

Introduction

1. The Scottish Campaign on Welfare Reform (SCoWR) is a coalition of leading civil society organisations.¹ Members work with people experiencing exclusion and poverty across Scotland. This response outlines the consensus of opinion which exists among SCoWR members over key concerns with the UK Government's proposal to replace disability living allowance (DLA) with a new benefit called personal independence payment (PIP). Many of our members are also providing their own, detailed responses to the specific consultation questions. This response is intended to complement those provided by individual members.

Our response

2. The SCoWR manifesto² sets out the five reforms that our members believe are necessary for an adequate welfare state:

- Increase benefit rates to a level where no one is left in poverty and all have sufficient income to lead a dignified life
- Make respect for human rights and dignity the cornerstone of a new approach to welfare
- Radically simplify the welfare system
- Invest in the support needed to enable everyone to participate fully in society
- Make welfare benefits in Scotland, suitable for Scotland

This response will set out our proposals in each of these key areas of how this opportunity can be used to help create a fairer and more inclusive society.

Increase benefit rates to a level where no one is left in poverty and all have sufficient income to lead a dignified life

3. The Government's intention is to reduce expenditure on the new benefit by over £1 billion a year.³ The objective will only be achieved by a significant reduction in the number of claimants. This is confirmed by the consultation document's references to 'an affordable and sustainable system' which 'will continue to support disabled people who face the greatest barriers'; alongside the criticism of the 'unsustainable' numbers of claimants of the low rate care component of DLA. We oppose this objective, because whatever the fiscal situation, the number of disabled people in society already exceeds the number of DLA claimants. It is not fairness to penalise some of the most vulnerable people in society by removing a support that can be vital in helping them overcome obstacles to inclusion and participation in society.

4. The consultation document makes no mention of the rates at which the new benefit will be paid. We believe that the Government should increase the rates at which the components are paid to reflect the reality of the extra costs that disabled people face. The DWP's own statistics show that the poverty rate of disabled people is higher – without even attempting to take account of these costs.⁴ This is particularly the case among working-age adults, at whom the new benefit will initially be targeted. Research shows that the rates of benefit

are not adequate to meet the costs that many disabled people face.⁵ There are numerous factors which are not directly linked to specific condition or impairment that could incur extra costs for disabled people, such as higher electricity bills due to people spending more time at home. This will not be accounted for by the proposed functional assessment for the new benefit.

5. This issue is particularly pressing in the context of the introduction of universal credit (UC). We call on the Government to ensure that the rates of personal independence payment and UC premiums are adequate to lift disabled people out of poverty when the extra costs they face have been properly accounted for. The passport from DLA to financial support through means-tested benefits – and for carers through carers allowance – is vital to social inclusion, and should be enhanced to reflect the extra expenditure needed for disabled people to secure a decent standard of living.

Make respect for human rights and dignity the cornerstone of a new approach to welfare

6. The Government has made clear that it wishes to introduce a medical assessment similar to that used for employment and support allowance (ESA) claims. If this is to happen it is vital that the resources and training provided to those carrying out the assessment are more adequate than the levels in place for ESA. The adequacy of this model of assessment has been questioned by politicians, the media and from within the medical profession.⁶ The consultation also ignores the recently published review of the work capability assessment⁷ which is a damning indictment of the way in which the system functions, and clearly highlights how ESA claimants are not being treated with dignity and respect. This problem is particularly acute for people who suffer from mental health problems, as highlighted by the review. The recommendations for wholesale change are enthusiastically accepted in the ESA context, whilst the same model is being promoted for PIP.

7. The references to the introduction of conditionality to the new benefit are particularly worrying. There is no evidence provided to justify the suggestion that claimants are deliberately ignoring treatments that could reduce their needs. Similarly, there is no consideration of how local conditions may impact on the availability of particular treatments or adaptations (see below). Signposting claimants to potential sources of help may be beneficial and is a proposal which we would endorse. However, enforcing compliance with a particular treatment as a condition of entitlement will increase complexity, and may have serious consequences for some claimants.

