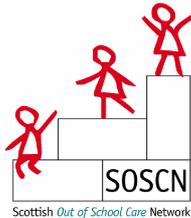




Believe in  
children



**Welfare Reform Bill  
Report Stage, House of Commons, 13 June 2011**

**Briefing for Amendment No.22 lodged by Dr Eilidh Whiteford MP**

**Supported by:**

**Action for Children  
One Parent Families Scotland  
Barnardos Scotland  
Children in Scotland  
Children 1<sup>st</sup>  
Aberlour Child Care Trust  
Quarriers  
Scottish Campaign on Welfare Reform  
Scottish out of School Care Network  
Scotland's Commissioner for Children and Young People**

***Reduction of benefit - Higher-level sanctions***

**Clause 26, Page 12, line 12**

At end insert the following new sub-section:-

("(1A) Regulations must make provision to secure that, where a claimant falling within Section 22 does not have guaranteed and predictable access to high quality, flexible and affordable child care acceptable to the parent and child or children, the Secretary of State may not impose a sanction on the claimant under this section or under Section 27").

**Effect**

To ensure that claimants with a dependant child or children will not face sanctions if they are unable to work or to participate in work related activity, or have to give up work, due to a lack of suitable high quality, flexible, affordable child care appropriate to the parent's and their child's or children's needs. This amendment would provide specific safeguards through the Bill to ensure that the process of assessing a claimant's suitability to access employment opportunities takes into account the gaps in child care provision in Scotland, and in other parts of the UK.

## **Reason**

Most lone parents want to have the opportunity to combine paid work with the vital job of being a parent. There is, however, significant concern that the required child care infrastructure is lacking in many parts of the UK including Scotland – particularly before school starts and after it finishes, and during school holidays. The Welfare Reform Bill, however, fails to recognise the lack of high quality, flexible and affordable child care, required to meet the demands being made upon benefit claimants who are parents in Scotland, and in other parts of the UK. We believe that the UK Government should, therefore, accept this amendment to ensure that claimants will not face sanctions if they are unable to work or to participate in work related activity, or have to give up work, due to a lack of suitable high quality, flexible, affordable child care appropriate to the parent's and their child's or children's needs.

### **1. *Child care infrastructure***

There is an urgent need to improve the level and availability of childcare provision across the UK, particularly in Scotland, above all for older children requiring out of school care. This is necessary if claimants with children are to avoid being penalised through the Welfare Reform provisions, either as a result of missing out on key support to help them move into work, or by suffering sanctions for failing to work or to participate in work related activity.

Different statutory frameworks covering child care exist in England and Wales, and in Scotland. This has impacted upon the development, and availability, of child care services across the UK. There is, for example, no UK-wide equivalent of the Childcare Act 2006, which places a duty on local authorities in England and Wales to secure, as far as is practical, sufficient child care to meet the needs of working parents. The lack of a statutory duty to provide child care in Scotland has consequences for Scottish lone parents in terms of conditionality, but this is ignored in the current Bill.

New evidence highlights the need to ensure that the UK Government's Welfare Reform proposals take into account the lack of high-quality, flexible and affordable child care in Scotland. A recent report based on a survey by Children in Scotland, for example, includes the following key findings:

- Parents in Scotland are paying high child care costs that are increasing;
- Overall average child care costs for 25 hours a week are £84 in Scotland, which is more than half the gross average part time weekly earnings of £160;
- There is widespread concern amongst local authority staff, and organisations representing the childcare sector, that the non-statutory child care sector (i.e. anything other than pre-school entitlement) will face cuts;
- Out of school care was the area most respondents felt to be vulnerable to cuts, but at the same time was where costs might be expected to rise, with increasing levels of manager qualifications leading to demands for wage increases. There is a wide range of costs for out of school care, with reported weekly costs ranging from £37.50 to £71 and session costs from £6.50 to

£12.95; *Children in Scotland, The Cost of Childcare in Scotland: A special report, February 2011*

[http://www.childreninscotland.org.uk/html/pub\\_tshow.php?ref=PUB0362](http://www.childreninscotland.org.uk/html/pub_tshow.php?ref=PUB0362)

