

Age UK, Barnardo's, Catch 22, Chartered Institute of Housing, Child Poverty Action Group, Citizens Advice, Community Links, Daycare Trust, Disability Benefits Consortium, Every Disabled Child Matters, Family Action, Family Rights Group, Gingerbread, Grandparents Plus, Homeless Link, Oxfam, Platform 51, Save the Children, Scope, TUC, UNICEF UK

Joint Briefing: Report and Third Reading of the Welfare Reform Bill June 2011

This briefing is from an association of leading organisations with expertise in the UK welfare system, who work to support clients and reduce poverty. We have come together to influence the Bill as it passes through Parliament. This briefing for Report stage reflects core concerns common to the group, and organisations will also present their own briefings with more detailed focus on their particular areas of expertise. We continue to support the Government's stated overall aims to increase simplicity and fairness in the benefit system, and to ensure that work is an effective route out of poverty in Britain. We also welcome the Coalition's investment in these reforms, and their ambitions to drive them through in the current economic climate.

However, on a number of key issues, we have not been reassured by the responses received from Ministers in the debates during the Bill's Commons' Committee stage and feel that these issues merit the scrutiny of the whole House before the Bill passes to the Lords. In addition, we hope that Report stage will provide an opportunity to highlight, and make, key changes to the Bill, which we feel are needed if the Government is to fully achieve their stated aims of increasing simplicity and fairness in the benefit system, and ensuring that work is an effective route out of poverty in Britain.

The issues are:

- **Disabled children and carers – clause 10**
- **Calculation of housing costs within Universal Credit – Clause 11**
- **Childcare – Clause 12**
- **Family and friends carers and conditionality – Clause 19**
- **Conditionality – Clauses 26 and 44**
- **Time limiting of (Contributory) Employment and Support Allowance (CESA) - Clause 51**
- **Housing benefit, disability and under-occupancy – Clause 68**
- **Reform of the Social Fund – Clause 69**
- **Qualifying period for Personal Independence Payment (PIP) - Clause 79**
- **Payment of Universal Credit (to main carer) – Clause 97**
- **Revisions before appeal – Clause 99**
- **Civil penalties – Clause 111**
- **Access to welfare advice – Schedule 6**

Here we outline our joint, top line concerns on each issue:

- **Disabled children and carers – clause 10**

The Government has now announced that the additions for disabled children within the Universal Credit will change to align with the additions for disabled adults. While severely disabled children will receive a very slight increase from current rates, many other children with disabilities will receive *less than half* of their current rates under Universal Credit, through replacement of the disability element of child tax credit with a “disability addition” for a child. Changes could cost some disabled children up to £1,366 per year. This could amount to substantially more than £20,000 over the childhood of a disabled child, (for a family with two disabled children this loss could be more than £40,000.) We estimate that around 100,000 families could be affected by this change. Disabled children are disproportionately likely to live in poverty and this policy proposal is likely to increase child poverty for these children.

- **Calculation of housing costs within Universal Credit – Clause 11**

Clause 11 of the Bill deals with housing costs as part of Universal Credit, and will determine the calculation of housing costs over the lifetime of UC. The clause is drafted in terms which permit the Secretary of State to determine by regulations the basis of the amount to be paid in respect of housing costs. It does not provide for benefit entitlement to be related to actual rents in the locality, as does the existing legislation governing housing benefit. We are calling for the Bill to be amended to require annual reviews (conducted jointly between DWP and DCLG) of the extent to which housing costs are keeping track of actual rents, and for the calculation of housing costs to be amended where necessary to ensure that at least the 30th percentile of properties are affordable. This would require the review to take account of the list of private rents in each area in a similar manner to that currently used by rent officers to determine the 30th percentile.

Report stage is the first stage at which an amendment has been tabled calling for statutory periodic reviews of the relationship between the calculation of housing support in UC and actual rents in the private rented sector.

Amendment: Reviewing and amending housing support

Page 5, line 29, Clause 11, at end insert -

“(6) Regulations are to provide for the Secretary of State for Work and Pensions and the Secretary of State for Communities and Local Government to review not less than annually the relationship between housing costs in the private rented sector and the level of the housing component of Universal Credit.

(7) Regulations are to provide that the Secretary of State for Work and Pensions must amend the calculation of housing costs where this is necessary to ensure that at least the 30th percentile of the list of private rented properties in each locality remains affordable to claimants, in light of the review under subsection (6).”