8. The comments about the new fraud strategy are an example of the all too common attempts to create a negative perception of benefit claimants using unsupported statements. The consultation provides no information at all about numbers of people who have not reported changes of circumstances. It acknowledges implicitly that the fault often lies with the provision of information to claimants, yet goes on to suggest prosecution where needs are judged to have changed by a decision maker. It is a common consequence of mental health problems that dealing with forms and correspondence becomes extremely difficult or impossible for claimants. Any changes should be

carefully designed to avoid pushing vulnerable claimants further into financial hardship, or preventing legitimate claims due to anxiety around the possibility of overpayments.

9. An area of particular concern is that of fluctuating conditions. We welcome the consultation's acknowledgement of the need to take account of needs which vary over time. One way to provide consistent decision making and clarity to claimants would be to use an automatic entitlement for people with particular fluctuating conditions (see below). There will need to be an explicit acknowledgement of the existence of varying conditions in the regulations. It is vital that information to claimants sets out in the clearest possible terms when they are expected to report changes if they suffer from such conditions, and we call on the government to ensure that any changes to the way in which claimant error is looked at are specifically designed to avoid harshness for this group.

10. We will be extremely surprised if the promised consideration of 'the impacts on disabled people, including analysis by income distribution' does not show that this reform will push those disabled people whose entitlement is reduced or removed further into poverty. We hope that this will result in the realisation that the proposals are far from meeting the Government's duties under disability discrimination legislation.

Radically simplify the welfare system

11. The introduction of an independent assessment risks adding complexity to the decision-making process. We would argue that the best way to reduce administrative costs is to make the information provided clear and the process of claiming the benefit as simple as possible. The claim form should be radically shortened and named professionals or carers always contacted. The single reform which would allow this to happen and vastly reduce administrative costs for the new benefit would be to **extend** the number of conditions that give rise to automatic entitlement. This would allow claims to be decided efficiently and awards to be more consistent. There should still be the option of a claim based on personal circumstances where these may be greater than would be expected for claimants with a particular condition.

12. The removal of one rate of one component is not a 'simplification' so much as a measure to save money by removing entitlement from large numbers of existing claimants. We would argue that reviewing that claims process to make it more claimant-friendly and increasing automatic entitlements are better ways of achieving this end.

13. The existence of a, non-means-tested, extra-costs benefit is vital to many thousands of disabled people and we support the commitment to continue to provide such a benefit. We write in ignorance of the effect of the proposed 'simplification' of disability premiums in universal credit, and hope that the government will not allow disabled people to become more excluded by reducing these entitlements.

14. The future of support for carers is also of great current concern. Their immense contribution to society has long gone without proper recognition. The idea that their entitlement to an independent income that does not depend on their partner's earnings will potentially be lost in UC is troubling in the extreme.

13. The suggestion that a form of 'habitual residence' test may be introduced (chapter 2, paragraph 20) is an indication of the introduction of a further layer of complexity. The existing presence and residence tests are simple to understand and apply. To exclude entitlement from many EU nationals in the manner of the test as it applies to means-tested benefits is both to undermine the stated intention to retain an extra-costs benefit payable on the sole basis of need, and also risks further challenge in the European courts that such a measure would discriminate on the grounds of nationality.

Invest in the support needed to enable everyone to participate fully in society

15. The research cited as demonstrating that DLA is seen as an out-of-work benefit at paragraphs 16-17 is by no means as clear cut as the consultation document makes it seem. As highlighted above, we believe that greater investment in both the rates at which benefit is paid and the process of assessing claims is vital.

16. The fact is that until employers' duties to their employees are effectively enforced under disability discrimination legislation, conditionality and restriction of entitlements will push disabled people further into poverty and exclude them from participation in society. An example of this failing is the system of 'fit-notes' being introduced without a clear mechanism of enforcement of adaptations which will allow disabled people to work. DLA as it exists is vital in redressing the balance, and meets some of the extra costs that disabled people face when moving into work.

