

Introduction

This bulletin gives an update on our policy work over the autumn and winter 2011/2012. Copies of our policy responses are available on our website at www.lawcentreni.org.

The radical changes to the social security system heralded by the Welfare Reform Bill have been a focus of our work over the last few months as we have tried both to influence debates in Westminster and to analyse the impact closer to home. The emphasis in the Compton Review of health and social care on early intervention and community-based care draws attention to the yawning gap in policy thinking about how to provide for and fund long-term social care.

Two developments are noteworthy in relation to overarching access to justice issues. First, the Department of Justice's Access to Justice Review, whose consultation closed just before Christmas, seems to herald some development of community legal services. Second, the Department of Justice has begun consultation on how to take forward tribunal reform with a pre-consultation document published before Christmas.

We are always glad to hear from our members on any of the policy issues outlined here. 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

Campaigning on welfare reform

Over the autumn we met with local MPs and drafted briefings for the Northern Ireland members of the House of Lords as the Bill progressed through Westminster.

Membership of the Welfare Reform Policy Group, which is convened and led by the Law Centre, has grown. The Group submitted a number of amendments to the Bill at second reading and Committee stage in the Lords and has worked alongside other organisations in Britain seeking amendments to the Bill. The amendments sought to ensure that claimants with a dependent child or children do not face sanctions if they are unable to access work or participate in work related activity or to sustain work, due to a lack of appropriate childcare.

The Group gave evidence to the Social Development Committee on the Bill in December. It has completed a series of briefing meetings with the main political parties in advance of the legislation. To find out more, contact Georgina Ryan-White, Policy Officer: Georgina.ryan-white@lawcentreni.org

The Equality Impact Assessment (EqIA) on the Bill published by DSD was lacking in relevant localised data about the impact of the changes on s. 75 groups. This makes it all the more important that the opportunity for full scrutiny in the Assembly is not lost. In Committee, MLAs should be able to draw out evidence of the real affect of these changes on local communities.

Impact of tax and benefit changes

Our AGM in December explored how the social security changes will affect incomes in Northern Ireland.

The Institute for Fiscal Studies explained that Northern Ireland is the second worst affected region in terms of loss of percentage income as a consequence of changes to tax and benefits between 2010/11 and 2014/15. Only London fares worse and this is because of the higher proportion of very rich households who

lose most as a percentage of income from the changes. Conversely, in Northern Ireland, it is many of the poorest who will lose disproportionately more than the UK average as a whole because of the effect of the changes on families with children and on those in receipt of Disability Living Allowance. Northern Ireland has a higher proportion of large families and DLA claimants of working age than in Britain.

Childcare and welfare reform

Over the autumn, we held roundtable discussions on two critical aspects of welfare reform. One is the childcare infrastructure needed to support the expressed policy intention of supporting more people into the labour market. The other key issue is the strategy for implementation of the changes. Both roundtables involved the key departmental leads in discussion with the community and voluntary sector and others.

The childcare seminar explored the gap in provision and made recommendations for the long-promised childcare strategy. Participants explored how welfare reform will be implemented. They heard from senior officials how plans for implementing the Bill are taking shape. The sector made strong recommendations about the importance of full legislative scrutiny of the Bill in the Assembly and of identifying options for locally-crafted approaches to implementing the Westminster policy.

Copies of the economic analysis of options for childcare provision have now been published on:

www.ofmdfmni.gov.uk/policy_and_economic_appraisal_of_the_options_for_the_ni_childcare_strategy.pdf

Work Capability Assessment - the Harrington Report

Last spring, we commented on DSD's review of the Work Capability Assessment (WCA).

The WCA is the tool used to assess entitlement to Employment Support Allowance (ESA) and for migration from Incapacity Benefit to ESA.

We urged the Department to put monitoring arrangements in place to track actual employment outcomes in the roll out of the test and to stall on rolling out the migration process until the results of the Northern Ireland Harrington review are known.

