

policy bulletin

No.14 March 2013

Introduction

This policy bulletin gives an update on our policy work over the first three months of 2012. Copies of our policy responses are available on our website at www.lawcentreni.org.

In the new financial year, we will be sending you a composite bulletin that will give you an update on all of the Law Centre's work three times a year. This is the last policy bulletin in this format.

As always, we are glad to hear from our members on any of the policy issues outlined here so please get in touch if you would like to know more about any of our policy priorities.

Ursula O'Hare

Assistant Director (Policy and Publications)

Social security

Welfare Reform Bill in the Assembly

The Social Development Committee's report on the Welfare Reform Bill was published at the end of February. It came a day after the Department for Social Development published data on the numbers who will be affected by the introduction of Universal Credit and other welfare reform measures

(www.dsdni.gov.uk/uc-impact-booklet-transitional-protection.pdf and www.dsdni.gov.uk/impact-of-benefit-cap.pdf).

The Committee's Report was delayed by the unprecedented establishment of a thirty day *ad hoc* committee to examine the human rights and equality implications of the Bill. Law Centre (NI) was instrumental in the establishment of this committee: *'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 the Ad Hoc Committee'* [para. 142 of Committee report].

The Social Development Committee's Report echoes many of the concerns raised by the Law Centre, the Welfare Reform Group and other stakeholders in evidence to the Committee. The Committee, for example, opposed the introduction of higher level sanctions up of to three years and recommended exploring the possibility of varying the sanctions regime from that in Britain. The Committee also opposed the introduction of Housing Benefit spare room tax for public sector housing.

In our evidence to the Committee, we were critical of the requirement that a claimant commitment should be signed by both members of a joint couple claim. The Committee recognised the potential unfairness of the joint claimant commitment where one member of the couple refuses to sign a joint claim. It also acknowledged concerns about the potential negative impact of a single household payment on women and children. The Committee made specific recommendations on both these issues. You can read the full Committee report at www.niassembly.gov.uk/Documents/Reports/Social-Development/8856%20Complete%20Version.pdf.

The Welfare Reform Group is completing a series of meetings with the political parties on potential amendments to the Bill in advance of it moving to Consideration Stage next month. To find out more about the Welfare Reform Policy Group contact

Georgina Ryan-White, policy officer, at georgina.ryan-white@lawcentreni.org

Poverty in Northern Ireland

In January, we held a roundtable with the Department for Employment and Learning as part of pre-consultation prior to DEL publicising a strategy for tackling economic inactivity later this year.

In January, we also hosted Mary O'Hara, Fulbright scholar and *Guardian* journalist for the Joseph Rowntree Foundation, on a fact-finding mission to explore poverty in Northern Ireland. We brought together representatives from community and voluntary groups to give an account of the experiences of the impact of public policy on those living in poverty across Northern Ireland. The discussion will be available at www.jrf.org.uk/topic/austerity

In February, we spoke at a conference on child poverty organised by OFMDFM, Children in Northern Ireland, Public Health Agency and the Health & Social Care Board, on child poverty at Queen's University. This coincided with the end of the consultation period on the Coalition government's proposals to develop a new measure for child poverty which critics have argued will shift the focus off income and the targets set out in the Act (www.official-documents.gov.uk/document/cm84/8483/8483.pdf). The targets set out in the Child Poverty Act 2010 are being missed by a greater margin as a result of welfare reform and other austerity measures. We highlighted the critical policy choices that must now be faced to honour the commitment to eradicate child poverty by 2020.

A critical building block in supporting parents into work is access to affordable, quality childcare. We spoke at an Employers for Childcare roundtable event at Stormont at the start of the year. The OFMDFM consultation on a draft childcare strategy closed in March and in our response we argued that it lacked the strategic direction and actions that

would drive forward a co-ordinated approach to the provision of childcare in Northern Ireland. There is no commitment, for example, to a statutory duty to identify and meet childcare needs, or a strategy or lead department as applies in Britain.

Employment

Employment law review

Early in the New Year we met with DEL and raised a number of policy issues arising from our advice and casework experience. Subsequently, we presented our analysis of how the system for resolving employment law disputes should be reformed at a meeting this month of the DEL-led Reference Group on employment law reform.

