision on alternative payment arrangements such as making payments direct to landlords.</p> <p>The decision on alternative payment arrangements will be taken following discussion with the claimant. The Decision Maker will consider the claimant's financial circumstances and any vulnerability factors e.g. any relevant health issues.</p> <p>The circumstances in which alternative payment arrangements will be appropriate will be set out in guidance. This approach will enable cases to be assessed on their individual merits.</p> <p>It is intended that there will be a trigger which switches the housing payment direct to landlords if tenants start to get behind with their rent.</p> <p>Currently under the Housing Benefit (Northern Ireland) Regulations 2006 payment of rent allowance or rate rebate can be paid to a landlord where a person has accrued arrears of 6 weeks or more. (In GB payments go direct to the landlord if arrears of 8 weeks or more have been accrued).</p> <p>It is important to remember that Universal Credit is an in and out of work benefit, therefore there will be a large number of people who are used to managing their own finances including paying their rent.</p> <p>However, for Northern Ireland, Minister McCausland is seeking to have specific functionality built into the IT system for Universal Credit that will enable the housing element of UC to be paid directly to landlords.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
3. if the Department has examined all optional areas of flexibility in the Bill	<p>The Department prepared a paper for the Executive Sub-Committee on potential flexibilities in Welfare Reform. This was discussed at the Executive Sub-Committee meetings during which all political parties had an opportunity to discuss and agree areas on maximising flexibility.</p> <p>Minister McCausland is continuing to work with DWP Ministers on the need for flexibilities.</p>	As above
4. clarification on whether ESA will carry on in its current form	<p>Clause 52 of the Welfare Reform Bill provides that an award of contributory Employment and Support Allowance for those in the Work Related Activity Group will be limited to a <b>maximum period of 365 days</b>.</p> <p>The Employment and Support Allowance claimants in the Support Group, whose medical conditions mean they have limited capability for work-related activity, will be unaffected by this measure. Equally, those claimants, receiving income-related Employment and Support Allowance, will be unaffected, whatever group they are assigned to.</p> <p>Clause 54 of the Welfare Reform Bill will abolish the special concessions that allow certain young people to qualify for contributory Employment and Support Allowance without meeting the usual paid National Insurance conditions that apply to all others. This will apply to <b>all new claims</b>.</p> <p>New claims may, however, qualify for <b>income-related</b> Employment and Support Allowance.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	<p>Clause 55 of the Welfare Reform Bill introduces a claimant commitment to Employment and Support Allowance in the period leading up to the introduction of Universal Credit. Beyond requiring claimants to accept a claimant commitment, there is no change to the current requirements that can be placed on a claimant. Where a person is in the support group the content of the commitment will be minimal.</p> <p>Clause 57 of the Welfare Reform Bill allows for hardship payments to be available to claimants of Employment and Support Allowance who have been sanctioned and face hardship as a result. Sanctions apply where a claimant fails to meet their requirements and has no good reason for failing. Hardship payments <b>will not be recoverable</b> for Employment and Support Allowance claimants.</p> <p>Income-related Employment and Support Allowance will cease for new claims from October 2013<sup>1</sup> as claimants will claim Universal Credit instead (clause 2 of the Welfare Reform Bill). Existing Income-related Employment and Support Allowance claims will be migrated to Universal Credit over the period October <sup>2</sup>2013 to 2017 (clause 37 and Schedule 6 to the Welfare Reform Bill refer).</p>	



Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>5. if the Department has been in any discussions with other Departments on whether the jobs will be available for people to go back to work</p>	<p>Through the Executive Sub Committee on Welfare Reform, Minister is working across Government to consider where welfare reform will impact on other Minister's responsibility. This includes the Minister for Employment &amp; Learning &amp; Minister for Enterprise, Trade &amp; Investment.</p> <p>The Minister is working with Minister Stephen Farry to develop effective solutions to meet the needs of the long term unemployed.</p> <p>The Department for Employment and Learning is consulting on a proposed new employment programme, provisionally called Steps 2 Success (NI), which will replace the Department's main adult return to work programme Steps to Work.</p> <p>Further, the department is a member of the Interdepartmental Economic Working Group and is contributing to the development of the Executive Economic Strategy Plan.</p>	
<p>6. clarification on the number of benefits that will be abolished.</p>	<p>Under clause 34 Universal Credit will replace –</p> <ul style="list-style-type: none"> <li>(i) Income Support</li> <li>(ii) income-based Jobseeker's Allowance</li> <li>(iii) income-related Employment and Support Allowance</li> <li>(iv) Housing Benefit</li> </ul> <p>Working Tax Credit and Child Tax Credit are abolished under section 33(1)(f) of the GB Welfare Reform Act 2012. These are excepted matters and are not devolved to the NI Executive.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>7. if there is any scope for monthly payments to be fortnightly</p>	<p>Paragraph 4 of Schedule 2 to the Welfare Reform Bill amends the Social Security Administration (NI) Act 1992 to allow the Department to carry forward the existing arrangements that apply to other benefits in respect of claims and payments to Universal Credit.</p> <p>Under the proposed Claims and Payments Regulations (Regulation 41(1)) there will be scope for the Department to make a decision on alternative payment arrangements such as making more frequent than monthly payments.</p> <p>The decision on alternative payment arrangements will be taken following discussion with the claimant. The Decision Maker will consider the claimant's financial circumstances and any vulnerability factors e.g. any relevant health issues.</p> <p>The circumstances in which alternative payment arrangements will be appropriate will be set out in guidance. This approach will enable cases to be assessed on their individual merits.</p> <p>It is planned to offer support to customers to transition to monthly payments but it is also recognised that for some this may not be achievable.</p> <p>DWP announced on 17 September ( A Prior Information Notice ) that it is seeking providers who can supply products with extra budgeting functions to support claimants as they move to the new benefit Universal Credit.</p>	<p>Minister announced on 22 October that Lord Freud has agreed to payment flexibilities including direct payments, split payments and payment frequency.</p> <p>In his statement on 22 October, Minister confirmed that he has asked officials to develop and consult with public and voluntary sector representatives on a set of guidelines for determining the circumstances when the UC payment should be split or made twice monthly.</p>

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	<p>As part of the criteria any potential new accounts must have a series of essential features to help people on low incomes to budget, but the final design will be left open to the market to devise, including:</p> <ul style="list-style-type: none"> <li>• Support for claimants to budget and manage their money</li> <li>• Regular payments for housing and other main bills</li> <li>• Options for multiple income streams from work and benefits</li> <li>• Access to all claimants, irrespective of credit history</li> <li>• Options to build up a credit rating</li> <li>• Availability to people once they have moved off Universal Credit</li> </ul> <p>This is merely one of a range of options that the Government will be exploring to support UC claimants to budget and manage their money. Northern Ireland is included within the scope of this tender.</p> <p>Given the need to put in place more flexible payment arrangements for some customers, Minister has discussed with GB Ministers the need for Northern Ireland to have operational flexibilities available for customer payments. DSD officials are currently engaged with DWP to determine the required changes to the IT systems to deliver more frequent payments to customers and the timescales and costs of delivery of such flexibility.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>8. confirmation on whether childcare payments will only be for registered child minders</p>	<p>Clause 12 of the Welfare Reform Bill provides scope for Universal Credit to allow for extra additions to cover particular needs in the same way that the current system provides for them through premiums. Among the additions included in this clause will be support for childcare.</p> <p>Similar to the current position whereby Tax Credits do not cover informal childcare, under the proposed Universal Credit Regulations, in order to get the childcare element the child needs to be in <b>registered</b> childcare. Regulation 36 of the GB Universal Credit Regulations gives details of registered childcare. .</p> <p>In Northern Ireland this means that the childcare provider must be one of the following:</p> <ul style="list-style-type: none"> <li>• registered with a Health and Social Services Trust;</li> <li>• a school that provides out of school hours childcare on the school premises;</li> <li>• an Education and Library Board that provides out of school hours childcare;</li> <li>• a person approved by the Home Childcare Approval Scheme, providing childcare in the child's home.</li> </ul>	<p>The Department, and indeed the OFMDFM Policy and Economic Appraisal of the Options for the NI Childcare Strategy (September 2010), accept that there is a reliance by parents here on informal childcare. However, current Tax Credits and benefits (with the exception of DEL funded work programmes/training schemes) do not cover informal childcare payments.</p>

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	<p>Families will be able to recover childcare costs in Universal Credit as follows - 70% of up to £760 for one child or £1300 for two or more children per month. This is in line with current arrangements under Tax Credits but unlike Tax Credits, there will be no restriction on the minimum number of hours to work under UC.</p> <p>In relation to <b>informal childcare</b>, currently the Department for Employment and Learning (DEL) pays for assistance with child care to a lone parent, or a partner of certain benefit customers who are looking for work on the Steps to Work programme.</p> <p>DEL is currently consulting on a proposed new employment programme called Steps 2 Success (NI) which will replace Steps to Work.</p> <p>The feasibility study for Steps 2 Success said that childcare <b>costs should be borne by the provider</b> and a consultation exercise is currently underway.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
9. clarification on the timeline for transitional protection	<p>There is no time limit on transitional protection as long as circumstances remain the same.</p> <p>Paragraph 4(3)(a) of Schedule 6 to the Welfare Reform Bill provides that at the point of transition onto Universal Credit, those households <b>whose circumstances remain unchanged</b>, and who would otherwise experience a reduction in benefit income as a direct result of the move to Universal Credit, will receive cash protection to make up the difference. The only timeline is that transitional protection cannot start until the case has been moved to Universal Credit.</p> <p>Transitional protection will be applied in cases where people are moved to Universal Credit in a process managed by the Social Security Agency. <b>Transitional protection will end if a claimant's circumstances change significantly.</b></p>	



Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	<p>Examples of occurrences which may be treated as a significant change in circumstance are -</p> <ul style="list-style-type: none"> <li>• a sanction being applied to the Benefit Unit;</li> <li>• a partner leaving/joining the household;</li> <li>• a sustained (3 month) earnings drop beneath the level of work that is expected of them according to their claimant commitment;</li> <li>• a sustained (3 month) increase in earnings which would lift the claimant out of Universal Credit means-tested support;</li> <li>• the Universal Credit claim ending;</li> <li>• the loss or gain of any of the elements that make up the Universal Credit award (for example, the childcare element, the housing element etc).</li> </ul> <p>Details will be in a transitional set of Regulations.</p> <p>Once transitional protection has ended it will not be applied to any future awards.</p>	
10. confirmation on whether the Committee will be briefed on the new IT system underpinning PIP and Universal Credit	<p>DSD Officials can make a presentation to the Committee on the two separate IT systems that will administer UC and PIP. DSD Officials are still in discussion with their DWP counterparts in relation to IT changes to meet NI specific requirements but it is hoped these matters can be concluded over the next few months.</p>	

Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>11. confirmation on whether Child Benefit is included in the proposed benefit cap</p>	<p>Clause 95 of the Welfare Reform Bill provides for a cap to be introduced on the total amount of benefit that working-age claimants can receive.</p> <p>Regulation 72 of the proposed Universal Credit Regulations, lists those cases where the Benefit Cap does not apply. These are attached at Annex 2.</p> <p>Those claimants who are in receipt of any of those benefits will be excluded from the Benefit Cap.</p> <p>Child Benefit is to be taken into account when calculating the total amount of benefit income for the cap.</p> <p>Payment of child benefit will remain a separate payment outside of Universal Credit.</p> <p>As now, child benefit will continue to be paid to the main carer - usually the mother.</p>	
<p>12. details of the impact on the main applicant reaching pension age in the under occupancy proposals</p>	<p>The size criteria rules will <b>only</b> apply to claimants of <b>working age</b>.</p> <p>Any claimant over the qualifying age for state pension credit or with a partner over that age will be exempt from the size criteria rules from April 2013 (timing is dependent on Regulations being made).</p>	

## Annex A

## Differences between the GB Bill and the Northern Ireland Bill

**Answer:**

The Welfare Reform Bill for Northern Ireland does not include an equivalent to the following sections of the Welfare Reform Act 2012

	Description	Reason
60	Claimants dependent on drugs etc	This repeals provisions introduced by the 2009 Act which were not replicated in NI
76	Calculation of working tax credit	Section in Welfare Reform Act 2012 extends to Northern Ireland
103 & Schedule 12	Supersession of decisions of former appellate bodies	This clause has no relevance in NI because the social security appeal bodies have not been replaced by the Upper tribunal as in GB
109	Recovery of fines etc by deductions from employment and support allowance	This amends a criminal justice provision on fines which has no counterpart in NI
117	Benefit offences: disqualifying and sanctionable benefits	This brings tax credits within the regime in certain sections of the Social Security Fraud Act. Tax credits are however an excepted matter. As the clause deals solely with tax credits and is not ancillary to other provisions it would be outside legislative competence to replicate this clause. Tax credits should be dealt with under the Westminster Fraud Act in the same way as war pensions (see s 6A(2) of that Act)
120	Loss of tax credits	This amends the Tax Credits Act on a UK wide basis and already contains appropriate NI references
122	Tax credit fraud: investigation	This extends certain of the investigations provisions of the Administration Act to offences relating to tax credits. Tax credits are however an excepted matter. As the clause deals solely with tax credits and is not ancillary to other provisions it would be outside legislative competence to replicate this clause. Tax credits should be dealt with under Westminster legislation
123	Information-sharing for prevention etc of tax credit fraud	This extends information sharing provisions in the Administration to Tax Credits. Tax credits are however an excepted matter. As the clause deals solely with tax credits and is not ancillary to other provisions it would be outside legislative competence to replicate this clause. Tax credits should be dealt with under Westminster legislation

	<b>Description</b>	<b>Reason</b>
124	Tax credit fraud: prosecution and penalties	This amends the Tax Credits Act on a UK wide basis and already contains appropriate NI references
125	Unauthorised disclosure of information relating to tax credit offences	This amends the Administration Act to permit disclosure of tax credit information). Tax credits are however an excepted matter. As the clause deals solely with tax credits and is not ancillary to other provisions it would be outside legislative competence to replicate this clause. Tax credits should be dealt with under Westminster legislation
126	Tax credits: transfer of functions etc	This extends UK-wide and already provides for the transfer of tax credit functions in NI and the consequential amendment of NI legislation
127	Information-sharing between Secretary of State and HMRC	Section in Welfare Reform Act 2012 extends to Northern Ireland
128 & 129	Information-sharing between Secretary of State and DPP	This enables HRMC to share information with those including DSD administering social security. It extends to NI and already contains appropriate NI references
135	Functions of registration service	Relates to Registration Service Act 1953 – different structure in Northern Ireland - not required
141	Review of fees regulations	Relates to Child Maintenance pilot - not applicable for Northern Ireland to pilot
143	Standards of decision-making	DWP is abolishing the standards of decision making report – DSD will continue to produce this report
145 & Schedule 13	Social Mobility and Child Poverty Commission	This amends the Child Poverty Act and related enactments on a UK-wide basis Commission is UK wide

## Annex B

### Extract from NIDIRECT Website

[http://dsdintranet.intranet.nigov.net/index/useful\\_links-pg/gov\\_websites-pg/comms\\_ni\\_government\\_websites-pg.htm](http://dsdintranet.intranet.nigov.net/index/useful_links-pg/gov_websites-pg/comms_ni_government_websites-pg.htm)

### Benefit cap

#### Benefit cap - what it is

The benefit cap will apply to people aged 16 to 64, also known as 'working age'.

The cap means that households where no one is in work should not get more in benefits than the average wage paid to people in work. This is after tax and National Insurance has been taken off.

A household means you, your partner if you have one and any children you are responsible for and who live with you.

#### What's included in the benefit cap

When added together the benefit cap will limit the total income you can get from the following benefits:

- |   |                                |
|---|--------------------------------|
| ■ Bereavement Allowance   | ■ Incapacity Benefit           |
| ■ Carer's Allowance   | ■ Income Support               |
| ■ Child Benefit   | ■ Jobseeker's Allowance        |
| ■ Child Tax Credit  | ■ Maternity Allowance          |
| ■ Employment and Support Allowance<br>(except where it is paid with the<br>support component) | ■ Severe Disablement Allowance |
| ■ Guardian's Allowance  | ■ Widowed Parent's Allowance   |
| ■ Housing Benefit   | ■ Widowed Mothers Allowance    |
|   | ■ Widows Pension               |
|   | ■ Widows Pension Age-Related   |

#### How much is the benefit cap

The actual amount of the benefit cap won't be set until later this year (2012) in England, Scotland and Wales. The amount of the benefit cap will probably be the same in Northern Ireland, but this is not certain until the law is changed. In England, Scotland and Wales the amount of the benefit cap is expected to be:

A maximum of £350 a week if you're a single person and either:

- you have no children
- the children you have responsibility for don't live with you

A maximum of £500 a week if you're either:

- a couple, with or without dependant children
- a lone parent with dependant children

The cap will not apply if you qualify for Working Tax Credit or get any of the following benefits:

- Disability Living Allowance

- Personal Independence Payment (from April 2013)
- Attendance Allowance
- Industrial Injuries Benefits
- Employment and Support Allowance, if paid with the support component
- War Widow's or War Widower's Pension

The cap will be applied through deductions from Housing Benefit payments.

The current understanding is that Households who are not getting housing benefit as of April 2013 will not have the cap applied.

#### **Why is the benefit cap being introduced?**

The benefit cap will make sure that households getting benefits will not normally get more in benefit than the average working household receives in pay.

The benefit cap will encourage people to look for work and help to promote fairness between those in work and those getting benefits.

#### **What help will be available**

Support and advice will be given to help you through these changes if they affect you.

#### **Further information**

You can get help looking for work, updating a CV, improving your skills, applying for jobs and preparing for an interview.

#### **(Footnotes)**

1 This is likely to change to April 2014 in line with Minister's announcement of 22 October that Universal Credit introduction will be delayed until 2014.

2 As above.



# Social Development Committee - Schedule of responses to Questions to Questions from Briefing Paper dated 10 October 2012

## SOCIAL DEVELOPMENT COMMITTEE QUESTIONS IN DALO LETTER OF 10 OCTOBER

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
Clause 5	Clarification on whether money a claimant receives from the Child Maintenance and Enforcement Division would be classified as income under UC?	<p>Child maintenance will be classed as unearned income for Universal Credit purposes and will be disregarded as unearned income per regulation 61 of the Universal Credit Regulations.</p> <p>While there is provision for some types of unearned income to be deducted from the Universal Credit award under clause 8(3)(b) of the Bill, as child maintenance is not included in the category of income listed in the regulations it is disregarded.</p>	N/A

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>Clause 7</p>	<p>Details of what support will be provided to claimants who will be expected to manage the transition to a 4 week period for receipt of Universal Credit?</p>	<p>The Department is committed to ensuring that suitable budgeting advice and support is made available to those claimants who may experience difficulty in managing the transition to monthly payment of Universal Credit. In addition it is planned to offer an advance of benefit to those claimants migrating from a legacy benefit to Universal Credit.</p> <p>Under clause 100 of the Welfare Reform Bill there is provision to allow the Department to pay an advance of benefit where it considers, in accordance with criteria to be set out in Regulations, that the payment can reasonably be expected to be recovered.</p> <p>Migrating claimants will be to apply for a Universal Credit Advance at any time during the first month of entitlement to Universal Credit. The Social Security Agency will achieve this by providing migrating claimants with the option of an advance of UC two weeks into their first UC assessment period. The advance, which may be up to 50% of the expected Universal Credit monthly award, <b>will be recovered in 12 equal monthly instalments</b> from subsequent payments of UC. This approach is similar to advances of salary provided by many employers when an employee starts work on a monthly salary.</p> <p>The interim payment would be paid at the two week point. The Advance is not a loan, but a rescheduling of payment in the first month. The claimant receives the same overall amount of Universal Credit over the first year, and no interest is charged.</p> <p>In addition, as advised previously, DWP is leading on the development of a range of financial products to help claimants budget their money. Northern Ireland is included in this development work. – see answer below for more details.</p>	<p>Minister announced on 22 October that Lord Freud has agreed to payment flexibilities including direct payments, split payments and payment frequency.</p> <p>In his statement on 22 October, Minister confirmed that he has asked officials to develop and consult with public and voluntary sector representatives on a set of guidelines for determining the circumstances when the UC payment should be split or made twice monthly</p>

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	A list of the financial products which will be made available to claimants to assist them in budgeting their finances?	<p>The DWP Universal Credit Programme has engaged with the British Banking Association (BBA) and the Northern Ireland Universal Credit Programme has been involved in this process. Following this engagement, a UK-wide procurement exercise was launched on 17 September to select banking products with budgeting functionalities suitable for Universal Credit claimants has been launched by Lord Freud, Minister for Welfare Reform. Northern Ireland is within scope of this procurement exercise.</p> <p>In the DWP Prior Information Notice ( announced on 17 September) it is seeking providers who can supply products with extra budgeting functions to support claimants as they move to the new benefit Universal Credit.</p> <p>As part of the criteria any potential new accounts must have a series of essential features to help people on low incomes to budget, but the final design will be left open to the market to devise, including:</p> <ul style="list-style-type: none"> <li>• Support for claimants to budget and manage their money</li> <li>• Regular payments for housing and other main bills</li> <li>• Options for multiple income streams from work and benefits</li> </ul>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
		<ul style="list-style-type: none"> <li>• Access to all claimants, irrespective of credit history</li> <li>• Options to build up a credit rating</li> <li>• Availability to people once they have moved off Universal Credit</li> </ul> <p>This is merely one of a range of options that the Government will be exploring to support UC claimants to budget and manage their money. Northern Ireland is included within the scope of this tender.</p>	
	<p>The number of people on low-incomes who are paid on weekly or fortnightly basis?</p>	<p>The Annual Survey of Hours and Earnings (ASHE) published in November 2011 and referencing April 2011 shows that –</p> <ul style="list-style-type: none"> <li>• 29% (231,000) of employees indicated that their gross pay covered a period of one week; and</li> <li>• 4% (31,000) have indicated that their gross pay covered a period of two weeks.</li> </ul> <p>The table attached at <b>Annex 1</b> shows a breakdown of the population by income decile and payment frequency based on weekly or fortnightly payments.</p>	
	<p>Details of what role the Voluntary and Community Sector will provide in the provision of advice on budgeting?</p>	<p>Discussions are ongoing with the Department's Voluntary and Community Unit around how the provision of the voluntary advice service could support the implementation of the extensive Welfare Reform Programme.</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	Confirmation as to whether the existing rules on habitual residency will be carried forward and if so, will additional safeguards, such as clear guidance, be introduced to protect citizens born in Northern Ireland who move abroad and later returns to the UK?	<p>Yes. The existing rules on habitual residence which apply to income related benefits will be carried forward into Universal Credit. Under clause 4(5) of the Welfare Reform Bill the Department will make regulations (a) specifying when a person is to be treated as being in Northern Ireland, and (b) when a person is to be treated as not resident in Northern Ireland because they are not considered to be habitually resident here. (Regulation 7 of the proposed Universal Credit Regulations refers).</p> <p>There is no definitive list of factors which determines whether a person is habitually resident. The Department looks at each case individually and considers all relevant factors. There is guidance in the Decision Maker's Guide for staff dealing with these cases.</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>Clause 8</p>	<p>Confirmation as to whether the allowances provided for childcare costs will be made available to non-registered childminders as well as registered childminders?</p>	<p>Clause 12 of the Welfare Reform Bill provides scope for Universal Credit to allow for extra additions to cover particular needs in the same way that the current system provides for them through premiums. Among the additions included in this clause will be support for childcare.</p> <p>Similar to the current position whereby Tax Credits <b>do not</b> cover informal childcare, under the proposed Universal Credit Regulations, in order to get the childcare element the child needs to be in <b>registered</b> childcare. Regulation 36 of the GB Universal Credit Regulations gives details of registered childcare.</p> <p>In Northern Ireland this means that the childcare provider must be one of the following:</p> <ul style="list-style-type: none"> <li>• registered with a Health and Social Services Trust;</li> <li>• a school that provides out of school hours childcare on the school premises;</li> <li>• an Education and Library Board that provides out of school hours childcare;</li> <li>• a person approved by the Home Childcare Approval Scheme, providing childcare in the child's home.</li> </ul>	



Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
		<p>Families will be able to recover childcare costs in Universal Credit as follows - 70% of up to £760 for one child or £1300 for two or more children per month. This is in line with current arrangements under Tax Credits but unlike Tax Credits, there will be no restriction on the minimum number of hours to work before qualifying under UC.</p> <p>In relation to <b>informal childcare</b> the Department for Employment and Learning (DEL) pays for assistance with child care to a lone parent, or a partner of certain benefit customers who are looking for work on the Steps to Work programme.</p> <p>DEL is currently consulting on a proposed new employment programme called Steps 2 Success (NI) which will replace Steps to Work.</p> <p>The feasibility study for Steps 2 Success said that childcare costs should be borne by the provider and a consultation exercise is currently underway.</p>	
Clause 9	In the event that the main householder/main applicant for UC is on remand, confirmation on whether the Bill allow sufficient operational flexibility to enable the housing benefit element of UC to be separated and thereby enable the rent to continue to be paid?	<p>Clause 9(3) of the Welfare Reform Bill allows for circumstances where an award will not include a standard allowance, for example, a standard allowance will not be included for prisoners on remand but an amount for housing costs could be included in an award for such a claimant. (Regulation 16 of the Universal Credit Regulations refers).</p> <p>The housing element will be protected for up to 6 months due to imprisonment. (Regulation 16(2) of the Universal Credit Regulations refers).</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>Clause 10</p>	<p>Clarity on what impact the introduction of Universal Credit will have on the child tax credits and child benefit provided to claimants who are responsible for children or qualifying young people?</p>	<p>Under Universal Credit, support for children will be provided in the form of a child element. This will replace Child Tax Credit and will be paid in <b>addition</b> to Child Benefit which will continue to be paid outside of Universal Credit.</p> <p>The child element in Universal Credit will comprise two rates (unlike Child Tax Credits which pays same rates for each child irrespective of number in family) – one rate for the first/only child and then a reduced rate for second and subsequent children. (Regulation 18 of the Universal Credit Regulations refers).</p> <p>The maximum amount of Universal Credit is to include an addition to the child element called a Disabled Child Addition (similar to the current disability premiums under child tax credits) for each child dependant (Regulation 20 of the Universal Credit Regulations). There will be two rates (lower and higher) of disabled child addition –</p> <p>(i) lower rate disabled child addition will be awarded for a child who receives any rate of either component of Disability Living Allowance (mobility or care) apart from the highest rate of the care component; or</p> <p>(ii) higher rate severely disabled child addition will be awarded for a child who receives the highest rate of the care component of Disability Living Allowance or a child is registered blind.</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
		<p>Under Universal Credit it is intended that there will be greater support for the most severely disabled children. Payments for disabled children and adults will be aligned as between 2003 and 2010 the uprating of child payments increased at a faster rate than those for adults.</p> <p>The amounts will be based on those provided through Child Tax Credit. We expect details of the rates that will be payable to be announced in the Autumn statement on 5 December and will be included in the proposed Universal Credit Regulations.</p>	
Clause 11	Clarity on the prescribed period for the support for mortgage interest payments under the Bill and when the temporary measures which reduced the period from 35 to 14 weeks will end?	<p>HM Treasury funding for the 13 week waiting period and a more generous £200,000 capital limit for working age mortgage holders receiving income related benefits (JSA, ESA or IS) will end in January 2013.</p> <p>Work is currently ongoing on the funding arrangements after January 2013 and we expect details to be announced in the Autumn statement on 5 December. Further details will be in Regulations.</p>	<p>This question has been answered covering both aspects – i.e. the financial calculation and covering the size criteria.</p> <p>This Welfare Reform Bill introduces an enabling provision to allow us to introduce regulations relating to under occupancy (i.e. size criteria).</p> <p>Members should note that the under 35 shared occupancy rate is already in legislation – this was covered by provisions within the last Welfare Reform Bill 2010 and The Housing Benefit (Amendment No.2) Regulations (Northern Ireland) 2011 (S.R. 2011 No. 293).</p> <p>The Discretionary Housing Payments may provide support for those claimants who have shared custody arrangements.</p>

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	Clarity on how household size will be calculated in cases such as separated families with shared parental responsibilities or short-term foster carers?	<p><b>Separated parents</b> who share the care of their children and who may have been allocated an extra bedroom to reflect this may have their housing costs element <b>reduced</b> as they will be deemed to have a spare bedroom.</p> <p>Under Universal Credit (Clause 10) the child element will be awarded to the person with whom the child normally lives. Where the child normally lives with both parents in separate households, parents will be encouraged to decide between themselves who receives the payment. If they cannot agree the Department will decide based on who has the main responsibility for the child.</p> <p>The category of accommodation which is reasonable for the claimant to occupy and the persons to be taken as part of the claimant's household are any children for whom he/she is responsible, are taken into account when considering the housing costs element. (Universal Credit Regulations, Schedule 4, Part 3, paragraphs 10 and 11, refer).</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
		<p>This could mean that in shared care arrangements some separated parents may have their accommodation classed as “under occupied” and the housing costs element may be reduced by 14% for the use of a room by one child, or by 25% for the use of two rooms by children. (Universal Credit Regulations, Schedule 4, Part 5, paragraphs 37 and 41 refer). In cases where the housing costs element is reduced tenants will be responsible for paying the shortfall in their rent.</p> <p><b>Foster carers</b> are allowed to claim the housing costs element for the housing needs of their own families but fostered children living with them are not taken into account when calculating the size of the accommodation required. (Universal Credit Regulations, Schedule 4, Part 5, paragraph 40 refers).</p> <p>Therefore a household which has an extra room for a current or potential foster child will be treated as under-occupying and the housing costs element may be reduced by 14% for the use of a room by a foster child, or by 25% for the use of two rooms by fostered children. (Universal Credit Regulations, Schedule 4, Part 5, paragraphs 37 and 41 refer).</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
		<p>To ensure that this measure does not discourage people from being foster carers, additional money will be made available to the Discretionary Housing Payment fund to help foster carers who find themselves with a reduction in their housing costs element owing to under-occupation.</p> <p>A foster child who remains with their foster carer after the age of 18 will then be treated as a non-dependant and be included in any room calculation.</p> <p><b>Shared parenting</b> – as under the current arrangements in benefits and tax credits where parents are separated and provide shared care, only one of them will be eligible to receive the child element of Universal Credit. The couple should decide between them who should receive the child element. Only where the parents cannot agree or where the agreement does not reflect the care arrangements between them, will the Department intervene and make a decision based on who has main responsibility for caring for the child.</p>	



Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
		<p>Clause 10(4) of the Bill allows for regulations to set out circumstances where an award will not include an amount for a child or young person. Regulation 4(4) of the proposed Universal Credit Regulations says that where a child or young person normally lives with two or more persons, only one of them is to be treated as responsible and that is the person who has the main responsibility. Regulation 4(5) says that the couple should decide between them who should receive the child element. Only where the parents cannot agree or where the agreement does not reflect the care arrangements between them, will the Department intervene and make a decision based on who has main responsibility for caring for the child.</p> <p><b>Short-term foster carers</b> – In the current benefits system, for the purposes of calculating income-related benefits, foster children are not included in the benefit assessment. The same principles will apply in Universal Credit.</p> <p>Clause 10(4) of the Bill allows for regulations to set out circumstances where an award will not include an amount for a child or young person. Work is ongoing to include in Regulation 4(6) of the proposed Universal Credit Regulations that foster carers should not receive the child element.</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
		<p>In the current benefits system, the allowances and fees received by foster carers in return for fostering are <b>fully disregarded</b> for the purposes of calculating benefit entitlement. The same principles will apply within Universal Credit. These payments will not be taken into account as earnings or income, and whether or not a foster carer receives such payments will not affect the amount of Universal Credit they are entitled to. (As these payments are not included in Regulations 51 or 61 of the Universal Credit Regulations they are disregarded).</p>	
	<p>Confirmation as to whether guidance will be provided on the definition of 'exceptional circumstances' and 'suitable accommodation'?</p>	<p>The terms "exceptional circumstances" and "suitable accommodation" are not defined as each case is decided on its merits. Under the current arrangements the guidance sets out factors to be taken into account when considering the merits of a case. It is likely that this will be carried forward into the Universal Credit guidance.</p>	
	<p>Confirmation as to whether financial incentives will be provided to assist claimants to move to the private rented sector in instances of over occupancy?</p>	<p><b>Awaiting reply from Housing Division</b></p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
Clause 13	<p>More detail (duration, quality, and qualifications of training providers) on what training will be provided for client advisers who will be responsible for carrying out work focused interviews? In particular, what assurances can the Department give that this will enable the advisers to deal with specific mental health issues such as bi-polar disorder and autism?</p>	<p>Employment Service Advisers working with clients on Incapacity Benefit and Employment and Support Allowance have received specialist training, over and above that received by Employment Advisers who are dealing with JSA clients.</p> <p>This training would have covered awareness of the full range of disabilities, including sensory, physical, mental health and learning disability. It would have also covered practical skills sessions on how the advisers should interact with clients, depending on the nature of their disability, and discussion sessions on how the respective disabilities impacted on the individual's behaviour and attitude towards employment.</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
		<p>In addition to the full programme of training that these Advisers would have received, the Department's Disability Employment Service provided a Support Model Service to these teams. The Support Model team consists of Occupational Psychologists and experienced Disability Employment Managers who have worked with disabled clients for many years. The Support Model is delivered on an ongoing basis throughout the Office Network and consists of Case Conferences on more complex cases, ongoing training, such as Motivational Interviewing and has seen the introduction of a new Diagnostic Tool on Employability for sick and disabled clients. As well as the Support Model visits, the respective staff are available at all times to give advice via telephone calls and ad-hoc meetings. The OPS staff will also carry out individual employment assessments on clients if the Employment Adviser thinks this is appropriate.</p> <p>Finally, the Employment advisers have built up positive relationships with local disability organisations and with staff from the local Health Trusts and can speak to these staff for advice and guidance in relation to the clients they are trying to help towards or into employment.</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	<p>Confirmation on the time period that claimants will have for submitting evidence in respect of good cause in order to avoid being sanctioned for failure to attend an interview?</p>	<p>There will be no specific time limit in the Universal Credit regulations so that there is flexibility to adapt to the circumstances of the claimant.</p> <p>The key point (which will be reflected in Guidance) is that the claimant always has the right amount of time.</p> <p>It is anticipated though that the current rule of 5 working days should be the default. But, if for example, the claimant is in attendance and has provided their evidence, there may be no need to wait a further 5 working days.</p> <p>Also, if the claimant is waiting for evidence from a doctor or support worker then the 5 working days should be extended.</p>	
	<p>Confirmation as to whether a claimant's commitment will take account of any permitted work a claimant may also be undertaking? Will the same rules apply to voluntary work under the claimant's commitment?</p>	<p>For claimants who are carrying out permitted work the precise terms of the claimant's availability will be set out in their claimant commitment which will be discussed with the Personal Adviser. Regulation 86(1)(a) of the proposed Universal Credit Regulations refers.</p> <p>For claimants carrying out voluntary work, work search must remain their primary focus. In these cases claimants will be allowed to carry out voluntary work for up to 50% of their expected hours on work search. Regulation 86(3) of the proposed Universal Credit Regulations refers.</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
Clause 14	Details of what support (provision of internet, newspapers) will be available to claimants to assist them in their search for work?	The Department for Employment and Learning has agreed to take the Department for Work and Pensions' Transforming Labour Market Services (TLMS) system which will provide a comprehensive tool for claimants to use to search for work.	
	Details of what consideration has been given to the use of mobile phones in assisting the claimants in their search for work?	The Department for Employment and Learning (DEL) ran a pilot using text messaging to remind claimants of their interview in one office in each of the three DEL regions. This is continuing in order to gain sufficient data to gauge effectiveness. In addition at the moment individuals may select to have text alerts via JobCentre online when a vacancy is put on to the system in their area.	
	Details of how a claimant's physical, literacy, numerical and IT skills will be assessed and will this assessment be undertaken at the same stage of the process? What type and level of training be provided to claimants to assist them in their work preparation?	Currently both the Department for Employment and Learning advisers and Lead Contractors employed by them may identify those with potential essential skills needs and may refer them for an assessment and training to address these barriers to employment. A wide range of tailored provision will be available from short courses to work placements etc.	



Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	Confirmation as to whether the potential risks of industrial disease will be taken into account in the claimant commitment?	<p>The claimant commitment will take account of the individual's capabilities and circumstances. Those claimants currently in the Employment and Support Allowance Support Group will fall into the group with no work-related requirements.</p> <p>People who are not capable of work will not be required to search for a job. This includes anyone assessed as having Limited Capability for Work through a work capability assessment. (Clause 14(4) (a) of the Bill)</p> <p>Personal Advisers will work closely with people who are not capable of work at the current time - but who will be expected to prepare for work - to understand their needs (Clause 16 of the Bill). Personal Advisers will encourage and support these people to fulfil appropriate work-related requirements to help them move closer to work in future.</p> <p>For those who are capable of work, we believe it is right that they should be required to do so in return for benefit payments. However, work search requirements will be tailored to reflect an individual's personal capability and circumstances.</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	<p>Clarity on whether the claimant commitment will be legally binding?</p>	<p>The claimant commitment is not a legal document but there are implications for a claimant who does not agree the claimant commitment.</p> <p>One of the basic conditions for entitlement to Universal Credit is that the claimant accepts the claimant commitment (Clause 4(1)(e)). Under clause 14(5) the claimant will also need to accept the claimant commitment when it is updated and changed as necessary.</p> <p>As the claimant has agreed in writing to undertake certain actions, the claimant commitment is binding in that it gives entitlement to Universal Credit. If the claimant does not accept the claimant commitment he/she will not be entitled to Universal Credit.</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
<p>Clause 16</p>	<p>Details of what steps the Department is taking to minimise the risk that work placements will lead to possible redundancies of full-time positions?</p>	<p>The Employment Service has taken a number of steps to reduce the possibility of job substitution. Each employer proposing to offer a work experience placement is <b>required to sign a formal Agreement</b> with the Employment Service confirming that there are no current vacancies in the area of activity in which the placement is offered, that there have been no redundancies within the organisation within the last 3 months and that there has been no displacement of existing employees as a result of the placement.</p> <p>Employment Service staff follow a robust monitoring regime during the period of work placement which includes on-site visits to support the participant and to confirm that the placement is operating within the broad principles of the scheme.</p> <p>At the end of each work experience placement, there is a cooling off period of 4 weeks to facilitate a review of the success of the placement and to prevent employers operating consecutive placements. During this period, meetings between an Employment Service Adviser and both the work experience provider and participant take place independently to elicit feedback on the placement. Where Employment Service staff have evidence that an employer is operating outside the overarching ethos and principles of the scheme, that employer's continued participation in the scheme can be suspended.</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	Confirmation as whether work placements will be tailored to the local job-market?	<p>Shorter work experience placements are geared towards providing participants with key transferable employability skills to support them in their search for work.</p> <p>Longer term placements under the Skills Development Programme are restricted to jobs growth sectors with the potential to rebuild and rebalance the NI economy in support of the draft Programme for Government and the NI Economic Strategy.</p>	
Clause 17	Whether industry specific training relevant to a claimant's previous profession (i.e. plumbing) would be considered under a claimant commitment?	<p>Yes, industry specific training relevant to a claimant's previous occupation can be considered under a claimant commitment. This might be in the form of upskilling to help a claimant compete better for available jobs or it might be in the form or conversion training aimed at helping the claimant extend the range of occupations open to them. All of this training would be influenced by labour market conditions and the Adviser's assessment of how close the claimant is to work.</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
Clause 18	Confirmation as to whether a definition or guidance will be provided on what constitutes “availability”?	<p>Clause 18 specifies that under a work availability requirement “available for work” means able and willing immediately to take up paid work, or more paid work or better paid work.</p> <p>This requirement must be met unless one of the following in Regulation 87 of the proposed Universal Credit Regulations applies -</p> <ul style="list-style-type: none"> <li>(i) the claimant is in paid work in which case they are allowed up to 48 hours to attend an interview, or until their notice period has expired to take up a job;</li> <li>(ii) the claimant has caring responsibilities, for a child or for a disabled person in which case they will be allowed up to 48 hours to attend an interview and one month to take a job;</li> <li>(iii) the claimant is carrying out voluntary work in which case they will be allowed up to 48 hours to attend an interview and one week to take up paid work.</li> </ul>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
Clause 19	More details on the process for assessing limited capabilities and who will be undertaking this assessment? Will the assessors have access to a claimant's full medical records?	<p>An individual's work capability will continue to be established through the Work Capability Assessment, currently undertaken for Employment and Support Allowance. The WCA looks at the functional effects of an individual's condition rather than the condition itself. Customers are assessed against 7 mental health descriptors and 10 physical descriptors. The information required to determine if an individual has Limited Capability for Work is any information detailing the individual's ability to perform certain defined duties. The outcome of the WCA is determined by a Social Security Agency Decision Maker taking into consideration information provided by the customer and the Medical Support Service provider, Atos Healthcare. As part of the decision making process customers complete a medical questionnaire (ESA 50) and are asked to provide supporting medical evidence. In going forward this will continue to be the process.</p>	
	Will lone parents in full-time education continue to receive benefit?	<p>In Universal Credit, as in the current benefit system, the majority of people in full-time education will not be entitled to claim. However, there will be some exceptions – clause 4(6) of the Bill allows for regulations to specify exceptions. Regulation 12(1) (c) of the proposed Universal Credit Regulations says that students, including lone parents, with relevant dependant children or young persons can still be able to qualify for Universal Credit.</p>	



Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
Clause 20	Confirmation as to whether the claimant's commitment will make an allowance for claimants who are parents/carers/guardians of children with specific conditions such as ADHD? And for parents during a child's settling in period at primary school?	<p>In addition to work-related requirements the claimant commitment will take account of the claimant's circumstances and would reflect a particular working pattern.</p> <p>Regulation 81 of proposed Universal Credit Regulations says that the expected number of hours per week for work search or work availability is 35 <b>unless</b> the claimant is a relevant carer in which case the number of hours will be those which are compatible with the caring responsibilities.</p> <p>Also, regulation 81 provides that where the claimant is a responsible carer for a child under the age of 13, the expected number of hours per week will be <b>compatible</b> with the child's normal school hours, including the normal time it takes the child to travel to and from school.</p>	
Clause 26	In instances where the main applicant in a household receives a higher level sanction- can the Department confirm what the impact will be on the family	<p>The details on higher level sanctions are set out in regulations 93 to 102 of the proposed Universal Credit Regulations.</p> <p>See below for further information</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	Will the same amount, minus the main applicant's allowance – be paid to the partner and the children?	<p>The sanction reduction will not affect the child or housing elements where a claimant is entitled to the maximum standard allowance (i.e. earnings have not reduced their award). If the claimant is not entitled to the maximum standard allowance, the sanction amount may reduce the housing or child elements. In such cases it will be for the claimant to manage their budget and use other income such as earnings to meet their housing or other costs.</p> <p>If after the sanction is applied the claimant cannot meet their basic essential needs they may make a claim for a hardship payment which will be recoverable.</p>	
	Would the person who is sanctioned cease to be the main applicant?	No	
	Would the partner be reclassified as a lone parent and therefore receive a lone parents benefits?	There are no lone parent benefits in Universal Credit.	
	Can the Department outline the process and timeline for reassessment of UC in this instance?	<p>The higher level sanctions can only be applied to jobseekers who do not – <b>without good reason</b> – meet their most important requirements, which might include accepting reasonable job offers. The process will be set out in guidance. In terms of the timeline the sanction will end when the claimant can demonstrate re-engagement.</p>	
	Is 'good reason' the same as 'good cause'?	<p>There is no difference between good reason and good cause. In previous legislation "good cause", "good reason", and "just cause" have all been used and often have the same meaning. To introduce consistency, the Welfare Reform Bill uses "good reason" throughout.</p>	

Welfare Reform Bill	Question from Social Development Committee	Response from DSD	Scope for operational flexibility
	<p>If a sanction is imposed and evidence is subsequently produced that would call into doubt the decision, what procedures are in place to protect the claimant? Example of a claimant with a medical condition that would impair their decision making process is sanctioned for failure to comply and evidence of the condition was subsequently provided to the department.</p>	<p>Clause 101(3) of the Bill, provides for amendments to be made to the Social Security (NI) Order 1998 to allow for regulations to be made specifying that a decision must be reconsidered fully internally by the Department before it can be appealed. This is a new requirement and will allow for issues to be resolved and errors identified and corrected at the earliest possible occasion. The claimant will have a right of appeal when they are notified of the outcome of the reconsideration by the Department.</p> <p>Regulation 8 of the proposed Decisions and Appeals Regulations sets out the detail on consideration of revision before appeal.</p>	
Clause 27	<p>Does the notion of reasonable travel time, in respect of work availability, include travel to another jurisdiction?</p>	<p>As the Bill extends to Northern Ireland only, a work search and work availability requirement will be <b>limited</b> to Northern Ireland.</p> <p>Regulation 88(3) of the Universal Credit Regulations say that travel time will be limited to <b>within 90 minutes</b> of the claimant's home.</p>	
Clause 29	<p>Confirmation on what will happen to those functions assigned to the Department for Employment and Learning if this Department is later dissolved?</p>	<p>If the proposed dissolution of the Department for Employment and Learning goes ahead, a Transfer of Functions Order will set out how the functions of that Department will be carried out.</p>	

Clause 7

The table below shows pay period frequencies for Northern Ireland as taken from ASHE 2011

Pay Period	Deciles										
	0-10	10-20	20-30	30-40	40-50	50-60	60-70	70-80	80-90	90-100	All
One Week	40.2%	36.8%	43.2%	41.6%	33.8%	31.6%	25.8%	19.2%	5.7%	5.3%	28.3%
Two Weeks	8.5%	4.0%	4.3%	5.3%	5.3%	2.8%	4.0%	1.4%	1.1%	0.4%	3.7%

This shows that people in the lower half of the income deciles are more likely to be paid weekly or fortnightly than those in the higher end.

# SSA Response re Welfare Reform Bill

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**From the Chief Executive  
Thomas O'Reilly**

14 November 2012

Dr Kevin Pelan  
Committee Clerk – Committee for Social Development  
Room 412  
Parliament Buildings  
Belfast  
BT4 3XX

Dear Kevin,

## **WELFARE REFORM**

Thank you for your letter dated 1 November to Billy Crawford, which has been passed to me for reply.

The Committee had raised a number of questions and I will answer each of them in turn.

### **1. Confirmation of potential job losses contained in the outline Business Case for Universal Credit.**

It is not possible to confirm the levels of any potential job losses as a consequence of Universal Credit as it is too early to state with any certainty the impact that the introduction of Universal Credit will have on staff numbers in either the Social Security Agency or any of the affected organisations. Whilst the first iteration of the Outline Business Case did indicate a potential reduction in staff of approximately 1,600 by 2019/2020, this was based on assumptions which are being constantly reviewed and updated as information on the detailed processes and level of automation becomes available. Work is also ongoing to develop the necessary complementing and resourcing models to inform the development of a revised business case.

In addition, our Minister is committed to working across government, not least, with the Department of Finance & Personnel, to ensure a fully managed approach and the development of strategies that allow for a managed change in workforce requirements which will, where possible, ameliorate staff impacts. Changes will be implemented in a carefully planned way, with new arrangements being introduced gradually through a phased approach. The administration of existing benefits will continue for some time while the Universal Credit system ramps up. During this time staff will be needed for both new and existing arrangements.

### **2. Confirmation and details of a communication plan/strategy**

A Welfare Reform Engagement Strategy is currently in place, the aim of which is to prepare, inform and support our customers, staff, stakeholders and the public through the forthcoming changes to the welfare system. The Social Security Agency has recently created a specific team to take this work forward over the next 24 months.

Work is on-going to ensure that a wide range of communication channels are utilised to ensure accurate and timely communication of welfare reform. The Department is committed to being a trusted source of information on Welfare Reform and wide ranging engagement with stakeholders and customers. The Engagement Team are currently planning a series of face to face engagement events on different topics over the next few months, with the first event being held in Long Gallery on 15 November. Invitations to this event have been sent to interested parties and MLAs.

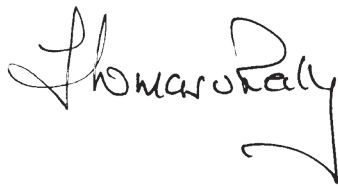
The Department have also engaged PwC as a strategic partner to work with Universal Credit programme to develop a communication and engagement strategy and plan to support the implementation of Universal Credit. This programme level plan will be incorporated into the wider Engagement Plan and you may wish to consider whether the Committee should secure a briefing upon completion.

**3. Confirmation on whether Work Capability Assessment decision makers' guidelines set out targets**

There are no targets for Work Capability Assessment outcomes in the Employment and Support Allowance decision making procedures and corresponding guidance.

In determining entitlement to benefit, an Employment and Support Allowance Decision Maker considers all available evidence in relation to a customer's claim. In all cases, if the evidence available to the decision maker indicates that benefit would be disallowed, they will contact the customer, normally by telephone, to discuss their claim. This will enable the customer to provide any additional evidence which could influence the entitlement decision.

I hope this clarifies matters for you, however, if you have any further queries officials would be happy to address the committee to assist their understanding.



Tommy O'Reilly  
Chief Executive Officer  
Social Security Agency



# Department re Welfare Reform Bill Response

From: Director  
Social Security Policy & Legislation Directorate

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Dr Kevin Pelan  
Northern Ireland Assembly  
Social Development Committee Office  
Room 410  
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Stormont  
BT4 3XX

Dear Dr Pelan

## **Supporting Separated Families Consultation**

Thank you for your letter of 16 October 2012 in which you ask about directors drawings and jurisdiction issue of non-resident parents living in another country.

### **1. Is there a contingency in place for those company directors in receipt of director's drawings as payment which are not required to be declared as income?**

In response to the query in relation to directors and if there is a contingency in place for those in receipt of director's drawings as payment which are not required to be declared as income, I understand that a Director cannot simply take money out of a company, without first accounting for it in some way to HMRC, which will in future be the source of information for the assessment of child maintenance liability.

Company Directors are legally required to show what monies they have taken, which of course are taxable, and either accountable in the maintenance or by way of the variations process. A Director's income may include remuneration, share dividend, debenture interest and drawings from the company.

In addition child maintenance legislation allows for additional financial factors to be taken into account which are not captured in the maintenance calculation; this is known as a variation to the maintenance calculation.

The new statutory scheme will bring about changes to the types of variation that parents with care can claim. The intention is that grounds available to parents with care will focus on capturing a non-resident parent's actual unearned income. This approach will make best use of the additional sources of taxable income held by HMRC having been captured by self-assessment, such as income from savings, property and or investments rather than establishing a notional income, which is the current method of calculating unearned income.

This means the Department will be able to investigate non-resident parents' additional income instead of the onus being placed on parents with care to provide supporting evidence. This will be done by requesting details of unearned income information held by HMRC whenever an application for an additional income variation is accepted. If the application is

successful, resulting in the variation increasing the maintenance calculation, further requests will be made each year as part of the annual review using gross income figures supplied by HMRC.

Calculations will be more cost-effective with fewer manual in-year changes being required. Therefore the changes to the variations scheme will make it harder for non-resident parents' unearned income to remain undetected. However, I would caution that it still will not be easy to establish the non-resident parent's "true" income if they have not declared it to HMRC.

**2. Has consideration been given to cases where the non-resident parent is living in other jurisdictions e.g. Republic of Ireland?**


In regards to consideration being given to cases where the non-resident parent is living in other jurisdictions the legislation is clear.

European Council Regulation EC 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and co-operation in matters relating to maintenance obligations ("the EU Maintenance Regulation") provides for the reciprocal enforcement of maintenance between EU member states. This regulation, which has direct effect in UK law, has been applicable since June 2011. This Regulation aims to ensure the swift and efficient cross-border recovery of maintenance obligations imposed by both courts and certain administrative bodies including DSD.

To facilitate this, the EU Maintenance Regulation establishes a system of Central Authorities to assist in applications, including helping to obtain information on the income, and, if necessary, other financial circumstances of the debtor and creditor. A Central Authority in one member state may make a request to a Central Authority in another member state to help obtain relevant information and the requested Central Authority must take all appropriate measures to assist. Public authorities which in the course of their ordinary activities hold the relevant information must provide it to the Central Authority at its request.

The Child Maintenance and Enforcement Division are continuing to work with the Northern Ireland Court and Tribunal Service ("the Central Authority") on this.

In summary if an applicant has a maintenance assessment in place then it can be enforced in the same manner as a court order in the other jurisdiction.



Anne McCleary

# SSA Response re Financial Implications

## An Agency of the Department for Social Development

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From Tommy O'Reilly, Chief Executive, Social Security Agency

Dr Kevin Pelan  
 Committee Clerk  
 Committee for Social Development  
 Room 412  
 Parliament Buildings  
 Belfast  
 BT4 3XX

31st October 2012

Dear Kevin,

## Welfare Reform – Financial Implications for not Implementing the Bill

Further to your recent query regarding the possible financial implications for not implementing the Welfare Reform Bill, please see explanation below.

As part of the United Kingdom public expenditure system, Northern Ireland is required to adhere to controls set out by HM Treasury in the Statement of Funding Policy. This makes clear that:

- (i) Spending on Northern Ireland social security benefits is treated as annually managed expenditure (AME), met directly from HM Treasury in line with the actual entitlement of claimants and outside the departmental expenditure limit (DEL) funding allocated to and managed by the NI Executive;
- (ii) Increases in annually managed programme expenditure arising from policy decisions made by Northern Ireland will have to be met from their respective budgets; and
- (iii) Should the Northern Ireland Executive decide to change social security policy to differ from the rest of United Kingdom, ministers in Great Britain will have to take a view on the level of any funding adjustment.

This is echoed in the Consolidated Budgeting Guidance which highlights that any action or inaction which increases Annually Managed Expenditure is expected to be met from reductions in DEL or through other AME savings.

Considering the controls that I have set out above, it is estimated that the financial implications of not implementing the Welfare Reform Bill Northern Ireland (2012) during the Spending Review 2010 period is estimated to be in the region of £207 million. This estimate includes:

- £113m of social security benefit spending controls which will not be happen as measures such as Personal Independence Payment and Employment Support Allowance Time Limiting will not be implemented;
- £7m for fraud and error measures which will not be achieved;

- £9 million in additional social security spending on Universal Credit to support the policy intent that work pays which will not come into Northern Ireland; and
- the removal of £61million of resource DEL and £18m of capital DEL related to the implementation of Welfare Reform and included in the Northern Ireland Block DEL Spending Review 2010 settlement.

These estimates increase significantly in the next spending review period as Welfare Reform measures are fully implemented.

The £207 million estimate does not include the additional IT and administration costs which Northern Ireland would have to meet for administering different systems and the loss of the significant cost advantages which exist from using the same systems and administering the same benefits as Great Britain.

While ultimately the level of any funding adjustment will be a matter for discussion with Great Britain ministers, the rules which govern the funding relationship between the Great Britain and Northern Ireland clearly set out that adjustments can be made.

I hope you find this information useful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tommy O'Reilly', with a stylized flourish at the end.

**Tommy O'Reilly**  
**Chief Executive Office**

# Dept response re the Welfare Reform Bill



**From: The Minister**

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Mr Alex Maskey MLA  
Chairperson  
Social Development Committee  
Room 412  
Parliament Buildings  
Stormont  
BELFAST  
BT4 3XX

Your ref: CSD/011/2011/NS

Our ref: COR/777/2012

**31** October 2012

Dear Alex

## THE WELFARE REFORM BILL

Thank you for your letter of 1 October regarding Committee scrutiny of the Welfare Reform Bill (NI) 2012.

Whilst we have devolved responsibility for Social Security matters here in Northern Ireland, you will appreciate that our benefits system here in Northern Ireland is predicated on the assumption of parity, both in terms of substance and timing insofar as possible. As you are aware the Welfare Reform Bill for GB was granted Royal Assent in March this year and currently we in Northern Ireland are behind Westminster with our legislative process.

You will also be aware that in dealings with Westminster colleagues, among them Lord Freud and Iain Duncan Smith, and through the Executive Sub-Committee on Welfare Reform, I have actively sought to put forward the case that, in implementing Welfare reform here we must ensure that the legislation is afforded proper scrutiny in the Northern Ireland Assembly. To that end I consider that robust Committee scrutiny of the proposals contained in the Bill is vital and I understand the Committee is committing additional time to this responsibility to meet the 30 day timeframe. I welcome your leadership in taking this forward

At the meeting at which we discussed the Welfare Reform Bill and the potential impact on the work of the Social Development Committee, I did indicate that I was working towards the Bill receiving Royal Assent in mid March and that the draft timetable which officials provided you, the Committee Vice Chair and the Committee Clerk was based on the Bill completing the legislative process within the Assembly by early February.

It is not therefore possible at this time to effectively detail all of the implications should the Committee not meet the 30 day timescales for completion of the scrutiny of the Welfare Reform Bill. Understanding any parity and operational implications can only be undertaken once the Committee has completed the scrutiny stage and we are able to assess the impact on the other legislative stages of the Welfare Reform Bill. I would again highlight that the length of time taken by the Committee does have a direct impact on the overall legislative timescale and, if not achieved, will therefore have both service and financial consequences.

I hope this information is helpful.

Yours sincerely

Nelson McCausland

**NELSON McCAUSLAND MLA**  
**Minister for Social Development**



# SSA Letter re Outline Bussiness Cases 29.11.12

## **An Agency of the Department for Social Development**

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From the Chief Executive  
Thomas O'Reilly

29 November 2012

Dr Kevin Pelan  
Committee Clerk – Committee for Social Development  
Room 412  
Parliament Buildings  
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Dear Kevin,

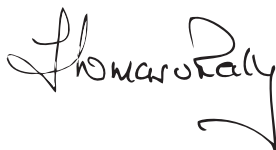
## **Release of Business Cases to the Social Development Committee**

Further to your letter of 8th November, in which you had requested, on behalf of the Social Development Committee, copies of each of the Outline Business Cases relating to Welfare Reform, I regret to inform you that it is not the policy of the Department to release these documents as they are considered to be policy under development, and the Outline Business Cases often contain commercially sensitive information.

As previously discussed the Department recognises the importance of keeping the Committee informed, at this time this would be best served through the issue of Strategic Outline Cases relating to Welfare Reform.

Should you wish to discuss this issue any further please do not hesitate to contact me or the Departmental Assembly Liaison Officer, Billy Crawford.

Yours sincerely



**Tommy O'Reilly**  
**Chief Executive Office**  
**Social Security Agency**

# DSD Response re Fostering NI Welfare Reform Bill

## 21.1.13

### **Social Security Policy and Legislation Division**

Dr Kevin Pelan  
Clerk  
Committee for Social Development  
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Belfast BT4 3XX

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Tel: (028) 9081 9101  
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Email: Michael.pollock@dsdni.gov.uk

Your reference:  
Our reference:

Date: 21 January 2013

Dear Dr Pelan

### **Fostering Network - Impact of Housing Benefit under-occupation restriction**

Thank you for your letter of 3 December 2012 regarding the concerns raised by Margaret Kelly, Director of the Fostering Network. First of all, I would like to apologise for the delay in responding.

I should point out that Ms Kelly has already raised her concerns with DHSSPS and this Department and has received full written responses.

It may be helpful if I explain that the introduction of the size criteria for working age claimants under-occupying in the social rented sector will bring the social rented sector more into line with the approach in the private rented sector, where the rate of Housing Benefit is related to the size of dwelling the claimant needs.

Size criteria will be used to determine whether there is under-occupation or not. There will be two different percentage reductions made to the maximum Housing Benefit available (generally speaking the person's eligible rent), based on whether the claimant is under-occupying their property by one bedroom (14% reduction), or by two or more bedrooms (25% reduction). The average reduction is likely to be £7 or £14 a week, depending on the level of under-occupation.

As with claims in the private rented sector, a room for a foster child will not be included when calculating how many bedrooms a family unit requires. Therefore, a household that has an extra room for a current or potential foster child will be treated as under-occupying.

However, the financial support that foster carers receive from social services helps them to meet the costs associated with caring for foster children and this support is disregarded in full for the purposes of Housing Benefit. If foster children were to be included in the household, then the fostering allowance would also have to be included as income so disregarding foster children in the assessment and then disregarding the fostering allowance as income is normally more beneficial to the claimant.

Contrary to what Ms. Kelly has stated, Discretionary Housing Payments are available in Northern Ireland and rather than creating blanket exemptions for broad categories, support will be made available by way of Discretionary Housing Payments.

This is considered a more appropriate mechanism to deal with vulnerable claimants. Discretionary Housing Payments offer flexibility based on local decisions helping ensure scarce resources can be targeted as needed. So as not to discourage foster carers, and in recognition that there may be cases where it would make sense to provide additional support, Discretionary Housing Payments could help, for example, to meet housing costs between placements. The Payments could also assist single people under age 35 who are foster carers, but who are receiving the shared accommodation rate of Housing Benefit.

The Discretionary Housing Payments budget here has been increased substantially, with £3.426million available in 2012-13, £6.944million in 2013-14, £5.939million in 2014-15 and £4.431million in 2015-16 and in 2016-17. This includes additional funding of £1.005m in each of the years from 2013/14 to 2016/17, specifically targeted at people who live in significantly adapted accommodation (due to someone in the household having a disability) and foster carers (including those between placements) who find themselves with a reduction in their Housing Benefit due to under-occupation.

While Discretionary Housing Payments were never intended to fully cover any reduction in Housing Benefit under the reforms or to meet everyone's needs they do provide a reasonable level of support to help people adversely affected by Housing Benefit reform.

I hope you find this information helpful

**Michael Pollock**

## The Fostering Network Letter to Chair DSD re Welfare Reform 23.11.12

Mr Alex Maskey  
Chair DSD Committee  
NI Assembly  
Parliament Buildings  
Stormont Estate  
Belfast  
BT4 3XX

Dear Mr Maskey

I am writing to you in your capacity as Chair of the DSD Committee to raise with you a number of serious concerns regarding the Welfare Reform Bill and approved foster and kinship carers.

When the Welfare Reform Bill was progressing through Westminster there were a number of serious concerns regarding its impact on approved foster and kinship carers and their ability to continue to provide care for some of the most vulnerable children. As a result of this a number of assurances were given by the Westminster government and these were accepted by Department of Work and Pensions. I have detailed those assurances in the attached briefing paper and would request the Committee considers these and the need for them to be replicated here.

The single biggest issue the Welfare Reform Bill raises for approved foster and kinship carers is the housing under occupancy rule. It is not possible to become a foster carer unless there is a separate bedroom for each child or young person. However, the cost of this is covered by housing benefit. If we remove this from foster carers they will no longer be able to offer care for children and young people or may have to meet this cost themselves.

The response to this in Westminster was to include foster carers within the scope of the Bill but to add an addition to the Discretionary Housing Fund in-order that they could be compensated for the loss. There is no Discretionary Housing Fund in Northern Ireland so this is not a feasible solution and I am writing to the Committee to ask them to seek to insert a clause into the Bill that will exclude approved foster and kinship carers from the under occupancy rule.

I have attached for your information a briefing paper on this issue. I would welcome the opportunity to discuss this with the Committee as you scrutinise the Bill and look forward to your response.

Yours sincerely

Margaret Kelly  
Director  
The Fostering Network

# The Fostering Network Final Welfare Reform Briefing 23.11.12



## The Fostering Network NI – Issues for Foster and Kinship Carers in Welfare Reform

### 1. Introduction

- 1.1 The Fostering Network is the leading charity for foster and kinship carers in NI and we work to improve outcomes for children in care. We have 1900 members who are approved foster carers, including kinship carers, and we provide support, training and advice to ensure they can transform the lives of children in care.<sup>1</sup>
- 1.2 We also deliver the flagship Fostering Achievement scheme on behalf of the Health and Social Care Board. This provides additional resources and support to improve the educational outcomes of children in care; it includes the award winning Letterbox Club.
- 1.3 The Fostering Network (UK) campaigned at Westminster to seek significant changes to the Welfare Reform Bill on behalf of foster carers a number of which were accepted by the Department for Work and Pensions.<sup>2</sup> However, there remain a number of outstanding issues with the Welfare Reform Bill as proposed that could have a significant impact on fostering and which the Fostering Network would ask the Committee to address. In particular we want to ensure that the DSD Committee replicates these assurances for approved foster and kinship carers in Northern Ireland.

### 2. Children in Care in NI

1. There are currently 2644 children and young people in care in NI. This represents a 5% increase since last year and an underlying trend of increases since 2006. There is nothing to suggest that this trend is about to change and we should expect for the next five years either a continuing upward trend of children coming into care or it remaining at a similar level.
2. At the same time that the overall numbers of children in care has continued to increase the percentage looked after in foster or kinship care has also continued to grow. In NI at March 2012 75% of the total number of children in care were cared for by either foster or approved kinship carers. This represents an 18% increase over the last six years.
3. Care Matters and Transforming Your Care have both clearly indicated that they see foster and kinship care as the placement of choice for the future of care in Northern Ireland. Residential care has continued to shrink in-terms of the percentage of young people placed there and while there will always be some young people for whom this is appropriate, the majority of children and young people should be placed in a family setting.

1 Throughout this briefing we refer to foster and kinship carers. These are both carers who are approved as foster carers by Health and Social Care Trusts and are caring for a looked after child or children. An approved kinship carer is a family member or friend of a looked after child who has been approved as a foster carer and provides their care. They are treated differently for the purposes of tax and benefits than informal kinship carers whose needs are not addressed within this briefing.

2 See <http://www.dwp.gov.uk/docs/ucpbn-8-foster-carers.pdf>

### **3. Foster and Kinship Care in NI**

1. We currently have around 2000 approved foster and kinship carers in Northern Ireland. However, not all of these are available for full-time care placements and many carers only undertake respite care.
2. Each week here, there are 2 children who require foster care and for whom a placement cannot be found because of lack of carers. We are already in a deficit position with the number of carers and it is also the case that for foster care to work effectively there needs to be space in the system. Matching a child with the best carer possible for them means we should ideally have more carers than placements required so that we have space to choose properly for children and to ensure carers are not over-loaded with too many placements.
3. There are also on-going concerns about the demographics of foster and kinship carers. Many carers are older and have been caring for a significant period of time and may be unable to continue caring. The ability to recruit new foster and kinship carers is critical to the ongoing needs of the most vulnerable children who come into care.
4. The vast majority of foster carers in NI are recruited by Health and Social Care Trusts, with only around 8% recruited by independent or voluntary foster care providers.
5. Unlike the position in England and Wales the very vast majority of carers in NI are voluntary and are not paid a fee. We have a small percentage of fee paid carers but most carers only receive an allowance to cover the costs of feeding and clothing a child and covering the cost of pocket money and birthdays, Christmas and one holiday per year.
6. In both Britain and NI there are many foster and kinship carers who rely on the tax and benefit system to support the work they do. However, given that NI has a substantially lower number of fee paid foster carers then any reduction in their access to benefits will have a substantially higher impact.
7. The Welfare Reform Bill as it currently stands could have a significant impact on the ability of Health and Social Care Trusts to recruit foster and kinship carers and by default a significant impact on the most vulnerable children in NI.

### **4. Impact of 2011 Changes on Single Room Rents**

1. In January 2011 there were changes to Local Housing Allowances that have already begun to impact on foster and kinship carers and their ability to provide care for children.
2. New regulations came into force that meant for single people under 35 years of age their housing benefit claim would be restricted to the cost of shared accommodation, regardless of the kind of accommodation they currently occupied.
3. The Fostering Network is aware of a number of cases where single carers, who have no children of their own but are providing a foster or kinship placement have had their Housing Benefit reduced and have had to find the difference themselves. In one case this amounted to having to find almost £40 per week. Clearly shared accommodation was not an option for this carer and yet there is no exemption under the new regulations. (SR2011 No 293 – the Housing Benefit (Amendment No 2) Regulations (Northern Ireland) 2011.
4. The potential impact of further reducing access to housing benefit for approved foster and kinship carers could have a hugely detrimental effect on our ability to provide family based placements for children who need them.

### **5. Impact of Welfare Reform**

1. As the Welfare Reform Bill was making its way through Westminster it became clear that it could have a significant impact on the ability of foster and kinship carers to offer a home to some of the most vulnerable children and young people.