Many of these trends have been echoed in the Daycare Trust's annual Child Care Costs survey, which identified a postcode lottery, and a patchwork of child care availability, across the UK. The survey also revealed a huge gap in child care provision, with only 20% of local authority Family Information Services able to state that they have sufficient holiday child care in place to meet parental need - down from one third last year; whilst 63% reported that parents had complained of a lack of child care in their area; *Daycare Trust, Annual child Care Costs survey*, <http://www.daycaretrust.org.uk/pages/rapid-rise-in-childcare-costs-adds-to-family-finance-woes.html>

The location of childcare facilities, particularly for siblings of different ages, and the impact on travel to work time is another factor which the legislation should recognise. Parents, for example, may be required to take up employment covering normal school hours, but travel to work time means high quality, flexible and affordable out of school care appropriate to the parent's and their child's or children's needs must also be available.

The Convention of Scottish Local Authorities' (COSLA's) evidence to the Public Bill Committee also raised concerns around child care: *"..We are increasingly concerned about the speed at which such a complex task is being progressed, particularly when there seems to have been a lack of meaningful and timely consultation with devolved partners. COSLA believes this has led to a lack of comprehension and meaningful consideration of the interaction between welfare reform and the devolved competencies as well as the specific Scottish implications of this Bill. Under the proposed changes to the childcare element of Working Tax Credit which are intended to incentivise a move into the workplace, we expect more parents of young children to require affordable childcare if they are to maintain their income levels or move from benefit into the workplace. If this childcare does not exist or is not accessible to parents then moving into work may not be an easy option and income levels may be hit. As a provider of childcare, the burden to provide more places may transfer to Local Authorities. There is at least the potential for the proposals to reduce family income and not increase employability unless Local Authorities increase the number of childcare places at a further cost to the devolved public purse"*. Against this background, we believe UK Ministers should ensure UK reforms imposing new conditions on claimants must take into account the very different child care arrangements in Scotland, England and Wales. UK Ministers should also recognise this amendment is necessary to ensure claimants do not face sanctions where they are unable to work due to a lack of appropriate child care.

## **2. Child care to enable parents to 'upskill' before their child is 5 years' old**

Employment rates have risen, especially for lone parents. Further progress, however, requires recognition that people with the least immediate chance of entering the labour market have diverse needs, and may require many types of support and opportunity other than going straight into a job. Accessible, affordable, flexible child care for pre-school children is often unavailable, which means that many lone parents will not be able to access key support to improve their skills, or to take up opportunities in training, education or volunteering, which then affects their chances of moving into paid work. This means they will be required to comply with strict JSA regulations - sign on, apply for jobs etc - but will have serious difficulties in gaining employment, particularly as they are competing against more qualified job seekers, many of whom have recent work experience. Lone parents unable to access the

required child care will, therefore, be trapped in a cycle of mandatory activity without great benefit to their prospects of sustainable employment.

### **3. Work Focused Interviews**

Parents with a child or children under the age of five are, in theory, not subject to the requirements sanctionable under clause 26. The Minister stated during the Committee Stage proceedings that *“Until their child is at school, parents should have no job search requirements that could lead to a sanction under the clause.”* The Minister also said: *“Where a child is under the age of five, parents should only be asked to attend work-focused interviews. Children can perfectly well go along with their parents to the work-focused interview; anyone who visits a jobcentre will see pushchairs alongside the desk, as the child sits there while the parent goes through what is at that stage in life a relatively infrequent process of simply keeping in contact with the system “.* Charities in Scotland working with parents have, however, dealt with cases where parents have been pressurised into taking up training courses/employment opportunities, although their youngest child is under 5 years’ old. There are also reported cases of parents who have been asked to leave their child outside the interview room during a work focused interview.

