

introduction

This policy bulletin gives an update on our policy work for the period January to March 2011. Copies of our policy submissions are available on our website, www.lawcentreni.org

Bringing social justice issues to the party conferences was a priority for the policy unit this winter. We concluded this work with a fringe meeting at the Alliance Party conference in January.

The first quarter of 2011 closed with agreement on the 2011-2015 Northern Ireland budget. The new budget does little, however, to end many of the uncertainties about how resources will be allocated over the period as a new programme for government is still to be negotiated after the Assembly elections.

At Westminster, movement on Ian Duncan's Smith social security agenda got underway with the publication of the Welfare Reform Bill 2011 though much of the detail, for example on childcare, continues to be unclear.

With canvassing underway for the Assembly elections and a programme for government to be agreed by the new Executive, there is an opportunity to highlight the key social justice issues that affect many of the most disadvantaged in our society.

As always, please get in touch if you would like to know more about our current policy priorities.

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social justice

Our priority in responding to the draft Northern Ireland budget for 2011-2015 was to highlight the need for core principles to underpin budget choices: protection of the most vulnerable in society who disproportionately rely on public services and balance between cuts and revenue raising options so as to offset the worst impact of the cuts on the most vulnerable groups. Our submission reminded the Executive of the findings of the Law Centre commissioned research from the Institute for Fiscal Studies, namely that Northern Ireland will do particularly badly from the welfare reform proposals.

We participated in a 'people's congress' organised by the Northern Ireland Committee of the Irish Congress of Trade Unions in February to highlight the impact of the changes already announced to social security.

social security

Maternity grant cut

The year got off to a bleak start for mothers when the government announced its decision to withdraw the Sure Start Maternity Grant for second and subsequent children. The grant is intended to cover the costs of pregnancy and baby items. The timing of the government's announcement at the end of last year meant that the Social Security Advisory Committee could only run a nine day consultation exercise in the run up to Christmas.

The Law Centre and Gingerbread NI submitted a joint response to the Social Security Advisory Committee, stressing the important link between the benefit and pre and post natal health and the disproportional impact of the loss of the £500 grant on families in Northern Ireland where child poverty levels are higher than in Britain. In many cases it is not possible for families to hold onto baby equipment, especially where they may have faced difficult circumstances since the birth of a first child (eg women who have fled domestic violence).

The new regulations come into effect in April 2011. This leaves mothers who are expecting their second child little time to plan to meet the shortfall they will experience because of the cut and before new budgeting loan arrangements for maternity items under the Social Fund are in place. In a House of Lords debate in March, a number of members were highly critical not only of the policy but the manner in which the regulations were introduced: see www.publications.parliament.uk/pa/ld201011/ldhansrd/text/110307-0002.htm#11030732000134

Impact of tax and benefit reforms

The loss of the Sure Start Maternity Grant is one of a number of measures to take effect in 2011. Assistance with mortgage interest payments ceased in January for people who have been receiving Jobseeker's Allowance continuously since January 2009. The Law Centre has begun to receive advice calls from affected individuals who are experiencing hardship.

In January, we gave evidence, alongside the Institute of Fiscal Studies, to the Social Development Committee on the potential impact of the changes to social security changes announced in the 2010 Emergency Budget and Comprehensive Spending Review.

The Committee agreed that it would seek further information on the overall cash loss for the poorest families in Northern Ireland as a consequence of tax and benefit reforms. The Committee also promised to seek information on the costs of the reform of Disability Living Allowance (DLA), the levels of uptake of means-tested benefits among DLA claimants and the proportion of DLA claimants with mental health problems.

We also held a meeting with Alex Attwood where the Institute for Fiscal Studies briefed the minister and officials on the research findings.

Welfare Reform Bill

In February, the Welfare Reform Bill was introduced into Westminster.

The Bill is Ian Duncan Smith's vision for a new 'social contract'. Its main components are:

- the introduction of Universal Credit to replace a range of existing benefits;
- increased conditionality and sanctions in the social security system;
- restriction on the period of claiming contributory Employment and Support Allowance to twelve months; and
- the replacement of DLA with Personal Independence Payments with a view to reducing the number of DLA claimants by 20 percent.

The Law Centre and the Welfare Reform Policy Group made submissions on the White Paper. Both welcomed the policy intention to simplify the system but urged caution about how the changes will play out in Northern Ireland against a backdrop of slower economic growth, higher rates of claimants of working age benefits and more people in receipt of DLA.

For the second reading stage of the Bill, we prepared a briefing paper for all the Northern Ireland MPs. The briefing highlighted many of the issues outlined in our response to the White Paper and urged MPs to consider the particular repercussions of the Bill in Northern Ireland. The Bill cleared its second reading on 9 March. An equivalent Bill is likely to be brought to the Northern Ireland Assembly in the autumn.

