

Welfare Reform Bill – Lords 2nd Reading

Disability Alliance Briefing: 13th September 2011

Introduction

Disability Alliance is a member of the Disability Benefits Consortium (DBC) and supports the DBC briefing¹. Disability Alliance aims to break the link between poverty and disability². We support some aspirations of welfare reform but overall believe it will dramatically increase disability poverty.

Aspects of the Welfare Reform Bill to welcome

- We welcome the aspiration of tackling poverty.
- Many disabled people want to work but fear employment does not pay well. We welcome taper proposals to ensure people keep more income.
- We support simplification of the benefits system. £7 billion goes unclaimed in financial support annually and ensuring disabled people are able to access appropriate support is welcome.
- We are pleased the Government will be excluding DLA from the £500 a week household benefit cap.

Risks far outweigh positives

But we are concerned that the Welfare Reform Bill will increase disability poverty and leave many thousands of families lacking essential support. The areas of the Bill we are most concerned about include:

1. Universal Credit (UC) making many disabled people worse off;
2. Time-limiting ESA Work-Related Activity Group and ending all out of work support for up to 700,000 disabled people; and
3. DLA/PIP plans cutting 20% of the essential 'lifeline' to disabled people and their families and leaving uncertainty over disabled care home residents currently receiving mobility support.

1 Universal Credit

DA welcomes the simplification of benefits and plans to taper income to ensure disabled people able to access employment retain more of their earned income. Disabled people earn less in work than non-disabled people but have higher outgoings and this measure may help.

However, we are deeply concerned that current support for disabled people available through, for example, the Severe Disability Premium (SDP) and disability elements in tax credits, will not reach disabled people requiring support under current UC plans. The UC will be accessed through the Work Capability Assessment for Employment and Support Allowance. This process

¹ See: www.disabilityalliance.org/dbc3.htm

² See: 'Tackling Disability Poverty' DA, 2009 for ideas which included DLA reform for example.

is routinely failing to identify disabled people's needs and the Tribunals Service spent £19.8 million tackling WCA appeals in 2010/11.

DWP expects greater numbers to appeal decisions this year and 40% of appeals are successful – representing disabled people being denied support and considerable wasted resources. DA supports the aspirations behind welfare to work but sadly many disabled people believe reform is disguising significant welfare cuts and not delivering genuine work opportunities. Using the failing WCA process to access UC will further undermine disabled people's confidence in the support framework available and routinely deny essential help to disabled people and their families.

Disabled people most affected include: disabled people living alone and without a carer children (losing SDP); and parents of some disabled children who could lose £27 per week (losing child tax credit).

DA recommends that:

- the Severe Disability Premium is retained. It is worth £55.30 per week (£2,876 per year) to disabled people living alone and without a carer and helps meet higher costs of living;
- disabled people facing multiple disadvantage have needs recognised (eg being a lone parent *and* disabled person). The UC risks oversimplifying needs by only providing one 'disregard' which ignores some disabled people's multiple levels of disadvantage; and
- parents of disabled children should receive current levels of support (i.e. £54 per week) which recognise higher costs of living. From 2013 UC plans would cut this by 50% and lose some parents over £1,400 support per year.

2 Time-Limiting ESA WRAG

The Bill (Part 2, chapter 2, clause 51) would, from April 2012, time-limit Employment and Support Allowance for disabled people in the Work Related Activity Group to one year if they have previously made National insurance contributions. This is a high penalty for people who have worked, made contributions and developed an impairment/health condition (eg through accident/injury). To access ESA you must be assessed as having a significant impairment/health condition and this measure **will leave up to 700,000 disabled people with no out of work benefits by 2015/16³**.

The Government suggests a means-test will prevent people losing support. However, a small occupational pension (£90 per week) or a partner earning about £150 per week could leave disabled people unable to access support.

³ www.dwp.gov.uk/docs/esa-time-limit-wr2011-ia.pdf To make the intended Government saving of £2 billion this measure would have to end all out of work support for over 400,000 disabled people.

