

## introduction

The first of the party conferences took place this month. Party conferences are one of the ways the Unit seeks to raise key policy issues with our local elected representatives. We were pleased that, at the UUP conference in October, Minister McGimpsey highlighted the commitment of the Department of Health to bringing forward a single mental capacity and mental health bill. The Law Centre, along with others, has encouraged the Department to do this.

The following sections highlight some of the work of the Unit over the summer/early autumn. As ever, please get in touch if you would like to find out more about any of the issues in this Bulletin.

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## social security

### housing

In August, the Unit responded to a Social Security Advisory Committee consultation on reform of the Local Housing Allowance system, The Housing Benefit Amendments (No 2) Regulations 2009.

Currently, if the Local Housing Allowance rate is higher than a claimant's contractual rent, the person is able to keep the excess benefit up to a maximum of £15 per week. The regulations proposed changes so that new claimants would not be entitled to any excess

benefit over their contractual rent and existing claimants who are currently entitled to an excess payment would see a reduction in benefit when their claims are reviewed.

The proposals were drafted in a GB specific context and there is no evidence that Northern Ireland's particular circumstances were considered. We argued that the lack of a firm evidential basis for the change, combined with positive indications of the operation of the current system in Northern Ireland, should militate against the introduction of the proposals here. We were therefore pleased when recent media reports stated that these plans were being looked at again following the level of dissatisfaction raised by politicians and advice organizations.

### welfare reform

We continue our work on the Welfare Reform Bill (the Bill).

In our response to the Department for Social Development's Equality Impact Assessment consultation on the Bill, we highlighted a number of concerns on:

- the increased focus on conditionality and sanctions; and
- the introduction of a requirement for lone parents with children aged under seven years of age to actively seek work as a condition of JSA.

We met with DSD to discuss these concerns in October.

Over the coming months, we will seek to brief members of the Assembly and the DSD Committee on the potential impact of the Bill in Northern Ireland. The Welfare Reform Act in Britain has now completed its parliamentary process and some concessions were made from the original Bill.

### lone parents

From November 2009, the Lone Parent Regulations will be rolled-out to apply to lone parents with a youngest child aged ten or over. We highlighted our ongoing concerns about the Regulations in the absence of accessible and affordable childcare in an article for *Gingerbread Times*.

### child poverty

We have also continued to focus on this issue through our membership of the Child Poverty Alliance. We participated in a roundtable with a number of MLAs to highlight the Alliance's concerns on the Child Poverty Bill.

The Bill was introduced in Westminster on 11 June 2009 and was considered by the DSD Committee for OFMDFM on 1 July 2009.

The Policy Unit briefed the DSD Committee on the Bill and submitted evidence to the Joint Committee on Human Rights on its implications in Northern Ireland.

We support the Bill but it could be improved by:

- including a mechanism for reporting to the devolved administrations as well as to Westminster; and
- allowing for UK-wide targets to be monitored in each jurisdiction.

Northern Ireland's local strategy under the Bill should be based upon its anti-poverty strategy, *Lifetime Opportunities*.

The Policy Unit will continue to monitor the progress of the Bill through Westminster and the Assembly in the coming months.

## childcare

The Law Centre's AGM on Friday 11 December will focus on childcare, child poverty and welfare reform with Gerry Kelly MLA and Robin Newton MLA - OFMDFM junior ministers - as guest speakers alongside Alison Garnham, the Chief Executive of the Daycare Trust.

## employment

### workplace disputes

In July, we hosted a roundtable involving the advice sector and the Department for Employment and Learning to discuss the Department's proposals for reform of the system for handling workplace disputes.

In our final submission in September, we recommended a new framework for dealing with workplace disputes. Our model harnesses existing structures and resources to deliver better and quicker access to justice. It reflects our view that the current legal system for resolving employment disputes is fundamentally flawed. The lack of access to personalised advice is a real barrier to justice for employees. We proposed an inter-agency approach which, drawing on

models of good practice internationally, would build on and improve existing structures and systems. Our model would enable more cases to be resolved at an early stage without the need for recourse to tribunal. For those cases that proceed to tribunal, we recommended a limited extension of legal aid **or** the establishment of a free legal advice unit to support those workers otherwise unable to bring a claim.

We circulated the executive summary of our paper to members of the DEL Committee in advance of their briefing from the Department on the proposals.