The review of tribunal rules, promised in the Minister's Assembly statement last November, has commenced, led by the Rules Committee of the Tribunal Users Group. We have argued that the rules could be amended in three ways which would potentially make a positive difference to those we represent and others.

First, along with other members of the Tribunal User Group, we suggest that the rules should require that witness statements are contemporaneous ie both parties to a dispute are required to produce witness statements at the same time. This is the current practice in England and Wales.

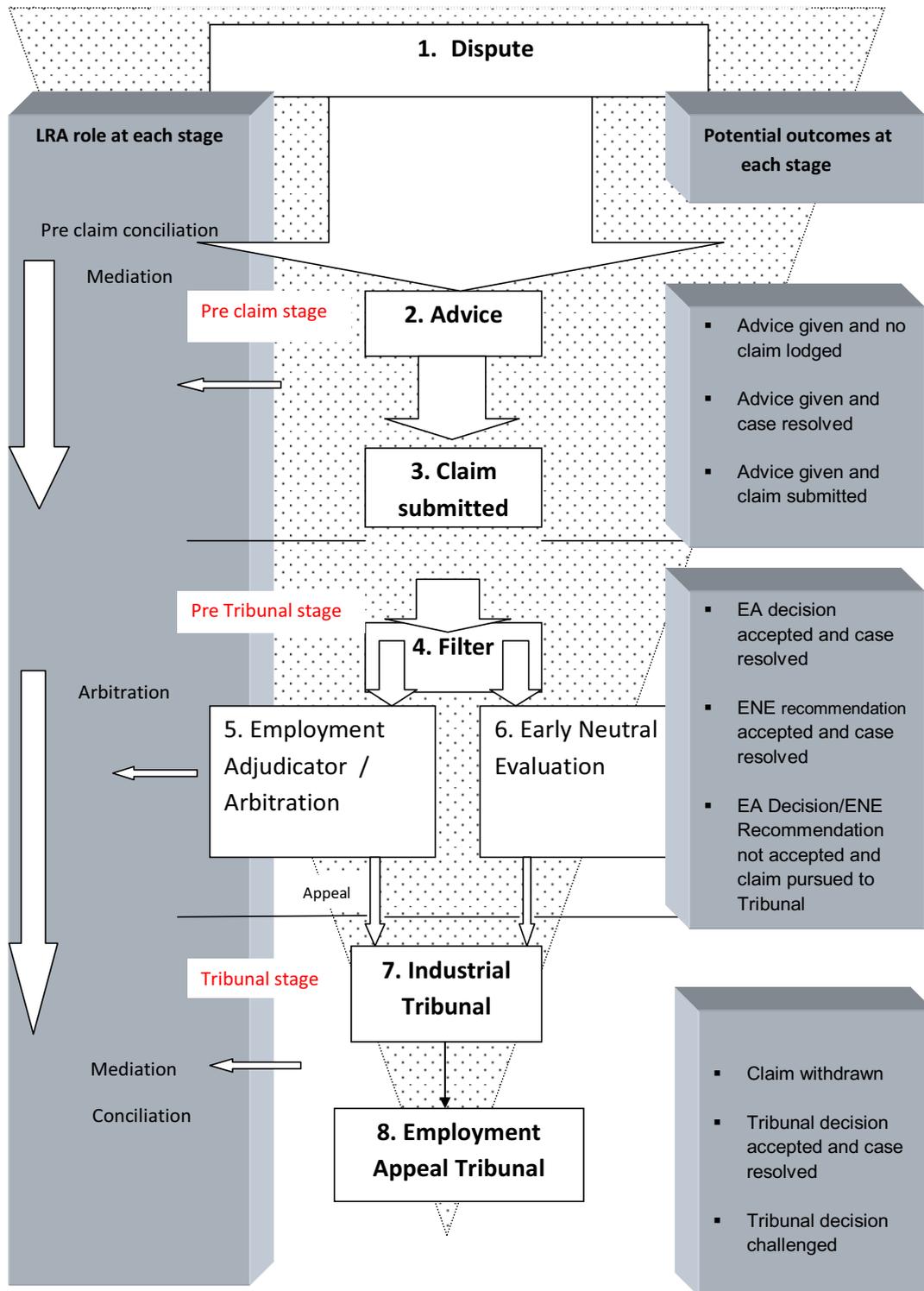
Second, the rules should make provision for the threat of costs to be disclosed to the tribunal. This would go some way to deal with a practice that often deters unrepresented claimants from proceeding with a claim. Third, the rules should make provision for a tribunal chair to give an 'early neutral evaluation' of the prospects of a case succeeding or failing before the tribunal.

