

introduction

Welcome to the second policy bulletin for 2010 outlining our work over the last three months.

Since the last Bulletin, policing and justice have been devolved to the Assembly, opening the door for movement on tribunal reform. The aftermath of what must be one of the most interesting Westminster elections in years brings many challenges in a number of Law Centre policy areas - long term care, immigration and welfare reform. A new Minister for Social Development will pick up a portfolio that includes implementation of a new Welfare Reform (NI) Order 2010 with the promise of more Westminster-driven reform coming fast down the tracks.

As ever, please get in touch if you would like to find out more about any of the issues in this Bulletin.

Ursula O'Hare
Assistant Director (Policy & Publications)

framework of social justice

Bill of Rights

The last Bulletin went to press as we were completing our response to the Northern Ireland Office's (NIO) consultation on the Bill of Rights. Like many organisations in the community and voluntary sector, we were

critical of the re-framing of the Bill of Rights debate after significant investment by both government and others over the last decade in shaping the scope and content of a bespoke Northern Ireland Bill of Rights. Linking progress on a Northern Ireland Bill of Rights to the wider UK debate loses sight of the constitutional and political context in which the commitment to a Bill of Rights was undertaken.

Over the last decade, there has been a deep and widespread debate about the importance of economic and social rights in a Northern Ireland Bill of Rights and increasingly strong public support for these rights. The rights to health, housing, work, income etc - are the foundation stones of social justice and we are deeply troubled by their exclusion from the government's plans.

Tribunal reform

Tribunals are a key vehicle for delivering social justice. Intended to be an easy and quick way to resolve disputes, more people use tribunals than courts. Tribunals do not, however, always receive the degree of scrutiny that they merit. Our Nuffield-funded research project on tribunal reform sought to remedy this. The research analyses the experiences of a number of people bringing claims before tribunals and sets out an agenda for reform of the oversight arrangements for tribunals. This includes the creation of an Administrative Justice Tribunals Council for Northern Ireland (which exists in England and Wales and in Scotland) that would keep the work of the tribunal system under review.

The report, *Redressing Users' Disadvantage: Proposals for Tribunal Reform in Northern Ireland*, authored by Gráinne McKeever from the University of Ulster and Brian Thompson from the University of Liverpool, was launched in time for a conference held in conjunction with the University of Ulster Law School and the Office of the President of Appeals Service. At the conference David Ford announced the setting up of a reference group to map administrative justice. The Law Centre is now looking at how the momentum generated by the conference can be maintained. The report is available from the Law Centre (www.lawcentreni.org/publications/other-publications/672-tribunal-reform.html)

Interpreting services

We commented on the Northern Ireland Court Service's plans to reform the system for providing interpreters in tribunal and court proceedings. We stressed the need to improve the provision of interpreters for some languages. We also recommended that the Court Service should explore the need for additional judicial training and/or guidance on working with interpreters in court and tribunal proceedings.

social security

Welfare Reform (NI) Bill 2010

The big social security story this spring was the Welfare Reform (NI) Bill 2010. This is the local variant of the Welfare Reform Act 2009. We gave evidence to the Social Development Committee in May and produced amendments for the Committee and debate stage of the Bill. We also tabled a paper for the Committee on the principle of social security, outlining where parity is advantageous to Northern Ireland and where it is not. We highlighted a number of areas where it would be possible to depart from parity without jeopardizing social security entitlement.

The Committee report on the Bill was concluded in June (you can read it on www.niassembly.gov.uk/social/2007mandate/reports/report_61_09_10R.htm). Debates on the floor of the Assembly failed to result in our amendments being accepted and the Bill will now be enacted. Our key concerns with the Bill are the increased focus on 'conditionality' (ie sanctions), plans to abolish Income Support and the impact of this on carers as well as the impact of moving more lone parents to Jobseeker's Allowance. Pilots have not been planned specifically to assess whether, for example, 'work for your benefit' provisions will work locally. Too much faith is invested in the outcomes of GB pilots, failing to acknowledge the different local circumstances. During the passage of the Bill, the new minister for Social Development indicated that he wished to meet the Law Centre with officials to further explore the impact of parity.

Welfare Reform Policy Group

We coordinated a Welfare Reform Policy Group from the community/voluntary sector to bring together organizations whose members are likely to be affected by the proposals within the Welfare Reform Bill. This group also produced a briefing which was submitted as evidence to the Social Development Committee. Law Centre (NI) will continue to work with the Group to monitor the impact of the Bill on the ground. More radical reform of the welfare system is promised by the Coalition Government over the next year. If your organization is interested in finding out more about this Group, please get in touch with Laura Niwa in the Policy Unit (laura.niwa@lawcentreni.org).