- **Childcare – Clause 12**

When introducing the Bill, Ministers stressed that the key to the success of the Universal Credit is ensuring that work always pays and is always seen to pay. The success of the UC

in this regard will depend on the level of childcare support available. Analysis by the OECD shows that Britain has some of the most expensive childcare in the developed world and that this causes significant disincentives to work for parents on low and middle incomes (OECD, *Doing Better By Families*, 2011). We support the Government's aspiration to make work pay, and to deliver a welfare system which achieves this. We know that providing financial help with childcare costs is vital to make moving into, and progressing in, employment a realistic option for working parents.

Under the current system, the childcare element of Working Tax Credit provides parents with support covering up to 70%¹ of eligible childcare costs, up to a maximum of childcare costs of £175 for one child, or £300 for two or more children. Significantly, childcare costs are also currently disregarded for the purposes of calculating entitlement to Housing Benefit and Council Tax Benefit, resulting in some households receiving help for up to 95.5% of their childcare costs.

One of the options presented by the Government involves substantially reducing the cap on maximum eligible childcare costs. The new cap could be as low as £100 for one child and £150 for two or more children. When their childcare costs are in excess of the cap, families could face paying to take on additional work which incurs childcare costs, which clearly undermines the principle that work will always pay.

- **Family and friends carers and conditionality – Clause 19**

We believe that family and friends carers who are bringing up a child who would otherwise be in local authority care, or whose parent has died or is seriously ill, should be exempted from conditionality requirements under Universal Credit for a period of a year.

Evidence suggests that 28% of kinship carers give up work when taking on the care of a child and a further 29% reduce their hours. Children can move into kinship care at any age, and for some carers, a year's exemption from being available for work would give them enough time to manage the upheaval in their lives and support the child before having to juggle work and care. Maternity leave and adoption leave recognise this adjustment period for other carers, but there is no such adjustment period in law for family and friends carers, despite the often considerable needs of the children they are taking on.

Due to changes in the Bill and other policy developments, many more family and friends carers will be affected by conditionality requirements. For example, from October 2011 carers will have to be available to work when the child is 5 years old rather than 7 years old. In addition, the increase in the state pension age for women means that many older carers will in future be affected by conditionality requirements. The combined impact of these changes will make it more difficult for family and friends to step in and bring up vulnerable children, resulting in higher numbers of children in care.

Clause 19(2) : Insert at end:

(f) Family and friends carers who take on the care of a child, for the first year after the child moves in;

(i) Where the child comes to live with the carer as a result of plans made within a section 47 Children Act 1989 child protection enquiry; or

¹ This was 80% prior to April 2011

(ii) Where a child comes to live with the carer following a section 37 Children Act 1989 investigation;

(iii) Where a carer has secured a Residence Order or Special Guardianship Order to avoid a child being looked after, and there is professional evidence of the impairment of the parents' ability to care for the child; and/or

(iv) Where the carer has a Residence Order or Special Guardianship Order arising out of care proceedings; or

(v) Where the carer has a Residence Order, Special Guardianship Order following the accommodation of a child; or

(vi) Where the carer has a Residence Order or Special Guardianship Order following the death or serious illness of a parent.

This amendment was not tabled at committee stage but has received support from MPs across parties.

- **Conditionality – Clauses 26 and 44**

We believe that the claimant commitment should be co-designed to encourage mutual responsibility and engage the claimant. Conditionality should be tailored to each claimant's barriers as much as support is tailored to their needs. The maximum higher level sanctions period should be reduced from 3 years to 26 weeks.

In Committee, the Minister's response on this subject was that there are certain things that the State has to impose, and a claimant may not agree with this, therefore co-design would not work. We would like the Minister to reconsider the purpose of conditionality and the claimant commitment in supporting people back to work. A claimant commitment should be reciprocal, so that a claimant is empowered to gain access to the support needed to increase employability and gain work. If the employment support is not adequate, the failure to provide the standard of support promised by Ministers should also be considered as 'good cause' in some cases, if a claimant fails to comply with an order when a sanction is being appealed.

- **Time limiting of (Contributory) Employment and Support Allowance (CESA) - Clause 51**

We oppose the proposal to limit receipt of CESA to 12 months, for people in the work related activity group. This destroys the principle that people who have paid National Insurance contributions will be supported if they become too ill to work, and will leave some people facing an unmanageable drop in income at a time when they most need support. In Committee, the minister acknowledged that the decision to introduce a time limit in this way has not been taken on the basis of any evidence which shows that this is a reasonable time frame in which to expect people with a health condition or disability to have recovered, where appropriate, or found employment.² It is regrettable that the Government admits that it has not taken these factors into account when developing this proposal.