2. A number of assurances were provided by the Westminster government in-relation to the impact of the Act on foster carers. These were:
    - Fostering Income would continue to be disregarded for the purposes of benefit calculation
    - The sole or main carer of fostered children under 16 would not have to seek work outside of fostering
    - Other exceptions may be made to reflect exceptional need
    - Benefit payments would run on for a period of eight weeks after a fostered child leaves the placement.
  3. The provisions under the Welfare Reform Bill in-relation to under- occupancy could both prevent people becoming foster or kinship carers and make it more difficult for those who currently are carers to continue.
  4. There was some recognition of this as the Bill passed through Westminster and it was agreed to create a ring-fenced fund that would provide additional support to carers.
  5. An additional sum was to be added to **The Discretionary Housing Fund** which would be applied to local authorities in Britain and was estimated to help 5,000 foster carers.
  6. Current evidence from the Fostering Network suggests that the discretionary nature of this support has not worked well. The response is patchy with some foster carers having access to the Fund and others not. The impact of this on foster placements is a significant cause of concern.
  7. **The Discretionary Housing Fund does not operate in Northern Ireland. Therefore a compensation based solution is not possible and there is already a lack of parity.**
  8. **The Fostering Network calls on the Committee to insert an exemption into the clause in the Bill which removes entitlement to all rooms that are under-occupied for approved foster and kinship carers.**
- 6. Priorities for DSD Committee**
- 6.1 The Fostering Network in NI would ask the DSD Committee in their scrutiny of the Welfare Reform Bill to write to the Minister and ask him to clearly outline the impact of the Bill on Foster and Kinship Carers and to provide similar assurances as were given in Westminster.
  - 6.2 The Fostering Network would ask the DSD Committee to seek clarification from the Minister in-relation to the under occupation rule and its impact on approved foster and kinship carers. It would also ask the Committee to raise with the Minister inserting an exemption to the under occupation rule for approved foster and kinship carers.
  - 6.3 The Fostering Network would further ask the Committee to clarify with the Minister if he is unwilling to give an exemption to the under occupancy rule for approved foster carers and kinship carers how will he ensure they are compensated in a similar way to England.
  - 6.4 The Fostering Network would also ask the DSD Committee to write to the Minister regarding the impact of the single room rent on foster and kinship carers since its introduction.

**Margaret Kelly**  
**Director**  
**The Fostering Network**  
**T: 028 9070 5056**  
**E: margaret.kelly@fostering.net**

# Letter to DALO re The Fostering Network

## **Committee for Social Development**

Room 412  
Parliament Buildings  
BELFAST  
BT4 3XX

Email: kevin.pelan@niassembly.gov.uk  
Tel: 028 9052 1864  
Fax: 028 9052 1667

3 December 2012

Our Ref: CSD/017/2011/NS

Mr Billy Crawford  
Department for Social Development  
Lighthouse Building  
1 Cromac Place  
Gasworks Business Park  
Ormeau Road  
Belfast BT7 2JB

Dear Billy,

Fostering Network

At its meeting on 29th November 2012 the Committee for Social Development considered correspondence from the Fostering Network expressing serious concerns relating to the Welfare Reform Bill and approved foster and kinship carers.

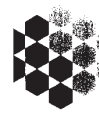
The Committee agreed to forward this correspondence to you for comment.

I would appreciate a response within 10 working days of receipt of this letter.

Yours sincerely

**Dr Kevin Pelan**  
**Clerk, Committee for Social Development**  
**Enc.**

# Ministerial Briefing



Department for  
**Social  
Development**

From: The Minister

5<sup>th</sup> Floor  
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Mr Alex Maskey MLA  
Chairperson  
Social Development Committee  
Room 412  
Parliament Buildings  
Stormont  
BELFAST  
BT4 3XX

Our ref: SUB/90/2013

26 January 2013

Dear Alex

## THE WELFARE REFORM BILL – SDC PRE-FORMAL SCRUTINY – KEY ISSUES

Thank you for agreeing to allow me the opportunity to meet with the Committee on 31 January to discuss the key issues arising from the Committee's pre-formal scrutiny of the Welfare Reform Bill (NI) which are outlined in Dr Pelan's letter dated 16 November 2012 to my Department.

Firstly I would like to put on record my appreciation of the amount of time and effort which the Committee has afforded to the scrutiny of the Welfare Reform Bill (the Bill). I think it's important that we satisfy ourselves that we have explored all avenues for flexibilities.

In advance of our discussion and, as an aid to your deliberations, please find the attached document which outlines my current thinking on these matters. Whilst I can appreciate the concerns expressed by Committee Members, and indeed I share many of those concerns, I must also be mindful of the financial position and the potentially wider ramifications for Block expenditure generally on any proposals to implement Welfare Reform differently in Northern Ireland.

As you are aware, quite apart from any discussion on parity, we depend on the IT Infrastructure supplied through the Department for Work and Pensions (DWP) for delivering benefits here in Northern Ireland and any divergence from the proposed approach in Great Britain will most likely have a significant cost attached through either additional IT functionality or clerical workarounds.



INVESTORS  
IN PEOPLE

In that context I would hope that at our meeting on 31<sup>st</sup> we can reach an agreed position on the issues raised and I will then seek the views of the Executive. The timescale is extremely tight if we are to complete the legislative process and maintain parity of timing with the rest of the UK in implementing these reforms. I have previously highlighted to Executive colleagues, as has Minister Wilson at the Executive Sub-Committee on Welfare Reform, that Whitehall has expressly reserved its right to review funding arrangements should it be considered there is undue delay and I would urge the Committee to do all it can to assist in that regard.

In the attached document at **Annex 1**, I have provided further clarification for the Committee on each issue, including costs where possible (Appendix 1) and a suggestion as to how to move forward in terms of our response.

I look forward to an informed discussion.

Yours sincerely

Nelson McCausland

**NELSON McCAUSLAND MLA**  
**Minister for Social Development**

**List of attachments**

**Annex 1 – List of issues/topics;**

**Appendix 1 – Costs;**

**Appendix 2 – Sanctions;**

**Appendix 3 – Fraud Sanctions**

# Ministerial Briefing Annex 1

## Annex 1

### Issues/topics

#### Payments (listed as clause 2 but refers to clause 99)

##### **Summary of issues raised:**

Proposed amendment:

- UC payments are, by default, paid fortnightly;
- in the case of a joint application payments are made, by default, on a split basis; and
- in a joint application where one person is in paid employment, the payment is made, by default, to the second earner/primary carer.

### Explanation

#### **Twice monthly payments**

The legislation already provides for payments frequency through the proposed Claims & Payments Regulations. Minister has already secured an agreement from DWP to enhance the IT system to deliver bi-monthly payments based on criteria<sup>1</sup> agreed in Northern Ireland when Universal Credit goes live in April 2014. Under this agreement the first payment has to be for a full month and not split – if someone needs a more frequent or split payment in the first month these will have to be done clerically.

To be able to offer a twice monthly payment or split payment from the start of the claim DWP has advised will require significant changes to the ICT over and above that already agreed.

The costs associated with the agreed ICT enhancements (i.e. those from Minister's announcement on 22 October) have not yet been definitively determined. It is anticipated that to deliver the fully automated choice suggested by Committee at data gather (i.e. at point of claim) will add significantly to these costs.

The Social Security Agency has provided a high level estimate at this stage of £12m per annum running costs for a population of 150,000 households in fortnightly payments (approximately 50% of current caseload). If all cases are to be paid fortnightly this would equate to £24m per annum based on current estimated caseload of 300,000 claims. This is based on full automation of payment arrangements with the clerical workarounds focusing on decision making, taking of claims, change of circumstances, dispute resolution and checking.

#### **Split Payments**

Clause 99 of the Welfare Reform Bill allows for split payments. Minister has secured an agreement from DWP to enhance the IT system to deliver split payments on request in exceptional circumstances when Universal Credit goes live in April 2014. The Social Security Agency is currently conducting a public consultation exercise on the criteria for splitting payments between joint claimants as noted overleaf.

#### **Payments to Main Carer**

Clause 99 of the Welfare Reform Bill allows for payment to a nominated person (i.e. main carer/second earner). This clause also allows for the Department to decide to whom the

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<sup>1</sup> The criteria will be decided using the consultation process which SSA commenced on 15 November 2012

payment should be made irrespective of any nomination by the couple. The IT system will ask at data gather (point of claim) to whom the payment should be made.

## Proposed way forward

**Minister shares the Committee's concerns around the monthly payment. Minister accepts that many claimants need more frequent payments. He has directed his officials to engage with members of the public and the voluntary and community sector to develop criteria for more flexible payment arrangements. Criteria are currently being developed to achieve a balance between delivering more frequent payments for all and only on an exceptional basis. The current estimated cost of everyone receiving twice monthly payments as the default position is in the region of £24m.**

**Minister wishes to discuss his criteria for increased frequency with the Committee before considering whether to approach the Executive regarding the additional cost to the NI Block.**

## Universal Credit Basic Conditions

### (i) Claimant Commitment (clause 4)

#### **Summary of issues raised:**

Proposed amendment:

In the case of a joint application, where one person refuses to sign the claimant commitment the payment shall be made to the person who is willing to sign the claimant commitment.

#### Explanation

Universal Credit is a household benefit and as part of that, all claimants will be required to accept a claimant commitment as a condition of entitlement.

Clause 4 makes it a basic condition of entitlement that for joint claims to Universal Credit each claimant will be required to accept a claimant commitment, similar to the current position for joint claims to Jobseekers' Allowance.

The claimant commitment, will, for the first time, record the claimant's obligations and clarify what people are expected to do in return for benefits and support, including doing all that can reasonably be expected of them to find or prepare for work, and exactly what will happen if they fail to comply with these requirements.

The proposed Claims and Payments Regulations (Regulation 10) provide that if one member of a couple fails to sign a claimant commitment, then neither will be eligible if they continue to apply as a couple. A short cooling off period will be allowed for claimants to re-consider the impact on the household claim and to sign their claimant commitment before any decision is taken to disallow.

There is no provision for a claim to be made by the partner willing to sign the commitment as the Universal Credit claim is based on the joint income and savings of the members in the household. The provisions within Clause 2 (2) allow for Regulations to specify circumstances where a member of a couple may be treated as a single person, but it is not envisaged that this provision will be used to cover these circumstances.

Under the current arrangements, a couple making a joint claim to Jobseekers Allowance, must, among other things, satisfy availability and actively seeking work and agree a Jobseekers' Agreement. If a member of a couple does not satisfy these conditions then the legislation



allows for benefit to be calculated for the member of the couple willing to comply as if they were a single claimant.

There will be no such provision within Universal Credit.

## Proposed way forward

Whilst we appreciate the potential difficulty for claimants in these circumstances, for us to allow claims in such circumstances would be breaking parity and would have a cost attached. It is difficult to estimate the costs for this, but the number of claimants who are expected to be disallowed in these circumstances will probably be very low. Minister does not consider that a legislative change is appropriate.

## (ii) Third party verification (clause 4)

### Summary of issues raised:

Proposed amendment:

Where a person due to extenuating circumstances cannot provide all the required documentation to make a claim then there is provision made for third party verification, in lieu of required documentation (including identity documents), so that the claim can be made.

### Explanation

Under the current Claims and Payments Regulations a person making a claim for benefit must provide certificates, documents, information and evidence as required. This provision is being **carried forward** into the proposed Universal Credit etc Claims and Payments Regulations.

How evidence is currently accepted is in guidance and while there is nothing specific on handling 3rd party evidence, in practice if it is from a reputable source e.g. social services, it is accepted to kick-start a claim from someone who is homeless and/or vulnerable.

Guidance will cover, as it does currently, the continued acceptance of third party verification where appropriate.

The IT identity security system (IRIS) will flag up a range of risks or concerns including those originating from identity trust flags. In such cases, there will be an identification task generated requiring resolution, including third party verification, through face to face contact with staff in the office.

There should be no difficulty for claimants without bank accounts as the Simple Payment Service will enable such vulnerable claimants to access their money without conventional ID documents.

## Proposed way forward

**Minister will provide an assurance that the current practice allowing third party verification for vulnerable claimants will carry forward and that such claimants will still be able to make a claim and have their money paid either via a bank account (if held) or via the Simple Payment service which is aimed at claimants who don't have access to a bank account. No legislative amendment is required.**

**(iii) 16/17 year olds registered on training but not placed (clause 4)**

**Summary of issues raised:**

That 16 and 17 year olds who have come out of care or who are registered for training with the Employment Service but have not secured an immediate placement should also be added to the list of specified groups, to mirror the current provision for discretionary hardship payments under Jobseekers' Allowance.

## Explanation

### **16/17 year olds registered on training but not placed**

Department for Employment and Learning's (DEL) Training for Success (TfS) programme provides a guaranteed training opportunity for 16/17 year olds and that guarantee must be met.

DEL is not aware of any 16/17 year olds on a waiting list as such. Some 16/17 year olds may have to wait if there is a particular programme they want to get onto and the supplier does not have a place at that point in time, however while waiting for that particular placement the 16/17 year old will be provided with other type of work-based placement.

Those on the TfS are paid a non-means tested Education Maintenance Allowance of £40 a week while in training. **This arrangement is unique to Northern Ireland.**

16/17 year olds in these circumstances would be eligible for assistance, providing they met criteria, from the proposed Discretionary Support Scheme only where they are estranged from their family and householders in their own right in circumstances where they meet loan/grant eligibility criteria.

### **16/17 year olds coming out of care**

Discretionary Support will be extended to 16/17 year olds by exception - by this we mean where the applicant is estranged from their family and potentially a householder in their own right. In these circumstances the applicant would potentially qualify for both loan/grant provision providing other criteria low income, risk to health and safety, crisis situation etc are satisfied.

A 16/17 year old coming out of care (if re-establishing/setting up home in the community) would satisfy grant criteria - potentially on the grounds to establish them in the community or under hardship criteria. For a young person coming out of care back into family home a parent or responsible adult could make an application to cover costs associated with 16/17 rejoining the family home but 16/17 year old could not make an application in their own right.

Under this clause as an under-18 year old care leaver cannot qualify for Universal Credit unless they are part of a benefit unit with responsibility for a child (either as a lone parent or as part of a couple) or a limited capability for work or work related activities recipient. Care leavers cannot qualify on the grounds that they are without parental support or pregnancy post-confinement/or as a carer.

Where the care leaver is still eligible (because they are a lone parent or are disabled) they will be excluded from the housing element of UC.

We do not have any figures on the number of hardship payments made to 16/17 year olds but a total of 413 hardship payments were made during 2011/12.

## Proposed way forward

**Minister notes the Committee's concerns on both these issues. However, we do not believe that there is a strong enough case for making exceptions for those on training schemes. The position for those in care is that these cases should be dealt with outside of the**

**social security system. Help from the new Discretionary Support Scheme may be available in particular circumstances for those leaving care as outlined above. No legislative amendment is required.**

#### (iv) Restrictions on entitlement (clause 6)

**Summary of issues raised:**

Proposed amendment:

The Committee seeks reassurance from the Minister that there shall be no loss of passported benefits as a result of clause 6.

#### Explanation

This clause allows for payment not to be made where it is below a certain amount and would be administratively prohibitive to pay the claimant. The policy intention is that payment of UC will not be made where the claim is for less than 7 days (including waiting days). However, the notification will state that the claimant has an underlying entitlement to Universal Credit so as to allow them to access passport benefits where appropriate.

#### Proposed way forward

**Minister notes the Committee's concern and can reassure the Committee that the notification/award notice will make it clear that an underlying entitlement exists to enable claimants to be able to access passport benefits. No legislative amendment is required.**

#### (v) Responsibility for children and young people (clause 10)

**Summary of issues raised:**

Proposed amendment:

The Committee expressed serious concern about this clause and sought further information on how many people this would affect.

#### Explanation

Families with children will be able to receive an amount in their Universal Credit award for each dependent child called the child element. Families with one or more disabled children will be eligible for extra support through the disabled child addition which is payable on top of the child element.

Under Universal Credit, the aim is to simplify existing provision and align the disabled child additions with the additional elements for disabled adults.

Universal Credit will have a two-tier system of support for disabled children: - a lower disabled child addition and a higher rate disabled child addition.

Entitlement to the disabled child additions under Universal Credit will continue to be linked to the child's eligibility to Disability Living Allowance, or its replacement, Personal Independence Payment, where appropriate for a young person, as in the current system.

The Coalition Government has also extended eligibility for the severely disabled child additions to children who are severely visually impaired who currently only qualify for the disabled child element in Child Tax Credits.

The Universal Credit rate payable to severely disabled children will be almost £353 per month, which is **higher** than the current Child Tax Credit equivalent (£345 per month). The lower rate of Universal Credit disabled child element will be less than the lower rate of Child Tax Credits (currently £245 p/month) the Universal Credit lower rate will be £123 per mth.

Eligibility for the disabled child additions will, as now, will be linked to the rate of Disability Living Allowance received. There are currently 15,837 child recipients of the Care Component of Disability Living Allowance, which includes 8,257 Lower or Middle Rate cases and 7,580 Higher Rate cases.

Universal Credit will not replicate the range of complex premiums paid to disabled adults and children in the current system. The money saved from abolishing these premiums will be recycled and used to target support at those disabled people with the greatest need.

Existing claimants moving onto Universal Credit will have their award protected by Transitional Protection. This will ensure that current benefit claimants will not receive less as a result of their move to Universal Credit, where circumstances remain the same.

A high level estimate of the recipients of Child Tax Credits shows that there are 7,600 children receiving Disabled Child element and 6,000 children receiving the Severely Disabled Child element. This means that potentially there are 6,000 children who will receive more and 7,600 children who will receive less under Universal Credit. Potential costs to reinstate to Child Tax Credits lower rate £11.293m approx [Child Tax Credits rate – Universal Credit rate x 7,600]

The calculation of this payment will require to be clerically based and adjustments made on a monthly basis. This will require additional staffing but no estimate is available based on confirmed processes for making these payments.

For working parents, there is a higher in-work allowance (earnings disregard) for those in receipt of a disabled child element which should help offset any reduction in benefit.

During the passage of the Welfare Reform Act, Lord Freud committed to undertaking a review of the gateway which passports children to the disability additions under UC. This work is not expected to begin until 2015, by which time DWP should have gathered sufficient evidence from work Department for Education is undertaking to explore moving towards a single assessment for a child's social care, health care and special education needs as well as learning from the introduction of Personal Independent Payment.

Finally, any household in receipt of Disability Living Allowance or Working Tax Credits will be excluded from the Benefit Cap.

## Proposed way forward

**Whilst Minister understands and shares the concerns of the Committee of the potentially lower rates payable for disabled children, any decision to increase or vary the Disabled Child addition is a clear breach of parity and will have an estimated cost attached as outlined above circa £11.3m with additional administration costs.**

**Minister wishes to discuss with the Committee whether they wish to pursue this change.**

## (vi) Other particular needs or circumstances (clause 12)

### Summary of issues raised:

Proposed amendment:

The Committee expressed concern about the removal of the Severe Disability Premium.

## Explanation

Universal Credit will be a radical simplification and entail abolition of all existing premiums/ additions with the savings used to recycle support to those with limited capability for work or work related activity.

There will be no direct passporting from DLA (except for children), so entitlement to an additional element within the UC award will only be for those who have limited capability for work(LCW) (or limited capability for work and work –related activity).

The limited capability for work elements will replace the 7 different disability components within the current system of benefits and tax credits. These are paid at different rates, have different qualifying conditions and different purposes.

There will be a single assessment for these elements, so people who are in work will have to qualify for them on the basis of limited capability for work. The assessment will be made through the Work Capability Assessment, also used to assess people for ESA.

Work is ongoing to develop a process to identify individuals who are likely to have LCW and ensure support is provided to a similar group currently supported by the Working Tax Credit Disability Element.

Under the current system, there is a very small difference between the two Employment and Support (ESA) components – some £5. The Coalition Government believes that people who need the support the most should get more money.

As part of the Welfare Reform changes, as resources become available, the Coalition Government intends to raise the weekly rate of the support component (equivalent to £34.05 today) in stages to around £81 per week. This will help to focus resources more effectively on the most severely disabled people.

As Universal Credit will mean that Tax Credits will no longer be available, including the disability elements support should be available to people both in and out of work to reinforce work incentives.

**Higher Earnings Disregard and Single Taper:** creating a work incentive, which allows people to earn between £1,330 a year (i.e. the disregard floor) and £7,759 a year before the standard Universal Credit taper applies – thus keeping 100% of their earnings up to that level before Universal Credit starts to be withdrawn at a rate of 65%;

**Two Additions:** consisting of a higher addition (support component equivalent), ultimately worth around £70.08 per week (up from £34.05 in 2012); and lower addition (work-related activity component equivalent), worth £28.53 per week (£28.15 as now in 2012). Payment is based on the single assessment.

**Equalised additions for adults and children including increased support for the most severely disabled children:** The cash additions for families with disabled children and the cash additions for adults will be aligned, with the lower rate at £28.53 and the upper rate at around £81.44 per week. The higher amount is £24.81 per week more than the current rate. The Government will also extend eligibility for the higher rate to children who are severely visually impaired who currently only qualify for the disabled child element in Child Tax Credit (those registered or certified as blind). Eligibility for the disabled child additions will, as now, be linked to the rate of Disability Living Allowance they receive.

**Within Universal Credit individuals will only qualify for either a disability or a carer element, not both.** The coalition Government is removing current overlapping provision that allows people to simultaneously claim an addition by virtue of a medical condition and a carer element for themselves to reflect the fact that the additions are paid in respect of not being able to work through either a medical condition or by virtue of caring responsibilities. However,

as now, couples could get a disability addition for one member and the carer element for the other partner.

As resources become available the Coalition Government intends to raise the weekly rate of the support component equivalent from £34.05 today in stages to around £81.44. This will help to focus resources more effectively on severely disabled people.

New or revised claims will have access to higher earnings disregards and the modeling shows that there is greater incentive for a disabled person to work than for non disabled person. [EQIA April 2012: The Participation Tax Rate (the lower the PTR the greater the incentive to work) below 60% for 10 hours p.w. work for a disabled person rises from 14% under the current system to 90% under UC; for a non disabled person the rates are 31% to 99%] .

Any claimant in receipt of DLA/PIP (including any child within the household) will be excluded from the Benefit Cap.

## Proposed way forward

**We note the Committee's concerns but this is very clearly a parity issue, with significant costs attached to do anything differently within the social security arena.**

**If a severe disability premium were to be introduced to Universal Credit it would cost in the region of £52.6m per annum if paid in line with existing benefit rules and rates. (number of claimants currently in receipt 17,000 x current annual rate of premium £59.50 x 52weeks). Note IT system would not calculate this therefore a clerical work-around would be needed to pay this resulting in an increase in administration costs.**

**Minister is not prepared to consider this amendment due to (i) the amount involved and (ii) the overall changes as outlined above planned to the disability addition under Universal Credit.**

## (vii) Capability for work or work related activity (clause 38)

### **Summary of issues raised:**

Proposed amendment:

The Committee agreed to recommend that medical evidence is given 'primacy' in any medical assessment relating to Welfare Reform.

## Explanation

This clause allows us to continue to use the Work Capability Assessment when determining whether a claimant has Limited Capability for Work, and if so, whether they also have Limited Capability for Work-Related Activity and eligibility for an additional element within a Universal Credit award.

All available evidence, including medical evidence from GPs, is fully considered by the Department's Decision Makers. There are processes in place to request this evidence where relevant. However, GPs are not experts in disability assessment and, as advocates for their patients, are not best-placed to make an independent decision which affects benefit entitlement.

The Work Capability Assessment is not based on diagnosis of condition but on the functional effects on an individual. The assessments are conducted by qualified healthcare professionals who have been specifically trained in disability assessment.



Where the department requests medical evidence from the GP or Consultant, the department will meet any costs incurred. However, where a claimant obtains medical evidence on their own behalf and a GP or Consultant charges, then this is an issue for DHSSPS and the GP/Consultant contract.

Issues or concerns about the qualifications or appropriateness of the Health Professional carrying out the assessment is a contractual issue and should be dealt with under the terms of the contract.

It is important to note that the contractor only provides advice to the Department on capability for work – they do not make decisions on benefit entitlement. Decision making standards here are significantly higher than in DWP and our Decision Makers are at the heart of the process.

Assessments for disability benefits always have higher levels of appeals than other benefits. If a decision is overturned at appeal, it **does not** necessarily mean that the original decision was inaccurate – often, claimants produce new evidence to their appeal.

We are introducing a number of measures to reduce appeal rates – including explaining the decision to claimants and ensuring they have submitted all the available evidence and improving the feedback, communication and training between the agencies involved.

## Proposed way forward

**Minister notes the Committee's concerns but (i) wishes to advise the Committee that medical evidence is part of the package of evidence considered by Decision Makers; (ii) the department is introducing a number of measures aimed at reducing the number of appeals; and (iii) suggests that the Committee considers writing to the Health Committee asking them to consider the issue of GPs/Consultants charging claimants to supply evidence in support of their claim.**

### (viii) Pilot schemes (clause 42)

#### **Summary of issues raised:**

Proposed amendment:

- (i) The Committee agreed to express concerns that Northern Ireland has not been included in any pilot schemes to date.
- (ii) The Committee was of the view that the objectives of the pilot schemes as defined in the Bill were too restrictive and wanted the Department to consider broadening these.
- (iii) The Committee agreed that the Bill should reflect inclusion of Northern Ireland in future pilot schemes where appropriate.

## Explanation

- (i) The purpose of this clause is to give the Department the powers to have pilot schemes in NI. Before any pilot schemes can take place we need to have in place statutory cover (i.e. the Welfare Reform Bill) and supporting regulations.

In order to inform the budgeting support and Flexible Payment Arrangements activities we are planning on running a small-scale Payment Support Trial.

The Local Authority pilots currently in place in GB are aimed at testing the payment of housing costs to claimants; as the Northern Ireland policy position is to pay the Housing Element of Universal Credit direct to the landlord by default these pilots have no relevance here.

- (ii) The objectives listed are broad enough to allow for any pilot schemes that we would wish to undertake – for example – increasing the taper or increasing the different additional elements such as that payable for disabled child or for limited capability for work.
- (iii) Where appropriate, the learning arising from any pilot conducted within GB will be considered for its application within Northern Ireland.

## Proposed way forward

**As regards the objectives defined within the Bill, Minister does not agree that any broadening is required. Minister notes the Committee's concerns and will write to Lord Freud, at final stage, conveying the Committee's views about including Northern Ireland in future pilots so that the Northern Ireland demographics can influence the application of learning from any such pilots within GB.**

## Housing

### Summary of issues raised:

Proposed amendment:

The Committee opposes the introduction of under-occupancy and opposes the zero earnings limit on Support for Mortgage Interest.

## Explanation

### Support for Mortgage Interest (clause 11)

Details of Support for Mortgage Interest (SMI) will be provided within Regulations, and are not included within the Bill.

The Chancellor announced within the Autumn Statement that the temporary changes to SMI have been extended until 2015 for working-age SMI claims. The waiting period will remain at 13 weeks and the working-age capital limit will remain at £200,000 until 31 March 2015.

The Coalition Government has proposed that a zero earnings limit will apply with regard to SMI assistance under UC. Although this would seem perverse logic with regard to incentivizing individuals to take up or increase part-time work it is considered that the UC tapers and disregards will help ensure that no-one should be disadvantaged by the zero earnings rule.

We cannot provide an overall figure for SMI for 2011/12, figures can only be provided as a snapshot at a given time each month. Figures for Mortgage Interest paid direct for Income Support and Jobseekers' Allowance were 5,560 and 1,850 respectively in May 2012. We do not receive Mortgage Interest direct figures for any other benefits. However, there were 3,028 Employment Support Allowance cases with housing loan costs. The average weekly amount for SMI is £27.66 for Income Support claimants and £38.77 for Jobseekers' Allowance claimants.

## Proposed Way Forward

**A high level estimation of cost if SMI were to be retained would be £18m (number of claimants (10,438 x average of IS and JSA amounts (£33.21) x 52 weeks). Note IT system**

**would not perform this calculation due to divergence from GB therefore a clerical work-around would be needed to pay this resulting in an increase in administration costs. We are not supportive of any proposal to depart from the policy intention.**

## Under-occupancy (listed as clause 11 but refers to clause 69)

This change to Housing Benefit affects working-age claimants living in social rented sector housing to reflect household size, as happens now in the private rented sector.

There will be two different percentage reductions made, to the maximum Housing Benefit available, based on whether the claimant is under-occupying their property by one bedroom, or by two or more bedrooms. The specific rates of reduction will be 14 per cent if there is under-occupation by one bedroom, and 25 per cent if under-occupying is by two bedrooms or more, an average reduction in the region of £7 or £14 per week, depending on the level of under-occupation.

In Northern Ireland it is not expected that NIHE or Housing Associations will reclassify rooms based on the under occupancy condition as this would impact on rental revenue streams but it is anticipated that guidance would recommend that rooms with an area of 40 sq ft or less would be treated as a box room. DWP has indicated it will not prescribe size criteria for 'box rooms' – this will be left to LA's and Housing Associations.

Current estimates from NIHE suggest that around 26,168 of working age tenants will be affected by the under-occupation rule. These figures illustrate that 18,850 under occupy by one bedroom and 7,318 under occupy by 2 bedrooms or more. Based on average NIHE rent of £58.76 (2012/13) affected tenants will see deductions in HB of approximately £8.25 (one bedroom) or £14.70 (two or more bedrooms) per week depending on the level of under occupation.

Figures for Housing Associations show there are 14,757 working age Housing Association tenants in receipt of Housing Benefit. Due to a number of issues around data matching, it has not been possible to assess the levels of under-occupation in all cases. It is currently estimated that the total number of working age Housing Association tenants affected by the changes will be around 6262. Of that number 5046 would be under-occupying by one bedroom and 1216 by two or more bedrooms. Based on a mean weekly Housing association rental of £81.69 (2010/11), affected tenants will see an average deduction of £11.44 (one bedroom) and £20.42 (2 bedrooms).

The total annual shortfall for both NIHE & Housing Associations is estimated at £17,331,120.

The Discretionary Housing Payments budget here has been increased substantially, with £3.426million available in 2012-13, £6.944million in 2013-14, £5.939million in 2014-15 and £4.431million in 2015-16 and in 2016-17 to help with issues arising out of reform to housing.

This includes additional funding of £1.005m in each of the years from 2013/14 to 2016/17, specifically targeted at those in adapted accommodation and foster carers affected by the under-occupation restriction. It has not been ring fenced for those people and some of it could be available for other vulnerable people if, for example, it looks like there would be an under-spend. The Payments provide a reasonable level of support to help people affected by Housing Benefit reform. The funding level is reviewed every year.

We want to keep the system as simple as possible. Housing Benefit assessors and, in the future, the Universal Credit system will not be able to establish whether a bedroom is suitable for sharing or not.

The Chartered Institute of Housing has published guidance specifically aimed at landlords to help them with implementation of the size criteria rules and this is available on its website.

## Proposed way forward

**Minister shares some of the concerns expressed by the Committee around the issues of housing and under occupancy. Minister recently raised the issue of under occupancy and the housing situation in Northern Ireland with Lord Freud. The Northern Ireland Housing Executive and Federation of Housing Associations have also presented their concerns to Lord Freud. Any departure from the proposals will have a significant cost impact to revenue streams as outlined above in the region of £17m per annum.**

## Sanctions (conditionality) (clause 26)

### Summary of issues raised:

Proposed amendment:

The Committee agreed to ask the Minister if there was room for variation in respect of the proposed sanction regime.

## Explanation

Clause 26 provides for financial sanctions for those claimants who are subject to all work-related requirements and, without good reason, fail to meet their most important responsibilities.

Most people want to find work and will never be in the position of facing a sanction – the vast majority of claimants comply with requirements. However, for a small minority of claimants who fail to meet their obligations **without good reason** – an effective sanctions system is needed that encourages responsibility and deters non-compliance.

It is important to note that a three year sanction will only apply to claimants who are subject to all work related requirements and who have **deliberately** and **repeatedly** avoided their most important responsibilities. They will have received at least two previous high level sanctions (within a limited period) and the consequences of continued non-compliance will have been clearly explained. This will be clearly set out in regulations. We estimate that very few claimants will be subject to a three year sanction.

The diagram at **Appendix 2** sets out the proposed sanctions periods and estimated amounts dependent on the nature of the non compliance. It also sets out the number of claimants sanctioned under the current system.

## Proposed way forward

**Any variation in the sanction regime would be a breach of parity and mean that a claimant here who doesn't comply with the requirements of their claimant commitment may be treated more advantageously than a claimant in similar circumstances elsewhere. There would also potentially be costs attached to any variation in the sanction regime, insofar as benefit would be payable earlier than what is proposed and what is set out in the Regulations arising out of the GB Welfare Reform Act. It is difficult to determine the cost of any proposed change to duration of sanction as under Universal Credit the sanction period increases for repeat offences and the statistics currently available do not specify how many are first offences and how many are repeat offences.**

**However, Minister has considered the concerns expressed and will pursue the possibility of varying the sanction regime with DWP. Sanctions for fraud purposes are discussed later in this document.**

## Contracting out (clause 45)

### **Summary of issues raised:**

Proposed amendment:

The Committee agreed to seek assurances from the Minister that this clause does not provide for privatisation of services delivered by the public sector.

### Explanation

The Department for Employment and Learning (DEL) has a vital role to play in the provision, development and management of employment programmes in the context of continuing Welfare Reform. The purpose of this clause is to enable DEL to be able to use Work Service and Training Providers, including voluntary and community sector providers, as is currently the practice.

### Proposed way forward

**Whilst this is an issue primarily for Department for Employment and Learning, Minister wishes to confirm that there are no plans to use this clause to privatise services currently delivered by the public sector.**

## Employment and Support Allowance

### (i) Timelimiting contribution-based ESA to 365 days (Clause 52)

#### **Summary of issues raised:**

- (i) The Committee sought information from the Department on whether there would be a lead-in time for this to allow people to prepare;
- (ii) The Committee would like to know where the savings realised from this restriction would be directed;
- (iii) The Committee also wished to know if there was any impact on other benefits people might be entitled to.

### Explanation

- (i) The Social Security Agency will write, in advance, to all those claimants not in the support group, who will have received 365 days of contribution-based ESA when the changes are introduced and advise them of the date their entitlement to contribution-based ESA will end and invite them to make a claim for income-related ESA.