These levels are below the UK poverty thresholds⁴ and ignore the higher costs of living disabled people experience⁵.

This measure also ignores:

- evidence on how long some disabled people need support before being able to enter work (under Pathways to Work only 13% of disabled people entered work within a year of tailored support);
- low work availability⁶ (especially for disabled people facing significant employment barriers including employer attitudes/discrimination);
- lower support for disabled people to get work (the number of disabled people and employers using Access to Work fell in the last year⁷); and
- disabled people with a terminal prognosis (but likely to live more than 6 months) who, under current guidance, should be placed in the Work Related Activity Group unless their level of functioning is such that they are allocated to the support group. For a disabled person with three years to live and receiving palliative care it is unlikely they could return to work, but could lose all support under current plans.

We believe that this measure risks penalising many disadvantaged disabled people and their families and should be withdrawn. We would also welcome a commitment that disabled people will not face benefit sanctions or withdrawn support if appropriate work is not available locally.

3 Abolishing working age DLA/introducing PIP

Part 4 of the Welfare Reform Bill will abolish Disability Living Allowance (DLA) for working age disabled people (16-64 years of age). DWP will introduce a new benefit, the Personal Independence Payment (PIP), which comes with a drastically reduced budget: a 20% cut by 2015/16.

The Government has introduced this measure to deliver a reduction in DLA expenditure – and PIP plans are being determined to deliver an unjustifiable cut. DWP have refused to provide an explanation for how a 20% target was devised despite several Freedom of Information requests.

The Government has also claimed that DLA use rose 30% in eight years; but DWP research concludes that working age growth is closer to 13% once

⁴ See: www.poverty.org.uk/summary/key%20facts.shtml which shows, for 2008/09, the 60% poverty threshold as: £119 per week for single adults with no dependent children; £206 for a couple with no dependent children; £202 for single adults with two dependent children under 14; and £288 for a couple with two dependent children under 14.

⁵ Estimated to be 25% higher than other citizens. See: www.jrf.org.uk/system/files/1859352375.pdf for further information and sources on disabled people's higher costs of living.

⁶ See: www.cesi.org.uk/Resources/CESI/Documents/labour_market_analysis_august_2011.pdf which suggests less than 450,000 jobs available in July 2011 but 5.6 million people available for full time work.

⁷ See: <http://research.dwp.gov.uk/asd/workingage/atw/atw0711.pdf> - the lower number of disabled people accessing this support is alarming given the increased pressure to work as well as the net contribution Access to Work makes to the Treasury; every £1 spent on the scheme is estimated to generate £1.40 in Income Tax/NI contributions.

population and demographic changes have been taken into account⁸. This information was known to DWP in May but was not made available during Commons consideration of the Bill (it was published in August).

DLA was introduced under the last Conservative Government to help disabled people with higher costs of living⁹. The PIP represents a shift from the principles of DLA as it will have fewer levels of support and ignores disabled people's higher costs of living. We are particularly concerned that disabled people receiving DLA 'low rate care' payments may lose support as a result of the scrapping of this rung of assistance and the Government's stated aim of only helping those with the most severe needs.

There are currently 652,000 working age adults receiving low rate care DLA payments but PIP plans exclude a 'low rate' equivalent (providing two levels of 'daily living' and two rates of 'mobility' instead). Removing all low rate care DLA payments would cut £663 million from PIP expenditure, but the Government intends to cut 20% of expenditure (£1.3 billion based on 2010/11 figures).

Whilst receiving DLA 'low rate care' may imply low level needs, evidence demonstrates that 91% of the disabled people receiving DLA have more than one impairment and over half (56%) have four or more impairments¹⁰.

We have been contacted by more than 2,000 people since the Government announced plans. Some of the disabled people on low rate care who have contacted us include:

- A male wheelchair user, 41 in Suffolk who would be confined to his flat;
- A 54 year old woman in London with cancer;
- A Blind 50 year old man in Kent who struggles to make ends meet;
- A Deaf 59 year old man in Swansea; and
- A woman aged 47 in Aylesbury with brain injury who believes her son would be forced to leave education and seek work to help her.