² Hansard, House of Commons, Welfare Reform Bill Committee, 3 May 2011, column 650

- **Housing benefit, disability and under-occupancy – Clause 68**

The Government wants to use the power in Clause 68 to break the link between benefit entitlement and actual rents. It has announced plans to introduce, through regulations, cuts to the amount of benefit that working-age tenants can receive if they are deemed to have a spare bedroom in their council or housing association home. Under the new size criteria, any household deemed to be ‘under-occupying’ their home by one bedroom stands to lose 13% of their housing benefit and those ‘under-occupying’ by two or more bedrooms will lose 23%.

Some 670,000 households across Great Britain would lose an average of £676 per year. Two-thirds of those affected (450,000) are disabled and the National Housing Federation estimates 100,000 live in social homes that have been adapted to be accessible for people with disabilities. If they are able to move to a smaller property, fresh adaptations – tailored to each person’s specific needs and often funded by government grants – will be required. The average cost of a Disabled Facilities Grant exceeds £6,500; a ramp costs £500 and a level access shower £3,500. Failure to exempt disabled people living in adapted properties could therefore lead to a net cost for the taxpayer.

Clause 68, page 52, line 19, at end add—

(4) After subsection (7) insert –

“(7A) In relation to a dwelling of which the landlord is a local housing authority or a registered provider of social housing, regulations under this section shall not permit the AMHB to be less than the actual amount of the liability in a case where a person has provided the relevant authority with such certificates, documents, information or evidence as are sufficient to satisfy the authority that the person is disabled and is living in a property specially adapted or particularly suited to meet the needs of that person.”

- **Reform of the Social Fund – Clause 69**

The abolition of the existing national system of welfare support for people trying to set up or maintain a home, or experiencing financial crisis, should not be legislated for, before a robust and effective alternative has been fully explored.

The Discretionary Social Fund consists of Budgeting Loans, Crisis Loans (CL) and non-repayable Community Care Grants (CCGs). It is a national provision, and acts as a safety net for benefit recipients who face essential expenditure which they cannot meet.

The Government does not expect local authorities to manage loan schemes. This will effectively abolish the provision of crisis loans, which gives us grave concern, as it is very likely to drive more people to use high-cost lenders. We cannot see why the Department should not retain a crisis loan facility to help people manage acute financial hardship in emergencies.

The current proposals expect local authorities to devise their own schemes for emergency support. Without ring-fencing or specific accountability attached to the funds, this is likely to result in numerous different policies and in vulnerable people losing the right to apply for emergency support. We believe that in the current economic climate, it is highly likely that some or all of the funds may be diverted into other local priorities, and a crucial financial safety net would disappear. Localised support will also make it impossible for claimants to challenge or appeal against decisions, unless each local authority is required to set up an independent appeals mechanism. Individuals will therefore lose their right to challenge

decisions made on their behalf, and could effectively face a post-code lottery in trying to obtain life's necessities.

Proposed Amendment:

For Clause 69(1), substitute:

Section 138(1)(b) of the Social Security Contributions and Benefits Act 1992 (discretionary payments out of social fund) may be repealed, if the Secretary of State:

(a) publishes a detailed proposal for a replacement scheme, or schemes, based on wide consultation with relevant stakeholders

(b) ensures that such a scheme, or schemes, will provide financial protection for all UK citizens for basic living expenses in an emergency or crisis

(c) demonstrates the feasibility of such a scheme, or schemes, through a pilot or pathfinder process, and

(d) demonstrates how an independent appeals mechanism will be implemented as part of a replacement scheme, or schemes.

For Clause 69(2), substitute:

In consequence of the provision made by subsection (1), the office of the social fund commissioner may be abolished.

- **Qualifying period for Personal Independence Payment (PIP) - Clause 79**

We oppose the proposal to extend the qualifying period for PIP to 6 months – double the time required to qualify for Disability Living Allowance (DLA) in the current system. We do not agree with the arguments made by the minister during the Commons' Committee stages to justify the extension. The minister argued that PIP, like Disability Living Allowance in the current system, is not an income replacement benefit and that individuals faced with a sudden onset of disability should initially rely on means-tested support³. Our common experience is that many people facing illness or disability, especially when diagnosed suddenly, face significant additional costs as a result, even in the first few months of their diagnosis, and often end up in debt as a result. PIP, like Disability Living Allowance in the current system, is intended to meet these additional costs and we can see no reason to double the current qualifying period of 3 months.