The Law Centre has been calling for a system of 'early neutral evaluation' within the tribunal system

since the first DEL consultation on dispute resolution back in 2009. Essentially, it would complement initiatives within the LRA and elsewhere to build on opportunities for alternative dispute resolution.

The Law Centre has developed a flow chart that explains how a new system for resolving employment disputes might operate in Northern Ireland.

FLOWCHART: Law Centre (NI) proposal for dispute resolution



Tribunal reform

Changes to the tribunal system in Northern Ireland will impact on many of our areas of work. Along with the Department of Justice and the School of Law at the University of Ulster, we hosted a conference to launch the Department's consultation paper on tribunal reform in January.

Speaking at the conference, Justice Minister David Ford stressed the importance of a more user-focused service.

The GB Administrative Justice and Tribunals Council, due to be abolished this spring, has been given a temporary reprieve as the House of Lords has recommended that the GB Justice Minister reconsider this decision. Professor Michael Adler from the University of Edinburgh reminded conference delegates about the importance of an oversight body for administrative justice.

Brian Thompson from the University of Liverpool gave some international examples. Professor Hazel Genn of University College London presented new research that demonstrates the value of oral hearings and of mixed tribunal panels. Gráinne McKeever of the University of Ulster outlined models for encouraging user participation in tribunals.

A copy of Hazel Genn's research is now available on the Nuffield Foundation's website at www.nuffieldfoundation.org/sites/default/files/files/Tribunal_decision_making_vFINAL.pdf

We followed up on the conference with a Chatham House roundtable discussion in March.

The Department's consultation on tribunal reform runs until 10 April 2013 and is available at www.dojni.gov.uk/tribunal-reform-consultation-on-the-future-administration-and-structure-of-tribunals-in-northern-ireland.

The Law Centre's response to the paper will be available on our website.

Immigration

Highlighting the inadequacies of asylum support

We contributed to a parliamentary inquiry into asylum support for children and young people, published in January.

The inquiry report picked up on a number of Law Centre concerns about the inadequacies of the National Asylum Support System, especially for families. NASS support is set at a rate which can be up to 50 per cent less than benefits and in a number of case studies we demonstrated the impact of this, particularly on children and young people in Northern Ireland.

Subsequently, we lobbied local MPs to support an early day motion in Westminster to increase asylum support rates to at least equal to 70 per cent of Income Support and to replace the current cashless system with a cash support system.

A number of local MPs spoke in support of the motion in the debate in February or signed the early day motion, including Margaret Ritchie, Mark Durkan and Alistair McDonald (SDLP), David Simpson and Jim Shannon (DUP), Naomi Long (Alliance) and Lady Hermon (Independent).

We will continue to highlight the impact of the inadequate system for supporting asylum seekers and are currently seeking meetings with all the political parties to explore how to address this issue locally.

Meanwhile, we have written to the Social Security Agency to seek better arrangements for payments of benefits to refugees during the transition period following the granting of refugee status. Despite having a clear entitlement, many refugees experience destitution after being granted refugee status due to delays in receiving benefits.

Children subject to immigration control

We have prepared a policy paper on separated children subject to immigration control, making the case for a system of 'legal guardianship' for unaccompanied children, due to be published in April.

We were invited to participate as an adviser to the research team undertaking a project for NICCY on models of 'guardianship' for separated children. The Children's Commissioner drew extensively on the Law Centre's work on separated children in its submission to the Joint Committee on Human Rights inquiry into the human rights of unaccompanied migrant children in the UK.

We have written to both the UKBA and the Health and Social Care Board to encourage a memorandum of understanding that would allow the Board to provide suitable child-friendly accommodation for immigration interviews.

