

Submission by the Northern Ireland Commissioner for Children and Young People to the Committee for Social Development on the matter of the Welfare Reform Bill

Introduction

The Office of Commissioner for Children and Young People (NICCY) was created in accordance with 'The Commissioner for Children and Young People (Northern Ireland) Order' (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland.

Under articles 7(2)(3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. In determining how to carry out her functions, the Commissioner's paramount consideration is the rights of the child and NICCY is required to have regard to any relevant provisions of the United Nations Convention on the Rights of the Child.

The Commissioner has already put on record her deep concerns regarding the potential impact that the Welfare Reform bill will have on children and young people across Northern Ireland. The Office commissioned two reports on the issue of Welfare Reform which were launched in 26th April 2012 entitled "Welfare Reform Making Children Visible: Assessing the Impact on Children" and "Welfare Reform Making Children Visible: The Parity Question"¹. To complement this submission we also enclose a copy of the briefing we gave to the Committee at the time of the launch of these reports.

The Committee may be aware that I entered into correspondence with the Minister in November 2011 expressing my concerns that the Department had failed to meet their statutory responsibility under section 75 to assess the impact of these proposed policies on children and young people and asking him to review the EQIA conducted at that time. The Minister responded to me in December 2011 indicating that the draft EQIA document specifically stated that the "Department does not, as a matter of course, monitor certain s75 groupings for the purpose of administering the social security system in Northern Ireland, primarily because benefits are paid to individuals on the basis of entitlement and conditions which are in no way affected by affiliation to any of these Section 75 categories". I would reiterate that any change to the benefits system which is paid to any

¹ <http://www.niccy.org/article.aspx?menuid=14265>



member of a family, irrespective of who the claimant is, would have an impact on the children of the family.

I would renew my call to the Minister to ask him to conduct a further EQIA of this bill now that it is at the legislative stage and in so doing to ensure that the deficiencies in the first EQIA process are remedied to ensure that the potential impacts on children and young people are assessed.

Since the publication of our reports, the Commissioner has met with Lord Freud, the head of the Social Security Agency and representatives of the children's sector. Further the office has sat as an Observer on the Welfare Reform group co-ordinated by the Law Centre NI who, we understand, are producing a clause by clause response to the bill.

Clearly my focus is on the implications of this bill for both children and young people as direct recipients of benefits but also as indirect recipients and therefore my comments are confined to these areas.

In respect of Universal Credit and Personal Independence Payments at Parts 1-3 and 4 of the Bill, I have concerns regarding the impact of the proposals listed below on children and young people:

1. Conditionality and sanctions

Any sanction imposed on a claimant will have a detrimental impact on the children of the family. Children will have no control over their parent's compliance with conditions under the new system but will without question feel the impact of any sanction. Even the Westminster commitment to continue to pay the "child element" of benefits to "sanctioned" parents will not go far enough to protect the rights of children in "sanctioned" families as the removal of any income from household budgets will have a severe adverse impact.

I would therefore call on the DSD to ensure that the regulations which are to be issued on this matter ensure that no child suffers because of sanctions. The UNCRC is clear at Article 26 that a child's independent rights to social security and an adequate standard of living should never be affected by the imposition of benefit sanctions upon their parents or carers. In order to realise the rights of a child under Article 3 (best interests) the regulations



should ensure that any decision to impose a benefit sanction upon a claimant with dependent children must take account of the best interests of the children of the family.

2. Proposed mechanisms to pay the benefit to the recipients.

My concerns focus on to whom the Universal Credit should be paid and also when it should be paid.

Under the current proposals Universal Credit will be paid to the main claimant, which is likely to be the male in a couple. There is evidence that money that goes directly to the mother is more likely to be spent on children than when it goes to the father. The Child Poverty Action Group has stated that "this transfer for thousands of pounds per family "from the purse to the wallet" will threaten allocation within household budgets to meet children's needs".²

Evidence would show that a move from weekly or fortnightly budgeting to monthly budgeting will cause serious difficulties, the consequences of which will be borne by children of the family. Further, given the reliance on one payment, any failure in the IT system or incorrect decision/delays/involvement in the appeals process could have severe consequences for families with children and could breach several Articles of the UNCRC including Article 26 (right to social security), 27 (right to adequate standard of living), 3 (best interest of the child) and 24 (right to enjoy the highest attainable standard of health").

I would call therefore that the Assembly should decide that the benefit should be paid to the main carer of the children of the family.

I have previously called for the Assembly to consult with groups of people bringing up children on low incomes and with other devolved governments for ideas on how these potential problems should be overcome.

I welcome the Minister's commitment to make representations to Lord Freud regarding the issue of "operational" flexibility for Northern Ireland in

² <http://www.cpag.org.uk/2011/120111.htm>



relation to the mechanisms for payment. It is my understanding that this should involve an IT amendment as opposed to any break in parity.

3. Benefit Cap.

As set out in my report above, we predict with confidence that 6,500 children in Northern Ireland will see their families lose money as a result of the benefit cap because they have 5 or more children. I would call on the Assembly to consider ways in which larger families can be supported to meet the needs of their children outside of the Universal Credit system.