- **Payment of Universal Credit (to main carer) – Clause 97**

Evidence from many of our organisations shows that women in poor households often have little or no access to money, and this affects them and their children. It means that women sometimes go without eating themselves in order to pay the bills or feed their children. This lack of an independent income can also reduce women's chances of escaping domestic abuse.

³ Hansard, House of Commons, Welfare Reform Bill Committee, 10 May 2011, Column 849

As the Bill currently stands, all of Universal Credit would usually be paid to one member in a household. This means that money will become even more unequally distributed between men and women. As a crucial first step, the Bill must be amended to allow payments intended for children to be labelled as such and paid to the main carer (who is usually female). This change will make it more likely that this money is spent on children.

- **Revisions before appeal – Clause 99**

We believe that clause 99 is not necessary, will increase complexity for claimants and advisers and should be deleted.

Claimants can currently take one action to submit an appeal, which must be reconsidered within the DWP before being passed on to the independent tribunals service. The proposed change would mean claimants have to take further action if a reconsideration results in a rejection, which they currently do not. This does not seem to fit with the very welcome direction of travel towards simplifying the benefits system. In the existing system, if claimants choose to appeal (rather than simply ask for a reconsideration), they are only faced with one deadline for submitting the appeal. In our experience, this can often be a challenge in itself, particularly for the most vulnerable people - who are often the most in need of support. The change proposed in the Bill would introduce a second step and a second deadline. In practical terms, this will result in many people - particularly the most vulnerable - missing this deadline and having legitimate claims refused.

An important side-effect of this change will be to increase the stress and health impacts of the appeals process, and to place greater pressure on advisers to respond quickly to clients involved in this process, with significant resource implications for our service and volunteers.

- **Civil penalties – Clause 111**

We would like to see the removal of the proposal to introduce civil penalties in cases of claimant error. We remain very concerned about the proposal, despite the minister's reassurances during Committee that a £50 fine is not draconian, no targets will be set relation to the issuing of penalties and that they will be only be issued to people who 'break the rules'.⁴ Indeed, £50 might not seem like a large amount of money, but for benefit claimants, who are, by definition, on a low income, it could represent a significant proportion of their weekly income. In our combined experience of working with claimants, the prospect of incurring a sizeable overpayment which they will have to repay, is already enough of an incentive for people to provide the correct information when they can and are required to. The current system also allows for appropriate recovery of overpaid benefits.

We believe strongly that if the Government insists on proceeding with the proposal to introduce civil penalties, a penalty should be introduced against the state for official error, in the form of compensation for the claimant. This would introduce much needed balance to a system in which civil penalties apply. We welcome the Minister's assurances that under Universal Credit, official error will be greatly reduced due to the system being simplified.⁵ We anticipate, therefore, that introducing compensation for claimants in this way should not be onerous or particularly costly. It would also send a clear and important message to claimants that the Government has confidence in the reformed benefit system.

⁴ Hansard, House of Commons, Welfare Reform Bill Committee, 19 May 2011

⁵ Hansard, House of Commons, Welfare Reform Bill Committee, 28 April 2011, column 582

- **Access to welfare advice – Schedule 6**

Our experience shows that any changes to the welfare benefits system can create significant increases in demand for advice, as can job losses due to recession. Those who need support from welfare benefits include the most vulnerable, who are least able to manage change to their finances independently, meaning that even the smoothest implementation of new systems may lead to an increased need for advice.

Current provision of welfare benefits advice will be unable to meet this additional demand, as funding is reducing. Additional support for the free independent advice on welfare benefits issues is needed to support the transition to Universal Credit. Specialist advice for the most complex cases, largely funded through legal aid, is under serious threat. Long-term funding for specialist advice on welfare benefits is essential to ensure support for those with the most complex cases can be maintained. Local face-to-face advice must be available alongside online information and telephone advice. This is especially important due to the vulnerability of many benefit claimants.

Investing in early advice for those experiencing problems with the new system will achieve overall cost savings to the welfare benefits system, and wider public purse. Claimants' experience of the Universal Credit will be key in determining public support for the reform, and adequate advice to support this will be a crucial factor in this experience.

Please contact: John.ludlow@citizensadvice.org.uk