In GB claimants in receipt of contribution-based ESA have already had their benefit restricted from 1 May 2012. They were advised in September 2011 of the intention to withdraw their benefit and invited to claim income-related ESA. The lead-in time between the issue of the notifications and the restriction on benefit was 7 months. The Social Security Agency intend to write shortly to affected claimant's, in a similar fashion to GB, to advise of the forthcoming change.

- (ii) Contribution-based ESA is a National Insurance Fund benefit. Social Security spending in Northern Ireland is classified as Annually Managed Expenditure (AME) and is outside of the Northern Ireland Executive managed funds. It is demand led in nature and Northern Ireland only draws down its actual needs. This will mean that any amounts not used or required will accrue directly to HM Treasury.

Treasury is including all aspects of public expenditure including AME and Departmental Expenditure Limits (DEL) in their spending decisions. This will mean that spending on AME will impact the funds made available to Departments in Great Britain and the NI Executive managed block DEL in this and the next spending review.

- (iii) The loss of contribution-based ESA may result in payment of income-related ESA (subject to capital and other rules) or an increase in working tax credits if a partner is working.

Only claimants who have alternative resources available to them will not qualify for income-related ESA.

The main reason for not being eligible for income-related ESA would be in those cases where a claimant's partner is working more than 24 hours a week (and therefore should be able to claim an increase in working tax credits and/or child tax credits). This is the case for 71% of those whom we expect not to qualify for income-related ESA.

It is important to note that claimants will be able to re-qualify for a further year of contribution-based ESA if they leave benefit for more than 12 weeks and they meet the National Insurance conditions in full, without using the same two tax years of their previous claim. This will provide the same approach to how a person may re-qualify for contribution-based Jobseeker's Allowance at present.

## Proposed way forward

**Minister shares the Committee's concerns around the timelimiting of contribution-based ESA to 12 months, however the cost of not implementing this measure is approximately £3m per month.**

**Minister would like to discuss with the Committee the additional cost of extending the period of contribution-based ESA to more than 12 months before approaching the Executive.**

- (ii) ESA youth claimants (Clause 54)

### Summary of issues raised:

- (i) The Committee wish to know how many people this would affect;
- (ii) The Committee also wishes to know what will happen to the estimated 3% of people who do not move to income-related ESA and what conditions are attached to income-related ESA.

## Explanation

- (i) A scan of the ESA liveload at 2 November 2012 shows that there are only **2 claimants** under the age of 20 years who are not in the support group and not in receipt of income-related ESA.
- (ii) Income-related ESA is payable where the claimant:-
- does not have income, including the income of their partner, that exceeds their applicable amount;
  - does not have capital, including the capital and savings of their partner, exceeding £16,000;



- is not entitled to Pension Credit ;
- does not have a partner who is entitled to income-related ESA, Pension Credit, Income Support or income-based Jobseeker's Allowance;
- does not have a partner who is working over 24 hours;
- is not receiving education.

Those without their own income or capital will be paid income-related ESA at the same rate as contribution-based ESA. If claimants have their own income or capital to take into account, their income-related ESA would be slightly lower depending on the level of that other income.

No other contributory benefit waives its conditions of receipt for any other age or client group.

#### **Proposed way forward**

**There is an equality issue here in that no other contributory benefit waives its conditions of receipt for any other age or client group. Claimants will have access to income-related ESA if they do not have sufficient income or savings to support themselves.**

**The 2 claimants under the age of 20 years who are not in the support group and not in receipt of income-related ESA, do not qualify either because they have capital of £16,000 or more and so are excluded because they have capital in excess of the limits to qualify for benefits, or they have a partner who works 24 hours a week or more and therefore Working Tax Credit may be payable instead (or Universal Credit when it becomes available).**

**Minister does not believe that there is a strong enough case for making exceptions as this proposal puts young people on the same footing as other groups and treat them in the same way in relation to entitlement based on paid National Insurance contributions.**

## Personal Independence Payment

### Temporary absence (Clause 76)

#### **Summary of issues raised:**

The Committee was concerned about length of time a person is allowed to spend abroad is too short.

#### **Explanation**

Although a 4 week period for temporary absence has been detailed through public consultation and the evidence provided by Departmental officials to Committee, the DWP response to the public consultation published on 13 December 2012 confirms that this period will actually be set at a period of **13 weeks**.

The period of temporary absence is not on the face of the Bill, but will be set out in Regulations under Clause 76(3).

#### **Proposed way forward**

**We hope the Committee and stakeholders will welcome the change to 13 weeks and be reassured that the Minister will continue to raise the issues of both the number of claimants here and the higher incidence of mental illness here amongst claimants with DWP Ministers.**

## Prisoners on remand (Clause 86)

### Summary of issues raised:

The Committee has raised concerns about the daily living component not being paid to someone on remand who is subsequently released.

### Explanation

When someone is detained in legal custody or serving a prison sentence the duty of care to provide for an individual's disability-related needs falls to the Prison Service together with health care provided for by a Health and Social Care Trust. This means that it is those bodies that will meet the detained person's disability needs. It would, therefore, be inappropriate to continue to pay Personal Independence Payment in addition as that would represent a duplication of funds.

It is proposed that Personal Independence Payment will be payable for a short period, perhaps 28 days after someone goes into prison. Providing such a period of continued benefit will help to ensure that a person does not leave prison with an overpayment which has to be paid.

### Proposed way forward

**Minister notes the Committee's concerns but believes that the policy intention to treat those people on remand or who have their conviction quashed in the same way as people are treated who go into hospital and that is a fair and equitable approach.**

## Timing of report to the Assembly (Clause 88)

### Summary of issues raised:

The Committee has concerns that the time period for a report to the Assembly on the operation of assessments under section 79 is too long.

The Committee therefore requests that the time period under 88(a) should be amended from 2 to 1 year and in 88(b) from 4 years to 2 years.

### Explanation

Officials have clarified that it is important to ensure that the new benefit is operating correctly, but believe that annual reviews are not the best way forward. Two reviews, reporting within two years and four years of the primary legislation coming into operation, will allow for a full evaluation of the operation of the assessment.

DWP is currently planning for their year one report to be laid by December 2014. This would allow them to make any changes in time for the managed reassessment start.

The Committee is aware of the decision to delay the managed reassessment of current DLA claimants until October 2015. If new PIP claims do not begin until October 2013 in Northern Ireland, a requirement to have an annual report would take us to October 2014 and DWP has already undertaken to report in December 2014.

There will be cost implications in producing a year one report. DWP has advised that the annual cost of the Work Capability Assessment Harrington review is approximately £100,000 – this does not include the DWP staff Team who supported him in the work.

### Issues around a 'One year Report' i.e. June 2014:

DWP are currently planning for their year one report to be laid by December 2014. This would allow them to make any changes in time for the managed reassessment start. To deliver on this December 2014 date the fieldwork and evidence gathering will have to start early in 2014 so while the Report to the Assembly would not formally be presented until 18 months after PIP has started the actual evaluation work has commenced in year 1 of the scheme.

In terms of practicalities, if Northern Ireland were to deviate from the DWP approach e.g. laying a report within one year it would take at least six months to complete the field work prior to that date meaning that the Report would be looking only at a small number of claims. In addition there would not be sufficient numbers of people that have worked their way right through the system e.g. through the dispute process etc. Given this scenario it could be argued that there would not be sufficient data to allow an informed judgment to be made about changes that would be required to the PIP assessment criteria.

It is also worth noting that if Northern Ireland were to examine cases in the period June to December 2013 that no existing DLA claimants would have gone through the process to migrate to PIP, just new claimants. The particular concern expressed by Committee was on the impact of the new criteria on those existing claimants and that data would not be available in a June 2014 report.

Even if there was a NI specific Report (separate from GB) the assessment criteria/descriptors are determined nationally and it is not clear how any recommendations could be implemented as DWP would be unlikely to consider any changes until they complete their UK wide review.

It is intended that DWP will provide guidance to providers on carrying out Personal Independence Payment assessments, including the collection of evidence, carrying out paper-based assessments and inviting claimants to face-to-face assessments and if that guidance needed changed in the intervening period before the year one review was completed then that would be considered .

### Proposed way forward

**Minister is sympathetic to the Committee's concerns, however in terms of practicalities if Northern Ireland were to deviate from the DWP approach e.g. laying a report within one year, it would take six months to complete the field work prior to that date meaning that the report would be considering a small number of claims. In addition there would not be a sufficient number of people who have worked their way right through the process, and in these circumstances there would be insufficient data for an informed judgement to be made about changes that would be required to the PIP assessment criteria.**

**Minister wishes to discuss with the Committee the value of pursuing annual reviews of PIP.**

## Recovery of benefit overpayments (Clause 109)

### Summary of issues raised:

- (i) The Committee was unhappy about what it perceived to be an inherent unfairness in compelling a claimant to repay an overpayment when the overpayment was due to Departmental error.
- (ii) The Committee is seeking a review of the de minimis level below which recovery of the overpayment will not be sought. This level is currently established at £65.

## Explanation

- (i) Officials have clarified that although the Department must take responsibility for its mistakes that this does not give people the right to keep money to which they are not entitled and that the Department must take action to recover overpayments in order to protect public funds.

In 2011-12, the Social Security Agency's Debt Centre, in accordance with recovery rules, had total write off relating to official error of approximately £11.25m. Under Welfare Reform, this would remain on the SSA balance sheet and form part of the customer debts for pursuit through appropriate recovery methods. Additional AME recoveries may be generated as a result and these may not equate to the full level of official error which would be held in the debt balance post welfare reform.

- (ii) Small overpayment limit – the £65 limit is set by Treasury, so parity applies.

In 2011-12, the Agency's Debt Centre had total small overpayment write-offs of £0.58m (volume approx 22k). Any deviation from parity would represent a loss of AME recoveries. Based on 2011-12 write-off volumes, every £1 increase in the small overpayment limit for NI would attract a cost of £22k for NI ( based on a cost of £1 per customer and assuming the same level of customers are captured within the new overpayment limit) If the limit is raised ultimately more customers would fall into the overpayment write off bracket increasing the cost to Northern Ireland

**Table below illustrates various levels:**

<b>Small overpayment limit £</b>	<b>NI Annual DEL cost £k (est. Volume = 22,000)</b>
65	0
70	110
75	220
80	330
85	440
90	550
95	660
100	770

### General

Any decision to pursue recovery does take into consideration an individual's financial and personal circumstances and there are well-established hardship provisions in place and if someone engages with the Department, it may be that their circumstances would result in a lower repayment rate being appropriate or the overpayment not being recovered at all.

The small overpayment limit is aligned with DWP. Change would represent a breach in parity as it would impact on cashflow to Treasury (i.e. amounts of AME written off in NI would be higher than in GB). Any reduction associated with a parity breach could result in a cost to the NI Block in line with the rules governing the funding arrangements for AME expenditure between HM Treasury and Northern Ireland.

## Proposed way forward

**Minister hopes that the Committee understands that there are particular criteria which must be satisfied before any decision to waive recovery of an overpayment is made. The Department will consider the “Overpayment Recovery Guidance”, to see if any additional clarification is needed for Decision Makers.**

**Before approaching the Executive I wish to discuss with the Committee if it is minded to pursue its opposition to the Department’s intention to compel claimants to repay an overpayment due to Departmental error and to pursue a review of the de minimis level below which recovery of the overpayment will not be sought, as this will incur additional costs.**

## Fraud Sanctions

### (i) Level of fines

#### Penalty in respect of benefit fraud not resulting in overpayment (Clause 109) and Amount of penalty (Clause 110)

##### **Summary of issues raised:**

The Committee was unhappy with the level of fines and thought these were disproportionate. The Committee are seeking the Department to review these levels.

##### **Explanation**

The Department acknowledges the Committee’s concern in those cases where people are facing a £350 Admin Penalty where no loss was incurred. The Committee’s view was the penalty for an attempt should be some form of caution.

Frauds begin as an attempt and, if successful and not identified at the outset, turn into **actual** frauds as benefit begins to be paid. Frauds on average when identified have run to around £4,000 – with some cases going to extremes of over £50,000 uncovered. There needs to be some deterrent to prevent claimants from attempting to commit fraud.

Clause 109 provides an alternative to the current situation whereby the only redress for the Department to deal with an attempted fraud is court action. Current legislation only allows a penalty to be offered where there has been an overpayment of benefit. This means that the Department is restricted to prosecuting such cases; which may be neither a proportionate response nor a cost effective one. Admin Penalties (and indeed cautions as suggested above) provide an alternative for claimants by providing another option for disposal of the case which in some cases may be a much more appropriate solution.

Administrative Penalties are already used as a means of dealing with benefit fraud and provide an alternative to prosecution for lower level fraud cases. The key point is admin penalties, or court imposed penalties, are applied as a penalty for having committed the fraud. Overpayment recovery is an accounting arrangement to recover what should not have been paid; it is not a penalty for fraud and in fact applies equally to claimant error.

Under clause 110 the new penalty amount will be a minimum of £350 or 50% of the overpaid benefit, whichever is greater, up to a maximum penalty of £2,000. In cases where there is no overpayment, the penalty will be fixed at £350. It is important that an admin penalty provides sufficient deterrence against fraud. Increasing the admin penalty to 50% strengthens that deterrence, but ultimately the claimant is free to decline the offer and choose to be dealt with through the courts.

Increasing the threshold to £2000 (or 50% of £4,000) provides greater flexibility and allows admin penalties to be applied in cases with an overpayment up to £4,000 (currently cases over £2,000 go for prosecution). The intention is that in practice, as with DWP, the £2,000 overpayment threshold for deciding admin penalty or court will generally remain, but this clause introduces flexibility – for example a person who commits fraud and gathers up a sizeable overpayment quickly with perhaps housing benefit and income support both in payment, but perhaps for medical or other personal reasons the case is more suitable for an admin penalty than a court hearing.

### Proposed way forward

**The Minister believes that Administrative Penalties provide an alternative for claimants and in some cases may be a much more appropriate solution. The Minister would like the Committee to reconsider this in light of the information provided by the Department. Further information on fraud is given in Appendix 3.**

**The cost of not implementing administrative penalties is estimated at £0.1m.**

## (ii) Period for withdrawal of agreement to pay penalty (clause 111)

### Summary of issues raised:

The Committee is concerned about the reduction in this ‘cooling off period’ and is seeking assurances that this will be addressed in the guidance.

### Explanation

The Committee was concerned that in some cases legal advice may not be available within the 14 day period and persons would be forced into making decisions without proper guidance.

The Department is content with proposal to apply 14 days as the norm, but will include ability to increase to 28 days by exception in cases where genuine reasons are presented for an inability to make an informed decision.

### Proposed way forward

**Minister will give an assurance that this (good reason) will be covered in guidance but the scope to increase to 28 days will also need an amendment to this clause.**

## (iii) Loss of Benefit for 3 years for a first offence (clause 113)

### Summary of issues raised:

The Committee is concerned that benefit could be stopped for 3 years for a first offence.

### Explanation

The introduction of the 3 year withdrawal or reduction of benefit sanction for a first offence relates to a **first offence of serious fraud**. The Bill explains how seriousness is defined – cases of over £50,000, fraud of over 2 years, fraud involving identity fraud or a sentence imposed of 12 months imprisonment or over. The distinction has been made between fraud and serious fraud – and the issue is primarily one of deterrence. We would also advise that hardship provisions apply to current loss of benefits and will apply in future to this clause.



An example of a £50,000 overpayment case recently which would fall into the serious fraud category is set out below;

**Case Summary:**

This was a working while claiming case.

Information was received from the Northern Housing Executive (NIHE) that the claimant was employed by Western Health & Social Care Trust, Gransha Hospital, Londonderry. Enquires were made and it was established that the claimant had been employed since 6 November 2000.

The following overpayments were subsequently raised;

£12,901 (IS): 07 June 2005 to 15 April 2011 (Recoverable)

£28,088 (HB): 07 June 2005 to 15 April 2011 (Recoverable)

**£16,935 (CA):** 04 August 2003 to 24 April 2011 (Recoverable)

£57,924 in total

A court hearing was held on 13 November 2012 and the claimant was sentenced to 240 Hours Community Service.

**Proposed way forward**

**Minister notes the Committee's concern but, as illustrated above, this is a deterrent for the prevention of serious fraud and to do anything differently would result in a break in parity and have costs attached.**

(iv) **Cautions (clause 115)**

**Summary of issues raised:**

The Committee recommends that cautions should be retained.

**Explanation**

Clause 115 seeks to remove cautions completely. As explained at the Committee, while the view was that cautions are a preferable outcome to claimants than an admin penalty – this is not always the case as **a caution is placed onto someone's record** and, while not incurring any financial penalty, could have far reaching consequences not associated with an admin penalty (such as job applications and travel abroad).

**Proposed way forward**

**Minister wishes to discuss with the Committee the impact of a caution on a person's criminal record before deciding whether cautions should be retained.**

**In the event agreement is made to retain cautions and remove clause 115, then it would in fact make sense to keep clause 109 and amend it to have the power to apply an admin penalty or caution for attempted fraud.**

**If clause 115 is not pursued and cautions remain for actual fraud, alongside admin penalties and courts, then we should have the same options for disposal of attempted fraud cases. This would provide maximum flexibility in applying sanctions for fraud.**

## Assembly control (Clauses 33 and 91)

### Report of the Examiner of Statutory Rules on the Delegated Powers Memorandum

The Examiner has recommended that the Committee amendments that would make regulations under the powers in clauses 33 and 91 subject to confirmatory procedure where the supplementary or consequential provision amends, modifies or repeals a statutory provision (or at least a provision of Northern Ireland primary legislation).

### Explanation

It is not normal procedure to make amending Regulations confirmatory (i.e. subject to a debate up to 6 mths after introduction) given that the policy will already have been discussed when the first set of regulations are made.

This is for two reasons to reduce the burden on Assembly time and to enable us to maintain parity of timing with DWP.

### Proposed way forward

**Minister will wish to advise that officials are currently considering this issue further in conjunction with colleagues in Office of the Legislative Counsel and Departmental Solicitors Office.**

## Appendix 1

### Summary of estimated cost of proposed changes

Proposed change	Estimated Annual cost	Minister's position
Default twice monthly payments for <b>all</b> claimants (clause 99)	£24 m	Withheld pending discussion on cost
Claimant commitment for couple where one refuses to sign (clause 4)	Unable to forecast (no available data under current benefits)	No legislative change required
Third party verification (clause 4)	£0	Agreed
16/17 year olds registered for training but not placed (clause 4)	£0 (Data shows no cases)	No legislative change required
16/17 year olds coming out of care (clause 4)	£0 (Not social security responsibility)	No legislative change required
Restrictions on entitlement (clause 6)	£0	Agreed
Child disability addition rates (clause 10)	£11.3m	Withheld pending discussion on cost
Severe Disability premium (clause 12)	£52.6m (plus admin costs)	Rejected
Medical evidence given primacy (clause 38)	£0	Rejected
Support for Mortgage Interest (clause 11)	£18m (plus admin costs)	Withheld pending discussion on cost

<b>Proposed change</b>	<b>Estimated Annual cost</b>	<b>Minister's position</b>
Under-occupancy (clause 69)	£17 m	Withheld pending discussion on cost
Sanctions (conditionality) (clause 26)	Unable to forecast	Under consideration
Contracting out (clause 45)	£0	Agreed
ESA timelimiting (extending to 2 years) (clause 52)	£36m	Withheld pending discussion on cost
ESA Youth (clause 54)	Unable to forecast	Rejected
Temporary Absence (clause 76)	Unable to forecast	Rejected
Prisoners on remand (clause 86)	Unable to forecast	Rejected
Timing of report to Assembly (clause 88)	Unable to forecast	Withheld pending discussion
Recovery of benefit overpayments (clause 109)	Unable to forecast	Withheld pending discussion
Fraud Sanctions – Admin penalties (clause 110)	£0.1 m	Rejected
Period for withdrawal for agreement to pay penalty (clause 111)	£0	Under consideration – will require amendment to legislation
Loss of benefit for 3 years for first offence (clause 113)	Unable to forecast	Rejected
Cautions	£0	Withheld pending discussion
Assembly control	£0	Under consideration
<b>TOTAL</b>	<b>£159m</b>	

## Appendix 2

## Universal Credits sanction periods and amounts

Sanction	Applicable to:	Duration			Daily reduction amount <sup>1</sup>	
		1 <sup>st</sup> failure	2 <sup>nd</sup> failure	3 <sup>rd</sup> failure	Over 25s	Under 25s
<b>Higher Level</b> e.g. failure to take up an offer of paid work	UC claimants subject to all work-related requirements [& JSA claimants]	91 days	182 days	1095 days	Single claimant : £10	Single claimant : £8  Joint-claimant <sup>3</sup> : £6
<b>Medium Level</b> e.g. failure to undertake all reasonable action to obtain work	Claimants subject to all work-related requirements [& JSA claimants]	28 days	91 days			Joint-claimant <sup>2</sup> : £7
<b>Lower Level</b> e.g. failure to undertake particular, specified work preparation action	UC claimants subject to all work-related requirements UC claimants subject to work preparation and work-focused interview requirements [& JSA and ESA claimants]	Open ended until re-engagement plus				
		7 days	14 days	28 days		
<b>Lowest Level</b> Failure to participate in a work-focused interview	UC claimants subject to work-focused interview requirements only & [ESA claimants with a child over 1 but under 5]	Open ended until re-engagement			Single claimants: £4 Joint-claimants <sup>2</sup> : £3	Single claimants: £3 Joint-claimants <sup>3</sup> : £2

## Appendix 2

### Sanction Table – explanation of footnotes

**Foot Note 1** refers to Reg 111 of the GB Universal Credit Main Scheme Regs – This prescribes how the daily reduction rate for sanctions is worked out:

**Foot Note 2** refers to Reg 111 (5) of the GB UC Main Scheme Regs for the high, medium and low level sanctions and Reg 110(2) (c) for the lowest level sanctions - These prescribe how the daily reduction rate for sanctions is applied to joint claimants over age 25 years.

**Foot Note 3** refers to Reg 111 (5) of the GB UC Main Scheme Regs for the high, medium and low level sanctions and Reg 110(2) (c ) for the lowest level sanctions - These prescribe how the daily reduction rate for sanctions is applied to joint claimants under aged 25 years.

### CMS STATISTICAL DATA ON SANCTIONS & DISALLOWANCES PERIOD 01 MAY 2011 – 31 MAR 2012

All Benefits	
Total number of referrals to decision makers	8505
Number of sanctions imposed	823
Number of claims disallowed	1706
Number of claims allowed	5976

The above table shows a total of 8505 referrals across all benefit areas (JSA, IS, ESA & IB) recorded on CMS.

Of the 8505 recorded on CMS, 7271 were JSA claims. The following table provides the breakdown for JSA claims only

JSA ONLY	
Total number of referrals to decision makers	7271
Number of sanctions imposed	705
Number of claims disallowed	1489
Number of claims allowed	5077

### 01 APR 2012 – 30 SEPT 2012

All Benefits	
Total number of referrals to decision makers	10782
Number of sanctions imposed	2407
Number of claims disallowed	804
Number of claims allowed	7571

There were a total number of referrals of 10782 across all benefit areas. Of the 10782 decisions recorded on CMS, 10015 related to JSA claims.

The following table provides the breakdown for JSA claims only

<b>JSA ONLY</b>	
Total number of referrals to decision makers	10015
Number of sanctions imposed	2219
Number of claims disallowed	728
Number of claims allowed	7068

**The following table provides a breakdown of the most common reasons for referral to a Decision Maker.**

<b>Reason</b>	<b>Number Referred 01 MAY 2011 – 31 MAR 2012</b>	<b>Number Referred 01 APR 2012 – 30 SEPT 2012</b>
Fortnightly Jobsearch Review was not attended	3973	5296
Refusal of or Failure to apply for or accept employment	399	427
Failure to attend Steps to Work/New Deal interview	603	823

\* Statistical data on sanctions has previously been supplied, however system limitations have since been reduced and these figures are a more robust assessment of the current position. This data still carries a health warning however since responsibility for inputting information is shared by both DEL and SSA users in a range of posts and therefore total accuracy cannot be assured.

## Appendix 3

### Fraud Sanctions

#### **Penalty in respect of benefit fraud not resulting in overpayment**

A penalty will be offered as an alternative to prosecution in cases of attempted benefit fraud i.e. where an offence of benefit fraud has been committed, and there are grounds to prosecute but the fraud is discovered before any payment of benefit is made as a result of that fraud.

It is proposed to increase the amount of the penalty that claimants must pay if they accept an offer to pay such a penalty. The new penalty amount will be a minimum of £350 or 50 per cent of the overpaid benefit, whichever is greater, up to a maximum penalty of £2,000.

At the same time the Department will stop offering cautions for benefit fraud offences.

There will be a reduction in the time limit provided to allow someone to withdraw their acceptance of an administrative penalty as an alternative to prosecution, from 28 days to 14 days.

#### **Civil penalties**

It is proposed to introduce, a new civil penalty that can be imposed on claimants who negligently make incorrect statements, or who fail, without reasonable excuse, to disclose information about their claim or tell the Department of relevant changes of circumstances, both of which result in an overpayment of benefit. The amount of the Civil Penalty will be set in regulations, but the intention is that it will be £50.



**Loss of benefit****Period of sanction**

There is a proposal to increase the length of loss of benefit sanctions for fraud. Where a loss of benefit sanction applies, a claimant will not be paid sanctionable benefits for a fixed period of time or will only be paid it at a reduced rate for that period.

Loss of benefit sanctions for first offences that result in a person accepting the offer of an alternative penalty rather than prosecution for benefit fraud, will continue to be a 4 week sanction.

Anyone who is convicted for a first offence will now be subject to a longer 13 week loss of benefit sanction.

A longer, tougher sanction for repeated benefit fraud resulting in convictions - 26 weeks for a 2nd offence and also a new 3 year sanction, where a 3rd offence results in a conviction.

In addition any offence, even a first offence if it involves a "specified offence", meaning a serious case relating to benefit comprising organised fraud or identity fraud will, on conviction, be subject immediately to the toughest 3 year loss of benefit sanction.

**Cautions**

Cautions will be abolished for benefit fraud offences. In future those who commit benefit fraud will be subject to either the administrative penalty, or they will be prosecuted.

**Hardship Payments**

Hardship payments will be available to vulnerable people.

# Letter from SSA re Payments



S O C I A L   S E C U R I T Y   A G E N C Y

**An Agency of the Department for Social Development**

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LIGHTHOUSE BUILDING  
1 CROMAC PLACE  
GASWORKS BUSINESS PARK  
ORMEAU ROAD  
BELFAST BT7 2JB

**From Dr Colin Sullivan, Director for Universal Credit**

6 February 2013

Dr Kevin Pelan  
Committee Clerk – Committee for Social Development  
Room 412  
Parliament Buildings  
Belfast  
BT4 3XX

Dear Kevin,

**SOCIAL DEVELOPMENT COMMITTEE REQUEST: INFORMATION ON PAYMENTS UNDER UNIVERSAL CREDIT**

As you aware, Minister McCausland and Mr Tommy O'Reilly appeared before the Committee on 31st January. On that occasion, the Agency's Chief Executive agreed to provide the Committee with additional information on the early cost projections for possible clerical workarounds that may apply when the operational processes and subsequent volumes are factored in for flexible payments. This work is ongoing but Mr O'Reilly will be able to give the Committee a flavour of the progress to date at tomorrow's meeting.

Linked to the additional costs of these flexible payments are the methodology and criteria for making such payments. These aspects are currently being considered by an Oversight Board which will inform recommendations by the Permanent Secretary to Minister. By way of example of progress to date, I have attached briefing material (Annex 1) which sets out methodological options for the payment of the Housing Allowance under Universal Credit and how this might impact different household types, and I can take Committee Members through this options paper tomorrow. Similar work will also be progressed for the proposed twice-monthly and spilt payments.

For those printing out the document, I would highlight that colour has been used in the enclosed graphs.

As outlined above, Tommy O'Reilly and I will be in attendance to brief the Committee further on the 7th February.

I hope that the Committee finds this information helpful.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Colin', with a long, sweeping horizontal stroke extending to the right.

**Colin Sullivan (Dr)**

Director for Universal Credit  
Social Security Agency

## Annex 1



### Housing Element Calculation in Universal Credit

#### Introduction

1. The Universal Credit award will include a basic personal amount for ordinary living expenses. Additional amounts will also be available, where appropriate, for other needs such as disability, childcare costs and in recognition of any Housing Costs incurred by the Benefit Unit<sup>1</sup> to help meet reasonable costs for rent and/or mortgage interest.
2. Housing costs provision under Universal Credit will start in Northern Ireland from April 2014, building upon a number of other changes to housing support (currently provided through the separate Housing Benefit) that will occur prior to April 2014.
3. This paper sets out several different options for paying the housing element of Universal Credit and outlines the steps being taken to identify the most appropriate payment methodology.

#### Current Position

4. At present people that are on a low income and living in rented accommodation can apply for Housing Benefit, which may provide assistance with the payment of rent. The amount of Housing Benefit that may be paid will depend on the level of income and personal circumstances. If a claimant is also entitled to an income-related benefit (e.g. Income Support) they are likely to receive the maximum amount of support available. However, the amount of Housing Benefit paid does not always cover the full rental charge<sup>2</sup>. This could occur due to a number of reasons including if a claimant has earnings or substantial savings (i.e. above £16,000).
5. In those cases where the amount of Housing Benefit paid is not sufficient to discharge the total rent liability the claimant is required to pay the shortfall direct to the landlord. Those claimants who rent from the private sector and who do not qualify for full Housing Benefit may apply for additional financial support in the form of a Discretionary Housing Payment to help with meeting the shortfall in their rent. There is a maximum award of £25 per week and assistance is time-limited, usually for a maximum of six months. The period of assistance can be extended up to three years in exceptional circumstances.
6. Currently, if Northern Ireland Housing Executive (NIHE) or Housing Association tenants (i.e. the Social Rented Sector) claim Housing Benefit, there is no restriction to the amount of benefit they are entitled to in respect of the size of their home. However, restrictions are applied to claims in the Private Rented Sector.
7. It is proposed to introduce changes to existing legislation to deal with under-occupancy of properties in the Social Rented Sector. This will affect both NIHE and Housing Association working age claimants (and any family) occupying the home. In such cases the amount of eligible rent used in the calculation of Housing Benefit for tenants will be reduced by 14% for

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1 Benefit Unit is the family unit that Universal Credit is paid to, and comprises of one adult or a couple and any child dependants.

2 At November 2012 the proportion of tenants receiving partial Housing Benefit was 15% of NIHE, 16% of Housing Association and 17% of private tenants

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under-occupation by one bedroom and by 25% for under-occupation by two or more bedrooms. If the Housing Benefit award is less than the rent due to the landlord the claimant will have to pay the difference. It is planned to extend eligibility of the Discretionary Housing Payment scheme to tenants of Social Rented Sector landlords to coincide with the introduction of the under-occupancy rules.

8. An element to cover domestic rates will not be included in Housing Benefit under the proposed Welfare Reform changes. The Department of Finance and Personnel are leading development of a new Rates Rebate Scheme and officials are working to ensure that Universal Credit will be able to signpost claimants requiring support with payment of their rates.

## Housing Element

9. To qualify for the Housing Element of Universal Credit, the Benefit Unit must have a liability to pay rent, and/or a mortgage or other housing costs.
10. In Universal Credit, if a claimant is an Owner Occupier the Housing Element may constitute an amount towards the cost of servicing mortgages and other loans for eligible home improvements secured on the home the claimant occupies. This amount will be paid directly to the lender. There will be no entitlement to support for mortgage interest payments if any member of the Assessment Unit<sup>3</sup> is in paid employment.
11. Where accommodation is rented, the value of the housing element is the amount of liable rent and eligible service charges, subject in certain circumstances, to restrictions determined by the size of the Benefit Unit and any non-dependants in the household.
12. Those claimants that are in properties provided by the Social Rented Sector will have their rent assessed subject to the application of the standard percentage-rate deductions where the accommodation is under-occupied. A decision on under-occupancy deductions will be made following an assessment of the number of bedrooms that the benefit unit requires. (In Northern Ireland the rents for NIHE are set annually by the Minister for Social Development).
13. Those living in Private Rented Sector properties will also have the number of bedrooms the benefit unit require assessed. The amount of Universal Credit allowed for housing costs will be capped by the Local Housing Allowance. The rate of the Local Housing Allowance depends on the area the claimant lives in. There are exceptions to this approach, for example, if the household includes a child(ren) with disabilities or an adult requires regular overnight care.

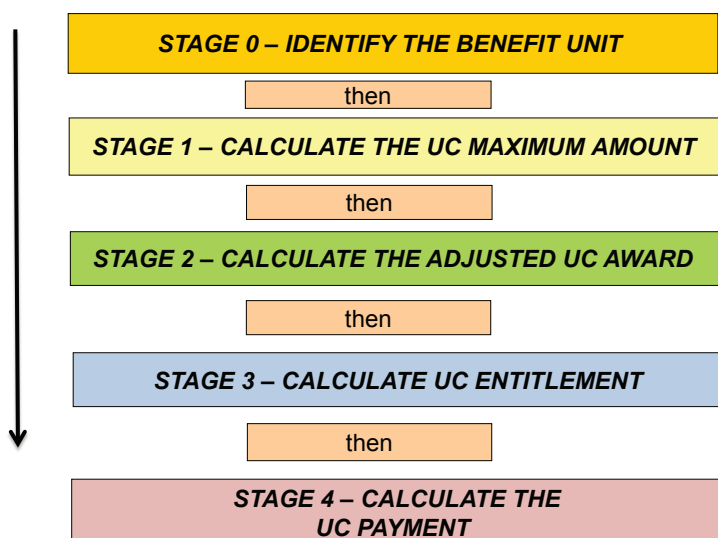
## Universal Credit Assessment

14. To determine the amount of the housing element of Universal Credit to be paid, there are a number of steps to be followed.
15. First, the size of the Benefit Unit (i.e. members of the household to be taken into consideration) is established. Then, the Universal Credit Maximum Amount is calculated. This is made up of a number of elements depending on the circumstances of the adults and children in the Benefit Unit. Once this sum has been determined, the overall award will be reduced, if appropriate, to take account of any capital and/or income. Universal Credit will then take any earnings into account and apply the earnings disregard and taper. The steps in this process are shown below.