#### **Case Studies**

- ***In Glasgow an 18 year old lone parent who was previously in supported accommodation - Lorretto House, child 18 months. Now got her own house. The Job Centre Plus (JCP) Advisor looking for training or a job for her - told the parent she would need to look at her options as this was the law now;***
- ***In South Lanarkshire a Lone Parent with 3 children: 6yrs, 2yrs & 1yr told by JCP Advisor that they must do a course at the local college , lasted 3 weeks. The parent felt she was obliged to - even though the support worker informed her that she was not legally required to. The woman found herself in a very stressful situation whereby she had to travel to the oldest child’s primary school by bus, with all 3 children. She then had to travel again to a local nursery to drop off the 2 under fives, and then make her way to Bell College. She then had to be back at school for 3pm to pick up her 6 yr old, and then travel to the nursery. This was for 3 weeks, but resulted in upset both to the claimant and to her children. On one occasion she had a day off college because the 1 year old was unwell, and she got called by the JCP Advisor chasing her up for missing the course;***
- ***In Edinburgh a parent was told by JCP that her 8 year old had to stand outside in the street; and***
- ***In Dundee, a parent with a buggy was made to wait outside in the rain.***

### **4. Parents with school age children**

During the Committee Stage proceedings, the Minister stated that *“where a lone parent or nominated carer has a child above five years old but under the age of 13, the claimant can restrict their availability for work to jobs that operate around school hours. We do not expect lone parents with primary school kids to work night shifts, and the system and definition of what is reasonable are designed to work around the needs of those children.”.*

There may be an expectation that parents can restrict their availability for work to jobs that match with school hours. Unfortunately, the reality is that this is not an option available to most lone parents. The types of jobs which parents are often

referred to from Job Centre Plus are often not designed to work around the needs of children and family life. Jobs that are open to single parents entering the job market tend to have irregular hours with a start time before their child or children start school, or in the evenings and at weekends. Given the present dearth of jobs with good advancement opportunities, and no right to request family leave with a new employer, lone parents are limited in the jobs that they can apply for, trapping them into low paid, insecure, vulnerable employment. Evaluations of the New Deal for Lone Parents found that lone parent mothers tended to move into low-paid, low skilled jobs. In addition, the nature of jobs that are presently available can mean that lone parents are asked to change their working pattern at short notice with the consequential effect on care for their children.

Furthermore, what happens, for example, during in service days? When a child is sick or has a long school holiday? What child care is available to meet these needs? What happens if the job causes family stress? It should also be recognised that difficulties with children's behaviour may make paid work very difficult. Moreover, it is not just younger children who need child care - young people over the age of 12 also need care, while their parents work or study. Choosing child care for this age group can be difficult. Young people have their own, often strong, views on how they should be looked after which can mean challenges for parents seeking suitable care. Such factors often make it very difficult for lone parents to sustain employment opportunities.

### **5. Child care costs**

The legislation also ignores the stress involved if a parent is urged into accepting any kind of low paid employment which, in the end, could mean s/he is plunged into debt, and is worse off than previously, because of the burden of paying for child care costs. The above report by Children in Scotland in association with the Scottish Out of School Care Network, highlighted these significant costs. The impact of high child care costs on family budgets has been exacerbated by the fact that working parents used to be able to claim support for up to 80% of the costs of their child care but, from April 2011 this figure has now been reduced to 70%.

There is also concern, underlined by new research commissioned by Gingerbread and the Resolution Foundation think tank, that the UK Government's funding of child care under the proposed Universal Credit could shatter its commitment to make work pay for lone parents. It is feared that the changes, to be implemented from 2013, may leave some parents facing the loss of over 94p in the pound as they increase their working hours, damaging work incentives:

- A lone parent with one child earning the minimum wage would keep only 6p of every pound earned for every hour worked over 24 hours a week;
- A lone parent on the minimum wage would only have £7.50 a week more in her purse if she decided to work 2 full days a week rather than 1, and £3 more if she increased from 3 days to 4 days of work; Gingerbread website, <http://www.gingerbread.org.uk/news/107/Going-full-time-not-an-option-as-childcare-reform-means-work-wont-pay-for-many-parents>

The Minister stated during the Committee Stage proceedings that: *“Any action that a claimant is required to undertake must always be reasonable, including those requirements that could lead to a higher-level sanction if they are not met. Advisers must take all relevant matters, including child care, into account when setting the action. Those matters include an individual's personal circumstances, capability and child care needs.”*; House of Commons' Hansard, 26 April 2011. The above findings reinforce the need to ensure that the costs of child care should be within the “relevant

matters” the Advisor must take into account as good reason for a claimant not to take up employment.