In December, we gave evidence to the Social Development Committee on the Harrington report, outlining that since Northern Ireland has almost double the number of people in receipt of Incapacity Benefit per head of working age population than the UK average, the impact of the transition will be felt more greatly than elsewhere.

Work is needed to ensure first, that the process of ongoing review by Professor Harrington encourages more meaningful engagement with those affected and second, that the support for those with mental and physical disabilities who are seeking work is matched to the prevailing social and economic conditions. We recommended that Professor Harrington be invited to come to Northern Ireland.

Housing Benefit change

Last year, we argued against the government's plans to increase the age of entitlement to the single room rate for Housing Benefit from 25 to 35.

In our response to the Social Security Advisory Committee's consultation on the regulations, we criticised these cost cutting proposals that will affect almost 6,000 claimants in Northern Ireland (ie people between 25 and 34 who currently receive the one bedroom room rate). In Belfast, where claimants will face the largest reduction, the potential impact for them could be as much as a maximum weekly reduction in Housing Benefit of £40.42 per week.

In October, the Assembly debated a prayer of annulment motion on the Housing Benefit (Amendment No. 2) Regulations (NI) 2011 which implemented this change. We joined with other organisations to prepare a briefing paper for MLAs highlighting the impact of the policy. Concerns about breaking parity resulted in the motion being defeated by 34 votes to 55. The regulations came into force in January 2012.

Passport benefits

An important outstanding issue in the implementation of Universal Credit is how passport benefits will be handled in the new system. Passport benefits include free school meals etc. The Social Security Advisory Committee was tasked last year with undertaking an analysis of passport benefits and has now submitted a report to the Secretary of State. A response from the Department is now awaited.

Reform of DLA

Proposals for replacing Disability Living Allowance with a new Personal Independence Payment (PIP) are well-developed. Locally, the Department for Social Development has estimated that the proposed changes to DLA will result in a 20 percent reduction in working age claimants once the proposals have been fully implemented.

In evidence to the Work and Pensions Select Committee Inquiry into the proposals in the autumn, we argued against the extension of the qualifying period from three to six months and the exclusion from automatic entitlement of those with certain disabilities, including deafness and blindness.

In the face of fierce opposition to its plans, the government has decided to drop its proposals to withdraw the mobility component of DLA from those in residential care. The government also accepted an amendment in the House of Lords to increase the initial qualifying period for PIP from three to six months, while at the same time seeking to increase the forward qualifying period from six to nine months. A person must therefore be able to satisfy the daily living and/or mobility activities test for three months prior to claiming and be likely to continue to satisfy this test for a period of at least nine months after claiming.

The Department of Work and Pensions has published a new consultation on PIP entitlement. In England and Wales, the Department estimates that changes to entitlement are likely to reduce the claimant count by 500,000. Copies of the consultation are available at www.dwp.gov.uk/consultations/2012/pip.shtml

Employment

Employment Law Review

Following David Cameron's announcement that he wants to cut bureaucracy by making it harder for workers to establish rights to protection against unfair dismissal, the Department of Business, Innovation & Skills (BIS) has consulted on a range of proposals under the framework of the Employment Law Review. See: www.bis.gov.uk/policies/employment-matters/employment-law-review

The latest is a call for evidence on the operation of the Transfer of Undertaking (Protection of Employment) Regulations 2006. This follows suggestion by business that the 'service provision change' aspects of the Regulations are 'gold-plated'.

The service provision change element of the GB Regulations provides clarity to employers and employees about the extent of the transfer, including the transfer of labour-intensive contacts. In Northern Ireland, this is provided for in the Service Provision Change (NI) Regulations 2006.

We submitted evidence to the Department for Employment and Learning highlighting that any move to roll back or change the 2006 Regulations will lead to increased confusion, increased litigation, and increased uncertainty, which is not in the interests of employers, employees or government in Northern Ireland.