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3 An Assessment Unit comprises all the members of a benefit unit and any other adult connected to the eligible adult in the benefit unit (i.e. the other half of a couple where that other adult is not eligible in their own right).

## SUMMARY – THE KEY STAGES IN THE UC ASSESSMENT PROCESS



16. Universal Credit will include a tailored system of earnings disregards which are generally higher than the current system and a single taper rate to withdraw support as earnings rise. This means that many households will be able to keep a higher proportion of their earnings and will provide strong incentives for workless households to take up employment.
17. There are different earnings disregards that will apply depending on the composition of a household. Once the appropriate disregard threshold is reached a single taper, irrespective of the components making up the award, is applied. This means that any entitlement to the Housing Element may be subject to the taper.
18. If a claimant has earnings above the appropriate disregard figure the Universal Credit maximum amount is subject to the taper rate, which will be 65%. A reduction of the maximum Universal Credit amount, equivalent to 65% of the total amount of earnings above the threshold, will be applied. In other words claimants will retain 35p per pound of earnings over and above monies covered within the disregarded sum. Following the application of the taper the Adjusted Universal Credit Award, which is the amount to be paid, is calculated.

### Payment of Housing Element

19. Following Minister McCausland's recent statement to the Assembly, in Northern Ireland the Housing Element of Universal Credit will be paid directly to landlords, although there will be provision to allow claimants the freedom to opt out of these arrangements.
20. In those claims where a payment is made to a landlord on behalf of a claimant the amount of Universal Credit paid to the claimant will be reduced according to the number of hours worked. However, the Universal Credit assessment process will create a number of different scenarios that will impact on the proportion of the benefit award that will actually be payable to the claimant and their landlord. These include:
  - **Full Rent Allowed** - For many Universal Credit claimants the process of claiming help with housing costs will be straightforward. The full cost of the rent will be allowed with no deductions for under-occupancy or the application of the LHA rate. There will also not be any reduction as a result of the taper being applied. The default position in such cases will be for the full amount of the rent liability to be paid direct to the landlord with the remaining amount of Universal Credit paid to the claimant.



- **Partial Rent Available** – There are 2 instances in which this could occur- where the claimant has partial rent costs allowed or due to a reduced Universal Credit entitlement. In the first case, some claimants will find that the amount of Housing Element they are allowed is less than their rent liability, which may be due to the effects of under-occupancy or the application of the Local Housing Allowance rate. Universal Credit could pay the amount of allowed Housing Element to the landlord and the claimant will be responsible for paying any shortfall. Although claimants may apply for assistance from the Discretionary Housing Payment scheme to help cover this shortfall.

In the second scenario, there will be cases where the total amount of Universal Credit due has been reduced. As explained in the assessment process, a reduction in entitlement could occur for a number of reasons including the application of the disregards and taper to earned income or the effects of the benefit cap. The result is that the amount of benefit paid in respect of the Housing Element could be reduced.

In both these examples, claimants may apply for assistance from the Discretionary Housing Payment scheme to help cover any shortfall.

- **No Rent Costs Payable** - Some claimants will not be liable for rental costs (e.g. owner occupiers) and in these instances there will be no rental costs paid under the Housing Element of Universal Credit

21. The scenarios at **Appendix 1** show the impact a claimant's earnings and the application of the Local Housing Allowance rates will have on the Universal Credit award available to pay a claimant's rent.
22. As is demonstrated from these scenarios, any reduction in the Universal Credit entitlement is likely to create difficulties when determining the adjusted value of the Housing Element and the amount that should be paid direct to a landlord. This issue will be exacerbated by the impact of any deductions that should be taken from the Universal Credit award before payment can be made to the claimant.
23. A system of third party deductions already exists within the benefit system and it is intended to extend this provision to Universal Credit. It will be possible to make deductions for a number of reasons including sanctions, payments direct to utility providers and the repayment of debt (including overpayments of benefit and awards from the Social Fund).

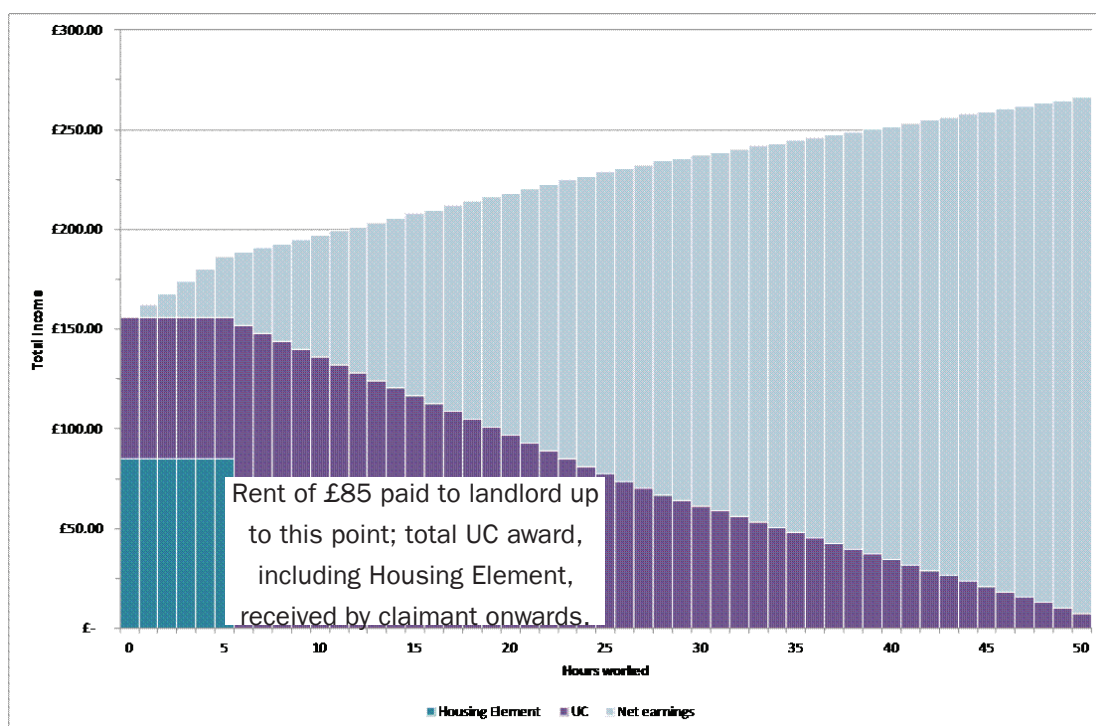
## Options

24. A number of options have been identified for managing the payment of rent direct to a landlord when the Universal Credit entitlement has been reduced. The three most feasible options considered are as follows:

### **Option 1- Pay Housing Element to landlord only when claimant receives full Universal Credit award**

25. This option is to pay the housing element of Universal Credit directly to the landlord only until the point where the disregard and the taper apply. After that point, the claimant will be responsible for paying the entirety of their rent to the landlord.
26. This helps to remove the complexity of calculating the amount of rent to pay to the landlord when the claimant does not receive their full Universal Credit award, for example, due to an increase in earnings.
27. Many claimants towards the higher end of the earnings threshold may not currently receive Housing Benefit and so will already be confident and capable of paying their rent directly to their landlords. It is those claimants closer to the point where the taper is applied who are most likely to be anxious about the responsibility of having to pay their own rent.

28. To assist these claimants to be more financially capable, the Universal Credit programme will provide support to a suite of products being identified through the programme's Financial Independence Strategy.
29. In the cases where claimants are clearly incapable of managing their finances, or there are concerns about their ability in this area, payments to landlords can be continued. Additionally, if a claimant goes into arrears during the period when they were responsible for managing their rent payments, there are measures in legislation to allow the arrears to be paid to their landlords via deductions from their Universal Credit award.
30. Figure 1 shows while the claimant receives their full Universal Credit award their housing element (in this example £85 per week) is paid directly to the landlord. Once the claimant's income increases to a level where the taper is applied, the Universal Credit award will then be paid to the claimant and it will be their responsibility to pay their full rent to their landlord.



**Figure 1** - Total income of the benefit unit showing when rent moves from being paid directly to the landlord to being paid to the claimant

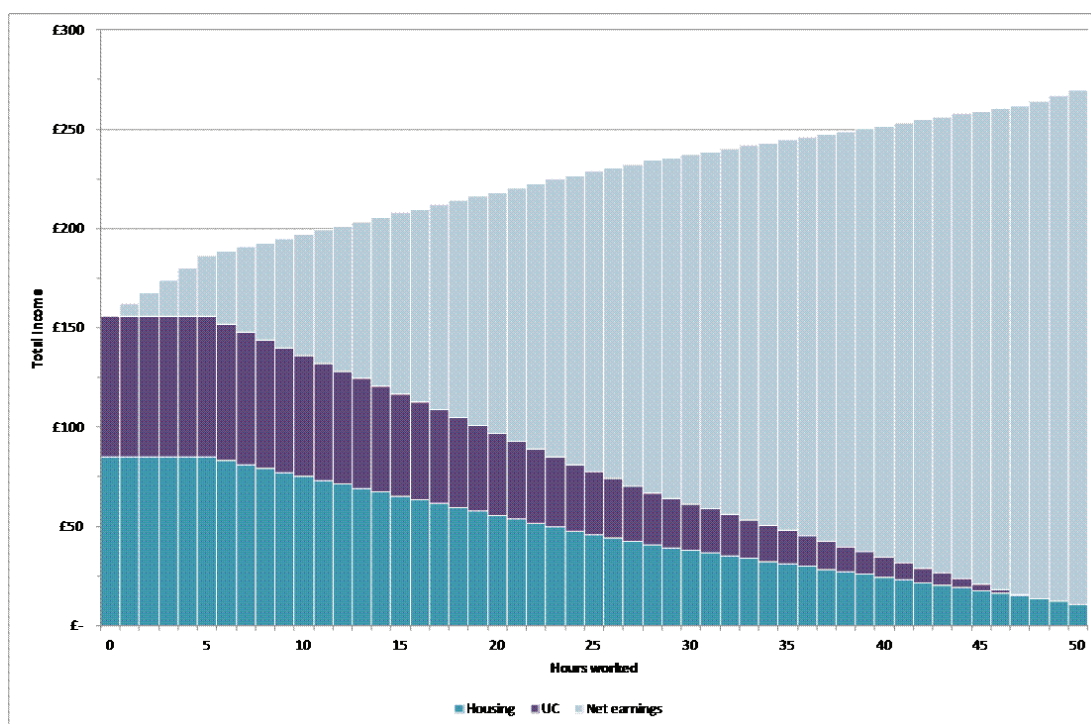
(Example is a single person, over 35 years old, with no children, no disabilities and moving into work at the National Minimum Wage. The cost of renting their house is £85 per week.)

**Option 2 – Pay full Housing Element to landlord when claimant receives full Universal Credit award and then tapered Housing Element until claimant no longer eligible for Universal Credit**

31. In this model, the Housing Element and the rest of the Universal Credit award are tapered proportionately. When the earnings threshold is passed, the 65% taper rate is applied to all elements of UC, with a tapered sum being passed on to the landlord.
32. This option matches more closely to the original design of Universal Credit as all the elements taper at the same time and rate. However the option may not be feasible for a number of reasons.
- the effect on the claimant is that will they be unsure of what their UC payment, minus the housing element, will be if they have small fluctuations in earnings and they will have a different deficit to meet at each level of hours worked

- the landlord will subsequently have reduced security in what they will receive in respect of the claimant and increased administrative and financial burdens as they have to continually calculate what is owed to them by the claimant and pursue this amount. There might also be increased transactional costs (e.g. direct debit charges) incurred by landlords as once the taper is applied they will be receiving payments from both the Department and the claimant.

33. Figure 2 shows while the claimant receives their full Universal Credit award their housing element (in this example £85 per week) is paid directly to the landlord. Once the claimant's income increases to a level where the taper is applied, the Housing Element and the rest of the Universal Credit award are tapered proportionately. The landlord would be paid the tapered Housing Element. It would be the claimant's responsibility to make arrangements to pay any shortfall in rent.



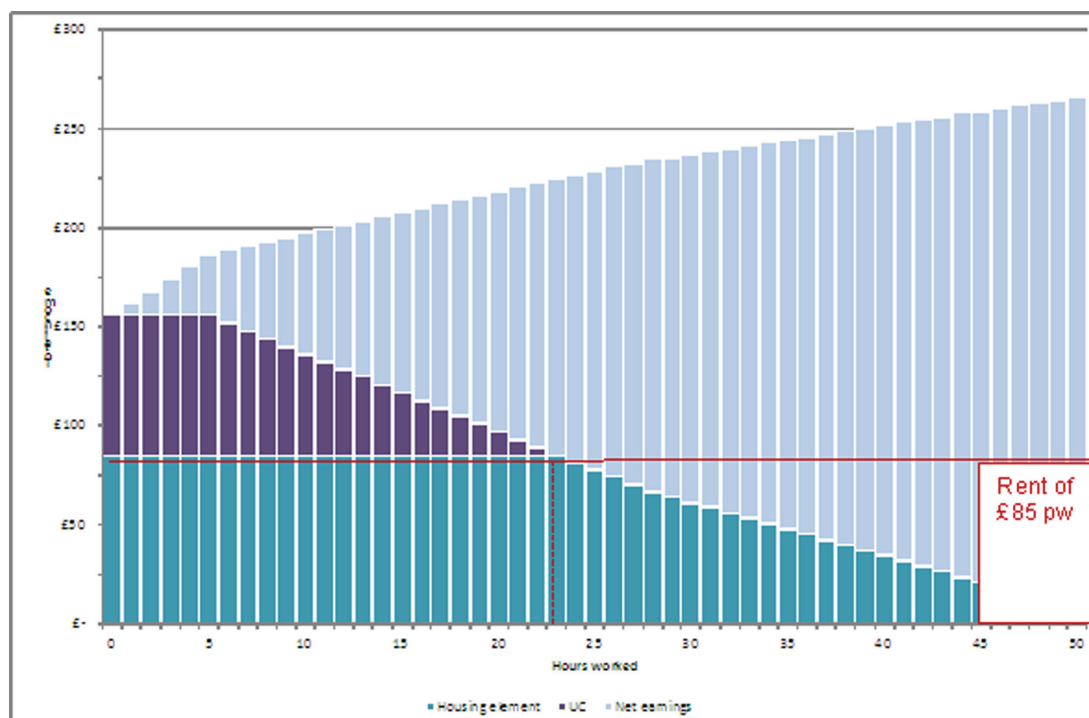
**Figure 2** - Total income of the benefit unit, showing when housing element and remainder of UC are tapered simultaneously

(Example is a single person, over 35 years old, with no children, no disabilities and moving into work at the National Minimum Wage. The cost of renting their house is £85 per week.)

**Option 3 – Full Housing Element amount paid directly to landlord until remainder of UC payment has been tapered to zero, then Housing Element tapered to zero**

34. In this option the Housing Element is untouched by the taper rate until the rest of the Universal Credit award has been tapered to zero. This will preserve the integrity of the housing element paid in respect of the claimant for as long as possible by protecting the housing element from the taper rate until it is all that is left of the UC claim, which is then subjected to the 65% taper rate. The claimant would have the full housing element paid on their behalf while the remainder of their UC payment would steadily reduce in line with the increase in their net earnings. Once the claimant's remaining UC has been reduced to zero, due to the level of their earnings, the housing element will be subject to the 65% taper, causing a deficit that must be met from their earnings. This approach will result in the claimant eventually receiving no direct UC payment, as it will have been paid to their landlord.
35. Figure 3 shows while the claimant receives their full Universal Credit award their housing element (in this example £85 per week) is paid directly to the landlord. Once the taper is

applied, the full housing element continues to be paid to the landlord until the point where the total Universal Credit award is less than the claimant's Housing Element entitlement. The Housing Element then continues to be paid to the landlord until it is tapered to zero. It would be the claimant's responsibility to make arrangements to pay any shortfall in rent.



**Figure 3** - Total income of the benefit unit, showing the effect of protecting the housing element of UC

(Example is a single person, over 35 years old, with no children, no disabilities and moving into work at the National Minimum Wage. The cost of renting their house is £85 per week.)

36. The benefit of this approach to both claimant and landlord is the fixed threshold that can be calculated in advance. This gives the claimant the security that one essential payment will be taken care of until their earnings reach a level that reduces their remaining UC payment to zero. This may encourage the claimant to move into work or work for more hours per week. The landlord can be confident in either receiving their full payment, or if the housing element begins to taper, that the claimant should have the means to correct any shortfall.
37. In those cases where a claimant has fluctuating earnings that impacts on their Universal Credit award it will be necessary for them to check the amount actually paid to the landlord. The breakdown of actual payments should be easily identifiable from the award notice. This should be supported by effective communications highlighting to claimants the importance of confirming if their full rent has been paid by Universal Credit.
38. This option also offers attractions in that it is relatively simple and involves a low administrative burden. In addition, the Department for Work and Pensions (DWP) has indicated that this is the approach they will be adopting for their exceptional payments of housing costs to landlords. This should remove the need to develop any specific technical changes to the Universal Credit system for Northern Ireland. This option also prioritises the payment of a claimants rent so it works to safeguard a claimants housing, helping to prevent claimants becoming homeless due to non-payment of rent
39. As with option 2 one potential disadvantage of this approach is the possibility of increased administrative costs for the landlord once the Housing Element starts to be tapered.

## Consideration of Options

40. **Figure 4** below is a summary of the merits of each of the aforementioned options:

Option	Advantages	Disadvantages
1	<ul style="list-style-type: none"> <li>• Reduced complexity</li> <li>• Claimants have opportunity to take on more financial responsibility</li> </ul>	<ul style="list-style-type: none"> <li>• For some claimants, responsibility for paying their own rent falls to them at a relatively low earnings level</li> </ul>
2	<ul style="list-style-type: none"> <li>• Closely aligned to policy design of Universal Credit i.e. all elements of award are tapered</li> </ul>	<ul style="list-style-type: none"> <li>• More complex than other options</li> <li>• For some claimants, responsibility for paying the shortfall in their rent falls to them at a relatively low earnings level</li> <li>• Potential for increased transactional costs for the landlord</li> </ul>
3	<ul style="list-style-type: none"> <li>• Housing payment prioritised</li> <li>• Aligns with DWP model for exceptions payments</li> <li>• Easier for claimant to understand amount being paid to landlord</li> </ul>	<ul style="list-style-type: none"> <li>• Removes incentive for claimants to take on more financial responsibility as, in some instances, rent is paid to landlord even when claimants are towards the higher end of the earnings scale</li> <li>• Claimants who previously paid their rent directly (e.g. Tax Credit claimants at higher earnings) will now have their rent paid on their behalf, unless they opt out.</li> <li>• Potential for increased transactional costs for the landlord</li> </ul>

**Figure 4** - Comparison of merits of the options for payment of Housing Element

## Recommendation

41. Before a decision can be made on the payment model to adopt, further research is required. A team working on Payment Flexibilities within the Northern Ireland Universal Credit Programme, within the Department for Social Development, are conducting research with stakeholders to determine their views on the preferred approach.
42. The findings from this exercise will be considered by the Payment Flexibilities Oversight Board and recommendations taken forward to be considered by the Executive Sub-Committee. In parallel, the Universal Credit Programme will continue to work with the Department for Work & Pensions to determine what is technically possible.



# Appendix 1

## Scenario A

Tom and Julie are claiming Universal Credit as a couple. They are both over 25 years old and have one child, Beth, who is 2 years old. They rent a two bedroom property from the NIHE at a cost of £400 per month. Neither partner is currently in paid employment nor do they have any savings.

When their claim to Universal Credit is assessed it is determined they are entitled to the standard allowance plus the child element. As the family are occupying a two bedroom property there is no adjustment made for under occupation. This means the full amount of the rent is allowed.

As the family have no earnings the income taper is not applied and there are no deductions made from the maximum Universal Credit entitlement. An amount of £400 is paid to the NIHE in full payment of the rent and the remaining entitlement is paid to the claimants.

## Universal Credit Assessment

Monthly Assessment	
Standard Allowance	£489.06
Child Element	£272.08
Housing Element	£400.00
<b>Maximum UC</b>	<b>£1161.14</b>
Less Tariff Income	NIL (Applied to capital over £6,000 and under £16,000)
Less Earnings	NIL (After disregard and taper applied)
<b>Adjusted UC Payment</b>	<b>£1161.14</b>

Total Income per month	
Universal Credit	£1161.14
Child Benefit	£87.97 (£20.30 weekly x 52 ÷ 12 = £87.97)
<b>Total Monthly Amount</b>	<b>£1249.11</b>

Universal Credit Payments Made	
Housing Element	£400.00 (Paid direct to landlord)
<b>Total Universal Credit paid direct to customer</b>	<b>£761.14</b>



## Scenario B

Deborah is claiming Universal Credit as a lone parent. She is 39 years old and has two children Wendy aged 16 and Jake aged 5. Both children are in full-time education. The family are renting a four bedroom property from a private landlord at a cost of £540 per month. Deborah is not currently in paid employment.

When the claim to Universal Credit is assessed it is determined that Deborah is entitled to the standard allowance plus the child element for two children. However, as the family is occupying a larger property than deemed necessary the amount of the Housing Element allowed is restricted to the Local Housing Allowance rate for a three bedroom property, which is £443.65 per month.

As the family have no earnings the income taper is not applied and there are no deductions made from the maximum Universal Credit entitlement. An amount of £443.65, which is the maximum allowable contribution to the rent, is paid direct to the landlord. This leaves a shortfall of £96.35. The remaining Universal Credit entitlement is paid to Deborah.

Deborah can apply for a Discretionary Housing Payment to help with the shortfall in the rent. However, any award will be time limited and the family will be expected to make attempts to reduce their rental costs.

## Universal Credit Assessment

Monthly Assessment		<p>As a private rented tenant the amount of the customer's Housing Element is restricted to the Local Housing Allowance rate for a 3 Bedroom property. This is £102.38 per week ( <math>\text{£}102.38 \times 52 \div 12 = \text{£}443.65</math> per month). This leaves a shortfall of £96.35</p> <p><b>Discretionary Housing Payment</b></p> <p>The customer can apply for help with the shortfall in rent to the Discretionary Housing Fund</p>	
Standard Allowance	£311.55		
Child Element	£498.75		
<b>Housing Element</b>	<b>£443.65</b>		
<b>Maximum UC</b>	<b>£1253.95</b>	<p><b>Total Income per month</b></p>	
Less Tariff Income (Applied to capital over £6,000 and under £16,000)	NIL	Universal Credit	£1253.95
Less Earnings (After disregard and taper applied)	NIL	Child Benefit (£33.70 weekly x 52 ÷ 12 =	£146.03
<b>Adjusted UC Payment</b>	<b>£1253.95</b>	<b>Total Monthly Amount</b>	<b>£1399.98</b>
		<p><b>Universal Credit Payments Made</b></p>	
		<b>Housing Element (Paid Direct to Landlord)</b>	<b>£443.65*</b>
		<b>Total Universal Credit paid direct to customer</b>	<b>£810.30</b>

\*This amount may change when payment policy is confirmed

## Scenario C

James is 27 years old with no children and has claimed Universal Credit as a single person. He is renting a one bedroom property in Belfast from a private landlord at a cost of £300 per month. James is currently in full-time employment with earnings of £670 per month.

When the claim to Universal Credit is assessed it is determined that James is entitled to the standard allowance plus a contribution towards the cost of his rent. As he is under 35 years of age he is entitled to the shared room rate only. The appropriate Local Housing Allowance rate for someone in his circumstances is calculated at £187.86 per month. This is a shortfall of £112.32, which remains to be paid to the landlord.

As James is in paid employment his Universal Credit entitlement will be affected. The initial £110.83 of his monthly income is disregarded and the remainder is subject to the 65% taper rate. This means that James' total Universal Credit entitlement will be reduced by £363.46 per month leaving him with an actual entitlement of £135.77. In this case the total amount of the Universal Credit, less a notional amount, will be paid to the landlord. James will be responsible for paying the total shortfall (£164.23) in the rent to his landlord and there will be no payment of Universal Credit paid directly to James.

## Universal Credit Assessment

Example C	Earnings Calculation
Monthly Assessment	£670.00 less £110.83 (disregard) = £559.17
Standard Allowance £311.55	£559.17 x 65% = £363.46
Housing Element £187.68	In this case the customer is under 35 years and entitled to the shared room rate only (a single room in a shared property). He is entitled to the Local Housing Allowance rate (LHA) which will vary depending on the Broad Rental Market Area (BRMA). In Belfast this is currently £43.31 per week (£43.31 x 52 ÷ 12 = £187.68, leaving an initial shortfall of £112.32 which is due to be paid to the landlord.
Maximum UC £499.23	
Less Tariff Income NIL (Applied to capital over £6,000 and under £16,000)	Discretionary Housing Payment
Less Earnings £670.00 (After disregard and taper applied)	The customer can apply for help with the shortfall in rent to the Discretionary Housing Fund.
Adjusted UC Payment £135.77	Total Income Per month
RENT - The total shortfall to the Landlord is £164.23 there is insufficient UC to pay all the rent. (£300 - £135.77 = £164.23)	Universal Credit £135.77
	Earnings £670.00
*This amount may change when payment policy is confirmed	Total Monthly Amount £805.77
	Universal Credit Payments Made
	Housing Element (Paid Direct to Landlord) £135.77*
	Total Universal credit paid direct to customer = NIL

## Response to further query received on 6 February 2013

### Application of the £65 de minimis debt level:

Where a benefit overpayment is identified by the SSA and the value of that overpayment is less than £65 it is considered that the administrative cost of pursuing the debt outweighs the value of the debt itself and the debt is written-off. This is the position across the UK.

### 2011-12 Benefit overpayments written off because debt value was below £65:

During 2011-12 the SSA identified 22k volume of benefit overpayments which all fell below the £65 de minimis limit and were, therefore, written off. The total write-off value was £580k. Further analysis has confirmed that the weighted average value of these small overpayments is £32.67. Table 1 provides some analysis.

Table 1: Small Overpayments (SMOP's) by Value Band:				
	Total SMOPS			
Value Bands	Volume	Value (£)		Average SMOPS per Value Band (£)
0.01 - 5.00	3,084	6,042.67		1.96
5.01 - 10.00	4,073	35,340.30		8.68
10.01 - 15.00	1,599	20,592.21		12.88
15.01 - 20.00	2,098	37,439.80		17.85
20.01 - 25.00	1,352	30,559.26		22.60
25.01 - 30.00	1,794	50,121.03		27.94
30.01 - 35.00	956	30,914.09		32.34
35.01 - 40.00	1,309	49,396.07		37.74
40.01 - 45.00	796	33,841.68		42.51
45.01 - 50.00	1,465	69,884.26		47.70
50.01 - 55.00	1,694	89,668.44		52.93
55.01 - 60.00	1,498	84,843.25		56.64
60.01 - 65.00	673	42,341.29		62.91
<b>Totals:</b>	<b>22,391</b>	<b>580,984.35</b>	<b>Weighted Average of SMOP:</b>	<b>32.67</b>

**2011-12 Benefit Overpayments identified where the individual debt value was between £65 and £100:** During 2011-12 the SSA identified 7,771 benefit overpayments with debt values between £65 and £100 with an overall debt stock value of £624k. Table 2 provides an analysis. This information provides an indication of the volume and value of debt that would be written off if the SSA increased the current small overpayment write off limit above £65; e.g. increasing it to £80 would result in an increase in write off of approximately £316k (a total of 4,382 individual debts).

<b>New Debt Over £65 (2011/12):</b>				
<b>Value Bands</b>	<b>Volume</b>	<b>Value (£)</b>	<b>Cumulative value (£)</b>	<b>Cumulative volume</b>
65.01 - 70.00	1,160	78,147.67	78,147.67	1,160
70.01 - 75.00	2,619	191,229.71	269,377.38	3,779
75.01 - 80.00	603	46,582.94	315,960.32	4,382
80.01 - 85.00	660	54,546.87	370,507.19	5,042
85.01 - 90.00	735	64,332.02	434,839.21	5,777
90.01 - 95.00	997	91,861.64	526,700.85	6,774
95.01 - 100.00	997	97,296.81	623,997.66	7,771
<b>Totals:</b>	<b>7,771</b>	<b>623,997.66</b>		

The above information is based on the Agency's benefit overpayment activity for 2011-12 for existing Social Security benefits and excludes housing benefit and tax credits.

The introduction of Universal Credit will change the customer landscape of the Social Security System which will change the debt profile and could increase the number of customers and the financial cost of the impact of any increase in the debt write off limit.

Any move away from parity in respect of the de minimis debt level carries a risk of uncertainty to the resulting cost of any change.

# Department for Social Development - 13 February 2013

Central Social Policy Unit  
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BT7 2JA

Mr Kevin Pelan  
Committee Clerk  
Committee for Social Development  
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Belfast  
BT4 3XX  
Tel: 02890 829490

13 February 2013

Dear Kevin

## **Amendment to the Welfare Reform Bill (NI)**

I am writing to ask for the Committee's support for the proposed Ministerial Amendment to allow the Department to provide discretionary support to meet extreme or exceptional needs. This proposed amendment has previously been outlined and discussed with the Committee.

## **Background**

As you are the Welfare Reform Bill (NI) will remove provision for Community Care Grants and Crisis Loans for living expenses and household items from the social security system. And, as such, the Department will be unable to provide continued discretionary support to meet extreme or exceptional needs unless appropriate enabling statutory provision is in place.

To meet this legislative need the Department firstly investigated whether any other statutory provision existed in Northern Ireland which could be utilised by DSD to pay discretionary support to individuals or households. And, on failing to uncover such provision whether it was appropriate to develop new primary legislation with the use of the Financial Assistance Act (NI) 2009 as an interim solution. However, the preferred option, as you will also be aware, was to insert the necessary enabling provision into the Welfare Reform Bill (NI) at Consideration Stage by way of a Ministerial Amendment.

## **Ministerial Amendment**

Specifically, it is proposed that the amendment (the text of which has been drafted by the Office of the Legislative Council and is attached at Annex A) will introduce a new clause to allow DSD to provide discretionary support in the form of direct financial awards or the provision of goods and services and to bring forward regulations providing further detail, including:

- the circumstances in which discretionary support may be available;
- the conditions (including timescales) which will apply to the payment and/or receipt of discretionary support;
- the form and manner in which applications will be made;

- the detail and verification of information to be provided by those seeking discretionary support;
- arrangements for seeking a review or challenge of decisions; and
- the treatment of fraudulent claims for discretionary support.

The proposed design of the new Discretionary Support Scheme, about which the Committee have already received briefing, provides a lower level view of how these regulations will operate in practice.

The proposed amendment will be subject to the approval of the Executive Committee.

I trust this makes the position clear however should the Committee wish to have further information/briefing I shall be happy to provide.

Yours sincerely

A handwritten signature in black ink that reads "Angela Clarke". The script is cursive and fluid, with the first name and last name clearly distinguishable.

**Angela Clarke**  
Head of Central Social Policy



## Annex A

Welfare Reform Bill  
Amendments to be moved at Consideration Stage  
By the Minister for Social Development

*New clause*

After clause 130 insert —

**‘Discretionary support**

.—(1) The Department may, in accordance with regulations under this section —

- (a) make payments by way of grant or loan to prescribed persons;
  - (b) provide, or arrange for the provision of, goods or services to prescribed persons.
- (2) Anything done under subsection (1)(a) or (b) is referred to in this section as the provision of discretionary support.
- (3) Regulations may make provision—
- (a) for the Department to provide discretionary support only in prescribed circumstances;
  - (b) conferring a discretion on the Department (subject to any provision made by virtue of paragraph (c) or (d))—
    - (i) as to whether or not to provide discretionary support in a particular case; and
    - (ii) as to the nature of the discretionary support and (in the case of support by way of payments) as to the amount of the payments and the period for or in respect of which they are made;
  - (c) imposing a limit on the amount of the discretionary support that the Department may make in any particular case;
  - (d) restricting the period for or in respect of which the Department may provide discretionary support in any particular case;
  - (e) for claims for discretionary support to be made in the prescribed form and manner and for the procedure to be followed in dealing with and disposing of such claims;
  - (f) imposing conditions on persons claiming or receiving discretionary support requiring them to provide to the Department such information as may be prescribed;
  - (g) for the disclosure of information relating to discretionary support in prescribed circumstances or to prescribed persons;
  - (h) authorising the Department in prescribed circumstance to recover by prescribed means discretionary payments made under this section;
  - (i) requiring or authorising reviews (whether by the Department or a prescribed person) of decisions made by the Department with respect to the provision of discretionary support or the recovery of payments made under this section;
  - (j) for such other matters as appears to the Department to be necessary or expedient in connection with the provision of discretionary support, including provision creating criminal offences and provision amending or applying (with or without modification) any statutory provision.

- (4) In this section “prescribed” means prescribed by, or determined in accordance with, regulations under this section.
- (5) Discretionary support is not to be regarded as a social security benefit; but regulations under this section may provide for any statutory provision relating to a social security benefit (or to such benefits generally) to apply with prescribed modifications to discretionary support.
- (6) The first regulations under this section shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.
- (7) Other regulations made under this section are subject to negative resolution.
- (8) The Department shall, in respect of each financial year, prepare and lay before the Assembly a report on the operation of regulations made under this section.

Clause 133

Page 95, line 32, at end insert —

*( ) section (Discretionary support);*



Northern Ireland  
Assembly

Appendix 5

# Research Papers





Northern Ireland  
Assembly

## Research and Information Service Briefing Paper

Paper 13/11

14 January 2011

NIAR 606-10

**Eleanor Murphy & Jane Campbell**

# An Introduction to Welfare Reform

## 1 Introduction

The purpose of this briefing paper is to provide the Committee with a broad overview of the Coalition Government's plans for Welfare Reform. **Sections 2 to 6** of the paper cover the various strands of welfare reform beginning with the June 2010 Budget and Spending Review announcements and moving on to provide an overview of Universal Credit and the proposed reform of Disability Living Allowance, Housing Benefit, State Pension and State Pension Age. The **final section** of the paper provides a synopsis of the reaction of key think tanks to the various elements of the Coalition Government's welfare reform programme.