Carer's Allowance

In February, we responded to a request from the Social Development Committee for comments on the proposed Carer's Allowance Bill. The Bill would exclude the state retirement pension from the rules about overlapping benefits. Carers would then be able to keep both their Carer's Allowance and their retirement pension. We are concerned that, while the Bill will make a difference for relatively better off carers, it will not impact on carers on lower incomes. This is because Carer's Allowance and retirement pensions are treated as income in assessing entitlement to Pension Credit which helps older people on lower incomes.

We support the policy intention in the Bill to focus on the contribution made by carers in society and to ensure proper financial and other recognition of this role. We therefore suggested that departments should agree, within a fixed timeframe, a financial package for carers equivalent to the sum that would be needed to implement the Bill. The Committee has recommended a wider study of the best way to help carers (see *Report on Carer's Allowance Bill Fourth Report, Social Development Committee 2010/2011.*)

Child Poverty Strategy

We responded to the draft Child Poverty Strategy in February. We welcomed its publication but were disappointed that it does not identify any new policy initiatives for tackling child poverty.

The strategy does not set out a range of specific and measurable targets against which progress on the elimination of child poverty can be measured. We argued that the strategy should take forward an earnings-disregard project for mini-jobs and should act as a catalyst for the development of a childcare strategy. We further argued that it should include a mechanism for periodic monitoring of the impact of public spending cuts on child poverty.

mental health / community care

Legal aid

Welcome news came from the Department of Justice in January that legal aid would be available without means-testing for Mental Health Tribunals. The Law Centre has advocated this change for some time to bring Northern Ireland into line with other jurisdictions in the UK. For details of the change go to www.nilsc.org.uk/uploads/circulars/documents/LSC.02.11%20-%20MHRT.means%20test.original.28january11.pdf

Advocacy

Access to advocacy for those with a mental health difficulty or learning disability can be a vital support to help individuals convey their needs and wishes. We were involved in a seminar organised by the DHSSPS in autumn 2010 on a draft advocacy strategy and work is progressing on this. A summary research paper on advocacy is available from the Patient and Client Council website at www.patientclientcouncil.hscni.net/uploads/content/Advocacy_Research_Summary_Paper,_October_20101.pdf

Mental capacity bill

The Law Centre has continued to chair the DHSSPS Reference Group on the proposed Mental Capacity (Health, Welfare and Finance) Bill.

The Mental Health & Learning Disability Alliance responded to the draft DHSSPS budget in February. The Alliance drew attention to the recent analysis in the McKinsey Review of the implications of the 2010 Spending Review for Northern Ireland's health and social care services that *'in particular we spend less than half of England's per capita spend on supporting people with mental health problems and learning disabilities.'* We welcomed the Department's commitment to *'protect and improve the health and well-being of the population and reduce health inequalities.'*

We urged the Department to ensure that appropriate investment in mental health and learning disability services is sustained over the lifespan of this budget and that sufficient resources are dedicated to implementing new capacity legislation to protect the rights and interests of all those whose decision making capacity is affected.

The Alliance has urged the political parties to commit to the enactment of the new capacity bill in the lifespan of the new Assembly.

Social care

We participated in a meeting with Andrew Dilnot, chair of the long-term care review. Organised by DHSSPS, the meeting gave us the opportunity to point out the pressing need for a local debate about social care. At a Joseph Rowntree Foundation (JRF) meeting in February on identifying key areas of work in Northern Ireland, we highlighted long term care as a priority issue.

Rights in Community Care

In February, the Rights in Community Care Group submissions on the draft Northern Ireland budget emphasised the need for clear planning for and investment in community care services.

In March, the Rights in Community Care Group held the third in its seminars on *A Vision for Community Care*. Professor Brendan McCormack from the University of Ulster and Geraldine Patterson from the Southern Health and Social Care Trust spoke about the single assessment tool, a mechanism for assessing the health and social care needs of older people in Northern Ireland.

Organised by Age NI, the seminar was chaired by Quintin Oliver, the new JRF adviser in Northern Ireland. The final seminar will be held in June and organised by Carers NI on the theme of *Carers and Caring*. For information, please contact Laura Niwa at laura.niwa@lawcentreni.org

tory dismissal procedure, the grievance procedure had introduced unnecessary complexity into employment relations. Throughout the review process, we have argued that this Bill should be a stepping stone to a broader systematic review of dispute resolution.

A new Labour Relations Agency Code of Practice takes effect from April following the enactment of the new law. The Code of Practice comes into force in April 2011. It will replace the statutory grievance procedure. We made detailed comments on the draft version of the document.

Agency workers

In our analysis of DEL's proposals for implementing the Agency Workers Directive, we argued that agency workers statutory entitlements should be raised to be on a par with those of employees. This would protect agency workers from continuing to be the 'second-class citizens' of the employment sphere.

We raised particular concerns that the definition of 'agency worker' proposed in the regulations could, by restrictive judicial interpretation, effectively exclude the majority of agency workers from the scope of the new law.