Some people on low rate care made the following statements about what might happen if their DLA support was reduced or ended:

⁸ See: http://statistics.dwp.gov.uk/asd/asd1/adhoc_analysis/2011/DLA_Growth_in_Caseload_FINAL.pdf with older disabled people retaining DLA entitlement past 65 years of age accounting for significant growth. Current reform is targeted up to the age of 65 and if over 65 growth in DLA use is exempted the figure for DLA growth is 23% from 2002/03 to 2010/11. The figure falls to 16% once the demographic change is accounted for (7%) and 13% when children are excluded.

⁹ Plans for DLA were published in 'The Way Ahead' HMSO, January 1990.

¹⁰ Sainsbury, R et al *Evaluation of Disability Living Allowance and Attendance Allowance*, 1995. Department of Social Security Research Report No. 41. See: <http://research.dwp.gov.uk/asd/asd5/rrep041.pdf>

Female, 48, Newquay: “I would no longer be able to go to work. I work fulltime despite having a severe mobility disability and I am very proud of that. I am dependent on my mobility car to travel to and from work (round trip of 52 miles). Without additional help I wouldn't be able to look professional enough to go to work and I would be at risk of neglect.”

Male, 62, Gwynedd: “I would have to sell my home.”

Female, 38, Kidderminster: “I would feel housebound and not attend groups etc. causing feelings of worthlessness and isolation.”

Female, 62, London: “I would not be able to manage at all. My daughter died by suicide 9 years ago. I think that I would just lose the will to live and would probably do something similar to her.”

To reach the Government's intended cut we believe over 800,000 disabled people, including the people whose comments are above, could lose the 'lifeline' of help that DLA provides with essential items like aids and equipment and higher transport costs¹¹.

Even for disabled people with relatively lower level needs, we believe the conclusions of the Dilnot Commission on adult social care funding are important. Dilnot highlighted the essentiality of meeting low level needs to ensure prevention of higher or crisis level needs¹². DLA/PIP cuts will prevent the 'preventative' agenda being delivered in practice, will remove independence and control for disabled people and their families, and may cost governments more in the long-term.

DWP has not yet estimated how many disabled people are likely to lose help or demonstrated that it has analysed the potential impact on the disabled people and their families set to lose support. This is despite the strong evidence highlighting DLA use which provide a basis for drawing conclusions on potential impact¹³. The recent Papworth Trust survey of 2,000 (mostly) disabled people concluded:

- 77% thought the Government was penalising disabled people;
- 74% would not have enough money for essential needs;
- 59% would not have enough for basic household goods (like food);
- 39% would not be able to purchase medication; and

¹¹ Many disabled people, carers and advisors described DLA as a 'lifeline' in our survey on Government plans. See: www.disabilityalliance.org/r68.htm

¹² Dilnot Commission (July 2011) Fairer Care Funding, 21

¹³ See, for example, the 2011 Papworth Trust report online at: www.papworth.org.uk/news-detail.php?aid=242

- 34% may not be able to purchase essential equipment (eg wheelchairs).

We believe analysis of the potential impact should be provided to Parliamentarians to ensure Bill proposals are adequately scrutinised and to ensure the Government meets its obligations towards disabled people.

- Full analysis of options and potential impact required

We are very concerned that the only options considered (highlighted in the Bill impact assessment¹⁴) were: 'do nothing' or introduce a 20% cut by a new assessment process. We support an improved assessment process but believe further options should be considered by DWP to ensure the fairest, most effective proposal is selected that mitigates some of the likely adverse impact on disabled people. We do not believe the current proposals demonstrate that DWP have met their obligations under the Equality Act to promote disabled people's equality of opportunity. Disability Alliance has issued a 'letter of claim' to DWP outlining the potential judicial review of DLA/PIP plans that could be the outcome of DWP failing to undertake an adequate assessment of impact before enactment of the Bill.