It is important to mention at the outset that this paper does not in any way claim to provide a definitive account and analyses of welfare reform, it is merely an introduction to the reforms which are wide-ranging and their implications multifarious and complex. In order to assist Members further, Research and Library Services will shortly publish a Welfare Reform 'Resource Pack' which will provide links to key Government publications; think tank papers; Assembly Questions, Statements and Debates; and a range of newspaper articles on welfare reform.

# Contents

## **Welfare Reform: the June 2010 Budget and Spending Review Announcements**

### **Welfare Reform and Universal Credit**

Universal Credit Explained

Universal Credit: Older People, Carers, Children, and People with Disabilities

Universal Credit and Housing

Tapering and Earnings Disregards

Conditionality, Sanctions and Mandatory Work Activity

Universal Credit and Northern Ireland

### **Disability Living Allowance Reform**

The new benefit – Personal Independence Payment

The new structure – reduced number of rates

Changes to qualifying criteria

The new assessment process

The new review process

Linking with other services

Why does the Coalition Government feel reform is necessary?

Disability Living Allowance and Northern Ireland

### **Housing Benefit Reform**

### **State Pension Reform – Increase to State Pension Age and the ‘Triple Guarantee’**

### **Reaction of the Think Tanks to Welfare Reform**



## 2 Welfare Reform: the June 2010 Budget and Spending Review Announcements

The Welfare Reform announcements which formed part of the Coalition Government's June 2010 Budget and Spending Review in October have been widely described as the most radical shake-up of the benefits system since the foundation of the welfare state. A new integrated benefit – Universal Credit – will replace the vast majority of current in-work and out-of-work benefits; Disability Living Allowance will be replaced with a new Personal Independence Payment which will include a new 'objective' medical assessment process; and wide ranging new measures will be introduced to reduce expenditure on housing benefit including caps on Local Housing Allowance payments and an increase to the age threshold for the Shared Room Rate.

Accompanying these changes will be the use of the Consumer Price Index (CPI) for the price indexation of benefits, pensions and tax credits; a cap on the total amount of benefits a household can claim; the introduction of a new personal conditionality and sanctions regime; and a package of changes to State Pensions, State Pension Credit and State Pension Age including an acceleration in the pace of State Pension Age equalisation, a rise in State Pension Age to 66 by April 2020 and the introduction of a 'triple lock' for State Pensions, which will be a rise of a minimum of 2.5% or in line with earnings or prices, whichever is greater. This provides just a very broad overview of some of the elements of welfare reform, for ease of reference further detail is outlined in Table 1.

How and when the various strands of reform will be applied to Northern Ireland will ultimately be a matter for the Department for Social Development, the Northern Ireland Executive and the Northern Ireland Assembly. It is important to bear this in mind when considering the Coalition Government's timetabling and implementation of the various strands of reforms that are mentioned throughout this paper. It is the Coalition Government's intention to introduce a Welfare Reform Bill in January 2011 (which will implement the changes in Great Britain).

The interpretation and application of the principle of parity will be crucial, as will the Social Protection Fund announced in the draft Budget 2011-15. In a **Ministerial Statement** to the Northern Ireland Assembly on 23 November 2010, the Minister for Social Development commented on the importance of parity to Northern Ireland<sup>1</sup>:

*"Although social security is a devolved matter, we are constrained by funding issues. Any variance from DWP social security rates and conditions may breach parity. It would be thoughtless folly, therefore, if I, as the Minister for Social Development, took action that put in greater need those already in need. Parity brings a net benefit to Northern Ireland measured in billions of pounds. One figure given to me recently suggests that when the total tax take in Northern Ireland that goes to the Treasury is deducted from the total Budget and welfare payments that come across the Irish Sea, the net benefit to the Executive and the Assembly is at least £3 billion. Nevertheless, I believe that the issue of parity should be considered and scoped, although doing that in a rush would hurt those whom we need to protect most over the next four or five very difficult years"*

However, the Minister also stated that he aimed to "stretch the limits of parity in a way that does not prejudice the block grant or those who are on benefits". Furthermore the Minister announced that his Department were working with organisations and individuals with key roles in welfare and would also be presenting to the Executive a remedies paper which would include:

*"a wider analysis of how we should take forward the issue of social welfare. It will recommend a range of interventions as part of the Budget conclusions on welfare, fuel*

<sup>1</sup> Northern Ireland Assembly Official Report. 23 November 2010. <http://archive.niassembly.gov.uk/record/reports2010/101123.htm#2>

*poverty and housing that the Executive should endorse if we are to be judged favourably and judge ourselves favourably on how we address the severity of welfare changes.”*

**Table 1: At a Glance - Welfare reform announcements in the June Budget and the Spending Review**

	<b>June Budget<sup>2</sup></b>	<b>Spending Review<sup>3</sup> (October)</b>
Child Benefit	A three year <b>freeze on Child Benefit from 2011/12</b> to help fund significant above indexation increases to Child Tax Credit which the Coalition Government believes is better targeted at low-income families.	From January 2013, a <b>withdrawal of Child Benefit</b> from families with a <b>higher rate taxpayer</b> . The Coalition Government believe that this will save £2.5 billion a year by 2014-15 and will ensure that people in lower incomes are not subsidising those who are better off.
Child Trust Fund	The Coalition Government announced on 24 May 2010 its intention to reduce and then stop Government contributions to <b>Child Trust Funds</b> . It reiterated this point in the June Budget and also announced that the Savings Gateway would not be introduced as the Government believed it was not affordable given the need to reduce the deficit.	
Capping Benefits		From 2013, a <b>household benefit cap</b> of around £500 per week will be placed on couple and single parent households. A cap of around £350 per week will be imposed on single adult households. The Coalition Government state that the purpose of the cap is to ensure that no family can receive more in welfare than the median after tax earnings for working households. All Disability Living Allowance claimants, War Widows and working families claiming working <b>tax credits will be exempt from the cap</b> .
Contributory Employment and Support Allowance	<b>Time-limiting contributory ESA</b> for those in the Work-Related Activity Group to <b>one year</b> . The Coalition Government believes that this will save £2 billion per year by 2014-15 and will improve work incentives whilst protecting people with the most severe disabilities and those with the lowest incomes.	

	June Budget <sup>2</sup>	Spending Review <sup>3</sup> (October)
Disability Living Allowance	The Coalition Government announces that it would reform Disability Living Allowance to ensure support is targeted on those with the highest medical need. It also announced that <b>objective medical assessments</b> for all DLA claimants would be introduced from 2013-14.	The <b>mobility component</b> of Disability Living Allowance will cease to be paid after an individual has been in a hospital or care home for 28 days (84 days for children in hospital) <sup>4</sup> .
Housing Benefit and Local Housing Allowance	<p>The Coalition Government announces that it will introduce a <b>package of reforms to Housing Benefit</b>. This includes changing the percentile of market rents used to calculate <b>Local Housing Allowance</b> rates; capping the maximum Local Housing Allowance payable for each property size; time-limiting receipt of full Housing Benefit for claimants who could be expected to look for work; restricting Housing Benefit for working age claimants in the social rented sector who are occupying a larger property than their household size warrants.</p> <p>From April 2011, <b>Local Housing Allowance rates will be capped</b> at £250 per week for a one bedroom property; £290 for a two bedroom property; £340 for a three bedroom property; and £400 per week for four or more bedrooms.</p> <p>The Government contribution to <b>Discretionary Housing Payments</b> will be increased by £10m in 2011-12 and £40m in each year from 2012-13.</p> <p>From April 2011, Housing Benefit claimants with a disability and non-resident carer will be entitled to <b>funding for an extra bedroom</b>.</p> <p>From April 2013, Housing Benefit awards will be <b>reduced to 90% of the initial award</b> after 12 months for <b>claimants receiving Jobseekers Allowance</b>.</p>	The Coalition Government announce an increase to the age threshold for the <b>Shared Room Rate in Housing Benefit from 25 to 35</b> . It believes that this will save £215m a year by 2014-15 and will ensure that Housing Benefit rules will reflect the housing expectations of people of a similar age not on benefits.

	June Budget <sup>2</sup>	Spending Review <sup>3</sup> (October)
	<p>[<b>Note:</b> on the 30 November the Coalition Government announced <b>two changes to the timetabling</b> of some of the reforms to provide additional transitional time for existing claimants:</p> <p>All changes that will adjust the way Local Housing Allowance rates are calculated will come into force from April 2011 for <b>new claims</b>.</p> <p><b>Existing claimants</b> will continue at their current rate of benefit until their claim is reviewed, they will then have a further period of transitional protection at their current Local Housing Allowance rate of up to nine months if there has not been a relevant change in circumstances<sup>5</sup>.]</p>	
Indexation	<p>From April 2011, the Coalition Government will use the <b>Consumer Price Index (CPI)</b> for the price indexation of benefits and tax credits. The Government states that CPI provides a more appropriate measure of benefit and pension recipient's inflation experiences than the Retail Price Index (RPI).</p>	
Maternity Payments	<p>The Coalition Government announce that from April 2011, eligibility for Sure <b>Start Maternity Grant</b> will be restricted to the first child only and that the <b>Health in Pregnancy Grant</b> will be abolished from January 2011.</p>	

	June Budget <sup>2</sup>	Spending Review <sup>3</sup> (October)
State Pensions, Pension Credit and State Pension Age	<p>The Coalition Government will uprate the basic State Pension by a <b>triple guarantee of earnings</b>, prices or 2.5 per cent, whichever is highest, from April 2011. CPI will be used as the measure of prices in the triple guarantee, as for other benefits and tax credits. However, the Government has stated that to ensure the value of a basic State Pension is at least as generous as under the previous uprating rules, the basic State Pension in April 2011 by at least the equivalent of RPI.</p> <p>The Coalition Government also announce that to ensure the lowest income pensioners benefit from the triple guarantee, the standard minimum income guarantee in Pension Credit will increase in April 2011 by the case rise in a full basic State Pension.</p>	<p>The Coalition Government announce a <b>freeze in the maximum Savings Credit</b> award in <b>Pension Credit</b> for four years, thereby limited the spread of means-testing up the income distribution. The Government believes that this will save £330m a year by 2014-15.</p> <p>The Government also announce <b>acceleration in the pace of State Pension Age equalisation</b>. Women's State Pension Age will reach 65 in November 2018. The State Pension Age will then increase to 66 for both men and women from December 2018 to April 2020. The Government states that it is also considering future increases to State Pension Age to manage the ongoing challenges in response to the UK's changing demographics.</p>
Support for Mortgage Interest	<p>The rate at which <b>Support for Mortgage Interest (SMI)</b> is paid is set at 1.58% above the Bank of England Base Rate. It has been frozen at 6.08% since late 2008. The Government maintain that since interest rates have fallen significantly, SMI will, from October 2010, be paid at the <b>level of the Bank of England's published Average Monthly Rate</b>.</p>	<p>The Coalition Government announce the extension of a further year the temporary change to the Support for Mortgage Interest (SMI) scheme, i.e. reducing the waiting period for new working age claimants to 14 weeks and the increase in the limit on eligible mortgage capital to £200,000. These temporary measures were due to expire by January 2011.</p>

	June Budget <sup>2</sup>	Spending Review <sup>3</sup> (October)
Tax Credits	<p>By April 2011, a <b>reduction in tax credit eligibility</b> for families with household income above <b>£40,000</b>. The Coalition Government announces that further changes to this threshold will be made in 2012-13 to focus tax credits on lower income families. It also announces that it would also increase the rate at which tax credits are withdrawn once household income rises.</p> <p>In his budget speech the Chancellor announces that the Government would<sup>6</sup>:</p> <ul style="list-style-type: none"> <li>• Remove the baby element for new children from April 2011.</li> <li>• Remove the one-off payment to new workers over 50 from April 2012.</li> <li>• Reduce the income disregarded from £25,000 to £10,000 and then £5,000.</li> <li>• Introduce an income disregard for income falls.</li> <li>• Reduce back-dating from three months to one month.</li> <li>• Decline to introduce the pre-election promise of a new tax credit element for infants.</li> </ul> <p>The Coalition Government also announces that Frank Field will lead an independent review on poverty which will make recommendations on tackling the underlying causes of poverty. Field's report entitled '<b>The Foundation Years: preventing poor children becoming poor adults</b>' is subsequently published in December 2010<sup>7</sup>.</p>	<p>By April 2011, a reduction in the percentage of <b>childcare costs</b> that parents can claim through the childcare element of the Working Tax Credit from 80% to its previous 70% level. The Government believes that this will save £385m a year by 2014-15.</p> <p>A change in the <b>eligibility rules</b> so that couples with children <b>must work 24 hours a week</b> between them, with one partner working at least 16 hours per week in order to qualify for WTC. The Government believe that this will save £390m a year by 2014-2015.</p> <p><b>A freeze in the basic and 30 hour element of Working Tax Credit</b> for three years from 2011-2012. The Government believes that this will save £625m a year by 2014-15.</p>
Universal Credit		<p>The Coalition Government announces that over the next two Parliaments the complex system of means tested working age benefits and tax credits will gradually be replaced by <b>Universal Credit</b>. £2 billion has been set aside in DWP's Departmental Expenditure Limit settlement over the next four years to fund the implementation of Universal Credit.</p>



	June Budget <sup>2</sup>	Spending Review <sup>3</sup> (October)
Winter Fuel Payments and Cold Weather Payments	The Coalition Government gives a commitment to protect key benefits for older people including Winter Fuel Payments.	The Coalition Government states that it will make permanent the temporary increases to <b>Cold Weather Payments</b> provided in the past two winters so that eligible households receive £25 for each seven day cold spell recorded or forecast where they live (temperature eligibility criteria applies).

### 3 Welfare Reform and Universal Credit<sup>8</sup>

*“Universal Credit represents a fundamental change for Britain’s welfare system. It will create a leaner but fairer system administered by a single government department delivering support that is integrated and explicitly focused on ensuring that work always pays. It will substantially reduce poverty and, as well as being fairer, the system will also be firmer. The links between benefit payments, earnings and tax will in turn make the system more secure from fraud and error and conditionality will push people to do as much work as is reasonable for them”.*

Source: DWP (2010) ‘Universal Credit – welfare that works’

The White Paper, ‘Universal Credit: welfare that works’ published by the Department for Work and Pensions on 11 November 2010<sup>9</sup>, sets out the Coalition Government’s plans to create a new Universal Credit, an integrated working age benefit which will replace the vast majority of current in-work and out-of-work benefits. The White Paper is influenced by the outcome of the Coalition Government’s ‘21st Century Welfare’<sup>10</sup> consultation (published July 2010) and by other reviews such as the Centre for Social Justice publication ‘Dynamic Benefits: towards welfare that works’<sup>11</sup>. The Government intends to introduce Universal Credit for new claims from October 2013, with a target to complete all existing claims to the new regime by October 2017<sup>12</sup>.

In short, the **key features** of the new Universal Credit regime are as follows:

<sup>2</sup> Table Footnote: HM Treasury. Budget 2010.

<sup>3</sup> Table Footnote: HM Treasury. Spending Review 2010.

<sup>4</sup> Table Footnote: As cited in Department for Work and Pension (2010) Disability Living Allowance reform, p15.

<sup>5</sup> Table Footnote: Written Ministerial Statement on Housing Benefit Reform, 30 November 2010. [www.publications.parliament.uk/pa/cm201011/cmhansrd/cm101130/wmstext/101130m0001.htm#10113032000021](http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm101130/wmstext/101130m0001.htm#10113032000021)

<sup>6</sup> Table Footnote: Chancellor’s June 2010 Budget Speech. [www.hm-treasury.gov.uk/junebudget\\_documents.htm](http://www.hm-treasury.gov.uk/junebudget_documents.htm)

<sup>7</sup> Table Footnote: Field, F. (2010) The Foundation Years: preventing poor children becoming poor adults. The Report of the Independent Review on Poverty and Life Changes. <http://povertyreview.independent.gov.uk/media/20254/poverty-report.pdf>

<sup>8</sup> Unless otherwise stated, information in this section is taken from Department for Work and Pensions (2010) Universal Credit: welfare that works.

<sup>9</sup> Department for Work and Pensions (2010) Universal Credit: welfare that works. [www.dwp.gov.uk/policy/welfare-reform/legislation-and-key-documents/universal-credit/](http://www.dwp.gov.uk/policy/welfare-reform/legislation-and-key-documents/universal-credit/)

<sup>10</sup> Department for Work and Pensions (2010) 21st Century Welfare. [www.dwp.gov.uk/consultations/2010/21st-century-welfare/](http://www.dwp.gov.uk/consultations/2010/21st-century-welfare/)

<sup>11</sup> Centre for Social Justice (2009) Dynamic Benefits: Towards Welfare That Works: A Policy Report by the CSJ Economic Dependency Working Group. [www.centreforsocialjustice.org.uk/default.asp?pageRef=266](http://www.centreforsocialjustice.org.uk/default.asp?pageRef=266)

<sup>12</sup> Department for Work and Pensions (2010) Universal Credit: welfare that works, p37.

- Universal Credit will be an integrated working age credit that will provide a **basic allowance** with **additional elements** added for children, disability, housing and caring.
- It **will replace** Working Tax Credit, Child Tax Credit, Housing Benefit, Income Support, income-based Jobseeker's Allowance and income-related Employment and Support Allowance.
- For those in employment paid through Pay As You Earn (PAYE), Universal Credit will be **calculated and delivered electronically**, with automatically adjusted credit payments.
- For those in employment, Universal Credit will have a **taper rate of 65%**, meaning that as earnings rise Universal Credit will be withdrawn at a rate of 65p for each pound of net earnings. There will also be higher earnings disregards for other selective groups to reinforce work incentives.
- The Government has made a commitment that **no-one will experience a reduction** in the benefit they receive as a result of the introduction of Universal Credit.
- Claims for Universal Credit will be made on the basis of households rather than individuals. In line with the Coalition Government announcement in the Spending Review, from 2013 **a cap will be applied to the amount of benefits** a household can receive. This will be set at around £500 per week for couple and single parent households and around £350 per week for single adult households. The Coalition Government has stated that the purpose of the cap is to ensure that no family can receive more in welfare than median after tax earnings for working households.
- The new Universal Credit regime will be backed by a '**strong system of conditionality**' and a new system of **financial sanctions**.
- Linked to conditionality will be the introduction of **mandatory work activity** which will compel some recipients to take part in a four week full-time work programme.

## Universal Credit Explained

The table below illustrates the current benefits that will be replaced as part of Universal Credit, benefits that will not be included in Universal Credit and benefits that the Government has indicated will be reviewed.

<p>Universal Credit will replace:</p> <ul style="list-style-type: none"> <li>• Income Support</li> <li>• Jobseekers Allowance (income based)</li> <li>• Employment and Support Allowance (income based)</li> <li>• Housing Benefit</li> <li>• Child Tax Credit</li> <li>• Working Tax Credit</li> </ul>	<p>Outside the Scope of Universal Credit:</p> <ul style="list-style-type: none"> <li>• Disability Living Allowance</li> <li>• Child Benefit</li> <li>• Jobseekers Allowance (contribution based)</li> <li>• Employment and Support Allowance (contribution based)</li> <li>• Bereavement Benefits</li> <li>• Statutory Sick Pay</li> <li>• Statutory Maternity Pay</li> <li>• Maternity Allowance</li> <li>• Industrial Injuries Disablement Benefit</li> </ul>	<p>Benefits under review</p> <ul style="list-style-type: none"> <li>• In-work credit for lone parents</li> <li>• Job Grant</li> <li>• The Social Fund (e.g. budgeting loans may become part of Universal Credit).</li> <li>• Carer's Allowance.</li> <li>• Support for parents with childcare costs.</li> <li>• Mortgage Interest Support.</li> </ul>
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Universal Credit will consist of a '**basic personal amount**' with additional amounts added for disability, caring responsibilities, housing costs and children. The personal amount will provide for basic living costs and will be broadly similar to the current structure of personal allowances in Income Support, JSA and the assessment phase of ESA. For example, the Income Support Personal Allowance Rate (2010/11) for a single person under the age of 25 is £51.85 (per week) and £65.45 for those aged 25 and over. A couple with both partners over the age of 25 can claim a personal allowance of £102.75<sup>13</sup>. However, in line with the Coalition Government announcement in the Spending Review, from 2013 a cap will be applied to the amount of benefits a household can receive. This will be set at around £500 per week for couple and single parent households and around £350 per week for single adult households. DLA claimants and War Widows will be exempt from this cap.

The upper age limit for Universal Credit will be the age at which people are eligible for Pension Credit, which is currently linked to State Pension Age for women.

Some other **important information** on Universal Credit:

- The **Department for Work and Pensions** will be the single government Department with responsibility for the delivery of Universal Credit. It remains to be clarified how the existing benefit delivery structures in Northern Ireland will be affected.
- Claims for Universal Credit will normally be **made through the internet** and most subsequent contact between recipients and the delivery agency will be conducted online. Recipients will have an online account, recipients will be able to access information about their claim and Universal Credit payments (similar to online banking services). Alternative access routes will be made available for people who do not have access to online services (e.g. by telephone and face-to-face interaction).
- All elements of Universal Credit will be obtained through **a single application** and changes to circumstances (e.g. such as moving into work or having a child) can be reported online.
- The Government are proposing to **pay Universal Credit monthly** to encourage responsibility and to be consistent with the 'real-time earnings approach'.
- Elements of the Social Fund that can be automated, e.g. budgeting loans, will become part of Universal Credit.

## Universal Credit: Older People, Carers, Children, and People with Disabilities

Under the new Universal Credit regime, the additional personal amount will be supplemented with additional amounts for disability, caring responsibilities, housing costs and children. In terms of **disability**, the Government believes that "the existing structure of overlapping disability premiums is overly complex and causes confusion". The Government is currently considering what extra support for people with disabilities in Universal Credit may be needed over and above benefits available elsewhere in the system.

Universal Credit will replace Housing Benefit and Child Tax Credit and the Government states that it will consider the approach to be taken to support **people of pensionable age** with the cost of rent and dependent children. The Coalition Government is also considering options for Pension Credit,

*"Pension Credit may not be appropriate for all pensioners. Pension Credit is designed for the needs of the majority of low-income pensioners and is not intended to provide in-work support. As pensioners will no longer be able to access help from Working Tax Credit, we are considering an option of allowing those pensioners who choose to extend their working lives*

*to claim Universal Credit, rather than Pension Credit, so that they can take advantage of the tailored in-work arrangements”.*

The Coalition Government has stated that it expects around 350,000 **children** to be moved out of poverty as a result of the new Universal Credit regime. Couples with children will get a higher earnings disregard in relation to the reduction of their benefits when they take-up work. Additions for children will be within Universal Credit will be based on those currently provided through Child Tax Credit and will be additional to Child Benefit. The Government has stated that it will consider the structure of support for children with disabilities as it looks at the structure for adults with disabilities.

The Coalition Government has also indicated that it is currently considering how best to support parents with **childcare costs**, e.g. either through an additional payment or an earnings disregard. As a minimum, the Government has indicated that it would be feasible to pay an additional element for childcare on top of the basic Universal Credit award at similar rates to those being offered. However, it is also considering other options such as providing support for childcare through a separate voucher or discount system or recognising childcare through an additional earnings disregard rather than an additional payment. Help with children for people on Universal Credit will be restricted to those in work.

The Coalition Government believes that *“for too long, the current system of carer benefits has failed to meet the different needs of carers and has trapped some people on benefits”*. It has announced that **carers** will continue to be eligible for National Insurance credits for protect their financial position in retirement. The Coalition Government is considering whether changes to Carer's Allowance will be necessary to take account of the introduction of Universal Credit.

## Universal Credit and Housing

An amount will be added to the basic Universal Credit award to help meet the costs of rent and mortgage interest. For those who rent accommodation, the Coalition Government has stated that this will be “similar to the support currently provided” through **Housing Benefit**. Further information on the changes to Housing Benefit and Local Housing Allowance are explored further in section 5 of this paper. The Government has stated that it will consider whether changes are needed to the current approach to assistance with **Mortgage Interest costs**. In the June 2010 Budget, the Coalition announced that since interest rates had fallen significantly, Support for Mortgage Interest (SMI) would be paid at the level of the Bank of England's published Average Monthly Rate.

## Tapering and Earnings Disregards

Tapering is defined as the rate at which benefit is reduced to take account of earnings. To ensure that people are encouraged to take up jobs (even if they are only for a few hours per week), the Government has announced that it will allow some groups to earn ‘significantly more’ before their benefits start to be withdrawn. For example, there will be a higher disregard for disabled people and couples with children.

Universal Credit will be withdrawn at a rate of 65p per additional pound of net earnings (after tax and National Insurance) for those earning below the personal tax thresholds and 24p for basic rate tax payers.

## Conditionality, Sanctions and Mandatory Work Activity

The Coalition Government states that individuals *“who are able to look for or prepare for work should be required to do so as a condition of receiving benefit, and those who fail to meet*

*their responsibilities should face a financial sanction*". This is the Government's definition of conditionality. Under the new Universal Credit regime there will be four broad conditionality groups:

- **No conditionality:** people with a disability or health condition which prevents them from work; carers, lone parents or lead carers with a child under the age of one.
- **Keeping in touch with the labour market:** lone parent or lead carer in a couple with a child over the age of one but under the age of five.
- **Work preparation:** people with a disability or those with a health condition which means they have limited capability for work at the current time.
- **Full conditionality:** jobseekers.

The Coalition Government also states that it will introduce a '**claimant commitment**' which sets out what is expected of each recipient of benefits. This will apply to every Income Support, Jobseeker's Allowance and Employment and Support Allowance recipient. It will set out:

- The Government's general expectations of recipients;
- The requirements placed upon them; and
- The consequences for the recipient of failing to meet the agreed standards.

Jobcentre Plus advisers in GB will be given much greater discretion in their role and will be able to:

- Require some jobseekers to attend their local office more frequently to demonstrate the steps they are taking to return to work;
- Require some people to broaden their job searches earlier in their claim;
- Compel people on both the work preparation and active job search categories to undertake activity to address a skill need, e.g. training; and
- Where an adviser believes a jobseeker would benefit from *"the habits and routines of working life"* refer recipients to Mandatory Work Activity.

A **Mandatory Work Activity** placement will be for up to four weeks and is *"aimed at helping the recipient develop the labour-market discipline associated with full-time employment such as attending on time and regularly, carrying out specific tasks and working under supervision"*. Failure to attend or complete the placement without good cause will result in a financial sanction e.g. withholding Jobseeker's Allowance for at least six months.

The Coalition Government has stated that it believes *"that some sanctions are set at too low a level and the consequences of failing to comply with requirements are not always clear"*. The Government's proposed future sanctions structure under the existing benefit system is outlined in the table below. It will introduce a new sanctions structure to apply across Jobseeker's Allowance, Employment and Support Allowance and Income Support. It will be for the Northern Ireland Executive to determine if or how a new sanction regime will apply in Northern Ireland.

**Table 2: Proposed future sanctions structure under the existing benefits system<sup>14</sup>**

In all circumstances sanctions will not apply where there is good cause.

Conditionality	Failure	Financial Sanction		
Low  Jobseeker's Allowance and Employment and Support Allowance Work-Related Activity Group	Includes Failure to: <ul style="list-style-type: none"><li>• Attend an appointment.</li><li>• Carry out a jobseekers direction.</li><li>• Attend employment-related programme.</li><li>• Attend a Work Focused Interview (ESA).</li><li>• Carry out work related activity (ESA).</li></ul>	100% JSA and ESA open ended until re-engagement then fixed minimum period (1, 2 then 4 weeks)  Advisers will retain the ability not to impose a sanction for first and subsequent failures where good cause applies.		
Medium  Jobseeker's Allowance only	Failure to <sup>15</sup> : <ul style="list-style-type: none"><li>• Actively seek work.</li><li>• Be available for work.</li></ul>	1st failure:  100% Jobseeker's Allowance fixed for 4 weeks.	2nd failure:  100% Jobseeker's Allowance fixed for 3 months.	
High  Jobseeker's Allowance only	Failure to: <ul style="list-style-type: none"><li>• Apply for a job.</li><li>• Accept job offer.</li><li>• Take part in Mandatory Work Activity.</li></ul>	1st failure:  100% Jobseeker's Allowance fixed for 3 months.	2nd failure:  100% Jobseeker's Allowance fixed for 6 months.	3rd failure:  100% Jobseeker's Allowance fixed for 3 years.
Income Support and Employment and Support Allowance lone parents with a child aged over one but below the age of five.	Failure to attend Work Focused Interview	1st failure:  20% (of the over 18-lone parent personal allowance) open-ended until re-engagement.	2nd failure and subsequent failures:  Additional 20% (capped at 40% total for any subsequent failures) until re-engagement.	

Hardship payments will be available to benefit recipients in need who receive a sanction. However, the Coalition Government has stated that it is considering replacing the current system of hardship payments with loans "to the extent that it is possible." It is also seeking ways to ensure that "...those who persistently fail to meet the requirements imposed upon them cannot rely on these alternative sources of support for the entire duration of their sanction".

<sup>14</sup> Information in table extracted from Department for Work and Pensions (2010) Universal Credit: Welfare that Works, Figure 8, p30.

<sup>15</sup> Will remain a condition under Jobseeker's Allowance. Sanctions will follow new claim (subject to expiry period) and any loss of benefit at the point of disentanglement will count towards the fixed sanction period.



## Universal Credit and Northern Ireland

One of the most notable concerns is the impact of Universal Credit on the benefits and tax credit administration structures in Northern Ireland. Currently, the majority of benefits in Northern Ireland are administered centrally by the Social Security Agency which employs around 5,600 staff. The SSA's main 4 main operation business areas are:

- **Pensions, Disability and Carers Service:** administers State Pension, State Pension Credit, Disability Living Allowance, Attendance Allowance and Carers Allowance.
- **Working Age (Central):** administers Incapacity Benefit, Employment and Support Allowance and provides medical support service administration.
- **Working Age (Network):** administers Income Support, Jobseekers Allowance, allocation of National Insurance numbers, Social Fund and the Belfast Benefit Delivery Centre; and
- **Benefits Assurance:** delivers the monitoring and reporting of Financial Accuracy, level of fraud and error and decision making standards, error reduction activity, counter fraud activity, benefit uptake activity and Operations Support.

The Agency currently maintains a benefit caseload of approximately 580,000 for individuals living in Northern Ireland with 850,000 benefit accounts. It also provides a benefits processing service for DWP covering approximately 188,000 customers in London<sup>16</sup>. The Coalition Government proposes that overall administration of Universal Credit will be managed by one Department – the Department for Work and Pensions. The consultation paper 'Universal Credit: welfare that works' does not contain any further details on how this will impact on the administrative structures and delivery of tax credits and benefits in Northern Ireland.

Universal Credit may also have important implications for other programmes such as 'Customer First' (previously the Strategy Business Review). The Minister for Social Development has indicated that he has not yet made any decision on the roll out of Customer First across the SSA's local office network but has stated that:

*"While it is too early to be definitive about the implications of the proposed introduction in 2013 of Universal Credit, consideration will be given to this in due course. It is clear that the proposed changes have the potential to impact on all the benefits currently delivered through the local office network and it is important that the Agency be positioned to respond flexibly to these challenges in the future"*<sup>17</sup>

## 4 Disability Living Allowance Reform<sup>18</sup>

*"This is our opportunity to improve the support for disabled people and better enable them to lead full, active and independent lives. Personal Independence Payment will maintain the key principles of DLA, providing cash support to help overcome the barriers which prevent disabled people from participating in everyday life, but it will be delivered in a fairer, more consistent and sustainable manner. It is only right that support should be targeted at those disabled people who face the greatest challenge to leading independent lives."*

Maria Miller MP, Parliamentary Under Secretary of State for Disabled People<sup>19</sup>

<sup>16</sup> Social Security Agency (2010) Social Security Agency Annual Report and Accounts 2009-2010, p16. [www.dsdni.gov.uk/ssa-annual-report-2009-10.pdf](http://www.dsdni.gov.uk/ssa-annual-report-2009-10.pdf)

<sup>17</sup> Assembly Question for Written Answer, 3011/11. Mr Brady to the Minister for Social Development. Tabled 13 December 2010.

<sup>18</sup> Unless otherwise stated, the information in this section has been taken from the DWP consultation paper on 'Disability Living Allowance reform'.

<sup>19</sup> Department for Work and Pensions (2010) Public Consultation – Disability Living Allowance Reform. [www.dwp.gov.uk/consultations/2010/dla-reform.shtml](http://www.dwp.gov.uk/consultations/2010/dla-reform.shtml)

The Coalition Government announced in the June 2010 Budget that it would reform Disability Living Allowance (DLA) and subsequently published the public consultation paper 'Disability Living Allowance reform' in December 2010<sup>20</sup>. The Government proposes to replace DLA with a new benefit – **Personal Independence Payment** which will be introduced in 2013/14 for new claimants. In 2013, the Government will also begin a 'managed programme' to re-assess existing claimants of DLA, starting with those of working age, using the new eligibility criteria and assessment process.

In short, the proposed changes to DLA include<sup>21</sup>:

- Renaming the benefit;
- Simplification of the system with a reduced number of rates;
- The introduction of an assessment process;
- An extension to the qualifying criteria i.e. the new benefit will only be available to those with a long-term health condition expected to last a minimum of 12 months, as opposed to the current six months; and
- A periodic review of for those awarded the benefit.

## The new benefit – Personal Independence Payment

The new Personal Independence Payment will be a non means-tested, non-taxable benefit and payment will not be dependent upon having paid National Insurance contributions. It will be available to those in work as well as those who are out of work. Initially, the new Personal Independence Payment will be for **working age claimants** (16 to 64 years old), the Government has, however, stated that it is considering if it is appropriate to apply the new eligibility and assessment criteria to **children**. It is also considering whether the upper age limit to new claims for Personal Independence Payment should rise in line with **State Pension Age**, once it has been equalised for men and women in 2018. The Government has stated that special provisions to fast-track the benefit for people who are terminally ill will be continued.

## The new structure – reduced number of rates

The new benefit will be structured differently from DLA. Currently DLA is divided into two parts, i.e. the 'Care Component' (with a higher, middle and lower rate payable) and the 'Mobility Component' (with a higher and lower rate payable). The Coalition Government believes that the current structure is too complex and difficult to administer. It also believes that 'care' and 'mobility' may not necessarily be the best proxies for the costs associated with disability and long term illness. For example, it believes 'mobility' as currently defined concentrates on an individual's ability to walk and not on their ability to get around more generally (e.g. through the use of aids and adaptations).