Social Fund

In April 2010 we made a joint submission with Housing Rights Service to the Department for Work and Pensions consultation on *Social Fund Reform: Debt, Credit and Low-Income Households*. We welcomed the plans to reform the Social Fund by making it easier for customers to get one-off occasional support. We also welcomed proposals to provide more support to frequent users of the Fund. Most applications to the Social Fund are because of financial hardship and we were disappointed that the inadequacy of benefit levels was not acknowledged in the government's proposals. Going forward, more needs to be done to increase the information available to claimants and to maintain a degree of flexibility in the allocation of community care grants to reflect the different circumstances and needs of claimants.

mental health

Single Mental Capacity and Mental Health Bill

The DHSSPS Reference Group, chaired by the Law Centre, has continued to meet to consider the development of proposals for the Single Mental Capacity and Mental Health Bill. The DHSSPS Equality Impact Assess-

ment consultation on the new proposals was published at the end of July. The Law Centre and the Mental Health & Learning Disability Alliance will respond to this.

Delayed discharge from hospital

The Law Centre is exploring the problem of delayed discharges for those in learning disability hospitals in Northern Ireland. We have a number of clients currently living at Muckamore Abbey Hospital. Our Policy Unit and Mental Health Legal Advice Unit are working together to consider how best to take this issue forward.

Mental Health & Learning Disability Alliance

The Mental Health & Learning Disability Alliance continued its series of meetings with the political parties. In April, the Alliance met with Dawn Purvis (then) of the Progressive Unionist Party. The Alliance is currently examining the policy implications of a number of issues in the new legislation and the Law Centre is chairing two Short-term Thematic Working Groups on Advance Decisions and Advance Statements and Tribunals. The aim of these groups is to draft an issues paper to inform the wider Alliance of how these issues may be dealt with within new mental health and capacity legislation in Northern Ireland.

If your organisation is interested in joining the Alliance, you can contact the Alliance via the Law Centre's Policy Unit.

cases dealt with by our Community Care Legal Advice Unit and highlights our concerns regarding the lack of age and gender appropriate respite facilities and the lack of specialist brain injury respite facilities in Northern Ireland.

Long term care seminars

The Rights in Community Care (RICC) group, convened by the Law Centre, plans to continue its work on the funding of long term care with a seminar series in the autumn. The series will build on the research work undertaken by RICC and will feature four seminars on the theme of the *Future of Care in NI*.

employment

Resolving workplace disputes

The Department for Employment and Learning has committed to repeal the troublesome statutory grievance procedure but retain the statutory dismissal procedure. In its response to the extensive consultation on resolving workplace disputes, the Department recognised the benefit of retaining the statutory dismissal procedure that provides much needed clarity to employers (especially small employers) and employees alike. This is a clear departure from the approach that was taken in England and Wales following the *Gibbons Review* where both statutory dismissal and grievance procedures have been repealed and replaced by an ACAS Code of Practice. It is a welcome recognition of the importance of tailoring solutions to match the local environment. It is disappointing therefore that the Department did not go further to overhaul the system.

There is a commitment to early resolution of workplace disputes. A central proposal is to broaden the scope for arbitration beyond its current limits on unfair dismissal and flexible working. Arbitration is grossly under-utilised and without the right incentives is likely to

community care

Respite care

We are currently updating our briefing on respite care provision in Northern Ireland which will be available on our website. The briefing examines some of the main difficulties faced by those who need respite care in Northern Ireland: the right to an assessment of need and the lack of adequate and appropriate respite facilities. It draws upon

remain so. Other options for resolving employment disputes, including a variant on a 'Rights Commissioner' model, are not considered.

Information portal and the need for dedicated advice

Another outcome of the review is that the Department proposes to establish a common information portal on employment law matters that will signpost users to appropriate specialised bodies dealing with employment law. This is welcome but the Department's thinking here seems to blur the distinction between information and advice and the problems in the current system that surface because parties too often do not have access to dedicated and tailored advice. Too many employees (often *ex-employees*) do not benefit from the clear advice tailored to the facts of their case that would equip them to make the right decisions about whether or not to pursue a claim to the tribunal. For those with a meritorious claim, the result is that either the claimant is unable to take forward the claim or struggles, un-advised and un-represented to deal with the complexity of the tribunal process. This, in turn, leads to delays and blockages in the tribunal hearing itself. Investment in early intervention through dedicated advice could bring considerable benefits.