17. Disabled people are more likely to be excluded from employment opportunities and community life. DLA is a vital lifeline to many, and to propose its withdrawal from claimants is to risk excluding them still further. This equally applies to the proposal to withdraw the mobility component from claimants in residential care, which has been challenged by a variety of disability groups.⁸

18. The recent report on the importance of the early years of a child's life for future outcomes⁹ provides a clear indication of the long-term benefits and financial savings that would result from making it easier for young children to qualify for the new benefit (should it be introduced for under 16s). This is not to suggest that school age children with long-term health problems no longer require adequate financial support to achieve equality of outcomes. Research shows that parents use increased family income to provide for their children before themselves.¹⁰

19. The extension of the qualification period will act to exclude disabled people at the very time when adequate financial support can make the most

positive difference. Whether it is retaining employment after an accident or illness, or preventing a child's impairment from becoming a barrier to achievement - the increase in qualifying period risks worsening long-term outcomes. Many people will be excluded from support during the months of coming to terms with an incurable condition, including many whose prognosis does not yet allow them the benefit of the special rules for terminal illness. Other areas of policy are rightly focussing on the importance of early intervention, and this proposal is regressive in the extreme.

Make welfare benefits in Scotland, suitable for Scotland

20. Whilst neither PIP nor UC will be matters devolved to the Scottish parliament, this legislation will impact on claimants in Scotland in different ways due to its interaction with devolved matters, principally health and social care. Whilst the consultation talks of 'areas of overlap, for example between the current care component of DLA and adult social care' (chapter 3, paragraph 8); the argument of duplication of provision for disabled people has been articulately challenged in relation to the withdrawal of the mobility component from claimants in residential care (see above). In Scotland local authorities are able to include DLA care component in financial assessments for non-residential care services.¹¹ Claimants in residential care or hospital already have their entitlement to the care component withdrawn.

21. There is increasing pressure on local authorities as a result of other budget cuts and it is not clear how it will be assessed what adaptations are 'reasonably available' to claimants. Any legislation should explicitly acknowledge the importance of devolved legislation in the areas of health and social care, and build into the regulations the flexibility to account for regional variations. There is a serious risk of a postcode lottery if an increasingly centralised decision-making apparatus 'consider[s adaptations] that the person **might** be eligible for' (consultation question 8, emphasis added), when these vary by local area.

22. One of the advantages of an extra-costs benefit without such tests is that it allows disabled people the flexibility to purchase vital adaptations, and to have the necessary resources to cope when these break down. To restrict entitlement from those who may be eligible for adaptations will pile greater pressure onto local authority services and social housing providers whose budgets are already facing swingeing cuts. It will also undermine the effectiveness of aids and adaptations, as people will lack the necessary financial resources to maintain the aids and adaptations that they do have if their entitlement to DLA is removed. The UK Government must ensure that the local circumstances of Scotland's disabled people are not ignored when designing the new benefit.

Further information

For further information about this consultation response, please contact Jon Shaw (Child Poverty Action Group in Scotland) on 0141 552 3545 or at jshaw@cpagscotland.org.uk.

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² A full copy of the SCoWR manifesto can be downloaded from the Poverty Alliance website here: http://www.povertyalliance.org/campaigns_detail.asp?camp_id=8.

³ HM Government, *Budget 2010*, Table 2.1

⁴ See Chapter 3 of Adams *et al* (eds) (2010), *Households Below Average Income: an analysis of the income distribution 1994/95-2008/09*, London, DWP

⁵ See for example Parckar, G (2008), *Disability Poverty in the UK*, London, Leonard Cheshire Disability. Also (in relation to disabled children) Chapter 3 of Strelitz, J., and Lister, R. (eds) *Why Money Matters* London, Save the Children

⁶ See for example McCartney, M 'Well Enough to Work' *BMJ* 2011;342:d599

⁷ Harrington, Prof. M. (2010), *An Independent Review of the Work Capability Assessment*, London, TSO

⁸ See for example Mencap *et al.* (2011) *Don't Limit Mobility*, available from <http://www.mencap.org.uk/document.asp?id=20622>

⁹ Field, F. (2010), *The Foundation Years: preventing poor children becoming poor adults*, London, The Cabinet Office

¹⁰ See Table 18B and interpretation in Parekh *et al* (2010), *Monitoring Poverty and Social Exclusion 2010*, York, Joseph Rowntree Foundation

¹¹ COSLA, *Charging Guidance for Non-residential Social Care Services 2009-10*, available from <http://www.cosla.gov.uk/attachments/execgroups/hw/hwcoslachargingguidance2009-10.doc>