## flexible working

In October, we submitted a response to DEL's consultation on the right to request flexible working and to request time off for training.

We support the introduction of a right to request time off for training but we recommend that the right to request flexible working should be extended to all employees. As our casework experience is that the right to request flexible working is currently rarely legally enforced, we set out a number of recommendations for how this right might be strengthened.

Read our response at [www.lawcentreni.org](http://www.lawcentreni.org).

## immigration

In July, we met UKBA officials to discuss immigration casework and policy issues.

### immigration commissioner

In August, we responded to a UKBA consultation on strengthening the powers of the Office of the Immigration Services Commissioner (OISC), the statutory body that regulates the immigration advice sector. The Law Centre broadly supports the proposal to strengthen regulatory powers. However, we emphasised the importance of a distinct separation between UKBA and OISC objectives in order to protect the in-

dependence of the immigration advice sector. Our response is available on [www.lawcentreni.org](http://www.lawcentreni.org).

## immigration forum

In September, the Law Centre held the sixth North/South Immigration Forum in Dublin with its co-host FLAC (Free Legal Advice Centres). The Forum explored the human rights implications of recent immigration legislation in the UK and the Republic of Ireland. We were joined by keynote speakers from Liberty, the Immigrant Council of Ireland, NIHRC and the Irish Human Rights Commission who highlighted the centrality of human rights in the debates on immigration.

## points based citizenship test

The discussion at the North-South Forum provided a helpful backdrop for our analysis of the UKBA's proposals for a new points based test for citizenship. Published in October, the proposals are a damaging departure from the notion of *human rights* in favour of *citizen rights*. We argued that fundamental human rights, such as the right to freedom of expression, should not be withheld until a person completes the citizenship process. We were critical of several of the proposals that fall short of the UK's obligations under human rights law. We stressed the need for the immigration system to be rooted in clarity and legal certainty. Our response is available on [www.lawcentreni.org](http://www.lawcentreni.org).

## asylum seekers and refugees

In October, the Law Centre hosted representatives from Citizens for Sanctuary, an organisation set up to further the work of the Independent Asylum Commission. A delegation of NGOs and asylum seekers met OFMDFM officials to discuss the implementation of the Commission's recommendations for improving public attitudes to asylum seekers and refugees.

In October, UKBA introduced a new policy to require all in-country asylum claims to be made in person at Croydon and to require some applicants to travel to Liverpool to submit further representations. The Unit identified several practical difficulties arising from the new arrangements. We highlighted these concerns to

UKBA as well as to OFMDFM, political parties and other NGOs and practitioners. We also raised this at the Scottish Refugee Council's annual conference in October, as applicants in Scotland would be similarly affected by the requirement to travel to England to make a claim. This work resulted in the UKBA reinstating the original 'concession' which means that asylum applicants will not be expected to travel to GB at any stage during their asylum application.

## children

In the last Bulletin, we reported on a meeting with a number of children's organisations to explore the idea of setting up a Northern Ireland Children's Panel on immigration matters. We met again in October to identify and chart the steps needed to progress this issue. We will report back on progress in the next Bulletin.

## immigration detention helpline

The Policy Unit continues to work closely with Refugee Action Group, publicising its Immigration Detention Emergency Helpline that went live in June 2009.

## mental health

The Policy Unit was delighted when the Minister announced in September that the Department of Health will bring forward a single bill on mental capacity and mental health law for Northern Ireland.

## seminars

As the Department develops its policy proposals for the legislative framework, the Policy Unit has organised a monthly seminar series to explore a number of issues in the proposed new law. The aim of the seminar series is to stimulate discussion on the way forward in developing the new law.

In September, Professor Phil Fennell of Cardiff Law School explained the nature of the legal capacity test. In October, Tim Spencer-Lane from the Law Commis-

sion explored the role of nominated persons and aftercare in new legislation. In November, Simon Lawton-Smith of the Mental Health Foundation and Graham Morgan of the Highland User Group in Scotland considered the law and practice of community treatment orders. The December seminar will look at models of advocacy. In January, we will explore the appropriate framework of safeguards under the new legislation.

For further details of the seminar series, contact Laura Niwa ([laura.niwa@lawcentreni.org](mailto:laura.niwa@lawcentreni.org)) at the Policy Unit.