The Department has recognised these benefits for the small business community. It proposes to introduce a dedicated advice service for the small business community. Comparable investment in advice for claimants who would otherwise find themselves unrepresented is also needed.

immigration

Programme for Government

Included in the new Westminster coalition government's Programme for Government is a commitment to end the immigration detention of children and a

'cap' on non-European inward migration. A Home Office review is now underway but we are disappointed that no timescale has been given for ending the cruel and shameful practice of detaining children. We attended the meeting with the Minister for Immigration, Damien Green, in Glasgow in June and our response to the review is available on our website. The review is an interesting test of the new statutory duty in the Borders, Immigration and Citizenship Act 2009 that requires the authorities to safeguard and promote the welfare of the child. In the meantime, children will no longer be detained in Dungavel but will be removed from Northern Ireland to Yarl's Wood, involving a much lengthier journey and greater risk of breaking the link with their established legal advisers in Northern Ireland.

The other big announcement in the Programme for Government is a 'cap' non-European inward migration. The policy proposal has not yet been fleshed out in any detail so it is unclear whether this will impact on family reunification. We will be interested to see how the 'capping' proposal will be human rights compliant in terms of family reunion.

Immigration Simplification project

There has been no movement on the Immigration Simplification project since the general election. It remains to be seen whether the new government will pursue the Immigration Simplification Bill or whether this legislative programme will now be dropped.

Immigration Sub Group

The Law Centre was asked by OFMDFM to chair a new Immigration Sub Group as a specialized working group under the umbrella of the Racial Equality Forum. The Immigration Sub Group met for the first time in March 2010 and again in June 2010. It has a wide attendance and includes representatives from both the voluntary and statutory sector with day-to-day expertise in immigration matters.

The Sub Group is set to become an extremely productive forum to address key immigration issues in Northern Ireland. Its first 'meaty' topic is the creation of an

Emergency Fund, which we hope will serve to assist migrant workers who become destitute by falling through gaps in the existing support network. A number of organisations across Northern Ireland currently do their best to help destitute migrant workers. However, the support they can provide is often *ad hoc* and extremely limited and is often insufficient to meet all immediate needs. We have consistently argued that the creation of an Emergency Fund will help those organisations respond more effectively and more promptly, thereby averting the need for more expensive interventions (such as hospitalization) at a later stage.

The Sub Group is also working with DEL to examine the introduction of free ESOL classes for asylum seekers in further education colleges.

North/South Immigration Forum

The seventh North/South Immigration Forum was held during Refugee Week in June. It focused on social services duties to children subject to immigration control. Now that the UK has lifted its reservation to the United Nations Convention on the Rights of the Child, immigrant children should have the same access to services as resident children. Speakers explored how the respective social services departments (from Northern Ireland and Republic of Ireland) seek to ensure that immigrant children do receive the services they require. The Forum was a fairly grim appraisal of the difficulties faced by children who are subject to immigration control on both sides of the border.

Refugee Action Group

In the last Bulletin, we reported that the Refugee Action Group (RAG) was recruiting a researcher to look at the 'human face' of immigration detention in Northern Ireland. Over the last three months, the research has been completed and we spoke at the launch of the research report, *Distant Voices, Shaken Lives: Human Stories of Immigration Detention from NI* at Parliament Buildings in June at an event organized by NICRAS to celebrate Refugee Week.

RAG hopes that the research will convey the stories of human suffering which are endemic within the detention system and help persuade the Northern Ireland Assembly to oppose immigration detention. The report is timely given the Home Office review on ending the detention of children.

For information about the research, contact Liz Griffith at the Law Centre on elizabeth.griffith@lawcentreni.org.

further information

April to June 2010 policy submissions and briefings (www.lawcentreni.org)

Home Office Consultation on the Publication of Monthly Asylum Application Statistical Data (April 2010)

Welfare Reform Bill 2010: Clause by Clause Briefing to Social Development Committee (April 2010)

Northern Ireland Court Service Consultation Welfare Reform Bill 2010: Welfare Reform Policy Group Briefing for Social Development Committee (May 2010)

Child Poverty Act - An Analysis (May 2010)

Amendments for Social Development Committee consideration of Welfare Reform Bill 2010 (May 2010)

Social Fund Reform: Debt, Credit and Low-Income Households (June 2010)

Home Office Review into Ending the Detention of Children for Immigration Purposes (July 2010)