### **6. Claimant’s ability to fulfil work-related requirements**

The Minister stated, in response to an amendment lodged by Anas Sarwar MP: “ *The amendment stresses that child care must be acceptable to the parent and the child, which is a principle that we agree with. However, where an adviser is of the view that appropriate child care is available, a requirement can still be imposed. A failure to meet that requirement—for example, to take up a job offer—may result in a reference to a decision maker to consider a sanction*”. Unfortunately, the Minister would appear to be attempting to face both ways! How can the principle be agreed that child care must be acceptable to the parent and the child, and then be overturned by the views of an Advisor - the consequences of which would be less money for the family, and increased child poverty? The principle has, therefore, not been agreed as suggested by the Minister, given the Advisor’s discretion to overturn this principle.

### **7. Child’s best interests**

In order for lone parents to seek and find work, we must first understand their experiences of raising children on their own, and the major barriers they face in finding, and sustaining, work. The happiness and best interests of their children are central to their decision making, but child care can often be a cause of emotional distress for both the parents and for their children. Reflecting this, a recent OPFS survey revealed that lone parents felt that current programmes of job support did not take into account what they need to do to make sure their children were happy and healthy. Lone Parent Advisors, for example, often assumed that family and friends could help with child care, but OPFS found many do not have this option. Lone parents who took part in the survey struggled to find child care to support them with evening and weekend jobs, and many also reported that care for younger teenagers was even more difficult.

We believe that parents should have the right to choose the right child care for their child. Parents also need reassurances that their children will be cared for in a safe and secure environment while they work or participate in any work related activity. One of our main concerns, however, is that the current proposals will remove the rights of parents to act in the best interests of the child, or to determine what constitutes those rights. It is, therefore, essential that any assessment of a claimant’s access to childcare takes into account the child’s best interests. The child, for example, might have poor health or have a disability, may have suffered emotionally/psychologically because of family breakdown or may not wish to attend a particular childcare facility.

We would suggest that within “relevant matters” the Advisor should be asked to take into account the “best interests of the child”, which is at the heart of the UN Convention on the Rights of the Child: *Article 3 In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures. (United Nations Convention on the Rights of the Child (UNCRC), 1989) <http://www2.ohchr.org/english/law/crc.htm>*

This principle is also enshrined in the Children (Scotland) Act 1995, which includes the following provisions:

- *each child has a right to be treated as an individual;*
- *each child who can form a view on matters affecting him or her has the right to express those views if he or she so wishes; and*
- *any intervention by a public authority in the life of a child must be properly justified and should be supported by services from all relevant agencies working in collaboration.*

<http://www.scotland.gov.uk/Resource/Doc/26350/0023700.pdf>

#### **Contact Details**

<p><b>Marion Davis</b>  <b>Policy Development and Training Manager</b>  <b>One Parent Families Scotland</b>  <b>Tel: 0141-847-0444/07794-226484</b>  <b>E-mail:</b>  <a href="mailto:mariondavis@opfswest.org.uk">mariondavis@opfswest.org.uk</a></p>	<p><b>Louise Warde Hunter</b>  <b>Head of Action for Children Scotland and Northern Ireland</b>  <b>Tel: 0141-550-9010</b>  <b>E-mail:</b>  <a href="mailto:louise.wardehunter@actionforchildren.org.uk">louise.wardehunter@actionforchildren.org.uk</a></p>
<p><b>Mark Ballard</b>  <b>Head of Policy</b>  <b>Barnardos Scotland</b>  <b>Tel: 0131-314-6611 or 07584 347289</b>  <b>E-mail:</b>  <a href="mailto:mark.ballard@barnardos.org.uk">mark.ballard@barnardos.org.uk</a></p>	<p><b>Marion Macleod</b>  <b>Senior Policy and Parliamentary Officer</b>  <b>Children in Scotland</b>  <b>Tel: 0131-222-2435</b>  <b>E-mail:</b>  <a href="mailto:mmacleod@childreninscotland.org.uk">mmacleod@childreninscotland.org.uk</a></p>