The decision in March by the Northern Ireland Court of Appeal in *Bohill v PSNI* [2011] NICA 2 confirmed our fears and we urged DEL to look closely at its proposed definition, particularly in light of recent judicial decisions.

For the detail of our response, go to www.lawcentreni.org

employment law

Workplace disputes

The new Employment (NI) Act 2011 brings some positive changes to the system for resolving workplace disputes. Chief among these is the end of the statutory grievance procedure. In our policy response to DEL, and again before the Committee, we had advocated that, while we saw merit in retaining the statu-

immigration

Immigration and racial equality

The OFMDFM Immigration sub-group of the Racial Equality Panel, chaired by the Law Centre, met in January. The Group is exploring a range of issues, including:

- access to health;
- access to English language provision for asylum seekers;
- mutual visas within the common travel area; and
- the impact of the end of the Workers Registration Scheme from 1 May.

Migrant workers emergency fund

In March, we gave an update to the DEL Migrant Worker Sub-Group on our proposals for an emergency fund which has been extensively discussed in the Immigration sub-group.

Separated children

Following on from our earlier work on separated children in the immigration system, a working group convened by the Law Centre held a 'mapping' event in February. Hosted by NICCY, the event brought together those responsible for delivering services to children subject to immigration control. Participants explored how immigration and welfare services are currently delivered to this group of children.

The group is organising a policy seminar in May that will draw on the learning from the mapping event to explore options for enhancing the supports available to separated children. We will be looking closely at the Scottish 'guardianship' pilot programme on separated children.

We met with the DHSSPS back in 2008 to ask for guidance on unaccompanied children in Northern Ireland. We were pleased to see that DHSSPS and the PSNI published guidance in February setting out processes for handling child victims of trafficking cases, although it is only relevant for trafficked children and not for all separated children. See www.dhsspsni.gov.uk/oss_working_arrangements_for_the_welfare_safe_guarding_of_child_victims_of_human_trafficking.pdf

Giving evidence, raising concerns

In February, we spoke at a conference in Cookstown on issues affecting migrant workers.

We met with the Advisory Committee on the Framework Convention on National Minorities during its visit to Belfast in March and gave evidence on a range of immigration issues. We highlighted the incidence of destitution among certain migrant groups and the need for an emergency fund to provide a temporary safety net for those at risk.

We also raised our long-standing concerns about the legal basis for 'Operation Gull' under which people can be detained and removed from the UK. We asked the Committee to scrutinise the UK's safeguards against the use of ethnic profiling and urged it to call upon the UK to publish its policies relating to Operation Gull as a matter of priority.

Details of our submission are available at www.lawcentreni.org.

access to justice

We held a fringe meeting on access to justice at the Alliance Party Conference in January.

Review

In February, we responded to the preliminary issues paper of the Access to Justice Review team. We welcomed the Review's recognition of the role of the voluntary sector in delivering legal services and of the importance of alternative dispute resolution, particularly as little progress has been made on this in Northern Ireland. We cautioned against following the approach to severely limiting the scope of legal aid as currently proposed in England and Wales. We recommended the development of a strategy for tribunal support for pre-advice and information and for representation. The Review team's interim report was published in March and is available at www.courtsni.gov.uk/en-GB/AboutUs/A2JReview/p_A2J_Review_Progress_Report_March2011.htm

Tribunal reform research

The second stage of our Nuffield-funded research on tribunal reform is now well underway. The first component of this stage of the research is a review of the structures for supporting tribunal reform. This will be complete by the summer. The other aspect of the research is to explore provision of pre-tribunal advice and information and this will be completed in the autumn.

In June, the Law Centre and Attorney General's office will run a joint conference on judicial independence with a number of international judicial speakers.

March 2011 Submission to the Advisory Committee of the European Framework Convention for the Protection of National Minorities.

March 2011 Note to N.I. Assembly (Social Development Committee): Carer's Allowance Bill

March 2011 2nd Reading Briefing (Westminster) Welfare Reform Bill 2011

March 2011 DEL: Agency Workers Directive

March 2011 DHSSPS: Mental Health Service Framework

policy submissions / briefings

January - March 2011

Jan 2011 Introducing fee charges for appeals in the Immigration and Asylum Chambers Of the First-Tier Tribunal and the Upper Tribunal

Jan 2011 DSD: White Paper: Universal Credit - Welfare That Works

Jan 2011 Welfare Reform Group Submission to DSD on the White Paper: Universal Credit - Welfare That Works

Jan 2011 Submission to DSD Committee on DSD Draft Budget 2011-2015

Feb 2011 Review of Access to Justice in N.I.

Feb 2011 OFMDFM: Child Poverty Strategy

Feb 2011 DHSSPS: RICC Response to Draft Health Budget 2011-2015

Feb 2011 DWP: Reform of Disability Living Allowance

Feb 2011 Welfare Reform Group Response to DWP on Reform of Disability Living Allowance

Feb 2011 DFP: Northern Ireland Draft Budget 2011-2015