**Table 3: Disability Living Allowance Rates**

Care Component	Weekly Rates
Highest Rate	£71.40
Middle Rate	£47.80
Lowest Rate	£18.95

20 Department for Work and Pensions (2010) Public Consultation – Disability Living Allowance reform.

21 Department for Social Development News Release. 'Proposals to reform Disability Living Allowance announced today'. 6 December 2010

Mobility Component	Weekly Rates
Higher Rate	£49.85
Lower Rate	£18.95

(Source: NI Direct<sup>22</sup>)

The Government states that it aims to simplify this structure, it proposes that Personal Independence Payment will have **two components**, with each component having two rates payable:

- The **‘mobility component’** – which will be awarded on the basis of the individual’s ability to get around; and
- The **‘daily living component’** – which will be awarded on the basis of the individual’s ability to participate in daily life.

## Changes to qualifying criteria

A core component of the Government’s proposals for Personal Independence Payment is that the eligibility criteria will be much more restrictive than it is currently for Disability Living Allowance. The DWP consultation paper on the reforms states that it “...*will only be available to people with a long-term health condition or impairment*”. The Coalition Government proposes that to qualify for Personal Independence Payment an individual must meet the eligibility criteria for a period of six months (the ‘Qualifying Period’) and be expected to continue to satisfy entitlement conditions for at least a further six months (the ‘Prospective Test’). In other words, to qualify for the new benefit an individual’s health condition or impairment must be expected to last for at least a minimum of a year. Under the new proposals people with a terminal illness will be exempt from these conditions and the application of these rules for people with fluctuating conditions is under review.

Another important issue with respect to eligibility is the intention to move away from a system that awards **automatic entitlement** to certain rates of benefit for certain conditions. For example, currently a person born without both legs or has had both legs amputated is entitled to receive the higher rate mobility component DLA. Similarly, certain people with severe visual impairments will become entitled to the higher rate mobility component of DLA from 11 April 2010<sup>23</sup>. Instead it is proposed that each application will be assessed on an individual basis, the consultation paper states that this “*will deliver a more personalised service that ensures resources are targeted where they are most needed.*”

In addition to this, the Coalition Government announced as part of the Spending Review in October, that from 2012 the mobility component of DLA will cease to be paid if an individual in receipt of DLA has been in hospital or care home from 28 days (84 for children in hospital)<sup>24</sup>.

## The new assessment process

The Coalition Government announced in the June 2010 budget that the reform of Disability Living Allowance would include a new ‘objective’ assessment process. Work to develop the new assessment is not yet complete, however, the consultation paper states that the Coalition Government wants:

22 NI Direct - [www.nidirect.gov.uk/index/information-and-services/people-with-disabilities/financial-support-for-people-with-disabilities/disability-living-allowance/disability-living-allowance-rates-and-how-to-claim.htm](http://www.nidirect.gov.uk/index/information-and-services/people-with-disabilities/financial-support-for-people-with-disabilities/disability-living-allowance/disability-living-allowance-rates-and-how-to-claim.htm)

23 Department for Social Development News Release. ‘Severely visual impaired people – entitlement to DLA higher rate mobility component’.

24 This will not apply where the individual is paying for their own care.

*“...the new assessment to provide a broader, more objective measurement of the impact of an individual's health condition or impairment on everyday activities than those currently captured on the DLA form. Our initial proposal is that the assessment should consider activities related to an individual's ability to get around, interact with others, manage personal care and treatment needs, and access food and drink”<sup>25</sup>*

The extent to which an individual can carry out certain activities will determine their eligibility for Personal Independent Payment and the level of award. The assessment process will have much greater focus on the use of aids and adaptations (e.g. wheelchairs) and the successful use of these in increasing access to participation in everyday life.

Evidence to be used as part of the new assessment process will be gathered from a variety of sources, e.g. self-reporting, medical evidence from GPs, social workers and other healthcare professionals. The Coalition Government believes that advice from an **‘independent health care professional’** such as a doctor or occupational therapist approved by DWP, will be an important part of the assessment process. This will involve a ‘face to face’ meeting with that professional and an ‘in-depth analysis’ of the individual's circumstances.

## The new review process

The consultation emphasises the central role that **reviewing** awards will play in ensuring that Personal Independence Payment is targeted at those with long term disabilities and/or health condition. It states that within DLA there is no systematic process for checking the ongoing accuracy of awards and that under the new system individuals receiving the new benefit will be subject to periodic review. The review will be based on the new assessment process and the frequency and format of reviews will “vary depending on the individual's needs, the likelihood of their health condition or impairment changing and, potentially, the successful use of aids and adaptations”. The reviews may involve face to face or telephone discussions.

In line with the Coalition Government's **new strategy on fraud and error**<sup>26</sup> (published October 2010), individuals who do not report changes in their circumstances between reviews (e.g. knowingly withholding information which would have resulted in reduced benefit) will have to repay the amount claimed and could be subject to a penalty and/or prosecution.

## Linking with other services

The Government's vision for the new Personal Payment Allowance regime is to link it to access with other forms of support in the health and social care system, e.g. providing guidance to individuals on the options open to them; signposting to support available elsewhere; ensuring that individuals can discuss their situation with an appropriate professional who could offer advice or specialist support. The Government is currently scoping the potential for creating linkages and is exploring making elements of this part of the requirements of the benefit where appropriate.

## Why does the Coalition Government feel reform is necessary?

The consultation paper outlines four main reasons why the Government feels that reform of DLA is necessary, i.e.:

- **“Caseload and expenditure is increasing at a rate never envisaged”**: the Government highlights that the number of DLA claimants has increased by 30% in the last 8 years. Currently 3 million people are claiming the benefit across the UK and of these, 1.8m are

25 Department for Work and Pensions (2010) Public consultation - Disability Living Allowance reform, p16.

26 Department for Work and Pensions (2010) Tackling fraud and error in the benefit and tax credits system. [www.dwp.gov.uk/docs/tackling-fraud-and-error.pdf](http://www.dwp.gov.uk/docs/tackling-fraud-and-error.pdf)

of working age. The Government argues that the complexity and subjectivity of the benefit has lead to a wider application than was the original intention of the benefit.

- **“The current system is too complex and the benefit is not understood”**: the Government argues that the system is too complicated, complex to administer and that the claim form is particularly difficult to understand.
- **“There is no system to check awards remain correct”**: The Government believe that currently there is no straightforward way of reviewing entitlement to DLA on a regular basis to ensure that recipients are receiving the right level of benefit. The Government states that it wants to ensure that the new system can easily identify whether an individual’s condition has deteriorated or improved.
- **“The benefit can act as a barrier to work”**: The Government argues that evidence suggests that DLA can act as a barrier to work and that people who claim DLA have lower work expectations. The Government argues that the new Universal Credit regime will ensure that even small amounts of work will be more financially rewarding than inactivity.

## Disability Living Allowance and Northern Ireland

As of 31 May 2010, there were 183,710 individuals in receipt of Disability Living Allowance in Northern Ireland. Of these, 87,410 were male and 96,300 were female and 13,815 claimants were children under the age of 16 years old. A total of 169,895 claimants were aged 16 to 80+.

As evident from Table 5, Northern Ireland has the highest prevalence of DLA claimants per head of population in the UK (102.7 per 1,000 population in Northern Ireland compared to England with 49.6; Wales with 80.7 and Scotland with 65.9). This equates to one in 10 of the people in Northern Ireland claiming the benefit. West and North Belfast have the highest rates of claimants in Northern Ireland (Table 6). As Table 7 highlights, a significant proportion of DLA awards in Northern Ireland are due to ‘mental health causes’ (for 41,694 claimants this is classified as the main disabling condition), this is followed by arthritis (33,778 claimants), muscle/joint and bone disease (14,515 claimants), back ailments (13,675), and learning difficulties (12,703).

The Minister for Social Development has expressed concern over the impact of the proposed reforms on Northern Ireland,

*“I am concerned about the scale, pace and intention of these proposed changes, give the high number of people who are in receipt of DLA here. The Coalition Government has to acknowledge the different circumstances in Northern Ireland. I will work to have our conditions fully recognised.*

*We have the highest levels of DLA claimants in Britain by far. We don’t have to look too far into Northern Ireland’s past to discover why that is.”<sup>27</sup>*

The Department for Social Development estimate that the proposed changes to DLA will result in a 20% reduction in working age claimants once the proposals have been fully rolled-out (there are currently around 103,500 working age claimants in Northern Ireland)<sup>28</sup>.

27 Department for Social Development News Release. ‘Proposals to reform Disability Living Allowance announced today’. 6 December 2010.

28 Department for Social Development News Release. ‘Proposals to reform Disability Living Allowance announced today’. 6 December 2010.

**Table 4: Current number of DLA claimants at 31 May 2010<sup>29</sup>**

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
All components	139,812	145,741	151,025	160,966	166,115	170,628	172,967	174,698	178,569	183,710
Higher Rate (care only)	2,136	2,017	2,073	2,144	2,210	2,337	2,358	2,267	2,318	2,415
Middle Rate (care only)	7,411	7,391	8,037	9,145	9,846	10,414	10,451	10,270	10,162	10,434
Lower rate (care only)	10,218	10,122	10,346	11,021	11,537	11,973	11,822	11,464	11,466	11,656
Higher Rate (mobility only)	12,209	12,442	12,741	12,432	11,697	11,660	11,410	11,016	10,564	10,323
Lower Rate (mobility only)	3,478	4,116	4,241	4,135	3,818	4,005	4,201	4,204	4,222	4,195
Higher Rate Care and Higher Rate mobility	23,444	24,499	25,281	26,434	27,396	28,114	29,195	30,150	30,784	31,080
Higher Rate Care and Lower Rate Mobility	11,110	11,573	11,908	12,550	12,683	13,621	14,267	14,319	14,663	15,192
Middle Rate Care and Higher Rate Mobility	28,540	30,020	31,369	33,753	34,764	35,476	35,758	36,434	37,372	38,443
Middle Rate Care and Lower Rate Mobility	21,558	23,858	25,077	28,967	32,131	33,288	33,994	35,278	37,564	40,303
Lower Rate Care and Higher Rate Mobility	16,038	16,108	16,665	16,988	16,613	16,185	15,809	15,493	15,457	15,450
Lower Rate Care and Lower Rate Mobility	3,670	3,595	3,287	3,397	3,420	3,555	3,702	3,803	3,997	4,219

(Source: Department for Social Development, Disability Living Allowance, Summary of Statistics. 31 May 2010)

<sup>29</sup> Cases where payment of benefit has been suspended are excluded.



**Table 5: DLA current at 31 May 2010 by region<sup>30</sup>**

<b>Country/Government Office Region</b>	<b>Allowances ('000s)</b>	<b>Allowances per 1,000 population</b>
<b>Great Britain</b>	<b>3,157.3</b>	<b>52.6</b>
Unallocated	3.4	
<b>England</b>	<b>2,569.8</b>	<b>49.6</b>
North East	176.2	68.2
North West	473.5	68.6
Yorkshire and Humber	295.2	56.1
East Midlands	230.9	51.9
West Midlands	303.2	55.8
East	226.9	39.3
London	315.7	40.7
South East	311.8	37.0
South West	236.4	45.2
<b>Wales</b>	<b>242.0</b>	<b>80.7</b>
<b>Scotland</b>	<b>342.4</b>	<b>65.9</b>
<b>Northern Ireland</b>	<b>183.7</b>	<b>102.7</b>

(Source: Department for Social Development, Disability Living Allowance, Summary of Statistics. 31 May 2010)

**Table 6: Number of DLA recipients by NI Parliamentary Constituency (at September 2010)**

<b>Parliamentary Constituency</b>	<b>Recipients</b>	<b>NISRA mid -year population estimate 2008<sup>31</sup></b>
Belfast East	8,785	79,173
Belfast North	14,665	83,493
Belfast South	8,262	91,500
Belfast West	17,385	84,243
East Antrim	7,201	87,239
East Londonderry	8,198	91,123
Fermanagh & South Tyrone	9,171	101,421
Foyle	13,629	109,097
Lagan Valley	7,689	110,054
Mid Ulster	10,062	95,719
Newry and Armagh	11,988	110,033
North Antrim	8,306	109,720

30

GB Figures taken from a 5% sample at 31 May 2010.

Parliamentary Constituency	Recipients	NISRA mid -year population estimate 2008 <sup>31</sup>
North Down	6,154	89,123
South Antrim	7,843	107,398
South Down	10,866	116,172
Strangford	7,267	102,629
Upper Bann	12,722	115,137
West Tyrone	12,655	91,729
Unallocated recipients <sup>32</sup>	1,455	-

(Source: Assembly Question for Written Answer, AQW 580/11, Mr Jimmy Spratt to the Minister for Social Development, Tabled 22 September 2010)

**Table 7: Allowances current by main disabling condition at 31 May 2010<sup>33</sup>**

Condition	All Awards
<b>All Conditions</b>	<b>183,710</b>
Terminally Ill	1,603
Arthritis	33,778
Back ailments	13,675
Muscles/joint/bone disease	14,515
Trauma to limbs	1,463
Blindness	2,451
Deafness	2,404
Heart disease	10,669
Chest disease	4,536
Asthma	3,076
Stroke-related	3,817
Peripheral vascular disease	972
Epilepsy	5,154
Neurological disorder	4,219
Multiple sclerosis	2,286
Chronic fatigue	2,761
Diabetes	3,344
Learning Difficulties	12,703

31 NISRA Mid Year Population Estimates 2008. [www.nisra.gov.uk/demography/default.asp41.htm](http://www.nisra.gov.uk/demography/default.asp41.htm)

32 Recipients are allocated to a constituency by postcode. In some cases this is not possible, e.g. a postcode may be missing or incomplete or

33 Where more than one disability is present only the main disabling condition is recorded. For a small number of cases the main disabling condition is recorded inaccurately.

Condition	All Awards
Other mental health causes	41,694
Alcohol abuse	3,613
Hyper kinetic syndrome	1,639
Malignant disease	3,195
Conversion <sup>34</sup>	3,151

(Source: Department for Social Development, Disability Living Allowance, Summary of Statistics. 31 May 2010)<sup>34</sup>

A number of concerns have been expressed by Disability and Welfare organisations about the future of Disability Living Allowance. Disability Action, for example, have suggested that the “obvious consequence of moving to a medical assessment for DLA claimants is that many people will have the benefit removed”. Disability Action also emphasises that the high number of DLA claimants in Northern Ireland is a reflection of a number of factors including large numbers of people disabled as a result of the Troubles, an aging population, people living longer through better medical treatment and better outcomes for babies born prematurely<sup>35</sup>. Of particular concern to Disability Action is,

*“the proposed extension to the qualifying criteria - the new benefit will now only be available to those with a long-term health condition, expected to last a minimum of 12 months, as opposed to the current six months. This will mean that people with conditions that fluctuate over time, for example arthritis or mental health conditions, could be excluded from receiving a benefit that helps them pay the extra costs associated with their condition.”<sup>36</sup>*

Other organisations, such as Mencap have urged the Coalition Government to rethink its proposals for DLA. It has difficulty in particular with the plan to cut the mobility care component of DLA for those in residential care and the impact this will have on people with profound and multiple learning disabilities:

*“People with profound and multiple learning disabilities who do not live in the family home are most likely to be living in residential care homes. This money helps them get the personal support they need to get out and take part in activities. Removing this benefit will result in people with a learning disability being stuck in their residential care homes, stripped of the control they have over their lives.”<sup>37</sup>*

RNIB have also questioned the proposed assessment process for the new Personal Independence Payment and whether assessors will have the specialist knowledge required to understand the daily needs of people who are blind or partially sighted:

*“RNIB has serious concerns about the effectiveness of the proposed assessment for a Personal Independence Payment, which undermines the Government’s commendable ambition to make the process easier for claimants to understand. The proposal would have blind and partially sighted people meeting with assessors who lack specialist knowledge, to answer questions that cannot provide an accurate picture of their daily needs. It is*

<sup>34</sup> Disabling conditions that were not recorded for existing cases when they were transferred to the computer system.

<sup>35</sup> Disability Action (2010) Position Paper: Budget 2010 – Protecting the Most Vulnerable? [www.disabilityaction.org/fs/doc/publications/disability-action-budget-2010-position-paper.pdf](http://www.disabilityaction.org/fs/doc/publications/disability-action-budget-2010-position-paper.pdf)

<sup>36</sup> Disability Action News Release. ‘Disability Action’s concern over proposal to reform Disability Living Allowance’. 6 December 2010.

<sup>37</sup> NO FOOTNOTE SUPPLIED

*particularly distressing when in many cases objective medical evidence could clearly demonstrate these needs.”<sup>38</sup>*

## 5 Housing Benefit Reform

*“The Housing Benefit measures should be considered within the wider context of the budget deficit and the reduction in public expenditure that the Government is making to tackle it. Expenditure on Housing Benefit in cash terms has increased significantly from £11 billion in 1999/2000 to £20 billion in 2009/10. Without reform, it is forecast to reach £24 billion by 2015/16. It is essential that the overall cost of Housing Benefit is controlled and therefore the Government is taking these steps in 2011 towards maintaining a more sustainable Housing Benefit system in future .....The amendments to Housing Benefit will create a fairer system of support by taking steps to ensure that people on benefit are not living in accommodation that would be out of reach of most people in work.....”*

- Statement by the Secretary of State for Work and Pensions in accordance with section 174(2) of the Social Security Administration Act 1992

The Coalition Government announced a number of substantial reforms to the Housing Benefit system in its June 2010 Budget. This included:

- From April 2011, the removal of the five bedroom Local Housing Allowance rate so that the maximum level which can be claimed is for a four bedroom property.
- From April 2011, the introduction of caps so that Local Housing Allowance weekly rates cannot exceed £250 for a one bedroom property; £290 for a two bedroom property; £340 for a three bedroom property and £400 for a four bedroom property.
- From April 2011, the removal of the provision for claimants to retain a maximum of up to £15 per week in cases where their contractual rent is below the Local Housing Allowance rate.
- From April 2011, the inclusion of an additional bedroom within the size criteria used to assess Housing Benefit claims in the private rented sector where a person with disabilities, or long-term health condition, has a proven need for overnight care and this is provided by a non-resident carer.
- From October 2011, setting Local Housing Allowance rates at the 30th percentile of rents in each Broad Rental Market Area rather than the median.
- The Government contribution to Discretionary Housing Payments is to be increased by £10m in 2011-12 and £40m in each year from 2012-13.
- From April 2013, Local Housing Allowance Rates will be uprated based on the Consumer Price Index rather than on the basis of local rents.
- From April 2013, Housing Benefit will be reduced for the long term unemployed receiving income-based Jobseeker's Allowance to 90% of the initial award (after 12 months of claiming JSA).

38 RNIB. Reforming Disability Living Allowance. [www.rnib.org.uk/getinvolved/campaign/yourmoney/Pages/DLA\\_reform.aspx](http://www.rnib.org.uk/getinvolved/campaign/yourmoney/Pages/DLA_reform.aspx)

39 Cited in Social Security Advisory Committee (2010) Report by the Social Security Advisory Committee under Section 174(1) of the Social Security Administration Act 1992 and the Statement by the Secretary of State for Work and Pensions in accordance with Section 174(2) of that Act. [www.official-documents.gov.uk/document/other/9780108509551/9780108509551.pdf](http://www.official-documents.gov.uk/document/other/9780108509551/9780108509551.pdf)

The Coalition Government also announced in the Spending Review that from April 2012, there will be an increase in the age threshold for the shared room rate and this would apply to customers up to the age of 35 (currently the age threshold is up to the age of 25).

On the 30 November the Coalition Government announced **two changes to the timetabling** of some of the reforms to provide additional transitional time for existing claimants:

- All changes that will adjust the way Local Housing Allowance rates are calculated will come into force from April 2011 for **new claims**.
- **Existing claimants** will continue at their current rate of benefit until their claim is reviewed, they will then have a further period of transitional protection at their current Local Housing Allowance rate of up to nine months if there has not been a relevant change in circumstances<sup>40</sup>.

Whilst considering this section it important to note the timetabling and the extent to which and how Housing Benefit reforms will be implemented in Northern Ireland has yet to be announced. During 2009/10 the Northern Ireland Housing Executive paid a total of £518.02m in Housing Benefit. The number of people receiving Housing Benefit increased by 9% during the year to a total of 150,526 (68,110 in Housing Executive tenancies, 21,133 in housing association tenancies and 61,283 in the private rented sector)<sup>41</sup>.

As highlighted at the beginning of this section, the reform of Housing Benefit is one of a number of measures announced by the Coalition Government aimed at addressing the budget deficit. The Coalition Government believe that the reforms will make the system 'fairer' by ensuring that housing choices and accommodation for those on benefits do not exceed those of people in employment. In a recent speech at the Institute for Public Policy Research (ippr) the Secretary of State for Work and Pensions, Iain Duncan Smith, stated that "...taxpayers are increasingly seeing people on benefits living in houses they couldn't hope to afford themselves"<sup>42</sup>.

However, there has been concern expressed with regards to this point, for example, the Social Security Advisory Committee states that,<sup>43</sup>

*"In presenting the case for change the Department has made much of the need for the HB system to ensure that housing choices are both prudent and geared to what people in work would expect to pay. However, we find an inherent contradiction in the latter aspiration because it takes no account of the fact that HB is an in-work benefit (and that it has always functioned so as to enable people in work to afford to pay reasonable housing costs calculated by reference to local market rents) and that not all HB recipients are in the labour market (people over state pension age, people who are in the ESA support group, and lone parents of younger children, for example). It also makes no reference to the fact that significant numbers of claimants move between claiming while in work and claiming while out of work.*

*We have also seen no evidence to suggest that the vast majority of housing choices made by HB recipients have been either reckless or extravagant."*

40 Written Ministerial Statement on Housing Benefit Reform, 30 November 2010. [www.publications.parliament.uk/pa/cm201011/cmhansrd/cm101130/wmstext/101130m0001.htm#10113032000021](http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm101130/wmstext/101130m0001.htm#10113032000021)

41 Information extracted from the Northern Ireland Housing Executive website, [www.nihe.gov.uk/index/about-us-home/media\\_centre/key\\_issues/housing\\_benefit.htm](http://www.nihe.gov.uk/index/about-us-home/media_centre/key_issues/housing_benefit.htm)

42 Secretary of State, Iain Duncan Smith, ippr speech, 7 December 2010. [www.ippr.org.uk/uploadedFiles/events/events-transcript-duncansmith-101207.pdf](http://www.ippr.org.uk/uploadedFiles/events/events-transcript-duncansmith-101207.pdf)

43 Social Security Advisory Committee Report (2010) on the Housing Benefit (Amendment) Regulations 2010 and the Rent Officers (Housing Benefit Functions) Amendment Order 2010, pp. 9-13

In November 2010, the Social Security Advisory Committee<sup>44</sup> published a report on its response consultation on the Housing Benefit (Amendment) Regulations 2010 (these regulations apply to GB and will give effect to many of the Housing Benefit measures included in the Coalition Government's 2010 Budget)<sup>45</sup>. Crucially, the SSAC recommends "that the Government should not go ahead with the package of amendments as proposed" and that "the Committee raised a number of concerns about the scale and impact of the changes, and the serious effect that this would have on customers claiming Housing Benefit who are living in the private rented sector, particularly those claiming according to Local Housing Allowance rules"<sup>46</sup>. For ease of reference the Social Security Advisory Committee recommendations on the regulations and the Coalition Government's response to those recommendations is set out in the table below.

**Table 8: Social Security Advisory Committee Recommendations on Housing Benefit reform**

<b>Social Security Advisory Committee Recommendations</b>	<b>Coalition Government's Response</b>
Extending the modification of the property size criteria (which is to be applied to claimants requiring an additional bedroom for a non-resident carer) to households accommodating children subject to shared residence arrangements.	The Government believes that this would introduce an element of double provision into the system where such children could potentially be taken into account in two separate benefit assessments. The Government has no plans to extend the size criteria to any other categories of cases.
Reluctantly recommends that the £15 excess payment is removed.	The Government welcomes the Committee's agreement that this measure should go ahead.
The introduction of the Housing Benefit caps should be deferred until October 2011 (rather than April 2011 as the Government initially proposed).	Deferring this measure for new customers would mean very high Local Housing Allowance rates would be available for much longer. The maximum weekly rates for all new claims will be £400 per week from April 2011. The Government will set LHA rates at the 30th percentile from April 2011 instead of October 2011 as originally planned. However, to give existing customers sufficient time to adjust to their new rate, the Government will provide transitional protection at their existing LHA rate for a period of up to nine months (following the date in which their claim is reviewed).
The restriction of Local Housing Allowance to the four bedroom rate should not proceed until a full race equality impact assessment has been carried out.	The Government states that it has already carried out a full Equality Impact Assessment and that research shows that the cumulative impacts of these measures do not appear to disadvantage one group more disproportionately than another. DWP is considering the scope for commissioning primary research into the impact of the changes on particular groups such as large families and ethnic minority groups.

<sup>44</sup> The SSAC is the UK's statutory advisory body for all social security matters except those relating to industrial injuries, war pensions, occupational pensions, and National Insurance contributions. Most proposals for social security regulations must be submitted to the SSAC before they are made.

<sup>45</sup> Social Security Advisory Committee (2010) Report by the Social Security Advisory Committee on the Housing Benefit (Amendment) Regulations and the Rent Officers (Housing Benefit Functions) Amendment Order 2010. [www.official-documents.gov.uk/document/other/9780108509551/9780108509551.pdf](http://www.official-documents.gov.uk/document/other/9780108509551/9780108509551.pdf)

<sup>46</sup> Ibid, p.4.



<b>Social Security Advisory Committee Recommendations</b>	<b>Coalition Government's Response</b>
Three months transitional protection should be made available to better enable the families who currently occupy larger properties to secure larger accommodation.	Families occupying larger properties will, along with existing customers, have a period of up to nine months transitional protection from the date in which their Housing Benefit claim is reviewed.
That the Department urgently re-examines the potential for restructuring the national caps in order to more accurately and realistically reflect the position of London and other high cost areas.	The Government does not accept that Local Housing Allowance Rates should be re-considered. The weekly caps affect very few local authority areas, and all but three Broad Rental Market Areas have at least 30% of properties that are affordable within the new Local Housing rates.
The Government should consider the scope for exempting particularly vulnerable tenants, such as people with disabilities who are receiving care and/or support services, from the caps.	The Government accepts that some benefit recipients are likely to need more support than others. Additional provision has been made through changes to the sizing criteria for some disabled customers as well as additional funding to help those people who will be affected. The Government believes this is the most appropriate way to deal with the most difficult cases. It would be extremely difficult to legislate for every circumstance and to define what is meant by a 'vulnerable' tenant.
The one bedroom shared accommodation rate should continue to be based on median rents.	The Government does not accept this recommendation, this arrangement reflects the housing expectations of people of a similar age not on benefits. As part of the Spending Review, the Government has announced an increase in the age threshold for the shared room rate which from April 2012, will apply to customers up to the age of 35.
That DWP reviews the Broad Rental Market Areas, so as to ensure that 30% of private rented sector properties are available to Housing Benefit claimants in each local authority area.	Broad Rental Market Areas boundaries will remain broadly as they are in the short term, but the Department will reconsider these areas as part of the longer term Housing Benefit measures and specifically in relation to the move to set Local Housing Allowance rates according to the Consumer Price Index (CPI). One option the Government is keen to explore is whether areas could be co-aligned with local authority boundaries.
That DWP reviews the allocation of Discretionary Housing Payments to better reflect the scope and projected impacts across local authorities.	The Government fully accepts that the allocation of Discretionary Housing Payments should be reviewed in the light of these changes. The Department is already working with local authority associations to consider how best to allocate the funding for next year, including the additional funds that was agreed within the Budget.
That the Government considers the scope for bringing forward more of the increase in the Discretionary Housing Payment to year one of the changes.	The Government accepts that supporting customers during the transitional period as changes come into force in 2011 is critical. It also accepts the principle put forward by the SSAC that more support is required during year one of the changes. However, given the adjustments the Government has made to the implementation timescale there is no longer a pressing need to bring forward Discretionary Housing Payment funding.

<b>Social Security Advisory Committee Recommendations</b>	<b>Coalition Government's Response</b>
That DWP explores measures to encourage landlords to stay in/ enter the Local Housing Allowance market, including wider availability of direct payment within the current benefits system and with the proposed Universal Credit.	The Department will work closely with the Department for Communities and Local Government and the devolved administrations to encourage landlords to continue to rent to Housing Benefit tenants. DWP is considering direct payments in the context of the Local Housing Allowance two year review. It is also considering extending the safeguard provision to allow local authorities to consider making direct payments to landlords if it is their view it would secure or retain a tenancy.
That DWP ensures that definitions of 'intentionally homeless' and associated guidance is revised to ensure that the position of households who fall into arrears because of changes to the Housing Benefit entitlement are not excluded from the scope of homelessness provision.	DWP will continue to work closely with the Department for Communities and Local Government and the devolved administrations in relation to the implementation of the Housing Benefit measures. There are currently no plans to change the statutory definition of 'intentionally homeless'. Although the Government does not expect tenants to be made homeless as a result of its reforms, it is the Government's view that should any tenant be made homeless as a result of a reduction of Housing Benefit outside of their control, they should not be considered to have been made homeless intentionally.
That DWP undertakes to put in place a dedicated monitoring and evaluation programme to track and report the impacts of the changes both in real time and over the longer term.	DWP fully accept that a comprehensive evaluation programme should be put in place, this will include examining the behavioural responses of landlords; money management; caseload and average awards; shortfalls in rents; direct payments; breaks in claims due to customers moving home; and evictions and homelessness.
That DWP should out in place an early proactive national campaign to raise awareness and ensure that those likely to be affected will have an opportunity to make necessary preparations.	The Government fully accepts the need for a comprehensive awareness campaign. DWP is developing a range of communication products aimed at raising awareness, e.g. online information sources and printed material where appropriate.

(Source: Information in this table is extracted from the Social Security Advisory Committee Report (2010) on the Housing Benefit (Amendment) Regulations 2010 and the Rent Officers (Housing Benefit Functions) Amendment Order 2010, pp. 9-13)

A recent report by the House of Commons Work and Pensions Committee (December 2010) also raised a number of issues with regard to the Housing Benefit reforms announced in the June Budget:

*"Some witnesses believed that an increase in evictions and homelessness was inevitable. Larger families occupying bigger and more expensive properties are likely to be most seriously affected by the cap on the total amount of LHA that can be claimed. Many people are likely to struggle to meet the shortfalls between the reduced amount of benefit they receive and the rent they need to pay to secure appropriate homes. As a consequence of the Government's intention to apply downward pressure to rents charged to benefit claimants, many people are likely to have to move to cheaper properties and to cheaper areas..."*

*We accept that some landlords will lower rents for claimant tenants in response to the caps on LHA rates. However, the extent of that response cannot be accurately predicted and is likely to vary between different areas, depending on local market conditions."*<sup>47</sup>

47

House of Commons Work and Pensions Committee (2010) Changes to Housing Benefit announced in the June 2010 Budget . Second Report of 2010-11, p3. [www.publications.parliament.uk/pa/cm201011/cmselect/cmworpen/469/46902.htm](http://www.publications.parliament.uk/pa/cm201011/cmselect/cmworpen/469/46902.htm)

Concerns have also been expressed by a number of local housing and benefit advice bodies with regard to the potential impact of the reforms on Northern Ireland. In evidence to the House of Commons Work and Pensions Committee, the Housing Rights Service stated that it believed the measures would have the following impact on Northern Ireland:

- Restricting access to the private rented sector;
- Limiting the ability of tenants to sustain a home;
- The breakdown of families;
- Increasing rent arrears in the private rented sector and social housing;
- Increasing both direct and indirect costs associated with homelessness;
- Increasing costs associated with managing and recovering rent arrears;
- Increasing demand on advice services;
- Increasing applications for Discretionary Housing Payments; and
- The reluctance of private landlords in the private rented sector to let to people in receipt of benefit and possible withdrawal from the market<sup>48</sup>.

Also in evidence to the Work and Pensions Committee, Law Centre (NI) drew attention to a number of issues including, for example<sup>49</sup>:

- The extent to which the proposals took into consideration the **different administration arrangements** in Northern Ireland in comparison to GB. That is, Housing Benefit is administered by the Northern Ireland Housing Executive rather than Local Authorities. Social security and training and employment are divided into two Government Departments in NI in contrast to GB where both are under just one Department – DWP
- The impact of the plans to reduce the **initial award of benefit by 10%** to those receiving JSA in excess of 12 months. Law Centre (NI) are concerned that those removed from ESA and Incapacity Benefit under the revised medical assessment may have health conditions or disabilities which place them at a disadvantage in the labour market. Law Centre (NI) also believe that consideration must be given to the capacity of the employment market in Northern Ireland in the current economic climate to ensure that people who are genuinely seeking employment are not unfairly penalised.
- The impact on reduction to an **LHA rate of the 30th percentile and a total cap on LHA rates on overcrowding and homelessness**. Law Centre (NI) argues that not only will this will have a disproportionate effect on families but will also have a knock-on effect on the social housing sector as private rented accommodation becomes harder to access.

Recent commentary from the Head of Research of the Northern Ireland Housing Executive provides a further insight into the potential impact of Housing Benefit reforms on both tenants and landlords in Northern Ireland<sup>50</sup>:

*“...The potentially most damaging proposal is the intention to change the LHA allowance calculation from one based on media (mid-point) rent to one based on the 30th percentile.... It is difficult to assess in detail the effect of this, but give that there are some 38,000 private tenants who currently have their HB assessed on the basis of LHAs and that each of them would on average lose £7-8 per week – this means almost £15m would be removed annually from the Government’s support to the private rented sector.*

48 Housing Rights Service (2010) Impact of the changes to Housing Benefit announced in the June 2010 Budget. Written evidence submitted by Housing Rights Service.

