

Social security

Impact of welfare reform

Along with NICVA, in March, we hosted a conference for the community and voluntary sector on the impact of welfare reform. Held on the week when the Welfare Reform Bill received Royal Assent in Westminster, the conference heard from Baroness Ruth Lister, Neil Couling of the Department for Work and Pensions (DWP) and Will Haire, Permanent Secretary of the Department for Social Development (DSD). Members of the Assembly Social Development Committee shared their political analysis of the changes.

Following the conference, members of the Welfare Reform Policy Group met with DWP Minister Lord Freud in May to highlight the specific circumstances which point to different arrangements for the implementation of the Bill in Northern Ireland. Also in May, the Law Centre convened a roundtable discussion with the Department for Employment and Learning (DEL) on the new work programme which is a crucial aspect of changes to the social security system.

To find out more about the Welfare Reform Policy Group, contact Georgina Ryan-White, policy officer, at Georgina.ryan-white@lawcentreni.org

Introduction

This policy bulletin gives an update on our policy work in the first half of 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 Act in Britain have continued to be a focus of our work in 2012. Law Centre Director Les Allamby has been appointed as a member of the OFMDFM-led ministerial group on alleviating hardship which is advising ministers, among other things, on the implications of welfare reform.

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)

Housing Benefit change

In May, jointly with Housing Rights Service, we responded to the Social Security Advisory Committee's request for an assessment of the impact of the proposals to freeze Local Housing Allowance (LHA) rates from April 2012 and to uprate LHA by the Consumer Price Index from April 2013. Our shared concerns focus on the cumulative effect of these proposals, when combined with the recent change that lowers LHA to the 30th percentile of rents and the extension of the Shared Room Rate (previously for under-25s) to under-35s. It is too early to fully assess the impact as much will depend on claimants' accommodation choices and whether landlords restrict their rent increases as predicted by the DWP in Britain. We recommended that contingency plans be developed to respond to people who experience severe hardship as a result of these measures.

Reform of DLA

The Law Centre and the Welfare Reform Group responded to DSD's consultation on the proposed assessment thresholds for the new Personal Independence Payment (PIP) which have been set out in regulations by DWP in Britain. By the government's own modelling, the proposed changes would result in a 20 per cent reduction in working age claimants.

This was an important opportunity to comment on the draft regulations, given that description weighting and entitlement thresholds were absent from the previous consultation process. The limited number of essential activities identified to qualify for PIP is of concern, especially given that DWP claims that the new benefit is designed to support people to lead independent and active lives. One welcome new addition, however, is 'making financial decisions', although we are concerned at the low scoring and weighting given to this activity and others such as 'preparing food and drink' and 'bathing and grooming'. This will require claimants to prove that their condition is severe, hence undermining the effect of the condition within the broader spectrum of their disability.

A further consultation about the design of PIP is currently underway (www/dwp.gov.uk/consultations/2012/pip-detailed-design.shtml). We continue to urge the Department to highlight the greater incidence of mental health problems specific to Northern Ireland.

Employment

Changes to TUPE

Earlier this year, DEL consulted on the Department for Business, Innovation and Skills in Britain's call for evidence on the effectiveness of the Transfer of Undertakings (Protection of Employment) Regulations 2006 in 'protecting employees' rights and soothing the process of business restructuring.' We argued in our submission that the regulations provide much needed clarity to

employees and employers alike and cautioned that any attempt to roll back from the regulations would result in increased confusion and potentially increased litigation.

Employment law review

At the start of the year, we participated in a Labour Relations Agency seminar on the changes to employment law in Britain. With an eye to developments in Britain, in May, DEL published a discussion paper on whether there is a case to be made for embarking on a process of employment law reform in Northern Ireland (www.delni.gov.uk/employmentlaw). This month, we convened a roundtable with key stakeholders to explore the need for reform of the employment law landscape in Northern Ireland and to consider options for change. Consultation on the discussion paper closes on 20 July and a copy of our response will be available on our website.

Mental health

Capacity legislation

Following the announcement earlier this year that new capacity legislation will extend to the criminal justice system, the Department of Justice has established a legislative reference group to explore the specific issues relating to the justice system. The Law Centre is participating in the reference group given our interest in the overall framework of the capacity bill. The Mental Health and Learning Disability Alliance (MHLDA), which is convened by the Law Centre, is also represented on the reference group. If you would like more information about the Alliance, please contact Laura Niwa, Development Officer at laura.niwa@lawcentreni.org

The Law Centre has spoken at a number of events in recent months on the new capacity bill and on the current law on guardianship under the existing Mental Health (NI) Order 1986.

Immigration

Better 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 in navigating the immigration and welfare systems. We met with the DHSSPS last year to outline our preliminary findings and to push for guidance 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 which is currently being finalised. This will provide clarity to relevant professionals who are in contact with separated children on their obligations to ensure that the health and welfare needs of this group of children are met.