4. Abolition of the Social Fund.

The Social Fund has long been a mechanism which has assisted families in urgent hardship. Figures from DSD in 2011 show that over half of the awards of Community Care Grants are made to lone parents. The Social Fund, if not replaced by a “ring-fenced alternative” protected in the Northern Ireland budget as an emergency fund for families, will result in a failure to provide for the best interests of the child, in accordance with Article 3 of UNCRC and is likely to result in breaches of the right to enjoyment of the highest attainable standard of health (Article 24). Given that the Fund has previously been used to assist families fleeing domestic violence situations, any failure to guarantee crisis support could potentially put children at risk of abuse which would engage Article 19 of the UNCRC.

Crisis loans should also be available to claimants and families in need irrespective of whether these claimants have accrued debt or arrears of rent.

I would call on the Assembly to ensure that enough money is allocated to meet the basic material needs of families with children and that this money, however it is to be administered, is ring-fenced.

5. The Claimant Commitment.

As set out above in respect of sanctions, I have real concerns regarding the impact on children and young people of the Claimant Commitment. In particular where there are issues relating to the capacity of claimants to make the commitment on an informed basis and further for those with



fluctuating conditions which may impact on their capacity to comply with the commitments. Any sanctions which would follow would inevitably have a detrimental impact on any children of the family.

I would call therefore for the Assembly to ensure that in regulating for this consideration is given, at all stages of the Claimant Commitment, from drafting the conditions through to the implementation and sanctioning of same that the best interest of the associated children of the claimant is taken into account.

6. Factors which are particular to Northern Ireland which could cause an impact on children and young people.

Childcare

Further, given the lack of a childcare strategy for Northern Ireland and an associated lack of accessible childcare there may be difficulties for parents to either go into work or to increase their hours as may be required by the Department.

Housing

There are housing factors particular to Northern Ireland also in relation to the type of housing stock in Northern Ireland both in the social and private rental sector in terms of a lack of houses of "multiple occupancy" and a lack of houses with certain numbers of bedrooms. Further there are the issues associated with the perception of housing being segregated in relation to religion/political opinion which would mean that a family's choice of housing could be constrained.

DLA

It also cannot be overlooked that Northern Ireland has double the proportion of its population in receipt of DLA than in GB with recipients with mental health issues representing 23% of DLA claimants here compared with 17% in GB.



7. Changes to Housing Benefit.

The changes in the housing benefits system which have already been introduced, threaten children's rights – this will be compounded by Welfare Reform. NICCY has already called for NIHE accommodation which is deemed to be under-occupied but has children in it to be exempt from reductions in Housing Benefit.

NICCY has further previously highlighted the issue of non-resident parents who have contact with their children to be exempt from the shared room requirement in relation to housing benefit.

The potential for children to lose their home or have to move home and potentially schools, could infringe their rights under the UNCRC namely Article 3 (best interests) and Article 27 (adequate standard of living).

8. Changes to the Youth Employment and Support Allowance eligibility.

Youth ESA is a special arrangement which allows certain young people with long term significant or severe disabilities to qualify for contributory ESA without having to satisfy the usual National Insurance contribution conditions which require other claimants to have paid a minimum amount of contributions to qualify. If the Assembly confirm the proposed change then young people with severe disabilities will only be entitled to ESA if they satisfy the same requirements re contributions and income as everyone else. This is of particular importance to certain groups of disabled young people for example young disabled people who have been in the care system.

It is pertinent to highlight at this point that NICCY's remit extends to young people up to the age of 21 where the young person has a disability or has been care experienced.

NICCY would call for the Assembly to ensure that in regulating for this that the best interests of the children are considered and in particular that Article 23 of the UNCRC is respected. This provides that a child with a disability has the right to live a full and decent life in conditions that promote dignity, independence and an active role in the community. The numbers who



receive "Youth ESA" are small enough to cost relatively little in breaking parity to maintain their rights.

9. Abolition of DLA and replacement by PIP.

Children under the age of 16 will be impacted by the abolition of DLA and its replacement by Personal Independence Payments in so far as their parents/carers are affected. However, due to the high rates of disability and ill-health among the NI population, many children with and without disabilities will risk a decrease in their family's income due to the changes.

As above, NICCY's remit extends to young people up to the age of 21 who are disabled. There are currently about 5,000 young people aged 16-20 receiving DLA. In particular the mobility element of DLA is vital part for the additional transport costs faced by many disabled young people. This relative independence will be threatened by the changes.

The rights of disabled children, or children of disabled parents are under threat. The Assembly has the power to protect the rights of these children and young people under Articles 2,3,6,23,24,26,27 and 28 and we would call on it to ensure that these rights are respected.

NICCY have previously called for the setting up of an expert group to examine the Work Capability Assessments (WCA) being carried out in regard to the new assessments for PIP. We have suggested that the expert group should include psychiatrists who work with people who have PTSD (due to legacy of the conflict issues) as well as pediatricians and other experts in childhood disability.

In conclusion, it is clear that a range of children's rights may be severely compromised by some of the provisions of the Welfare Reform Bill 2012. I would call on the Assembly to ensure that, in legislating, they ensure that the best interests of children and young people are a paramount consideration in their deliberations.

Patricia Lewsley-Mooney
Commissioner
19th October 2012