49 Law Centre (NI) Inquiry of the Changes to Housing Benefit Announced in the June 2010 Budget. Submission from Law Centre (NI). [www.lawcentreni.org/policy/consultation-responses/701.htm](http://www.lawcentreni.org/policy/consultation-responses/701.htm)

50 University of Ulster (2010) Northern Ireland Quarterly House Price Index for Q2, 2010. P2. [www.nihe.gov.uk/price\\_index\\_q2\\_2010.pdf](http://www.nihe.gov.uk/price_index_q2_2010.pdf)

*This is bad news for tenants and landlords alike. The research undertaken by the University of Ulster indicated that 68 per cent of tenants in the private rented sector who were in receipt of HB (now almost 50,000 tenants) had to pay a shortfall between the HB they receive and the total rent payable to the landlord and that this weekly shortfall amounted to an average of £20 per week. The effect of this new policy on determining LHA will seriously exacerbate this problem. It will inevitably mean more private tenants losing their home and greater difficulties for landlords trying to ensure they collect a viable rent.*

*All in all the proposed changes to HB set out in the budget will add to the tensions and instability in Northern Ireland's housing market, at a time when Government is trying to promote the private rented sector as more attractive, viable alternative to the social sector...."*

## 6 State Pension Reform – Increase to State Pension Age and the ‘Triple Guarantee’

*"This Government believes that the State Pension should be a firm foundation for income in later life. That is why the Government has committed to restoring the earnings link with the basic State Pension from April 2011, with a 'triple guarantee' that the basic State Pension will rise by the highest of average earnings, prices, or 2.5 per cent.*

*More of us are now reaching State Pension age, and living to claim a State Pension for longer, than ever before. Increasing longevity is a cause for celebration. But the legislative timetable for increases in State Pension age was based on expectations of longevity that have since been revised."*

Steve Webb MP, Minister of State for Pensions<sup>51</sup>.

The Chancellor announced in the Spending Review that the Coalition Government decided that the increase in State Pension age to 66 should be accelerated to 2020. The Government will introduce a Bill in 2011 to implement this change. If Parliament approves the Government's proposals, the State Pension age for both men and women will rise from 65 in December 2018 to 66 by April 2020 (in GB). To enable this earlier increase to 66, the equalisation timetable will be adjusted from April 2016 so that women's State Pension age will reach 65 by November 2018 (rather than April 2020)<sup>52</sup>. The Government is also considering future increases to State Pension Age (with a possible future rise to 68)<sup>53</sup>. A total of 4.9 million people in Great Britain will have their State Pension Age revised. Of these, 4.4 million will have an increase in State Pension age of a year or less, the Coalition Government believes that this will result in £30.4 billion of savings between 2016/17 and 2025/26<sup>54</sup>.

In addition to this, the Coalition Government announced in the June 2010 Budget that the basic State Pension would be uprated from April 2011 via a 'triple guarantee' of the growth rate of average earnings, the annual increase in the Consumer Price Index, or 2.5 per cent, whichever is highest. The Consumer Price Index (CPI) (rather than the Retail Price Index) will be used as the measure of prices in the triple guarantee, as for other benefits and tax credits. However, the Government has stated that to ensure the value of a basic State Pension is at least as generous as under the previous uprating rules, that for the April 2011 uprate only, basic State Pension would increase by at least the equivalent of RPI. In December 2010, the Department for Work and Pensions announced that that the basic State

51 Department for Work and Pensions (2010) A sustainable State Pension: when State Pension age will increase to 66. [www.dwp.gov.uk/docs/cp-nov10-spa-66-full-document.pdf](http://www.dwp.gov.uk/docs/cp-nov10-spa-66-full-document.pdf)

52 Department for Work and Pensions Website - [www.dwp.gov.uk/consultations/2010/spa-66-review.shtml](http://www.dwp.gov.uk/consultations/2010/spa-66-review.shtml)

53 HM Treasury. Spending Review 2010, p69.

54 Department for Work and Pensions (2010) A sustainable State Pension: when State Pension age will increase to 66, p7.

Pension would increase by £4.50 to £102.15 in April 2011<sup>55</sup>. To ensure the lowest income pensioners benefit from the triple guarantee, the standard minimum income guarantee in Pension Credit will increase in April 2011 by the cash rise in a full basic State Pension.

## 7 Reaction of the Think Tanks to Welfare Reform

This section looks briefly at the reaction of some of the key think tanks to:

- Welfare Reform –the June 2010 Budget and October 2010 Spending Review
- Welfare Reform and Universal Credit
- Reform of DLA
- Reform of Housing Benefit
- Reform of State Pension

### The June 2010 Budget & October 2010 Spending Review

The **Institute for Fiscal Studies** (IFS) published a paper in October 2010, entitled: *The distributional effect of tax and benefit reforms to be introduced between June 2010 and April 2014*<sup>56</sup>. The report stated that the Chancellor's was wrong in claiming that the June budget was progressive - if the measures announced in the budget were analysed in isolation, or if their effects were considered over a longer period of time. The IFS analysis found that the overall effect of the new reforms is regressive.

The IFS published a similar analysis which focused on the impact of the reforms in Northern Ireland<sup>57</sup>. This research concluded that where the period 2010-11 is concerned, households in Northern Ireland will be "*no more affected than the UK average by tax and benefit changes*". However, the report stressed that where the period 2013-14 or 2014-15 is concerned, Northern Ireland will have the second highest average loss as a percentage of income within the regions of the UK. The authors attribute this to the fact that a higher proportion of people in N I are in receipt of DLA and the relatively high proportion of households with children in Northern Ireland compared with the rest of the UK.

The IFS has also commented about the reforms to **child benefit**, in particular the announcement that it will be withdrawn from higher rate taxpayers from April 2013. The IFS anticipate a number of negative implications from this new form of means testing - for a start many will see the proposed scheme as unfair. Another serious implication is that the policy may distort incentives for some families with children – as a small rise in salary would mean the loss of all their child benefit.<sup>58</sup>

A **Fabian Society**<sup>59</sup> report published by the TUC in September 2010 entitled *Where the Money Goes*<sup>60</sup> used official figures to calculate how different groups in the population benefit from public services. The research estimated the losses to UK households as a result of the Government's proposed cuts in public spending by 2012-13 (excluding the cuts to welfare benefits). By combining this analysis with data on the impact of the proposed tax and benefit changes by 2012-13, the researchers were also able to analyse the impact on households of all fiscal consolidation measures for this year. Their conclusion was that there would be

55 Department for Work and Pensions News Release. 'More help for pensioners as Basic State Pension set to rise in 2011. [www.dwp.gov.uk/newsroom/press-releases/2010/dec-2010/dwp173-10-081210.shtml](http://www.dwp.gov.uk/newsroom/press-releases/2010/dec-2010/dwp173-10-081210.shtml)

56 This was a revised paper, initially published in August 2010.

57 The Impact of Tax and Benefit Reforms to be introduced between 2010-11 and 2014-15 in Northern Ireland <http://www.ifs.org.uk/publications/5369>

58 Child Benefit withdrawal will mean some worse off after a pay rise. IFS

59 [www.fabians.org.uk](http://www.fabians.org.uk)

60 Authors Howard Reed (Fabian Society) and Tim Horton (Landman Economics)

a severe impact on public services, even before the effect of the cuts to benefits and tax credits is considered. They estimated an average cut to households of £1,308 per year.

The **Centre for Social Justice** made a largely positive response to the Comprehensive Spending Review stating that it was: ...broadly... a brave and necessary reforming agenda and one that the CSJ welcomes.. and ...a spending review of reforming ideas to strike at the heart of the nation's damaging deficit.<sup>61</sup>

In relation to families and welfare the CSJ's appraisal struck a more negative note, stating that it was "not yet fully convinced that this CSR is sufficiently focussed on the welfare of Britain's families":

*"The family is barely mentioned although we welcome the emphasis on children with disabilities and mental health needs with the expansion of personal budgets and access to psychological therapies. However, there are real cuts in financial assistance to low-income families with the decrease in assistance with childcare. There is already low take up of this benefit"*

The CSJ also stated that they:

*"...question the continued fairness anomaly in the government's child benefit reforms. As stands they are unfair and we urge the Chancellor to revisit his decision."*

In general, the CSJ welcomed the government's reforms to benefits but pointed to the concerns that exist around the implementation of the assessment for incapacity benefit which research has highlighted<sup>62</sup> stating that these must be addressed, a fact acknowledged by the government.

The **Fawcett Society**<sup>63</sup> referred to independent analysis of the budget by the House of Commons Library which revealed that women will bear the brunt of the cuts. The research found that 72% of the savings identified in the budget would come from women's pockets. Certain benefits to be cut or frozen included the Health in Pregnancy Grant, Sure Start Maternity Grant and Child Benefit, benefits that more women than men rely upon.

The Fawcett Society consequently sought a judicial review of the budget. They believed that the government had not, as required by law, considered the impact of the measures in the budget on equality between men and women. A judicial review was not achieved though the government conceded it had failed to assess how the budget would impact on men and women. The Fawcett Society saw their action as having had a positive and direct impact when, subsequently, the government produced an equality impact assessment on the Comprehensive Spending Review.

## Universal Credit

The **Institute for Fiscal Studies** (IFS) responded to the Universal Credit proposals in January 2011<sup>64</sup>. Its response was positive in relation to many elements: the new system should simplify the existing complicated overlap between benefits and tax credits, make life easier for claimants and reduce fraud and error. Some reservations were expressed however:

*"The Universal Credit will dramatically change the welfare system for working-age adults. If successful, it will make the welfare system more effective and coherent. But it will*

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61 CSJ Press release Wednesday 20 October 2010 [http://www.centreforsocialjustice.org.uk/client/downloads/CSJ\\_respond\\_to\\_CSR.pdf](http://www.centreforsocialjustice.org.uk/client/downloads/CSJ_respond_to_CSR.pdf)

62 See for example Not working: CAB evidence on the ESA work capability assessment Citizens Advice March 2010 [http://www.citizensadvice.org.uk/not\\_working](http://www.citizensadvice.org.uk/not_working)

63 The Fawcett Society is a registered charity which campaigns for equality between men and women.

64 [http://www.ifs.org.uk/pr/uc\\_2011.pdf](http://www.ifs.org.uk/pr/uc_2011.pdf)

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*create winners and losers in the process: couples with children will gain from it and, when transitional protection expires, lone parents will lose.”*

The authors of the report envisage that Universal Credit system will have both positive and negative implications in relation to work incentives. On average, single adults and the main earners in couples will have stronger incentives. The new system will, however, create weaker incentives for both adults in a couple to work rather than just one. Finally, the policy will lead to stronger incentives for low earners to earn more, but slightly weaker incentives for middle earners to earn more.

The authors concluded that families with children with over £16,000 of savings will be a clear group of losers from the new system. At the moment such families are eligible for tax credits – however they will not qualify for any Universal Credit. The authors infer:

*“This may well focus spending on those who need it most, but also gives families an extremely strong incentive to keep financial assets below this level.”*

The **Institute for Public Policy Research**<sup>65</sup> (IPPR) responded to the Universal Credit White Paper in November 2010<sup>66</sup> welcoming Universal Credit (UC) as a “sound idea” though expressing reservations about a number of the elements aimed at improving incentives to work and making work pay.

The IPPR identified local differences in child care and transport costs as the main barrier to addressing the real cost of work. They argued that this contradicts the assertion that people will always be better off in work. IPPR predict there will be rises in these costs in the next few years. Because childcare and transport costs vary so widely across the country, it believes that a national Universal Credit system will mean that parents in some parts of the country will find work financially unviable, for example in London.

The IPPR saw a lack of jobs as another major problem, as the UK is experiencing high numbers of young people out of work and growing long term unemployment. In its view, the £2 billion of funding required for UC would be better spent on subsidising jobs so that jobseekers are guaranteed a job- one that they would have to take up.

The IPPR challenged government’s claim that work incentives are key – it considers that the proposed changes will make it harder for working families to afford the childcare that enables them to work warning that that at least half the benefit cuts will hit working families. For example, support for working families for childcare costs through the tax credit system is being reduced from 80% of total costs to 70% and families claiming maximum support for childcare could lose up to £1,500 a year.

The IPPR authors saw compulsory unpaid work as a “right principle” but a “wrong reform”. People’s job prospects, they maintain, will only improve through genuine work, and the unpaid work being proposed by the government is unlikely to offer this and may not be well regarded by employers.

The IPPR were also concerned about the discretion placed upon advisors in imposing compulsory unpaid work. This option will be less effective for the more recently unemployed and consequently will be more punitive in nature (previously it only applied to those who had been receiving Jobseeker’s allowance for two years or more). The IPPR favoured subsidised job schemes which pay a proper wage – as these are more effective than workfare and should be a priority.

65 The IPPR is an independent think tank founded in 1986 by Lord Hollick.

66 Universal Credit White Paper: IPPR response November 2010  
<http://www.ippr.org.uk/members/download.asp?f=%2Fecomm%2Ffiles%2Funiversal+credit+white+paper+ippr+response%2Epdf>

The **Centre for Social Justice** indicated its approval of “*Universal Credit: Welfare that works*” noting that its own work on welfare had been a major influence on the White Paper. It stated:

*“..Britain’s broken communities are defined by five characteristics, which we define as the pathways to poverty: family breakdown, educational failure, drug and alcohol addiction, severe personal indebtedness and economic dependency – caused by intergenerational worklessness. We are delighted to see the government today taking a massive step towards tackling one of the most significant drivers of poverty and cutting through the biggest barrier to work – the welfare state itself.”*

In its response to the proposals for Universal Credit, **The Joseph Rowntree Foundation (JRF)** highlighted issues around conditionality and sanctions in the benefit system. Its recent research report *A Review of Benefit Sanctions*<sup>67</sup> had warned that whilst international research has shown positive short term effects, little is understood about the longer term impacts of sanctions upon earnings over time, child well-being and job quality. JRF stressed the importance of making sure the rules for sanctions are understood by jobseekers and that some discretion is applied, including around the impact on other members of a household.

JRF stressed the need for a benefit policy which ensures that jobseekers achieve a good job match – as research evidence shows that this leads to higher earnings and less job ‘churning’ in the longer term.

*“It will be no good for long term poverty if the benefits bill is reduced by making it easier for people to get stuck in cycles of low-paid, unskilled, insecure and dead-end jobs”<sup>68</sup>*

## Reform of Disability Living Allowance (DLA)

Think-tank **Demos** published a report called *Destination Unknown*<sup>69</sup> in October 2010 which examined the impact on disabled people of the proposed changes to the welfare system. The report estimated that large numbers of individuals with disabilities and their families will have lost out on significant amounts of essential support by 2015. The cuts to benefits and services are likely to have a disproportionate effect on them compared to their non-disabled counterparts. In *Destination Unknown* Demos discerned a key change in policy was occurring—namely a move away from a ‘social’ model of disability and an increasing focus on the medical aspect of disability. Demos disagreed with the references in the government proposals about “incentives to work” as a rationale for benefit cuts. For a start, it pointed out, DLA is not an out of work benefit and that many employed people receive it. And they further stressed, government needs to make sure there are jobs for disabled people to fill if it is so keen on incentivising work.

**The Institute for Fiscal Studies (IFS)** commented on the impact on Northern Ireland of the proposed changes to DLA<sup>70</sup>. It estimated that Northern Ireland is likely to be particularly affected by the stricter medical test for claiming DLA due to the fact that NI has a relatively higher proportion claiming DLA compared with other regions in the UK.

67 A review of benefit sanctions Joseph Rowntree Foundation December 2010 [www.jrf.org.uk/publications/review-of-benefit-sanctions](http://www.jrf.org.uk/publications/review-of-benefit-sanctions)

68 The Universal Credit: an antidote to Poverty? 11 November 2010 [www.jrf.org.uk/blog/2010/11/universal-credit-antidote-poverty](http://www.jrf.org.uk/blog/2010/11/universal-credit-antidote-poverty)

69 [www.demos.co.uk/files/Destination\\_unknown\\_-\\_web.pdf?1286894260](http://www.demos.co.uk/files/Destination_unknown_-_web.pdf?1286894260)

70 The Impact of Tax and Benefit Reforms to be introduced between 2010-11 and 2014-15 in Northern Ireland <http://www.ifs.org.uk/bns/bn114.pdf>

## Reform of Housing Benefit

The **Joseph Rowntree Foundation** (JRF) in its Response to the Department for Work and Pensions 21st Century Welfare<sup>71</sup> (October 2010) commented on the benefit reforms announced in the June Budget, including those to Housing Benefit and Local Housing Allowance (LHA). JRF anticipate some negative consequences from these changes, for example, setting LHA at the 30th percentile and restricting the costs of LHA in high rent areas. In its view, these changes will reduce the upper level of support and put downward pressure on private rents. Lower levels of LHA may well increase arrears and evictions and landlords may respond at the margin by reducing their willingness to let to benefit recipients.

JRF estimate that tightening the rules relating to LHA is going to reduce its role as a means of addressing long term need and lead to short duration tenancies in the rental market and thus be unsuitable for the needs of low-income households.

Reducing Housing Benefit by 10% after 12 months claiming Jobseekers Allowance is a controversial move in JRF's view – and JRF anticipates it will confront landlords with possibly increasing arrears and may put the onus on the housing provider to cope with the shortfall.

## Reform of State Pension

The proposals state that over a ten year period women's pension age will rise by six years, while over the same period, men's pension age goes up by just one year. Critics of the proposals have stated that women are bearing the brunt of the changes; others have noted that people in their 50s have little chance to plan properly for a delayed retirement. This group, they stress, have seen little return on their savings due to low interest rates and lukewarm investment returns. The implications are that those who don't want to work the extra years will have to save more.

A short overview of the spending review by the **Institute for Public Policy Research** (ippr) in December 2010<sup>72</sup> took the view that it was families with children who were the biggest losers from the reforms -in stark contrast to pensioners. Their analysis acknowledged that pensioners will be affected by the changes to savings credit which will be frozen for four years and thus made less generous. However, the IPPR saw the retaining of the winter fuel allowances, free TV licences and bus passes as a very positive result for pensioners across all income groups.

71 <http://www.jrf.org.uk/sites/files/jrf/DWP-welfare-response-Oct2010.pdf>

72 A new generational compact Nick Pearce and Gavin Kelly IPPR 3 December 2010.  
[www.ippr.org.uk/articles/?id=4243](http://www.ippr.org.uk/articles/?id=4243)



Northern Ireland  
Assembly

## Research and Information Service Briefing Paper

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4 October 2012

NIAR 724-12

**Eleanor Murphy**

# A Guide to the Welfare Reform Bill

## 1 Introduction

The Welfare Reform Bill for Northern Ireland was introduced to the Assembly by the Minister for Social Development on 1 October 2012. The measures contained within the Bill, and the changes to the social security system announced as part of the Coalition Government's June 2010 Budget and October 2010 Spending Review, have been described as the most radical shake-up of the benefits system since the foundation of the welfare state.

This Guide is intended to assist Members in their scrutiny of the Bill by providing links to key papers and information on welfare reform.

## 2 An Overview of the Welfare Reform Bill

### Universal Credit

**Part 1** of the Bill contains provisions and confers regulation-making powers for a new integrated working-age benefit – known as **Universal Credit**. Universal Credit will replace Working Tax Credit; Child Tax Credit; Housing Benefit; Income Support; income-based Jobseeker's Allowance; and income-related Employment and Support Allowance. Universal Credit will include a standard allowance to provide for basic living costs (it is suggested that this will be comparable to the standard rates for Jobseeker's Allowance and Employment and Support Allowance). This will be supplemented with **additional elements** for responsibility for children or young people, housing costs and other needs. Universal Credit will be payable to people both in and out of work, providing that they are aged between 18 and the qualifying age for State Pension Credit. Universal Credit may be available to those younger than aged 18 (e.g. young people estranged from their parents).

Claims for Universal Credit will be made on **the basis of households** rather than individuals and a cap will be applied to the amount of benefits a household can receive. **Tapering of benefits** will be introduced to ease the transition into work by reducing the support a person receives at a consistent rate as their earnings increase.

Claims for Universal Credit will be made **via the internet** and claimants will have access to the information about their claim and payments online. The Department for Social Development has indicated that alternative access routes will be made available for people who do not have access to online services (e.g. by telephone and face-to-face interaction).

Universal Credit will be **paid on a monthly basis**, the Coalition Government state that this is to encourage responsibility and to be consistent with the 'real time earnings approach'. Although there have been indications that more regular payments will be available for 'vulnerable' groups.

### Conditionality and Sanctions

Part 2 of the Bill makes provision for changes to the responsibilities of claimants of Jobseeker's Allowance, Income Support and Employment and Support Allowance leading up to the introduction of Universal Credit and the abolition of income-based Jobseeker's Allowance, income-related Employment and Support Allowance and Income Support.

There will be a **new claimant commitment** which will be a record of the requirements claimants are expected to meet in order to receive benefits. It will also set out the consequences should a claimant fail to meet these requirements. Part 2 sets out the **different types of work-related requirements** and the expectations to meet these requirements depending on their circumstances and capability for work. The different types of activity are:

- **no work-related requirements:** the Department will not impose any work-related requirements on e.g. claimants who have a limited capability for both work and work-related activity due to a physical and mental condition, responsible carers with a child under the age of one; and any claimant with regular and substantial caring responsibilities.
- **work-focused interview requirements:** these interviews are to discuss the steps that a claimant might take (immediately or in the future) to increase (a) their chances of getting work (b) increasing the numbers of hours they work or (c) getting work that is better paid.
- **work-preparation requirement:** actions specified by DSD for DEL in order to increase a claimants chances of a) their chances of getting work (b) increasing the numbers of hours

they work or (c) getting work that is better paid. The work preparation requirement may include taking part in a health-related assessment which will be carried out by a health professional.

- **work-search requirement:** there are two parts to this requirement – a general requirement that claimants must take all “reasonable action” to obtain paid work; and, a requirement to take any particular action specified by DSD or DEL (e.g. applying for a specific job or registering with a particular recruitment agency).
- **work-availability requirement:** a requirement that the claimant is able and willing immediately to take up paid work, increase the number of hours they work or get work that is better paid.

The Bill also makes provisions for **a new sanctions regime** which provides for a reduction in the amount of a claimant's award in the event of failing to meet certain requirements (e.g. failing to take part in a prescribed type of work placement or mandatory work activity; failing to apply for a particular vacancy when required to do so; failing to take up an offer of paid work; leaving paid work voluntarily or because of misconduct). The Bill makes provision for sanctions of up to three years depending upon the type of failure of the requirements. The Bill also enables regulations to make provision for universal credit payments to be made to claimants who have been sanctioned and who can demonstrate that they are or will be in hardship. It also enables regulations to make provision for such payments to be recoverable.

## Personal Independence Payment

**Part 4** of the Bill contains the framework for a new benefit called **Personal Independence Payment** (PIP) which will replace Disability Living Allowance (DLA). The detailed design for PIP will be contained within secondary legislation. It is proposed that there will be a simplification of the system by reducing the number of rates than that currently available under DLA. The intention is to move away from a system that awards automatic entitlement to certain rates of benefit for certain conditions.

There will be a new assessment process and a periodic review of those awarded the benefit. It has been suggested that the eligibility criteria for PIP will be much more restrictive than it is currently for DLA. This may be a particular problem for Northern Ireland given that it has the highest prevalence of DLA claimants per head of population in the UK. Around 1 in 10 people claim DLA in NI, a substantial number of these claims are on the basis of mental health.

## Benefits Cap

**Part 5** of the Bill contains provisions relating to the administration of social security benefits. It includes provisions for regulations to be made for a **benefit cap** to be applied to the welfare benefits to which a single person or couple is entitled. ‘Welfare benefit’ means a prescribed benefit, allowance, payment or credit (but will not include state pension credit or certain retirement pensions).

This part of the Bill also sets out measures to deal with benefit fraud (including measures relating to the Housing Executive powers to prosecute housing benefit fraud) and also contains measures that enable DSD to share data with other bodies.

## Child Maintenance

In January 2011 the Coalition Government published a consultation document, “Strengthening families, promoting parental responsibility: the future of child maintenance. This document set out proposals that parents should be encouraged and supported to make their own-family arrangements for the maintenance of their children wherever possible, rather



than using the statutory maintenance scheme. It was suggested that this would enable the Department to focus on cases where it is not possible for parents to make the arrangement themselves.

**Part 6** of the Bill makes provisions to implement the proposals which support the principles in the consultation document and which require primary legislation.

## 3 Key Publications and Information

This section provides links to key documents including the Welfare Reform Bill, Northern Ireland Assembly Research Papers and House of Commons Research Papers on the Stages of the Westminster Welfare Reform Bill. The Northern Ireland Welfare Reform Bill Explanatory and Financial Memorandum provides an overview of each of the 134 clauses of the Bill.

### Northern Ireland Assembly Resources

- **The Northern Ireland Welfare Reform Bill** - <http://www.niassembly.gov.uk/assembly-business/legislation/2011-2016-mandate/primary-legislation-current-bills/welfare-reform-bill/>
- **Explanatory and Financial Memorandum** - <http://www.niassembly.gov.uk/assembly-business/legislation/2011-2016-mandate/primary-legislation-current-bills/welfare-reform-bill/>
- **NI Assembly Research and Information Service Paper (2011) – “An Introduction to Welfare Reform”** - <http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2011/social-development/1311.pdf>

### DSD Resources

**Department for Social Development Welfare Reform Webpages on:** [www.dsdni.gov.uk/index/ssa/welfare-reform-ssa.htm](http://www.dsdni.gov.uk/index/ssa/welfare-reform-ssa.htm)

- the introduction of Universal Credit
- The introduction of Personal Independence Payment
- Changes to Housing Benefit
- The introduction of a benefits cap
- The introduction of new fraud and error powers
- Changes to Social Fund
- Changes to Employment and Support Allowance
- Changes to sanctions and hardship provisions

**Department for Social Development – Welfare Reform Bill Equality Impact Assessment** (April 2012) - [www.dsdni.gov.uk/welfare-reform-bill-completed-eqia-april-2012.doc](http://www.dsdni.gov.uk/welfare-reform-bill-completed-eqia-april-2012.doc)

### DSD Consultations:

- **Proposals for a Welfare Reform Bill:** [www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2011/eqia-welfare-reform-bill.htm](http://www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2011/eqia-welfare-reform-bill.htm)
- **DLA Reform and Personal Independence Payment: completing the design detail:** [www.dsdni.gov.uk/index/consultations/archived-consultations/consultation-dla-reform-and-pip.htm](http://www.dsdni.gov.uk/index/consultations/archived-consultations/consultation-dla-reform-and-pip.htm)
- **Personal Independence Payment: assessment thresholds:** [www.dsdni.gov.uk/index/consultations/archived-consultations/consultation-pip.htm](http://www.dsdni.gov.uk/index/consultations/archived-consultations/consultation-pip.htm)
- **Support for Mortgage Interest – Informal call for evidence:** [www.dsdni.gov.uk/index/consultations/archived-consultations/consultation-support-for-mortgage-interest.htm](http://www.dsdni.gov.uk/index/consultations/archived-consultations/consultation-support-for-mortgage-interest.htm)
- **Housing Benefit Reform – Supported Housing:** [www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2011/consultation-housing-benefit-reform-supported-housing.htm](http://www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2011/consultation-housing-benefit-reform-supported-housing.htm)

- **Strengthening families, promoting parental responsibility: the future of child maintenance:** [www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2011/consultation-the-future-of-child-maintenance.htm](http://www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2011/consultation-the-future-of-child-maintenance.htm)
- **Disability Living Allowance Reform:** [www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2011/consultation-disability-living-allowance-reform.htm](http://www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2011/consultation-disability-living-allowance-reform.htm)
- **Universal Credit: welfare that works:** [www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2011/consultations-universal-credit-welfare-that-works.htm](http://www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2011/consultations-universal-credit-welfare-that-works.htm)
- **21st Century Welfare:** [www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2010/consultation-21st-century-welfare.htm](http://www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2010/consultation-21st-century-welfare.htm)
- **Supporting people into work: the next stage of housing benefit reform:** [www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2010/consultation-next-stage-housing-benefit-reform.htm](http://www.dsdni.gov.uk/index/consultations/archived-consultations/archived-consultations-2010/consultation-next-stage-housing-benefit-reform.htm)

## House of Commons Resources

**The Welfare Reform Act 2012 – the Bill and amendments:** <http://services.parliament.uk/bills/2010-12/welfarereform/documents.html>

### House of Commons Library Bill Papers:

- **Welfare Reform: Universal Credit Provisions** - [www.parliament.uk/briefing-papers/RP11-24](http://www.parliament.uk/briefing-papers/RP11-24)
- **Welfare Reform Bill – Reform of Disability Benefits; Housing Benefit; and other measures** – [www.parliament.uk/briefing-papers/RP11-23](http://www.parliament.uk/briefing-papers/RP11-23)
- **Welfare Reform – Committee Stage Report** - [www.parliament.uk/briefing-papers/RP11-48](http://www.parliament.uk/briefing-papers/RP11-48)
- **Welfare Reform Bill – amendments to the Lords Committee and Report Stages** - [www.parliament.uk/briefing-papers/SN06202](http://www.parliament.uk/briefing-papers/SN06202)

See also the following House of Commons Library Research Papers:

- **Personal Independence Payment – an introduction** - [www.parliament.uk/briefing-papers/SN06422](http://www.parliament.uk/briefing-papers/SN06422)
- **Paying Housing Benefit Direct to Tenants in Social Housing** - [www.parliament.uk/briefing-papers/SN06291](http://www.parliament.uk/briefing-papers/SN06291)
- **Under-occupation of social housing: housing benefit entitlement** – [www.parliament.uk/briefing-papers/SN06272](http://www.parliament.uk/briefing-papers/SN06272)
- **Housing Benefit: Size Criteria and Discretionary Housing Payments** - [www.parliament.uk/briefing-papers/SN04887](http://www.parliament.uk/briefing-papers/SN04887)
- **The Household Benefit Cap** - [www.parliament.uk/briefing-papers/SN06294](http://www.parliament.uk/briefing-papers/SN06294)





Northern Ireland  
Assembly

Appendix 6

# List of Benefits





# List of Benefits

## Extract from NI Direct Website

### **Benefit cap**

It is proposed that a benefit cap will be introduced from April 2013. This will limit the amount of benefit people aged 16 to 64 can get. This means you should not get more in benefit payments than you would if you were earning an average wage. This is law in England, Scotland and Wales but not law in Northern Ireland yet.

### **Benefit cap - what it is**

The benefit cap will apply to people aged 16 to 64, also known as 'working age'.

The cap means that households where no one is in work should not get more in benefits than the average wage paid to people in work. This is after tax and National Insurance has been taken off.

A household means you, your partner if you have one and any children you are responsible for and who live with you.

What's included in the benefit cap

When added together the benefit cap will limit the total income you can get from the following benefits:

- Bereavement Allowance
- Carer's Allowance
- Child Benefit
- Child Tax Credit
- Employment and Support Allowance (except where it is paid with the support component)
- Guardian's Allowance
- Housing Benefit
- Incapacity Benefit
- Income Support
- Jobseeker's Allowance
- Maternity Allowance
- Severe Disablement Allowance
- Widowed Parent's Allowance
- Widowed Mothers Allowance
- Widows Pension
- Widows Pension Age-Related

### **How much is the benefit cap**

The actual amount of the benefit cap won't be set until later this year (2012) in England, Scotland and Wales. The amount of the benefit cap will probably be the same in Northern Ireland, but this is not certain until the law is changed. In England, Scotland and Wales the amount of the benefit cap is expected to be:

A maximum of £350 a week if you're a single person and either:

- you have no children
- the children you have responsibility for don't live with you

A maximum of £500 a week if you're either:

- a couple, with or without dependant children
- a lone parent with dependant children

The cap will not apply if you qualify for Working Tax Credit or get any of the following benefits:

- Disability Living Allowance
- Personal Independence Payment (from April 2013)
- Attendance Allowance
- Industrial Injuries Benefits
- Employment and Support Allowance, if paid with the support component
- War Widow's or War Widower's Pension

The cap will be applied through deductions from Housing Benefit payments.

The current understanding is that Households who are not getting housing benefit as of April 2013 will not have the cap applied.

#### **Why is the benefit cap being introduced?**

The benefit cap will make sure that households getting benefits will not normally get more in benefit than the average working household receives in pay.

The benefit cap will encourage people to look for work and help to promote fairness between those in work and those getting benefits.

#### **What help will be available**

Support and advice will be given to help you through these changes if they affect you.

<http://www.nidirect.gov.uk/benefit-cap>



Northern Ireland  
Assembly

Appendix 7

# List of Witnesses



## List of Witnesses who gave evidence to the Committee

Ms Anne McCleary	Department for Social Development
Mr Michael Pollock	Department for Social Development
Ms Martina Campbell	Department for Social Development
Ms Margaret Stitt	Department for Social Development
Mr Mickey Kelly	Department for Social Development
Ms Jane Corderoy	Department for Social Development
Mr Conrad McConnell	Department for Social Development
Ms Leonora McLaughlin	Department for Social Development
Mr Colm McLaughlin	Department for Social Development
Mr Maurice Byrne	Department for Social Development
Mr Tommy O'Reilly	Social Security Agency
Mr Colin Sullivan	Social Security Agency
Mr Gerry Flynn	NI Housing Executive
Ms Dolores Ferran	NI Housing Executive
Ms Fiona Neilan	NI Housing Executive
Mr Pat Durkan	NI Housing Executive
Mr Kevin Higgins	Advice NI
Ms Sinead McKinley	Advice NI
Ms Jenny McCurry	Advice NI
Ms Lynn Carvill	Women's Resource Development Agency
Ms Bronagh Hinds	DemocraShe
Ms Marie Cavanagh	Gingerbread NI
Ms Sharon Burnett	Causeway Women's Aid
Mr Les Allamby	Law Centre NI
Ms Georgina Ryan-White	Law Centre NI
Ms Annette Creelman	WAVE Trauma Centre
Ms Amanda Deans	WAVE Trauma Centre
Mr Stuart Magee	WAVE Trauma Centre
Ms Philomena McCaughey	WAVE Trauma Centre
Ms Patricia Lewsley-Mooney	NICCY
Ms Colette McIlvanna	NICCY
Dr Goretti Horgan	University of Ulster
Ms Iris Elliot	NI Association for Mental Health
Rev Roy Patton	Churches Group
Rev Donald Ker	Churches Group
Fr. Tim Bartlett	Churches Group
Rev Adrian Dorrian	Churches Group
Ms Allison Millar	NIPSA
Ms Maria Morgan	NIPSA
Ms Pauline Buchannan	ICTU

Mr Derek Thompson	PCS
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Published by Authority of the Northern Ireland Assembly,  
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