In June, we organised a roundtable to look at options for establishing a 'guardian' for separated children subject to immigration control in Northern Ireland. Syd Bolton, co-director of the Refugee Children's Rights Project in Britain shared his insight into the potential benefits of a 'guardianship' system. We will be continuing to work on this issue within the working group over coming months.

Immigration sub-group

We continue our work in chairing the OFMDFM Immigration Sub-Group. We have been pushing for English language classes available to asylum seekers by the start of the academic year, and DEL is working towards having arrangements in place for September 2012.

We are also working on proposals for work permission for asylum seekers and will be bringing a revised paper to the group later this summer.

Anti-trafficking

The Council of Europe's Expert Group on Anti-Trafficking (GRETA) visited Northern Ireland last November on a fact-

finding mission. The group's report on UK compliance with the Council of Europe's Anti-Trafficking Convention is expected soon.

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 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 across the UK.

In June, we responded to the Department of Justice's consultation on the introduction of new anti-trafficking offences and on how to enhance co-ordination of anti-trafficking work in Northern Ireland. We recommend that the Department of Justice establish a working group by involving civil society and all the relevant departmental and statutory agencies with responsibility for victims of trafficking.

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 to kick start a long overdue policy discussion on this important question.

The Department is now working on a strategic paper on adult social care. We discussed this with Department officials when we met with them earlier this year.

OFMDFM Older People's Advisory Group

We continued our work with the Older People's Advisory Group to advise OFMDFM on a new strategy for older people in Northern Ireland. We hoped the strategy would be out for consultation this spring but this has been delayed and is now anticipated in the autumn.

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

Earlier this year, the rights in Community Care (RICC) group published a report of its seminar series on *A Vision for Community Care*. The report makes recommendations for change, including a greater focus on preventative strategies and investment in community care reflective of the rights, need and wishes of those affected (www.lawcentreni.org/Publications/Policy%20Briefings/RICC-Report-2011.pdf)

RICC is now developing its work plans for taking forward these recommendations in the context of the Compton Report, *Transforming Your Care* and the anticipated paper from the DHSSPS on adult social care.

For more detail contact Laura Niwa, policy officer, at laura.niwa@lawcentreni.org

Direct payment work

In May, the DHSSPS put in place interim arrangements for direct payments following the High Court's ruling in *PF & JF's Application* ([2011] NIQB, 20).

Under current legislation in Northern Ireland, persons who lack capacity cannot consent to receiving a direct payment. The Department estimates that there are approximately 650 cases where there is a question over capacity to consent to a direct payment.

We have asked the Department to confirm that it will amend the Carers and Direct Payments Act (NI) 2002 to allow, with appropriate safeguards, another person to receive a direct payment on behalf of a person with eligible needs who lacks capacity to consent to such payments.

We are also exploring how this issue will be addressed in the context of the forthcoming Mental Capacity (Health, Welfare and Finance) Bill.

Rathlin Island work

We have been in correspondence with the Northern Health and Social Care Trust about the provision of home care services to residents of Rathlin Island. We are pleased that a domiciliary care worker is now in place on the island.

We have asked the trust to ensure that appropriate contingency plans are in place should any gaps in service emerge.

A ministerial group is currently reviewing the strategic plan for the island. We will monitor progress on this to ensure that care services remain available to islanders.

Third party top up fees

Along with Age NI, in June we met the Health and Social Care Board to discuss concerns about the operation of third party top up fees.

Submissions, briefings and evidence sessions

January to June 2012

- Jan** DHSSPS: Response to Private Hospital Regulations
- Feb** SMI Final Draft Consultation Response
- Feb** DEL/BIS: Response to call for evidence on the Effectiveness of Transfer of Undertaking (Protection of Employment) Regulations 2006
- Feb** DEL Committee: Evidence on Proposed Dissolution of the Department of Employment and Learning
- Feb** Law Centre (NI) Comments on Draft Programme for Government
- Feb** OFMDFM: Response to consultation on the proposed dissolution of the Department of Employment and Learning
- Feb** SSAC: Response to consultation on support for mortgage interest (with Housing Rights Service)
- March** DSD, Response to Bereavement Benefit Consultation
- March** DSD: Response to Work Capability Assessment (Cancer) Consultation
- April** DSD/DWP: Response to Personal Independence Payment Consultation
- May** DSD/DWP : Response to consultation on mandatory consideration of revision before appeal
- May** DoJ: Response to consultation on amendment to the Sexual Offences Act (2003) and the Asylum and Immigration (Treatment of Claimants etc) Act 2004 to comply with the EU Directive on preventing human trafficking
- June** DoJ Response to Early Removal Scheme for Foreign National Prisoners