We believe the timeframe for reform has precluded examination of further options and has failed to allow adequate analysis of the potential impact to be considered. In our survey of DLA recipients which received over 1,700 responses disabled people told us that reductions or an end to DLA support would mean:

- higher (avoidable) NHS use – eg through being unable to attend medical appointments or afford prescriptions (in England);
- greater reliance on council services (eg costly residential care); and
- limited ability to work for disabled people and carers. Half the people in employment who responded suggested they would have to end work if they did not receive the PIP.

We believe a full impact analysis of potential knock-on costs to other government spending/revenue (including the NHS, councils and Treasury) is required and believe it is irresponsible for DWP to ignore the potential human and public expenditure costs. DWP have ignored efforts to ensure these concerns are addressed and we welcome peers' scrutiny of these issues.

We believe the proposed PIP assessment process requires significant scrutiny to ensure the most effective system is developed. The Government claims it wants to support 'active and independent' disabled people but the published PIP assessment plans focus on the most basic of life's activities

¹⁴ See: <http://www.dwp.gov.uk/docs/dla-reform-wr2011-ia.pdf> (page 1).

(eg toileting) and exclude issues like ability to participate in communities or in work and fails to take into account higher costs.

Whilst we welcome a full public consultation on the assessment proposals, it is very disappointing that DWP will be consulting at the same time as the Bill is being scrutinised. We hope the Government will clarify in Bill stages how the PIP assessment:

- will analyse disabled people's higher essential costs of living;
- will consider the passported support DLA helps disabled people and their families acquire; and
- will be fully piloted before national rollout including people:
 - o with different impairment/health conditions; and
 - o currently receiving different levels of DLA support.

Amending the Bill to cover these issues could help identify challenges in allocating PIP resources. The failure of the previous Government to adequately trial the Work Capability Assessment (WCA) before implementation led to significant challenges for various disabled people – and costs to Government through high appeal rates and Tribunals (40% of current WCA appeals overturn the initial DWP decision). This should be avoided in introducing a further, costly (£675 million) assessment for PIP claimants.

- Increasing qualifying period

Under current plans, PIP will only be available to disabled people with six months existing experience of needs and likely to have needs for a further six months. This doubles the current DLA qualifying period (three months). We believe this will mean many more disabled people incurring debt and disadvantage – especially at the sudden onset of cancer, or after a work injury for example. The extension of the overall period of need risks excluding some groups altogether, for example, many people with spinal injuries may no longer find themselves eligible for support.

The Government claims this measure results from the need to align PIP with the Equality Act definition of disability. However, this could be achieved by retaining the three month qualifying period and extending the period of future need to nine months.

- DLA mobility payments in care: a further 78,000 to lose help

Part 4, clause 83 of the Bill will end payments of DLA mobility support to disabled people funded by councils in residential care homes. We oppose this proposal which will remove help from almost 80,000 individual disabled people and their families, including disabled children. We believe DWP could locate the £160 million cut from elsewhere and that the potential risks to disabled people outweigh any benefit from ending this support.

The Government has suggested it has identified a problem in funding but no solution has been specified despite a date being set (March 2013) for the abolition of mobility support for disabled people living in care homes and funded by local authorities. As a minimum, we believe the Government's proposal for how independent mobility will be maintained in any change to DLA/PIP payments should be absolutely clarified before Parliament legislates to remove DLA payments for this group of disabled people who could be made incredibly vulnerable and isolated without sufficient support.

Other concerns: Housing Benefit and Social Fund

DA is also very concerned about:

- the 450,000 disabled people losing some Housing Benefit support; and
- the 'localising' of the Social Fund without any national guidance or standards or ring-fencing which will impact harshly on disabled Fund users. Disabled people are disproportionately over-represented in Fund applicants (at over 30%) and will experience further significant hardship as a result of a lack of safeguards for Fund resources.

Further information/contact

If you require any further information on the Bill, DA or would like to discuss specific issues with one of our expert advisors in confidence, please contact Neil Coyle on 020 7247 8759 or at: ncoyle@disabilityalliance.org