Immigration sub-group

The Law Centre continues to chair the OFMDFM immigration sub-group.

In February, we wrote to the First and Deputy First Ministers to highlight the adverse impact of changes to the immigration rules in Northern Ireland which increase the minimum income threshold necessary to achieve family migration. As income levels in Northern Ireland are proportionately lower than in Britain, this is likely to have the effect of preventing migrants here from bringing their family members to live with them.

Anti-trafficking work

We attended the Department of Justice's NGO Engagement Group on Human Trafficking in February.

In March, we hosted a fringe meeting at the Alliance Party Conference, opened by the Justice Minister and chaired by Anna Lo, MLA.

The event examined strategies to tackle human trafficking from a north-south perspective. The Immigrant Council of Ireland outlined its work on the 'Turn Off the Red Light' campaign which calls for the criminalisation of the purchase of sex. This is intended to combat the demand for sexual services which is often met by women who have been trafficked for sexual exploitation.

Mental health / Community care

Access to health care for overseas visitors

The overlap between our immigration and community care work has been brought into sharp relief this first quarter as our advisers have been dealing with instances of refusals to register certain non-nationals living in Northern Ireland for GP services.

In this context, the launch by DHSSPS of its consultation on access to health care for overseas visitors is welcome.

Under the current arrangements, access to both primary and secondary healthcare is effectively restricted to those who can satisfy the 'ordinarily resident' test. The application of this test is complex and can result in certain non-British/Irish nationals being wrongly excluded from access to primary services. This can have a serious impact on a person's health. The Department is currently consulting on plans to consolidate and update current healthcare regulations and is considering extending some exemptions from charges categories.

We sought the guidance on when to register patients with GPs from the Business Services Organisation (BSO) of the Health and Social Care

Board. When this was not forthcoming, we went to the NI Ombudsman to secure the release of the information. We have now met with the BSO and submitted a detailed document suggesting amendments to the guidance to meet European law requirements.

We met with members of the Refugee Health Special Interest Group and the Refugee and Asylum Forum. We subsequently hosted a roundtable discussion drawing together the DHSSPS, the HSCB and trusts along with other stakeholders to explore the implications of the current proposals.

Seminar on international experiences of capacity legislation

In February, the Mental Health and Learning Disability Alliance (MHLDA) hosted a seminar with Professor Richard O'Reilly, Psychiatrist and Director of Research at the University of Western Ontario, on best practices in using compulsory powers in the community.

In March, MHLDA hosted a seminar, presented by the Northern Ireland Association of Mental Health, to explore statutory advocacy provision under mental health and capacity legislation in the UK, Northern Ireland and the Republic of Ireland.

MHLDA is convened by the Law Centre. For more information about MHLDA, please contact Development Officer Michele Smyth at michele.smyth@lawcentreni.org

In January, we chaired a meeting of the DHSSPS reference group on mental capacity legislation. A draft bill is expected to be published for consultation during 2013.

Providing for long term care

This month, we responded to the DHSSPS consultation on the future of adult social care. The Rights in Community Care Group also prepared a submission which set out its vision for how the reform of social care should be taken forward. This will be made available on our website in April.

Disability strategy

In the last bulletin, we reported on our response to OFMDFM's draft *Strategy to Improve the lives of Disabled People, 2012-2015*. The Strategy was launched at the end of February (www.ofmdfmni.gov.uk/index/equality/disability/disability-strategy-2012-2015.htm). As part of the work on monitoring the Strategy, OFMDFM has produced a Baseline Indicator Set. Work to identify appropriate monitoring arrangements will be one of the main tasks over the next year. A sub group which includes representation from the disability sector has been set up to take this work forward. You can access a copy of the Baseline Indicator Set document at www.ofmdfmni.gov.uk/baseline-indicators-disability-strategy

Policy submissions / briefings / evidence sessions

January - March 2013

January	DHSSPS: <i>Service Framework for Older People</i>
March	DSD: <i>Maximising Incomes and Outcomes</i>
March	OFMDFM: <i>A Childcare Strategy for Northern Ireland</i>
March	DHSSPS: <i>Who Cares? The Future of Adult Social Care</i>
March	LSC: <i>New Appeal Arrangements - Civil Legal Aid</i>