## briefings

In August, the Policy Unit briefed the Northern Ireland Human Rights Commission on the human rights implications of the new legislation. The Policy Unit is also working on a number of briefings on key issues as part of the plans for legislative reform. The first of these, on community treatment orders, is on our website at [www.lawcentreni.org.uk](http://www.lawcentreni.org.uk).

## reference group

The Law Centre was asked to host a Reference Group for the Department on the new legislation and the first meeting was held at our Belfast office in October. The Group consists of a range of voluntary, user, carer and professional groups working in the area of mental health and with those who would be affected by the capacity provisions of the new legislation. The Reference Group will meet again in December and into the New Year as the Department formulates its policy proposals on the detail of the new law.

# community care

## rights in community care group

As consultation on the Green Paper in England and Wales on the future of social care draws to a close, the Rights in Community Care Group is completing its research work on the costs of providing care in Northern Ireland. The Group met in October and will reconvene again before the end of the year to analyse the current debates about long-term care.

## autism and asperger's

A number of the Law Centre's cases have highlighted gaps in the provision of services for those diagnosed or with a suspected diagnosis of autism or Asperger's. These include a lack of clarity regarding which Health and Social Care Teams are responsible for providing services and support. We sent Freedom of Information requests to all Trusts to assess the provision of services in Northern Ireland. The Unit is now working with the Community Care casework team on taking this issue forward. We will report on progress in the next Bulletin.

## domestic services

The Unit is exploring concerns about Trusts' withdrawal of funding for certain domestic services, namely cleaning and laundry and continuing care, and finalising briefing papers on top-up fees and respite care. In October, we convened a workshop on respite care at the Carers (NI) annual conference.

## older people

Our community care work brings us into contact with many older people who are in positions of vulnerability. We are therefore actively involved in the campaign for an Independent Older People's Commissioner for Northern Ireland. Alongside the leading age sector groups, the Law Centre met with the NI Children's Commissioner to discuss the lessons from that office that may inform the role and remit for an Older People's Commissioner.

OFMDFM launched its consultation into an Older People's Commission on 1 October 2009 ([www.ofmdfmi.gov.uk/index/equality.age.older-people-commissioner.htm](http://www.ofmdfmi.gov.uk/index/equality.age.older-people-commissioner.htm)). The Law Centre is responding to this consultation, highlighting the need for the Commissioner to have strong investigative and casework powers to best serve the needs of older people in Northern Ireland.

We were pleased that OFMDFM has reconvened its Advisory Panel on Older People after a two-year gap in meetings. Drawing on our casework and policy experience, we will use our membership of this Panel to push for an appropriate strategy and for actions to support the needs and interests of older people.

## migrant workers

### the 'Roma incident'

In August, we participated in a debriefing session on the 'Roma incident' - a number of Romanian families had been forced to leave their Belfast homes following racist attacks in June. At the meeting, we pointed out the lack of a safety net for these and other groups. Just before the 'Roma incident', we had prepared a policy paper for the DEL Migrant Worker Sub-Group. The paper explored the risks for those not eligible to public assistance and recommended the establishment of a public emergency fund, administered by the voluntary sector, to assist migrants at risk of destitution.

We followed up on the debriefing session by participating in a further meeting organised by Belfast City Council's Belfast Resilience Forum in October. We also met with a representative from the European Roma Rights Centre who was in Belfast on a fact-finding mission to look into the incident.

In October, we spoke at a Health and Social Care Trust conference on meeting the needs of migrant workers.

### migrant worker sub-group

The Law Centre continues its work with the DEL Migrant Worker Sub-Group. At the meeting in October we renewed our call for cross-departmental funding for an emergency fund to support those migrants at risk of destitution (see above).

Northern Ireland Human Rights Commission on a future bill of rights for Northern Ireland.

Finally, in September, we organised the second media speed-matching event with NICVA and the National Union of Journalists. This gave voluntary and community organisations the opportunity to network with and highlight their policy issues to members of the local broadcast and print media.

## other work

In July, the Policy Unit met the CAB Policy Team for an update and information exchange.

In September, the Law Centre attended and gave a paper at the NICEM conference on a Single Equality Bill for Northern Ireland.

With a particular focus on economic and social rights, we participated in a roundtable in September with the