These Regulations fall within the remit of the Assembly and so the Department here is not under any legal obligation to take its lead from Britain whatever the outcome of the BIS call for evidence.

Mental health

In October, the DHSSPS gave evidence to the Health Committee on the broad framework of the new Mental Capacity (Health, Welfare and Finance) Bill and in November, a delegation from the Mental Health and Learning Disability Alliance (which included the Law

Centre) briefed the Committee on key aspects of the Bill.

If you want to know more about the Mental Health and Learning Disability Alliance, please contact Laura Niwa, Development Officer, at laura.niwa@lawcentreni.org

In the autumn, we spoke at a jointly hosted Public Interest Law Alliance/Public Interest Law Project in Dublin on the proposals for the new Bill. We gave a presentation to the Bamford Monitoring Group in December. In January, we joined the Department of Justice's Legislative Reference Group to examine policy proposals for the application of the Bill to the criminal justice system. This work is anticipated to run through 2012.

We responded in January to the DHSSPS consultation on proposals for new regulations to provide for the treatment of detained patients in private hospitals following review of this by the Health Committee. Our comments focused on the need to ensure that provision is made for appropriate safeguards to guard against financial incentives for detention in private hospital settings.

Immigration

Protecting separated children

Our work on separated children in the immigration system through the Law Centre-convened Working Group on Separated Children has moved into a new stage this year.

Following two 'mapping' sessions last year, there is now a 'roadmap' of existing practice. This formed the basis of our policy analysis seminar in January which explored recommendations from the Working Group on how best to protect and support separated children navigating the immigration and welfare systems.

We met with the DHSSPS last year to outline the preliminary findings of the mapping process and to push for guidance to be issued on separated children in the immigration system.

We have also been part of a Health and Social Care Board-led group working to develop a service standard for separated children. We anticipate the standard will be finalised this spring.

Immigration sub-group

We continue our work in chairing the OFMDFM Immigration sub-group.

Papers have now gone to the Department for Employment and Learning and to the Minister outlining the case for free ESOL classes for refugees and asylum seekers. We have been pushing for arrangements to be put in place by the start of the new academic term to make English language classes available to this group.

We are also now working on proposals for work permission for asylum seekers and are due to meet the Minister on this issue in February.

Anti-trafficking

The Council of Europe's Expert Group on Anti-Trafficking (GRETA) visited Northern Ireland in November on a fact-finding mission in advance of its report on UK compliance with the Council of Europe's Anti-Trafficking Convention, expected this spring.

Alongside Amnesty International, we had previously met with the Department of Justice to highlight concerns about the implementation of the Northern Ireland specific recommendations of the Anti-Trafficking Monitoring Group's report on human trafficking in the UK.

Our concerns include the need to ensure that:

- all victims are offered specialist immigration advice immediately upon identification;
- effective training is put in place for all first responders making referrals to the National Referral Mechanism established under the Convention; and
- there is a central data point to capture effective data about the extent of trafficking in Northern Ireland – particularly important given the land border.

We are now working with the London-based Human Trafficking Foundation's sub-group to develop best practice recommendations for the provision of services to victims of trafficking.

Access to health care for overseas visitors

As part of its pre-consultation, we met with DHSSPS on its proposals to change entitlement to health care for overseas visitors which would affect some categories of refused asylum seekers.

We have prepared a briefing paper setting out the policies in place in Scotland, England and Wales and recommending a Scottish-based approach to protecting asylum seekers' entitlement to health care.

Community care

Providing for long term care

The Health and Social Care Review (Compton Review) reported at the end of November but a critical aspect of the current social care debate was not addressed. This is the question of how provision should be made to fund long term care. The Dilnot Commission on funding long term care in England and Wales reported last July and the political decisions about the Commission's recommendations are still pending.

During the autumn we spoke at a seminar on the economics of social care and jointly hosted a roundtable discussion with Age NI on the issue to kick start a long overdue policy discussion on this important question.

Dame Jo Williams of the Dilnot Commission discussed the Commission's recommendations for England and Wales and the DHSSPS gave an overview of their current thinking.

A paper outlining the policy issues is expected this spring from DHSSPS. The policy debate is now urgently needed in Northern Ireland if we are to craft a social care system that is fair and responsive to local needs

rather than following a solution that may or may not work for England and Wales.

OFMDFM Older People's Advisory Group

We continue our work with the Older People's Advisory Group to advise OFMDFM on a new strategy for older people in Northern Ireland. We have argued that the strategy should incorporate adult social care as one of its priorities.

We hoped to see a strategy out for consultation before the end of last year but this has been delayed.

We have now joined an advisory group to the newly appointed Older People's Commissioner to highlight the issues and challenges facing older people.

Rights in Community Care

The Rights in Community Care Group (RICC) has published a report of its seminar series on *A Vision for Community Care*. The report makes a series of recommendations for change, including a greater focus on preventative strategies and investment in community care reflective of the rights, needs and wishes of those affected.

The RICC report is available on: www.lawcentreni.org/Publications/Policy%20Briefings/RICC-Report-2011.pdf

RICC is now developing its work plans for taking forward these recommendations. For more detail, contact Laura Niwa, Policy Officer: laura.niwa@lawcentreni.org

Access to justice

We have long insisted that there needs to be a clearer focus on the needs of tribunal users and effective oversight of the operation of the tribunal system in Northern Ireland.

The two Nuffield-funded reports which we commissioned to explore these issues were published in December, coinciding with the Department of Justice pre-consultation on tribunal reform in Northern Ireland.

We held a roundtable with representatives from the Department of Justice, judiciary and others in December to discuss the Department's proposals.

Copies of the Nuffield reports are available at:

www.lawcentreni.org/Publications/StructuralTribunalReform2011ELECTRONICVERSION.pdf

and:

www.lawcentreni.org/Publications/SupportingTribunalUsers2011ELECTRONICVERSION.pdf

The Department's pre-consultation paper is available at www.dojni.gov.uk/index/public-consultations/archive-consultations/tribunal-reform-consultation-on-the-future-administration-and-structure-of-tribunals-in-northern-ireland.htm

In December, we responded to the Access to Justice Review, supporting the broad intention to keep areas of law largely within the scope of legal aid. This is in contrast to England and Wales, where scathing cuts to the scope of legal aid are in the Legal Aid Bill.

We highlighted a number of concerns about the timeframe for the proposed reforms and about how the commitment to a mixed model of delivery of legal aid, involving the voluntary sector, will be funded in practice.

We opposed the proposals to introduce a housing equity test with a £100,000 disregard given the potential adverse impact on older people. We also argued against the proposal to get everyone to make a contribution to their legal aid costs regardless of circumstances.

Copies of the review are available at:

www.courtsni.gov.uk/en-GB/AboutUs/A2JReview/Pages/default.aspx

Submissions, briefings and evidence sessions

September to December 2011

- Sept Work and Pensions Select Committee, Replacing DLA with Personal Independence Payments
 - Sept UKBA, Employment Related Settlement
 - Oct UKBA, Family Migration
 - Oct DHSSPS, Pre-consultation response to Policy Proposals for Overseas Visitors
 - Oct DSD EqIA on Welfare Reform Bill
 - Oct Submission to Council of Europe Group of Experts on Action Against Trafficking
 - Oct DWP Supported Housing – Housing Benefit Reform
 - Oct DSD Work Capability Review
 - Oct DHSSPS – Disability Action Plan
 - Nov Briefing paper comparing health policy for asylum seekers across UK
 - Dec Ministry of Justice, Bail Guidance for Immigration Judges
 - Dec Department of Justice, Access to Justice Review
- Briefing for Social Development Committee on Welfare Reform Bill (December)
- Briefing for Social Development Committee on Work Capability Assessment (December)